

# REPORT / RECOMMENDATION



**To:** MAYOR AND COUNCIL

**Agenda Item #:** VIII. C

**From:** Ross Bintner P.E. - Environmental Engineer  
EEC Member Latham (Presenting)

**Action**

**Discussion**

**Date:** March 17, 2015

**Information**

**Subject:** Ordinance No. 2015-05 Amending Chapter 8 of the Code Regarding Fowl

## **Action Requested:**

First reading of Ordinance No. 2015-05, amending Chapter 8 of the Edina City Code Regarding Fowl.

## **Information / Background:**

The Energy and Environment Commission (EEC) is recommending code revision to allow limited chicken keeping in the City. A report from the EEC on the subject and an Ordinance to that affect is attached for Council consideration. Commission member Latham will be available to present this report.

This item was initially presented to Council at the January 20, 2015 Meeting as a single ordinance that dealt with bees and chicken keeping. Council approved first reading for Bee portion and sent back the chicken portion to the EEC for further advice relating to humane treatment.

## **Attachments:**

Ordinance No. 2015-05  
EEC Report & Attachment  
Planning Commission Minutes

G:\PW\CENTRAL SVCS\ENVIRONMENT DIV\Energy and Environment Commission\Working Groups\Local Food\150120 Ordinance No. 2015-02 Bees and Chickens.docx

**ORDINANCE NO. 2015-05  
AN ORDINANCE AMENDING CHAPTER 8  
OF THE EDINA CITY CODE REGARDING FOWL**

**THE CITY COUNCIL OF EDINA ORDAINS:**

Section 8-5 of the Edina City Code is included for reference:

**Livestock** means farm animals kept for use, pleasure or profit, including, without limitation, horses, mules, sheep, goats, cattle, swine and fowl.

**Section 1.** Section 8-210 of the Edina City Code is amended to provide as follows:

**Sec. 8-210. Keeping of certain animals regulated.**

No person shall keep any rabbits, mice, hamsters, guinea pigs or other rodents, ferrets or any bird, excluding female *Gallus gallus domesticus*, on any premises used for residential purposes except in a metal cage so constructed that it may be completely and easily cleaned and that the animal or animals kept therein are completely enclosed and protected from children and animals on the outside. Such animals at all times shall be kept within the dwelling or an accessory building.

**Section 2.** Section 8-212 of the Edina City Code is amended to provide as follows:

**Sec. 8-212. Keeping of certain animals prohibited.**

No person shall keep within the city:

- (1) Any livestock with the exception of a maximum of four (4) female *Gallus gallus domesticus*. Up to eighteen (18) immature *Gallus gallus domesticus* fowl may be used in educational or instructional activity, provided their use is directly related to the educational or instructional activity.
- (2) Any mammal belonging to the order Carnivora except dogs, cats and ferrets. For the purposes of this subsection, the bloodline of an individual animal must comprise not less than 51 percent domestic breeds.
- (3) Honeybees and apiaries.
- (3) Venomous snakes.

**Section 3.** This ordinance is effective immediately upon its passage and publication.

First Reading:

Second Reading:

Published:

Attest

\_\_\_\_\_  
Debra A. Mangen, City Clerk

\_\_\_\_\_  
James B. Hovland, Mayor

Please publish in the Edina Sun Current on  
Send two affidavits of publication  
Bill to Edina City Clerk

# Local Food Working Group (LFWG) Report on Fowl

2-13-15

**General Background:** The Edina Energy and Environment Commission (EEC) established its Local Food Working Group (LFWG) on 10-10-13 to implement the Green Step Cities (GSC) Local Food Best Practice #27 Action #2, which is defined as “Facilitate creation of home/community gardens, chicken & bee keeping, and incorporation of food growing areas/access in multifamily residential developments.” To achieve GSC credit for chicken and bee keeping at the one star level, the city must “Remove restrictions to food gardening/raising of chickens/bees in residential areas.” Seventy-eight Minnesota cities belong to Green Step Cities including Edina as of 2-13-15.

**Objective** – The objective of the LFWG is to propose to the EEC code revisions and accompanying policy, as well as educational programs, to enable Edina to obtain credit for the GSC Local Food best practice by making it possible for residents to keep honeybees and female chickens in Edina and thus obtain their accompanying environmental benefits. Another objective of the honeybee and fowl ordinance amendments is to provide an apicultural framework to enable hobbyists to safely and successfully pursue these pleasurable and environmentally, economically, culturally and agriculturally critical activities in urban areas. The proposed amendments for fowl are designed to result in a minimum of staff oversight time given that no permit is required.

**Other Governmental Regulations** - Where other city, county or state regulations apply, they will be utilized and not repeated as part of Edina’s enabling code amendments. This includes nuisance, noise, sanitation, animal cruelty, accessory building regulations, customary home occupations and animal enclosure regulations among others.

**Chicken-Keeping Benefits** - The benefit of a limited number of hens (a maximum of 4 female *Gallus gallus domesticus*) is that they are interesting companion animals, which can be used as part of an Integrated Pest Management (IPM) gardening program given their appetite for insects. Hens will consume many varieties of harmful insects including slugs, wood ticks and Japanese beetles. They can also be used as a source of fresh eggs and fertilizer. In order to foster honeybee-keeping as well as native pollinators, residents must greatly reduce pesticide use. Chickens are a nonchemical, environmentally sound method of reducing garden pests. Chickens lay eggs for 4 – 5 years, but live for 10 – 12 years, thus must be viewed as companion animals. The Morningside area of Edina has long had a tradition of keeping chickens, which continues today.

**Noise Concerns** - Only hens, not roosters, will be permitted given that hens are nearly silent, making only a light clucking sound. Only roosters crow. House Wrens, Mourning Doves and many other wild birds make more sound than do hens. Barking dogs make far more sound than do hens.

**Educational Benefits of Chickens** – The ordinance has been revised to permit schools to use up to 18 immature chickens in their educational programs because it is a valuable lesson in science and biology. It also helps kids understand our human food chain so that they understand that eggs and meat should be treated with respect. Given that a chicken has paid the ultimate price for their lunch, they shouldn’t be wasteful. It means a lot more when students see a chicken as more than a bag of frozen chicken breast that we buy a grocery store. Hens are not specified in the educational exception because it is difficult to tell the sex of chicks. The city of Rochester provides such an educational exception for up to twelve chickens.

**Hen House/Chicken Run Setback** – Is not addressed in the proposed code amendments and therefore defaults to:

Sec. 8-211 – “Animal Enclosure”... “Shall not exceed 300 square feet in area and shall be placed only in the rear yard and no closer than 20 feet to any property line.”

No requirements are recommended as to chicken coop size or amenities. The City does not specify such requirements for dog houses or other pet housing. Residents are expected to review the requirements for any proposed family pet and responsibly undertake them. To legislate requirements for hen houses would open the flood gates to having to do so for other pet housing such as dogs, rabbits, guinea pigs, etc. Pet stores selling chicken coops, or on-line plans for chicken coops generally conform to standards such as those set forth in the University Agricultural Extension recommendations found at <http://www.extension.umn.edu/food/small-farms/livestock/poultry/backyard-chicken-basics/#care>. If pet housing manufacturers did otherwise, it would likely result in a loss of pet housing sales.

**Animal Cruelty Laws** – If chicken owners, as any other pet owners, are not responsible in the housing and care of their pets, they are subject to the State Animal Cruelty statutes – See attached MN Stat 343.20 et. seq. Thus, it is not necessary to duplicate such requirements in Edina’s fowl amendments.

