

ORDINANCE NO. 313
CITY OF BALTIC, SOUTH DAKOTA

AN ORDINANCE AMENDING THE BALTIC, SOUTH DAKOTA ORDINANCES REGARDING THE KEEPING AND MAINTAINING OF BROODING CHECKS, PULLETS, AND HENS WITHIN THE CORPORATE LIMITS OF BALTIC, SOUTH DAKOTA

WHEREAS, the City Council of Baltic has determined that public health and nutrition would be promoted by enacting certain ordinances providing for the keeping and maintaining of brooding chicks, pullets, and hens for the laying of eggs by residents of the community;

BE IT ORDAINED BY THE CITY COUNCIL OF BALTIC, SOUTH DAKOTA:

Section 1. **PURPOSE.**

The purpose of this ordinance is to provide for residents of the community to keep and maintain brooding chicks, pullets, and hens for the laying of eggs in a clean and sanitary manner that is not a nuisance to or detrimental to the public health, safety, and welfare of the community within the corporate limits of the City of Baltic, South Dakota.

Section 2. **EFFECT.**

Title IX: General Regulations, Chapter 90: Animals, of the Revised Ordinances of the City of Baltic is hereby amended by adding the following new provisions shown in red and underlined and renumbering the existing ordinances, as follows:

§ 90.001 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL. Every living creature other than a human.

ANIMAL CONTROL OFFICER. The persons or law enforcement officials designated by the City Council from time to time to enforce the provisions of this chapter.

ANIMAL SHELTER. The person, entity, or agency designated by the City Council from time to time to enforce the provisions of this chapter and shall include Animal Control Officer whenever the context so requires to carry out and enforce the provisions of this chapter.

AT LARGE.

(1) An animal when off or away from the premises and not under control of the owner, possessor, keeper, agent or a member of the owner's immediate family by a leash.

(2) An animal when on the premises of the owner, possessor, keeper, agent, or a member of the owner's immediate family if not attended by a competent person unless the animal is chained, restrained, enclosed, or confined in a manner preventing it from leaving the premises.

BROODING. The period of chicken development when supplemental heat and additional care and attention must be provided due to the bird's inability to generate adequate body heat.

CHICK. A baby chicken not more than eight (8) weeks old.

CHICKEN. A domesticated bird of the order of Galliformes in the genus of Gallus (chickens) that serves as a source of eggs.

COCKEREL. A young male chicken.

COOP. The structure for the keeping or housing of chickens permitted by this subchapter.

EXERCISE YARD. A larger fenced area that provides space for exercise and foraging for the birds when supervised.

HEN. A female chicken.

FOWL. Chickens, ducks, geese, turkeys, pheasants, quail, partridge, pigeons, guinea, or other like birds.

LEASH. A cord, thong, or chain, not to exceed six feet in length, by which an animal is controlled by the person accompanying it.

OWNER. Any person harboring or keeping an animal and who is the head of the household of the residence or the owner or manager in charge of the establishment or premises at which an animal remains or returns to.

PET. Any domestic animal kept in or near a household for the primary purpose of companionship for member(s) of the household and/or companionship for other such animals. This includes dogs, cats, guinea pigs, hamsters, rats, mice, ferrets, rabbits, birds (other than fowl, water-fowl, and birds of prey), reptiles (other than venomous reptiles or constrictor snakes), amphibians, invertebrates, and species of domestic animals commonly kept for the primary purpose of such companionship. Fowl, raptors, and livestock are not a pet.

PULLET. A young female chicken between the ages of eight (8) weeks and five (5) months.

RAPTOR. All birds that are members of the order Falconiformes or Strigiformes; specifically, but not limited to, birds of prey such as falcons, hawks, eagles, owls, and vultures.

ROOSTER. A male chicken.

RUN. A fully-enclosed and covered area attached to a coop where the chickens can roam unsupervised.

(Prior Code, § 2.0101)

§ 90.002 RUNNING AT LARGE PROHIBITED.