**Disease** – Refer to the attached University of Minnesota Extension memorandum of 5-29-12 indicating that there is little likelihood of contracting parasites or disease from chickens. This includes diseases such as salmonellosis, campylobacteriosis, chlamyphilosis (also known as psittocosis), and avian influenza.

**Home Occupation** – Chicken-keeping is not listed as a permissible home occupation under the Home Occupation ordinance, Section 36-1254. Thus, eggs could not be sold directly from home, but could be sold at a Farmer’s Market, etc., if desired. A typical hen under about five years of age lays approximately one egg a day, with less in the winter.

**Chicken-Keeping Registration Process** – Because there is little injury, health or safety risk in raising chickens, no license, registration or permit is proposed. Licenses are required of dogs so that their owners can demonstrate that they have had rabies shots. Registration is required of apiaries so that neighbors can be notified, and in the event that they have any known honeybee allergies, they can request the apiary permit be revoked. See attached University of Minnesota Extension 5-29-12 memorandum indicating minimal risks.

**Other Cities Permitting Hen-Keeping** - At least 24 metro cities allow the keeping of hen chickens, including three cities on Edina’s boundary (Bloomington, Minneapolis, St. Louis Park). These metro cities include Bloomington, Burnsville, Centerville, Circle Pines, Eagan, Falcon Heights, Fridley, Golden Valley, Maple Grove, Maplewood, Minneapolis, Minnetonka, New Brighton, New Hope, Newport, Oakdale, Ramsey, Robbinsdale, Roseville, St. Louis Park, St. Paul, Shoreview, Vadnais Heights, and West St. Paul. Other metro cities allowing chickens generally do not allow roosters. At least three metro cities prohibit keeping chickens - Eden Prairie, Wayzata and White Bear Lake.

**Number of Chickens** – Up to 4 hen (female) chickens will be allowed, or 18 immature chickens when used in educational or instructional activity, provided their use is directly related to the educational or instructional activity. Four was chosen because, as a flock animal, two can keep each other company. Since hens lay eggs for only 4 or 5 years, if the hens are desired for eggs, one needs to get two younger hens after the first two stop laying after 4 or 5 years, resulting in a total of four. Since chickens live about 10 years, the first two will probably die by the time the second two stop laying and then two younger hens can be obtained while maintaining a total of four hens. Cities that have a specified a ceiling on the number of hens in residential settings generally allow a maximum of four. This includes Bloomington, Burnsville, Centerville and Shoreview. Maplewood allows 10. Golden Valley allows up to 3 laying hens as well as New Hope, which allows more with a permit. Robbinsdale requires permission for more than two chickens. Eagan allows 5 hens and Minnetonka allows 5 hens per one-half acre. New Brighton has no restrictions on chickens but has an Urban Farm Task Force report recommending a “fowl tried matrix” to set a limit on poultry based on lot size up to a maximum of 24 birds.

**Slaughtering** – At the 11-13-14 meeting, EEC recommended permitting slaughtering as it is the most humane way to remove a chicken which is has disease or is injured, or which no longer lays eggs. It is preferable to adding them to animal shelters, which may need to euthanize them. Most likely, hens would become beloved family pets and slaughtering is rarely expected to occur. Guinea pigs are commonly eaten in South American cultures, yet Edina has no regulations with

respect to slaughtering them despite their being a common pet. Some metro cities allowing chickens do allow slaughtering. This includes Minnetonka, Minneapolis (for religious reasons), Maple Grove, and Burnsville.

**LFWG Educational Programs for Keeping Hens** - After passage of the chicken-keeping ordinance the following educational program is proposed to be offered: “Keeping Chickens as Companion Animals, as a Component of a residential IPM Program, and as Local Food” – Date TBA. Virginia Kearney to find a speaker for a free program in the Arneson Terrace Room on a Saturday morning. For a video on how to get started with chickens, see video series at [www.Extension.UMN.Edu/small-farms](http://www.Extension.UMN.Edu/small-farms). Edina Community Ed can also be considered as a venue for education on keeping chickens.

### **Legislative History**

**LFWG Membership** - Three city of Edina commissioners were confirmed by the EEC at the 11-14-13 EEC meeting, with additional residents confirmed at the Dec. 12, 2013 EEC meeting. The LFWG consists of:

Dianne Plunkett Latham, LFWG Chair - Energy & Environment Commission

Louise Segreto –Park Board

Arlene Forrest - Planning Commission - Beekeeping experience

Virginia Kearney – Edina Resident – Chicken-keeping experience

Dr. Geoffrey Bodeau – Edina Resident - Beekeeping experience

Jamie Bodeau –Edina Resident –Beekeeping experience – Son of Dr. Geoffrey Bodeau and EHS senior

David Chin - Edina Resident - Beekeeping experience

**LFWG Meetings:** The LFWG meets at City Hall as needed with meetings attended as follows:

Nov. 26, 2013: Present - DP Latham, Louise Segreto, Arlene Forrest, Virginia Kearney, Dr. Geoffrey Bodeau, David Chin. Absent: Jamie Bodeau, Flora Delaney

March 21, 2014: Present - DP Latham, Flora Delaney, Virginia Kearney, Dr. Geoffrey and Jamie Bodeau. Absent - Louise Segreto, David Chin, Arlene Forrest

**EEC Meetings:** The LFWG report and City Code amendments for chicken and beekeeping were reviewed by the EEC at its 4-10-14 meeting (present DP Latham, David Chen, Virginia Kearney) and 5-8-14 meeting (present DP Latham, Dr. Geoffrey Bodeau). The EEC approved the LFWG report and ordinance amendments for a recommendation to the 6-3-14 EEC/City Council Work Session. Council’s 6-3-14 Work Session recommendations were incorporated into the report and code recommendations by the LFWG and unanimously approved at the 6-12-14 EEC meeting (present DP Latham, Dr. Geoffrey Bodeau, Jamie Bodeau) for forwarding to Council with a recommendation to implement the code amendments. The amendments were returned to the EEC for consideration at its 10-9-14 meeting to make additional changes recommended by the City Attorney as well as LFWG members at which time the LFWG’s revised proposal was unanimously approved. Recommendations of the 11-12-14 Planning Commission meeting were considered by the EEC at its 11-13-14 meeting with the EEC’s conclusions set forth below. After the first reading of the honeybee and fowl amendments at the 1-20-15 Council meeting, Council referred several issues to EEC regarding animal cruelty and coop requirements. These issues were considered at the 2-12-15 EEC meeting with the LFTF report on Fowl being unanimously approved (present DP Latham and Virginia Kearney). The LFTF’s proposed policy on Apiary Registration Revocation and its accompanying rationale document was also unanimously approved at the 2-12-15 EEC meeting,

including the requirement that medical documentation be specific to anaphylaxis due to honeybee (*Apis mellifera*) stings, not bee stings generally.

**City Council Meetings:** The EEC met with the City Council for a work session on the proposed ordinance on 6-3-14. All Council members were present. LFWG members present included DP Latham, David Chin, and Virginia Kearney. Hen Shirley demonstrated what excellent and quiet companion animals hens are. Other EEC members present included Commissioners Herr, Sierks, Gubrud, Howard, Glahn and Zarrin. A first reading of the honeybee and fowl ordinance was held on 1-20-15 (LFWG present: Arlene Forrest, Virginia Kearney, Dr Geoffrey Bodeau, Jamie Bodeau, David Chin) The LFWG report was presented by LFWG Chair, Dianne Plunkett Latham. At that time Council directed that the honeybee and fowl sections be separated into two separate ordinances and that a policy on apiary registration revocation be prepared for the second reading of the beekeeping amendments. The second reading for the honeybee amendments was held on February 3, 2015, (present DP Latham, Arlene Forrest, Dr. Geoffrey Bodeau) but because the date did not allow staff enough time to review the proposed apiary registration revocation policy, the beekeeping ordinance was tabled to the March 17, 2015 Council meeting with a few minor amendments having been proposed at the Feb. 3, 2015 meeting. The second reading for the fowl amendments was scheduled for March 17, 2015. This report segregated out the fowl portion with the honeybee portions being deleted so that the report can address Council's concerns with respect to the fowl issues as articulated at the January 20, 2015 first reading.

**11-12-14 Planning Commission Informational Meeting** – On 9-23-14 Ross Bintner indicated that City Attorney, Roger Knudson, related that because the proposed ordinance amended the Section 36 Zoning code, that the proposed ordinance must be referred to the Planning Commission for a public hearing before it goes to the City council. Cary Teague, the Planning Commission Staff Advisor indicated that the amendments must have an informational hearing at the Planning Commission prior to a Planning Commission public hearing. EEC's Commissioner Latham then presented the proposal at the 11-12-14 Planning Commission's informational hearing. Also present was EEC's staff liaison Ross Bintner as well as the City of Eden Prairie's staff member, Jim Schedin, who is responsible for Eden Prairie's beekeeping ordinance enforcement. Mr Schedin is also an Edina resident. At the 11-12-14 Planning Commission meeting, Commissioners Latham and Forrest recommended removing the Section 36 Zoning amendments because they were either unnecessary or because they were inconsistent with Council's desires as expressed at the 6-3-14 Work Session. Pending EEC approval, if no further Section 36 amendments remained, Cary Teague indicated that a Planning Commission public hearing was no longer necessary given that the Planning Commission no longer had jurisdiction. The City of Edina Attorney concurred with this assessment. At the 11-13-14 meeting, EEC unanimously agreed with removing the Section 36 Zoning amendments from the proposed ordinance. As a consequence, a public hearing before the City Council was unnecessary as well.

At the 11-12-14 Planning Commission informational meeting, the following issues related to fowl were identified and unanimously responded to as noted below during the 11-13-14 EEC meeting.

Commissioner Platteter expressed concerns about chickens attracting coyotes. EEC found this concern unfounded given that coyotes are already in Edina. Continuing a ban on chickens would not eliminate or reduce the coyote population. Coyotes are attracted to Edina's abundant wildlife (fox, rabbits, squirrels, chipmunks, raccoons, mice, voles, shrews, fawn, etc) as well as residents' small dogs and cats. A hen keeper could as easily argue that a neighbor's small dogs and cats are attracting the coyotes to their hens.

Commissioner Platteter suggested a prohibition on slaughtering chickens. Jim Schedin indicated that Eden Prairie does not have such a prohibition. EEC determined that slaughtering chickens should be allowed given that only four hens are permissible; it is the most humane way of disposing of a hen that no longer lays eggs or which becomes injured. It is also preferable to adding such hens to animal shelters, which would then have to consider euthanizing them. Most likely, hens would become family pets and slaughtering is rarely expected to occur in any event.

Commissioner Carr asked if there was a limit on the number of accessory structures a resident could have. Cary Teague indicated that there was none. Planning made no recommendation for such a limitation, presumably because there already is a limitation on the number of honeybee colonies a resident can have. Furthermore, a resident is unlikely to desire more than one hen house for only four hens.

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*Located on the  
St. Paul Campus*

May 29, 2012

To: Interested Parties

From: University of Minnesota Extension Specialists

Re: Backyard or Urban Poultry Keeping Concerns

Several common concerns have been expressed by town and city governments when they are asked to consider the request to keep poultry in urban settings. The purpose of this letter is to provide information regarding these concerns which typically include transmission of diseases from poultry to humans as well as nuisance concerns of noise, odor, and pests; generation and disposal of waste.

*Poultry diseases and transmission to humans*

The main diseases of concern include salmonellosis, campylobacteriosis, chlamydia (also known as psittacosis), and avian influenza. Illness associated with salmonella and campylobacter is typically the result of eating contaminated food which has been improperly cooked or prepared. Salmonella and Campylobacter can exist in the gut of the bird and hence contact with the fecal material is a concern; however, neither is present in the gut of most poultry. There are sporadic reports of children contracting Salmonella by handling baby chicks. People, especially children should wash their hands before and after handling poultry to prevent transmission in either direction. Chlamydia or psittacosis is rarely diagnosed in domestic poultry, usually turkeys or pigeons, and is generally not a disease of chickens. Most cases of Chlamydia infection are diagnosed in psittacine bird (parrots, etc.) and only on rare occasion. Contact with respiratory secretions or fecal material of sick birds can spread the disease. Avian Influenza is a respiratory disease in birds and there are many different subtypes of Influenza virus. Most subtypes are not transmitted to humans (zoonotic). One subtype, occurring in Europe and the Far East, can be transmitted from birds to humans. This subtype has never been diagnosed in the United States, but there are both national and state programs to regularly monitor U.S. poultry and wild birds for the presence of this subtype.

Parasites of poultry must live on or inside birds to survive and do not infect people. External parasites that can infest poultry are not infectious for people. Common external parasites such as the northern fowl mite strictly live on birds and are not infectious for people. Intestinal parasites, such as coccidia and roundworms, can live in the digestive tract of poultry, but do not infect humans, dogs or cats.

### *Nuisance concerns*

These concerns include noise, manure, odor, and pests. For noise, male (rooster) and female (hen) chickens vary in their vocalizations. Mature roosters will crow while hens make a clucking noise. The clucking tends to be soft in tone but the hens can have a loud call-alarm call if startled or threatened. These calls occur over a short time period and end when the threat ends or is identified. Typically there will be little vocalization during the night time hours unless the birds are startled.

Odor can be associated with chicken manure if allowed to accumulate. A small number of birds will not generate much manure and with periodic cleaning of the coop this should not be an issue. The manure and bedding that is removed can be used as a fertilizer in the fresh form or after composting. Because the birds produce manure, there is the concern that flies will be attracted and proliferate in the manure. Wet feed can also attract flies. Proper coop management, maintaining dry bedding and removing soiled bedding and wet feed from the coop should minimize the fly population in a small flock. Proper coop management will also minimize potential problems with rodents such as house mice and Norway rats. Larger pests/predators, such as foxes, raccoons, and coyotes that already reside in urban areas may take an occasional chicken but the small populations of poultry kept in any one area are unlikely to attract and sustain any number of predators.

### *Prepared by:*

Sally Noll, Poultry Extension Specialist, Minnesota Extension, Department of Animal Science  
Rob Porter, DVM, PhD, Diplomate American College of Poultry Veterinarians, Veterinary Diagnostic Laboratory

Wayne Martin, Minnesota Extension, Alternative Livestock Systems

Todd Arnold, Associate Professor Dept. of Fisheries, Wildlife, and Conservation Biology

*Additional information is available at the following websites:*

<http://www.ansci.umn.edu/poultry/publications.htm>

<http://www1.extension.umn.edu/food-safety/sanitation/>

<http://www1.extension.umn.edu/food/small-farms/livestock/poultry/>

## Report on 1-20-15 E-mail of Ross Plaetzer

At 1:27 pm on the day of the January 20, 2015 City Council meeting, Council received the following e-mail from Edina resident, Ross Plaetzer of 4058 Sunnyside Road. Because the Local Food Working Group (LFWG) and the Edina Energy and Environment Commission (EEC) had no opportunity to review the e-mail prior to the Council meeting, Council declined to approve the EEC's proposed fowl amendments at the January 20, 2015 first reading and directed EEC to review the facts in the e-mail and make recommendations on the requests in the e-mail prior to Council's second reading of the fowl amendments, which is scheduled for March 17, 2015. The EEC unanimously adopted this report on 2-12-15.