It shall be unlawful for any person to have any animal which is owned, kept, harbored, or allowed to be habitually in or upon the premises occupied by the owner or under the owner's control to be at large and to go in or upon the private premises of others or upon any public property. Any animal found in or upon the private premises of others or upon any public

property in violation hereof shall be impounded by the Animal Control Officer or designated Animal Control Agency. Whenever an animal is found running at large, the same shall constitute prima facie evidence that the owner permitted it to run at large.

(Prior Code, § 2.0102) Penalty, see § 90.999

Statutory reference:

Power to regulate or prohibit the running at large of animals, see SDCL § 9-29-12

§ 90.003 REVOCABLE PERMIT.

Upon the issuance of a permit issued by the city, residents may keep and maintain brooding chicks, pullets, and hens for the laying of eggs. The chickens, pullets, and hens must be kept and maintained in a clean and sanitary manner that is not a nuisance to, or detrimental to, the public health, safety, and welfare of the community. The cost of the permit shall be established by the City Council by resolution from time to time, and each permit must be renewed annually. No odors related to the chickens shall be permitted to cross property lines. The keeping and maintenance of brooding chicks, pullets, and hens is permitted to all residents who comply with all requirements, limitations, or prohibitions of this subchapter. Such permit may be revoked if the person holding the permit refuses or fails to comply with this chapter or with any state or local law governing cruelty to animals or the keeping of animals. Any revocation shall be effective after ten days following written notice thereof to the person or persons keeping or maintaining such chickens in violation of this subchapter. Any person whose permit is revoked within ten days thereafter shall humanely dispose of all brooding chicks, pullets, and hens being owned, kept, or harbored by such person.

§ 90.004 INVESTIGATION AND ENFORCEMENT.

(A) The Animal Control Officer or designated Animal Control Agency shall have authority in the investigation and enforcement of this subchapter, and no person shall interfere with, hinder, or molest any such officer in the exercise of such powers. Such officers shall make investigations as are necessary to ensure adherence to the provisions of this subchapter.

(B) Residents keeping brooding chicks, pullets, and hens for the laying of eggs must consent to any request by the Animal Control Officer or designated Animal Control Agency to allow any such person to enter property for inspection purposes.

§ 90.005 LIMITATIONS ON THE NUMBER AND KEEPING OF CHICKENS.

(A) Chickens may only be kept within areas of the city zoned to permit single-family dwellings.

(B) No more than six (6) hens shall be housed or kept on any one residential lot that is less than one acre in size. Residential lots that are one acre in size or larger are allowed to house up to eight (8) hens. Residents may possess a like number of brooding chicks and pullets intended for the cyclical replacement of hens, but not for the purpose of sale or resale.

(C) Rooster and chicken breeding are prohibited. Cockerels must be culled from broods without delay.

(D) A coop and a reasonably satisfactory exercise yard, run, or yard fencing is required to house chickens. Chicken facilities must be constructed and maintained to meet the following minimum standards:

(1) Located in the rear or side yard;

(2) The setback required for the coop is five (5) feet or more from the rear and side property lines;

(3) Coop construction and materials must be adequate to prevent access by rodents and predators, such as fox, raccoon, opossum, and domestic animals running at large;

(4) Coops must be maintained in good repair;

(5) Coop size may not exceed thirty-two (32) square feet;

(6) The run size may not exceed sixty-four (64) square feet. Fencing shall prevent the entry into or escape of animals into the run;

(7) Fencing materials for the run shall consist of wood and wire fencing material with openings not to exceed one (1) inch;

(8) Coops shall be kept at least twenty-five (25) feet from the door or window of any dwelling of an occupied structure other than the owner's dwelling;

(9) Manure storage shall be kept twenty (20) feet or more from streams, tributaries, ditches, storm water management facilities, drop inlets, or other storm drainage areas that would allow fecal matter to enter any city storm drainage system or stream. Dumping chicken manure into the city's storm drainage system is prohibited;

(10) Chickens must not be housed in a residential dwelling or an attached or detached garage, except when housed for brooding purposes only;

(11) All premises on which chickens are kept or maintained shall be kept clean from filth, garbage, and any substances which attract rodents. The coop and its surrounding area must be cleaned frequently enough to control odor. Manure and coop waste and food shall be picked up every 24 hours, thereafter, kept in an airtight and rodent proof container, and properly disposed of thereafter on a routine basis;

(E) Chickens shall not be kept in such a manner as to constitute a nuisance to the occupants of adjacent property;

(F) Dead chickens must be disposed of within forty-eight (48) hours after death. Legal forms of chicken carcass disposal include burial and off-site incineration or rendering; and

(G) All grain and food stored for the use of the chickens shall be kept in a rodent proof container.