EEC Commissioner and LFWG Chair Dianne Plunkett Latham reviewed the facts alleged in Mr. Plaetzer's e-mail of 1-20-15. The two chickens referred to in his e-mail are those residing at 4507 Grimes Ave. S., which, as stated in his e-mail, are five houses away from Mr. Plaetzer's residence. See map and chicken coop photograph below. The chickens were obtained in June 2014 and were not there "last winter." In summary, it appears that Mr. Plaetzer is not familiar with the specific care these chickens are receiving, or what constitutes good practice with respect to housing pet chickens. See University of Minnesota Extension backyard chicken care standards at <http://www.extension.umn.edu/food/small-farms/livestock/poultry/backyard-chicken-basics/#care>.

I personally visited the chicken coop at 4507 Grimes Ave. S. on 1-27-15 and found the chickens in question are well cared for and well loved family pets. They were active, well fed, friendly, and had no signs of frostbite or other disease. Their housing conforms to the above cited U. of MN Extension backyard chicken care standards.

*Coop Structure* - The "small coop" is the Extreme Cape Cod model from Fleet Farm. The dimensions are 73" length x 31.9 width x 48" height resulting in 2,329 square inches, or a little over 16 square ft of ground floor space plus 6 more sq feet additional in the loft, which has a locking nesting box where the roof area can easily be raised to retrieve eggs. It is advertised as suitable for four chickens, resulting in 4 sq ft per hen. Given that it is occupied by only 2 chickens at 4507 Grimes Ave. S., they have 8 sq ft per hen. The U. of MN Extension care standards cited above recommends 3-5 sq ft per hen. Cape Cod model coops have an asphalt roof, are completely enclosed and are surrounded by a wire cage with a feeding and exercise area. Chicken coops are typically "completely exposed to the elements" given that they are typically outside.

*Coop Heating* - It is common practice to heat a small chicken coop with a single light bulb in the winter. See above U. of MN Extension care standards. The coop in question has a heat lamp which operates 24 hours a day, seven days a week during the winter. One can see the electrical cord as well as light emanating from the coop window in the attached photograph. There is a heating plate under the five gallon water container to prevent the water from freezing. There is also a feeding trough which contains a 5 day supply of food. You can see from the photograph that this deluxe chicken coop has many amenities. The resident has expended approximately \$400 to insure proper housing for the chickens.

*Exercise* - It is not accurate that the "chickens never get to walk outside the cage." The owner indicates that they are taken out by the children to play with almost every day. Chickens do not like walking on snow so prefer to stay in their coop during the winter and only come out into areas where there is no snow. There would be no insects, seeds, fruits or vegetables for them to forage for during the winter outside the coop in any event. The homeowner indicates that in the winter the children play with the hens in the house and in summer the hens play in the yard with the homeowner's children and neighborhood children, who often stop by to play with them as well. As you can see from the attached map, the Plaetzer's do not have a line of sight view of the coop thereby disabling them from continuously monitoring the hen's exercise and play activities. Consequently, they cannot be aware of how often the hens are played with. The coop contains a ramp up to the roosting area and space at the ground level for foraging and where the chickens can "stand up, lie down, and turn around freely, and fully extend all limbs" as Mr. Plaetzer recommends.

In conclusion, the chickens in question are maintained in accordance with standard pet chicken practices. It is not necessary to include such practices in an ordinance given that the State of Minnesota is well positioned with 11 pages of animal cruelty statutes which can be found at MN Stat. 343.20 Et. Seq. See attached.

In Mr. Plaetzer's follow-up e-mail of 1-21-15 (see below) he gives the citations from which he developed his recommended ordinance language. These are farming based livestock standards and not applicable to urban pets. For example, he recommends a standard of 101 to 116 sq inches of floor space per hen. With his standard, the hens in question would each have less than 1 sq foot (144 sq inches) of floor space. The U. of MN Extension article above recommends 3-5 sq ft per hen. With two hens, the hen house in the photograph exceeds this at 16 sq ft of floor space (8 sq ft per hen) plus 6 sq ft in the loft, or 4 sq ft of floor space per hen if the hen house were utilized to the designed capacity of 4 hens.

Mr. Plaetzer recommends the slaughter standards from Public Law 85-765 (7 U.S.C. 1901 et seq., but this law *exempts* birds from the recommended standard. In the EEC's report dated 11-22-14 on page 8, which was included in the 1-20-15 Council packet, EEC recommended permitting slaughtering as it is the most humane way to remove a chicken which is has disease or injury, or which no longer lays eggs. It is preferable to leaving them at animal shelters, which may need to euthanize them. Most likely, hens will become beloved family pets and slaughtering is rarely expected to occur. Some metro cities allowing chickens do allow slaughtering. This includes Minnetonka, Minneapolis (for religious reasons), Maple Grove, and Burnsville.

No Twin City metro city was found with any of Mr. Plaetzer's recommendations below in their Code given that his recommendations are either farm livestock based standards, or are simply common sense. As such, his recommendations below are not recommended for adoption into Edina City Code. The City does not specify area requirements for dog houses or other pet housing. Residents are expected to review the requirements of any proposed family pet and responsibly undertake them. To legislate requirements for hen houses would open the flood gates for having to do so for other pet housing (dogs, rabbits, guinea pigs, etc). The attached State animal cruelty statutes are more than adequate to assure proper treatment of pets in Edina.

**From:** Ross Plaetzer

**Sent:** Tuesday, January 20, 2015 1:27 PM

**To:** 'mail@EdinaMN.gov'; 'kstaunton@EdinaMN.gov'; 'rstewart@EdinaMN.gov'; 'mbrindle@comcast.net'; 'swensonann1@gmail.com'

**Cc:** 'cteague@ci.edina.mn.us'; 'sneal@EdinaMN.gov'; [michael.platteter@target.com](mailto:michael.platteter@target.com); 'jhovland@krausehovland.com'

**Subject:** Keeping Chicken ordinance

I am glad the Council is taking up the bee ordinance tonight since the more healthy bees there are the healthier our environment is.

As to the chicken part of the proposed ordinance, however, it seems that any guidelines for best and humane practices are missing. A homeowner five house down from us keeps two chickens in a small coop completely exposed to the elements. The chickens never get to walk outside the cage. Last winter the owner never used a heat lamp and the chickens were exposed to many subzero nights. It seems the ordinance should include some guidelines on humane cage size, free range availability and protection from extreme heat or cold weather.

I hope you pass the bee part of the ordinance tonight and send the chicken part back for more study. I've put some suggested ordinance language in this regard below.

Thanks for your consideration.

**ROSS PLAETZER | 4058 SUNNYSIDE ROAD**

## **Sec. 8-211. Animal enclosure.**

(1) An animal enclosure, whether now existing or hereafter constructed, shall not exceed 300 square feet in area and shall be placed only in the rear yard and no closer than 20 feet to any property line.

(2)

(a) Humane Practices Required- No person may keep any hen unless, during the entire period of hen's life, the hen is raised in compliance with subsection (b).

(b) Compliance- A hen is raised in compliance with the requirements of subsection (a) only if the hen is provided adequate space in a caging device to--

(1) stand up, lie down, and turn around freely, and

(2) fully extend all limbs.

(c) In addition to the requirement of subsections (a) and (b), each hen must have access to outdoors by four (4) weeks of age, for a minimum of six (6) hours each day, seasonal weather permitting. Such outdoor area must provide shade, well drained rest areas, and protection from predators. The outdoor area to which hens have access must:

1. Consist of ground covered by living vegetation, where possible. Ground coverings such as gravel, straw, mulch or sand may be used when vegetation is not possible. Coarse grit must be available to aid digestion of vegetation.

2. Be designed and actively managed in ways that minimize the risk of the area becoming damaged, contaminated, or sodden;

3. Be managed to avoid build-up of agents (e.g., parasites, bacteria, viruses) that may cause disease.

4. Prevent hens from coming into contact with any toxic substances.

5. Have sufficient well-drained, shaded areas for hens to rest outdoors without crowding together.

6. Have cover, such as shrubs, trees or artificial structures, distributed throughout the area to reduce the fear reactions of hens to overhead predators and to encourage use of the area.

(d) Housing

All hens must have access to housing that keeps them dry, protects them from wind and unseasonable temperatures and from predators, and meets the other requirements of this section.

(e) A caging device that provides a hen a **minimum of 116 square inches of individual floor space per brown hen and 101 square inches** of individual floor space per white hen shall be considered to comply with the requirement of subsection 2(b).

(f) A hen must be caught individually and carried by both legs; one-legged catching or carrying is prohibited.

(g) Exemptions- Subsections (a) and (b) shall not apply to a hen--

(1) during lawful transport;

(2) during the slaughter of the hen in compliance with Public Law 85-765 (7 U.S.C. 1901 et seq.; commonly known as the Humane Methods of Slaughter Act of 1958) and other applicable law and regulations; or

(3) while undergoing an examination, test, treatment, or operation for individualized veterinary purposes to improve the well-being of the hen.

(e) Definitions- In this section:

(1) The term "hen" means any female *Gallus domesticus*.

(2) The term "fully extend all limbs" means the ability of the hen to fully extend all limbs without touching the side of a caging device, including, fully spreading both wings without touching the side of an enclosure or other hens.

(3) The term "turn around freely" means the ability of the hen to turn in a complete circle without any impediment, including a tether, and without touching the side of a caging device.

(4) The term "caging device" means any cage, enclosure, or other device used for the housing of hens, but does not include an open shed or other fixed structure without internal caging devices.

(5) The term "individual floor space" means the amount of total floor space in a caging device available to each hen in the device, calculated by measuring the total floor space of the caging device and dividing by the total number of hens in the device.

**From:** Ross Plaetzer [mailto:ross@employersolutionsgroup.com]

**Sent:** Wednesday, January 21, 2015 11:58 AM

**To:** Dianne.Plunkett.Latham@comcast.net

**Subject:** FW: Keeping Chicken ordinance

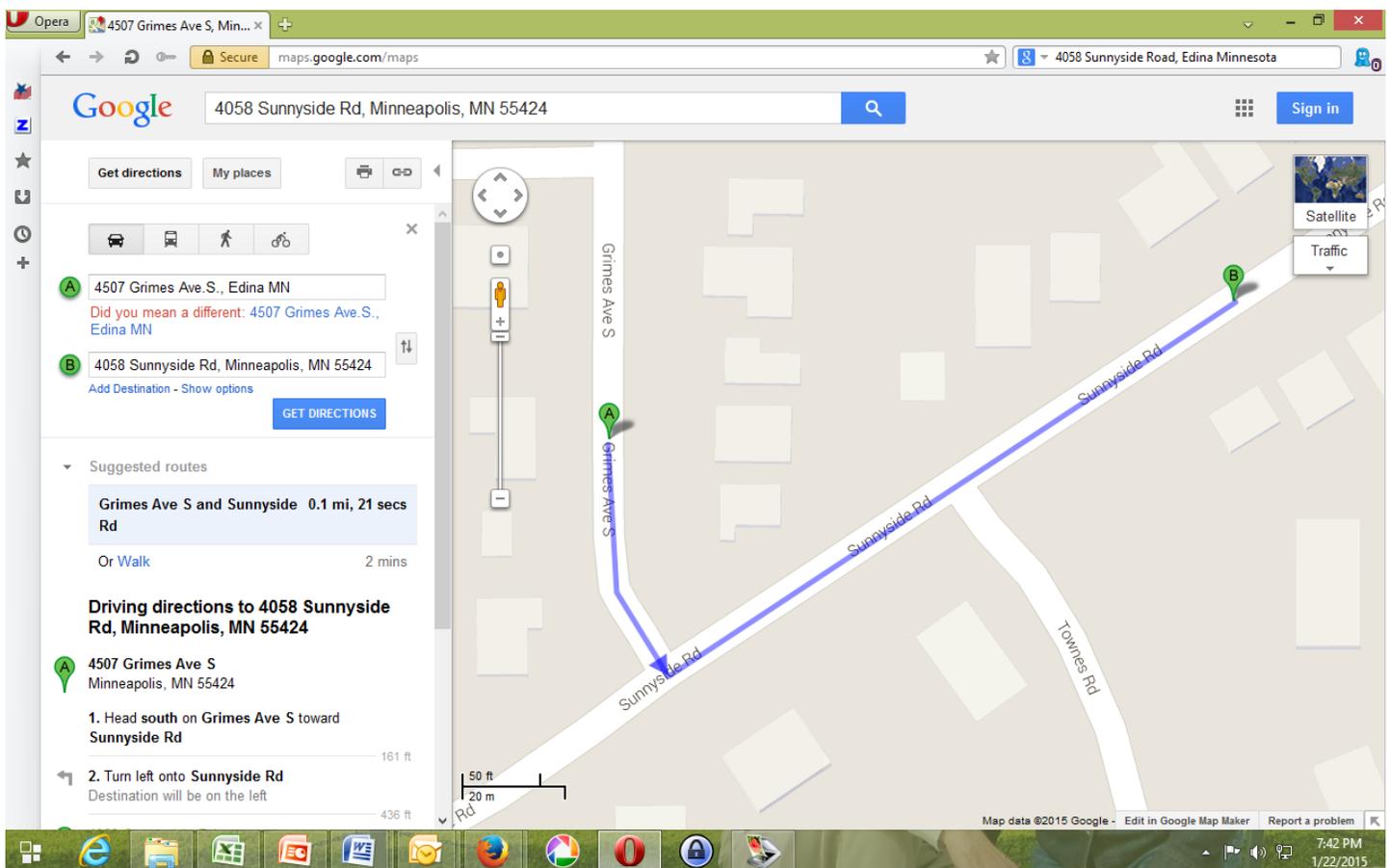
Here are some links to a site with a discussion of humane chicken raising practices.  
Thanks.

[http://certifiedhumane.org/wp-content/uploads/2014/01/Comp.Standards.Comparison.Chart\\_.wappendix.11.26.13.pdf](http://certifiedhumane.org/wp-content/uploads/2014/01/Comp.Standards.Comparison.Chart_.wappendix.11.26.13.pdf)  
<http://certifiedhumane.org/wp-content/uploads/2014/08/Std14.Layers.5Z.pdf>  
<http://certifiedhumane.org/how-we-work/our-standards/>

**ROSS PLAETZER | 4058 SUNNYSIDE ROAD**

**| EDINA, MN 55424**

**| CELL: 612.991.8896 |**





Hen House at 4507 Grimes Ave. S.