§ 90.006 VIOLATION.

(A) Any person violating §§ 90.004 through 90.005 shall reimburse the city for all costs borne by the city to enforce the conditions of this article including but not limited to the collection and lawful and humane disposal of chickens.

(B) Any person having a nuisance violation or building permit violation on said property within the previous twelve (12) months will not be issued a permit or it may be revoked.

(C) All chickens of any person violating §§ 90.004 through 90.005 shall be forfeited to the city and may be removed and euthanized and properly buried or otherwise disposed of in a sanitary manner.

§ 90.007 RESPONSIBILITY OF OWNER, KEEPER, CARETAKER AND THE LIKE.

(A) No person shall create or maintain any condition or operate any equipment or keep any animal, fowl, pet, or insect under his or her jurisdiction in such a way that such condition or operation causes or is likely to cause the transmission of diseases from animals or insects to humans or from animals or insects to other animals.

(B) No owner, keeper, caretaker, or attendant of an animal shall allow an animal to defecate or urinate on public or private property other than his own. If such animal does defecate or urinate upon public or private property, the owner, keeper, caretaker, or attendant must immediately and thoroughly clean the fecal matter from such property.

(C) Anyone walking an animal on public or private property other than his or her own must carry with him or her visible means of cleaning up any fecal matter left by the animal. Animals used in parades or involved in law enforcement are exempt from this section.

(Prior Code, § 2.0103) Penalty, see § 90.999

[EXISTING ORDINANCES]

§ 90.999 PENALTY.

(A) Except in sections where a different or additional penalty is imposed within this chapter or by applicable statute, each violation of each provision of this chapter is a separate offense and if any violation continues for more than an incident or day, as the case may be, each separate incident or day shall constitute a separate violation.

(1) A warning ticket may be issued upon the first offense in violation of this section. Fines for each violation of each provision of this chapter shall be assessed and payable as follows:

(a) First violation - \$50;

(b) Second violation within a 12-month period - \$95; and

(c) Third and subsequent violations within a 12-month period shall be subject to a fine of not more than \$500 or imprisonment in the county jail not longer than 30 days, or shall receive both such fine and imprisonment.

(2) In addition to fines and penalties, the Animal Control Officer or designated Animal Control Agency may impound the animal at the owner's expense.

(Prior Code, § 2.0117)

(B) Fines for each violation of § 90.002, § 90.003, or § 90.004 shall be assessed and payable as follows:

- (1) First violation, each animal - \$95;
- (2) Second violation within a 12-month period, each animal - \$145; and
- (3) Each additional offense - \$175.

(Prior Code, § 2.0102)

(C) Fines for each violation of required licensure as required under § 90.025 of this chapter shall be assessed and payable as follows:

- (1) First violation, each animal - \$50;
- (2) Second violation within a 12-month period, each animal - \$75; and
- (3) Third and subsequent violations within a 12-month period shall be subject to a fine of not more than \$500 or imprisonment in the county jail not longer than 30 days, or shall receive both such fine and imprisonment.

(Prior Code, § 2.0204)

Section 3. VALIDITY.

All Ordinances or parts of Ordinances in conflict with the foregoing are hereby repealed. The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any part of this ordinance which can be given effect without such invalid part or parts.

Section 4. ORDINANCE IN FORCE.

This ordinance shall be in full force and effect from and after its passage, approval, recording, and publication as provided by law.

Adopted this ____ day of _____, 2023.

First Reading:	November 21, 2023
Second Reading:	_____, 2023
Passage and Adoption:	_____, 2023
Publication:	_____, 2023
Effective Date:	_____, 2023

Mayor

(SEAL)

ATTEST:

Finance Officer