# Minnesota State Animal Cruelty Statutes

## 343.20 DEFINITIONS.

### Subdivision 1.Application.

Except as otherwise indicated by the context, for purposes of sections 343.20 to 343.36, the terms defined in this section have the meanings given them.

### Subd. 2.Animal.

"Animal" means every living creature except members of the human race.

### Subd. 3.Torture; cruelty.

"Torture" or "cruelty" means every act, omission, or neglect which causes or permits unnecessary or unjustifiable pain, suffering, or death.

### Subd. 4.Impure and unwholesome milk.

"Impure and unwholesome milk" means all milk obtained from diseased or unhealthy animals, or from animals fed on any substance which is putrefied or fermented.

### Subd. 5.Animal control officer.

"Animal control officer" means an officer employed by or under contract with an agency of the state, county, municipality, or other governmental subdivision of the state which is responsible for animal control operations in its jurisdiction.

### Subd. 6.Pet or companion animal.

"Pet or companion animal" includes any animal owned, possessed by, cared for, or controlled by a person for the present or future enjoyment of that person or another as a pet or companion, or any stray pet or stray companion animal.

### Subd. 7.Service animal.

"Service animal" means an animal trained to assist a person with a disability.

### Subd. 8.Substantial bodily harm.

"Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member to a service animal or a pet or companion animal.

## **Subd. 9. Great bodily harm.**

"Great bodily harm" means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ, or other serious bodily harm to a service animal or a pet or companion animal.

## **343.21 OVERWORKING OR MISTREATING ANIMALS; PENALTY.**

### **Subdivision 1. Torture.**

No person shall overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when it is unfit for labor, whether it belongs to that person or to another person.

### **Subd. 2. Nourishment; shelter.**

No person shall deprive any animal over which the person has charge or control of necessary food, water, or shelter.

### **Subd. 3. Enclosure.**

No person shall keep any cow or other animal in any enclosure without providing wholesome exercise and change of air.

### **Subd. 4. Low feed.**

No person shall feed any cow on food which produces impure or unwholesome milk.

### **Subd. 5. Abandonment.**

No person shall abandon any animal.

### **Subd. 6. Temporary abandonment.**

No person shall allow any maimed, sick, infirm, or disabled animal to lie in any street, road, or other public place for more than three hours after receiving notice of the animal's condition.

### **Subd. 7. Cruelty.**

No person shall willfully instigate or in any way further any act of cruelty to any animal or animals, or any act tending to produce cruelty to animals.

### **Subd. 8. Caging.**

No person shall cage any animal for public display purposes unless the display cage is constructed of solid material on three sides to protect the caged animal from the elements and unless the horizontal dimension of each side of the cage is at least four times the length of the caged animal. The provisions of this subdivision do not apply to the Minnesota State Agricultural Society, the Minnesota State Fair, or to the county agricultural societies, county fairs, to any agricultural display of caged animals by any political subdivision of the state of Minnesota, or to district, regional or national educational livestock or poultry exhibitions. The provisions of this subdivision do not apply to captive wildlife, the exhibition of which is regulated by section [97A.041](#).

### **Subd. 8a. Harming a service animal.**

No person shall intentionally and without justification do either of the following to a service animal while it is providing service or while it is in the custody of the person it serves: (1) cause bodily harm to the animal; or (2) otherwise render the animal unable to perform its duties.

### **Subd. 9. Penalty.**

(a) Except as otherwise provided in this subdivision, a person who fails to comply with any provision of this section is guilty of a misdemeanor. A person convicted of a second or subsequent violation of subdivision 1 or 7 within five years of a previous violation of subdivision 1 or 7 is guilty of a gross misdemeanor.

(b) A person who intentionally violates subdivision 1 or 7 where the violation results in substantial bodily harm to a pet or companion animal may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(c) A person convicted of violating paragraph (b) within five years of a previous gross misdemeanor or felony conviction for violating this section may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(d) A person who intentionally violates subdivision 1 or 7 where the violation results in death or great bodily harm to a pet or companion animal may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(e) A person who violates subdivision 8a where the violation renders the service animal unable to perform its duties is guilty of a gross misdemeanor.

(f) A person who violates subdivision 8a where the violation results in substantial bodily harm to a service animal may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(g) A person who intentionally violates subdivision 1 or 7 where the violation results in substantial bodily harm to a pet or companion animal, and the act is done to threaten, intimidate, or terrorize another person, may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(h) A person who violates subdivision 8a where the violation results in death or great bodily harm to a service animal may be sentenced to imprisonment for not more than four years or to payment of a fine of not more than \$10,000, or both.

(i) A person who intentionally violates subdivision 1 or 7 where the violation results in death or great bodily harm to a pet or companion animal, and the act is done to threaten, intimidate, or terrorize another person, may

be sentenced to imprisonment for not more than four years or to payment of a fine of not more than \$10,000, or both.

## **Subd. 9a. Harm to service animals; mandatory restitution and civil remedies.**

(a) The court shall order a person convicted of violating subdivision 8a to pay restitution for the costs and expenses resulting from the crime. Costs and expenses include, but are not limited to, the service animal user's loss of income, veterinary expenses, transportation costs, and other expenses of temporary replacement assistance services, and service animal replacement or retraining costs incurred by a school, agency, or individual. If the court finds that the convicted person is indigent, the court may reduce the amount of restitution to a reasonable level or order it paid in installments.

(b) This section does not preclude a person from seeking any available civil remedies for an act that violates subdivision 8a.

## **Subd. 10. Restrictions.**

If a person is convicted of violating this section, the court shall require that pet or companion animals that have not been seized by a peace officer or agent and are in the custody or control of the person must be turned over to a peace officer or other appropriate officer or agent unless the court determines that the person is able and fit to provide adequately for an animal. If the evidence indicates lack of proper and reasonable care of an animal, the burden is on the person to affirmatively demonstrate by clear and convincing evidence that the person is able and fit to have custody of and provide adequately for an animal. The court may limit the person's further possession or custody of pet or companion animals, and may impose other conditions the court considers appropriate, including, but not limited to:

- (1) imposing a probation period during which the person may not have ownership, custody, or control of a pet or companion animal;
- (2) requiring periodic visits of the person by an animal control officer or agent appointed pursuant to section [343.01, subdivision 1](#);
- (3) requiring performance by the person of community service; and
- (4) requiring the person to receive psychological, behavioral, or other counseling.

## **343.22 INVESTIGATION OF CRUELTY COMPLAINTS.**

### **Subdivision 1. Reporting.**

Any person who has reason to believe that a violation of this chapter has taken place or is taking place may apply to any court having jurisdiction over actions alleging violation of that section for a warrant and for investigation. The court shall examine under oath the person so applying and any witnesses the applicant produces and the court shall take their affidavits in writing. The affidavits must set forth facts tending to establish the grounds for believing a violation of this chapter has occurred or is occurring, or probable cause to believe that a violation exists. If the court is satisfied of the existence of the grounds of the application, or that

there is probable cause to believe a violation exists, it shall issue a signed search warrant and order for investigation to a peace officer in the county. The order shall command the officer to proceed promptly to the location of the alleged violation. The order may command that a doctor of veterinary medicine accompany the officer.

## **Subd. 2. Police investigation.**

The peace officer shall search the place designated in the warrant and, together with the veterinary doctor, shall conduct an investigation of the facts surrounding the alleged violation. The peace officer may retain in custody, subject to the order of the court, any property or things which are specified in the warrant, including any animal if the warrant so specifies. The warrant shall contain the names of the persons presenting affidavits in support of the application and the grounds for its issuance. Service shall be made in accordance with the provisions of sections 626.13, 626.14, and 626.16. The warrant must be executed and returned to the court which issued the warrant within ten days after its date; after the expiration of that time the warrant, unless executed, is void. The officer executing the warrant shall promptly return the warrant to the court, and deliver to it a written inventory of the property or things taken, verified by the certificate of the officer. The warrant and order for investigation issued pursuant to this section and section 343.23 shall have the same force as a warrant issued pursuant to chapter 626.

## **Subd. 3. Disposal of animals.**

Upon a proper determination by a licensed doctor of veterinary medicine, any animal taken into custody pursuant to this section may be immediately disposed of when the animal is suffering and is beyond cure through reasonable care and treatment. All other animals shall be disposed of as provided in section 343.235. The authority taking custody of the animals may recover all costs incurred under this section.

## **343.23 EXPENSES OF INVESTIGATION.**

The expenses of the investigation authorized by section 343.22, including the fee of the doctor of veterinary medicine, the expenses of keeping or disposing of any animal taken into custody pursuant to an investigation, and all other expenses reasonably incident to the investigation shall be paid by the county treasurer from the general fund of the county. If the person alleged to have violated section 343.21 is found guilty of the violation, the county shall have judgment against the guilty person for the amount of the expenses.

## **343.24 CRUELTY IN TRANSPORTATION.**

### **Subdivision 1. Penalty.**

Any person who does any of the following is guilty of a misdemeanor:

- (a) carries or causes to be carried, any live animals upon any vehicle or otherwise, without providing suitable racks, cars, crates, or cages in which the animals can both stand and lie down during transportation and while awaiting slaughter;
- (b) except as provided in subdivision 2, paragraph (a), carries or causes to be carried, upon a vehicle or otherwise, any live animal having feet or legs tied together, or in any other cruel or inhumane manner;

(c) transports or detains livestock in cars or compartments for more than 28 consecutive hours without unloading the livestock in a humane manner into properly equipped pens for rest, water, and feeding for a period of at least five consecutive hours, unless requested to do so as provided in subdivision 2, paragraph (b), or unless prevented by storm or unavoidable causes which cannot be anticipated or avoided by the exercise of due diligence and foresight; or

(d) permits livestock to be crowded together without sufficient space to stand, or so as to overlie, crush, wound, or kill each other.

## **Subd. 2.Exceptions.**

(a) A person may carry or cause to be carried, upon a vehicle or otherwise, a cloven-hoofed animal having legs tied together, if:

(1) the person transporting the animal is the animal's owner or an employee or agent of the owner;

(2) the animal weighs 250 pounds or less;

(3) the tying is done in a humane manner and is necessary for the animal's safe transport; and

(4) the animal's legs are tied for no longer than one-half hour.

(b) A person or corporation engaged in transporting livestock may confine livestock for 36 consecutive hours if the owner or person with custody of that particular shipment of livestock requests in writing that an extension be allowed. That written request shall be separate from any printed bill of lading or other railroad form.

## **343.25 DOCKING HORSES; PENALTY.**

A person who cuts the bony part of a horse's tail for the purpose of docking it, or who causes or knowingly permits the same to be done upon premises of which the person is owner, lessee, or user, or who assists in the cutting is guilty of a misdemeanor. When a horse is found so cut, upon the premises or in the custody of any person, and the wound resulting is unhealed, that fact shall constitute prima facie evidence that the offense was committed by the person. All fines resulting from complaint made by an officer or agent of any society of this state for the prevention of cruelty to animals for any offense specified in this section shall be paid to the society whose officer or agent made the complaint.

**343.26** [Repealed]

## **343.27 POISONING ANIMALS.**

Any person who unjustifiably administers any poisonous, or noxious drug or substance to any animal, or procures or permits it to be done, or unjustifiably exposes that drug or substance with intent that the drug be taken by any animal, whether the animal is the property of the person or another, is guilty of a gross misdemeanor.

## **343.28 ANIMAL WITH INFECTIOUS DISEASE.**

An owner or person having charge of any animal who knows the animal has any infectious or contagious disease, or knows the animal has recently been exposed to an infectious or contagious disease, who sells or barter the animal, or knowingly permits the animal to run at large or come into contact with any other animal, or with another person without that person's knowledge and permission shall be guilty of a misdemeanor.

## **343.29 EXPOSURE OF ANIMALS; DUTY OF OFFICERS.**

### **Subdivision 1. Delivery to shelter.**

Any peace officer, animal control officer, or agent of the federation or county or district societies for the prevention of cruelty, may remove, shelter, and care for any animal which is not properly sheltered from cold, hot, or inclement weather or any animal not properly fed and watered, or provided with suitable food and drink in circumstances that threaten the life of the animal. When necessary, a peace officer, animal control officer, or agent may deliver the animal to another person to be sheltered and cared for, and furnished with suitable food and drink. In all cases, the owner, if known, shall be immediately notified as provided in section 343.235, subdivision 3, and the person having possession of the animal, shall have a lien thereon for its actual costs of care and keeping and the expenses of the notice. If the owner or custodian is unknown and cannot by reasonable effort be ascertained, or does not, within ten days after notice, redeem the animal by paying the expenses authorized by this subdivision, the animal may be disposed of as provided in section 343.235.

### **Subd. 2. Disposal of animals.**

Upon a proper determination by a licensed doctor of veterinary medicine, any animal taken into custody pursuant to subdivision 1 may be immediately disposed of when the animal is suffering and is beyond cure through reasonable care and treatment. The expenses of disposal shall be subject to the provisions of section 343.23.

## **343.30 INJURY TO BIRDS.**

A person who in any manner maliciously maims, kills, or destroys any bird designated as unprotected by section 97A.015, subdivision 52, or who maliciously destroys the nests or eggs of any such bird shall be guilty of a petty misdemeanor.

### **Subd. 52. Unprotected birds.**

"Unprotected birds" means English sparrow, blackbird, starling, magpie, cormorant, common pigeon, Eurasian collared dove, chukar partridge, quail other than bobwhite quail, and mute swan.

## **343.31 ANIMAL FIGHTS AND POSSESSION OF FIGHTING ANIMALS.**

### **Subdivision 1. Penalty for animal fighting; attending animal fight.**

(a) Whoever does any of the following is guilty of a felony:

(1) promotes, engages in, or is employed in the activity of cockfighting, dogfighting, or violent pitting of one pet or companion animal as defined in section 346.36, subdivision 6, against another of the same or a different kind;

(2) receives money for the admission of a person to a place used, or about to be used, for that activity;

(3) willfully permits a person to enter or use for that activity premises of which the permitter is the owner, agent, or occupant; or

(4) uses, trains, or possesses a dog or other animal for the purpose of participating in, engaging in, or promoting that activity.

(b) Whoever purchases a ticket of admission or otherwise gains admission to the activity of cockfighting, dogfighting, or violent pitting of one pet or companion animal as defined in section 346.36, subdivision 6, against another of the same or a different kind is guilty of a gross misdemeanor.

(c) Whoever possesses any device or substance with intent to use or permit the use of the device or substance to enhance an animal's ability to fight is guilty of a gross misdemeanor.

(d) This subdivision shall not apply to the taking of a wild animal by hunting.

## **Subd. 2. Presumption of training a fighting dog.**

There is a rebuttable presumption that a dog has been trained or is being trained to fight if:

(1) the dog exhibits fresh wounds, scarring, or other indications that the dog has been or will be used for fighting; and

(2) the person possesses training apparatus, paraphernalia, or drugs known to be used to prepare dogs to be fought.

This presumption may be rebutted by a preponderance of the evidence.

## **Subd. 3. Presumption of training fighting birds.**

There is a rebuttable presumption that a bird has been trained or is being trained to fight if:

(1) the bird exhibits fresh wounds, scarring, or other indications that the bird has been or will be used for fighting; or

(2) the person possesses training apparatus, paraphernalia, or drugs known to be used to prepare birds to be fought.

This presumption may be rebutted by a preponderance of the evidence.

## **Subd. 4. Peace officer duties.**

Animals described in subdivisions 2 and 3 are dangerous weapons and constitute an immediate danger to the safety of humans. A peace officer or animal control authority may remove, shelter, and care for an animal found in the circumstances described in subdivision 2 or 3. If necessary, a peace officer or animal control authority may deliver the animal to another person to be sheltered and cared for. In all cases, the peace officer or animal control authority must immediately notify the owner, if known, as provided in subdivision 5. The peace officer, animal control authority, or other person assuming care of the animal shall have a lien on it for the actual cost of care and keeping of the animal. If the owner or custodian is unknown and cannot by reasonable effort be ascertained, or does not, within ten days after notice, redeem the animal by paying the expenses authorized by this subdivision, the animal may be disposed of as provided in subdivision 5.

## **Subd. 5. Disposition.**

(a) An animal taken into custody under subdivision 4 may be humanely disposed of at the discretion of the jurisdiction having custody of the animal ten days after the animal is taken into custody, if the procedures in paragraph (c) are followed.

(b) The owner of an animal taken into custody under subdivision 4 may prevent disposition of the animal by posting security in an amount sufficient to provide for the actual costs of care and keeping of the animal. The security must be posted within ten days of the seizure inclusive of the date of the seizure. If, however, a hearing is scheduled within ten days of the seizure, the security amount must be posted prior to the hearing.

(c)(1) The authority taking custody of an animal under subdivision 4 must give notice of this section by delivering or mailing it to the owner of the animal, posting a copy of it at the place where the animal is taken into custody, or delivering it to a person residing on the property and telephoning, if possible. The notice must include:

(i) a description of the animal seized; the authority and purpose for the seizure; the time, place, and circumstances under which the animal was seized; and the location, address, and telephone number of a contact person who knows where the animal is kept;

(ii) a statement that the owner of the animal may post security to prevent disposition of the animal and may request a hearing concerning the seizure and impoundment and that failure to do so within ten days of the date of the notice will result in disposition of the animal; and

(iii) a statement that all actual costs of the care, keeping, and disposal of the animal are the responsibility of the owner of the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The notice must also include a form that can be used by a person claiming an interest in the animal for requesting a hearing.

(2) The owner may request a hearing within ten days of the date of the seizure. If requested, a hearing must be held within five business days of the request to determine the validity of the impoundment. The municipality taking custody of the animal or the municipality from which the animal was seized may either (i) authorize a licensed veterinarian with no financial interest in the matter or professional association with either party, or (ii) use the services of a hearing officer to conduct the hearing. An owner may appeal the hearing officer's decision to the district court within five days of the notice of the decision.

(3) The judge or hearing officer may authorize the return of the animal if the judge or hearing officer finds that (i) the animal is physically fit, (ii) the person claiming an interest in the animal can and will provide the care required by law for the animal, and (iii) the animal has not been used for violent pitting or fighting.

(4) The person claiming an interest in the animal is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the municipality and the person claiming an interest in the animal before the return of the animal to the person.

### **Subd. 6. Photographs.**

(a) Photographs of animals seized during an investigation are competent evidence if the photographs are admissible into evidence under all the rules of law governing the admissibility of photographs into evidence. A satisfactorily identified photographic record is as admissible in evidence as the animal itself.

(b) A photograph must be accompanied by a written description of the animals seized, the name of the owner of the animals seized, the date of the photograph, and the name, address, organization, and signature of the photographer.

### **Subd. 7. Veterinary investigative report.**

(a) A report completed by a Minnesota licensed veterinarian following an examination of an animal seized during an investigation is competent evidence. A satisfactorily identified veterinary investigative report is as admissible in evidence as the animal itself.

(b) The veterinary investigative report may contain a written description of the animal seized, the medical evaluation of the physical findings, the prognosis for recovery, and the date of the examination and must contain the name, address, veterinary clinic, and signature of the veterinarian performing the examination.

## **343.32 ARTIFICIALLY COLORED ANIMALS; SALE.**

No chick, duckling, gosling, or rabbit that has been dyed or otherwise colored artificially may be sold or offered for sale; raffled; offered or given as a prize, premium, or advertising device; or displayed in any store, shop, carnival, or other public place.

## **343.33 USE AS ADVERTISING DEVICES.**

Chicks, ducklings, and goslings younger than four weeks of age shall not be sold or offered for sale; raffled; or offered or given as a prize, premium, or advertising device, in quantity of fewer than 12 birds to an individual person unless sold by a person, firm, partnership or corporation engaged in the business of selling chicks, ducklings, and goslings for agricultural or wildlife purposes.

## **343.34 CARE OF ANIMALS USED AS ADVERTISING DEVICES.**

Stores, shops, vendors, and others offering chicks, ducklings, or goslings for sale; raffle; or as a prize, premium, or advertising device; or displaying chicks, ducklings, or goslings to the public; shall provide and operate brooders or other heating devices that may be necessary to maintain the chicks, ducklings, or goslings in good health, and shall keep adequate food and water available to the birds at all times.

## **343.35 VIOLATIONS.**

A violation of sections [343.32](#) to [343.34](#) is a petty misdemeanor; provided that, after any violation has been called to the attention of the violator by any law enforcement officer, each day on which the violation continues or is repeated constitutes a separate offense.

## **343.36 GREASED PIG CONTESTS AND TURKEY SCRAMBLES.**

No person shall operate, run or participate in a contest, game, or other like activity, in which a pig, greased, oiled or otherwise, is released and wherein the object is the capture of the pig, or in which a chicken or turkey is released or thrown into the air and wherein the object is the capture of the chicken or turkey. Any violation of this section is a misdemeanor.

## **343.37 DECOMPRESSION CHAMBERS PROHIBITED.**

A person may not use a decompression chamber to destroy an animal. A violation of this section is a misdemeanor.

### **31.59 HUMANE SLAUGHTER OF LIVESTOCK; DEFINITIONS.**

#### **Subdivision 1.Scope.**

For the purposes of sections [31.59](#) to [31.591](#), the following terms have the meanings given them.

#### **Subd. 2.Slaughterer.**

"Slaughterer" means any person, partnership, corporation, or association regularly engaged in the **commercial** slaughtering of **livestock**.

#### **Subd. 3.Livestock.**

"Livestock" means **cattle, horses, swine, sheep and goats**.

#### **Subd. 4. Humane methods.**

"Humane methods" means:

- (1) Any method of slaughtering **livestock** which normally causes animals to be rendered insensible to pain by a single blow of a mechanical instrument or shot of a firearm or by chemical, or other means that are rapid and effective, before being shackled, hoisted, thrown, cast, or cut; or
- (2) The methods of preparation necessary to safe handling of the animals for Halal ritual slaughter, Jewish ritual slaughter and of slaughtering required by the ritual of the Islamic or Jewish faith, whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

#### **Subd. 5. Inhumane method.**

The use of a manually operated hammer or sledge is declared an inhumane method of slaughter.