

**ORDINANCE No. 7-2013
AN ORDINANCE AMENDING
DIAMOND CITY ORDINANCE No. 02-10
SECTION 2 REGULATING FARM FOWL NAMELY CHICKENS AND
PROVIDE PENALTIES FOR VIOLATORS
WITHIN THE CITY LIMITS OF DIAMOND CITY, ARKANSAS, BOONE COUNTY**

BE IT ORDAINED BY THE CITY COUNCIL OF DIAMOND CITY, ARKANSAS THAT:

WHEREAS, it is the intention of the City of Diamond City, Arkansas City Council to provide for and protect the health, safety and welfare of the citizens of Diamond City; to promote residential harmony and to ensure the well-being of properly maintained domestic fowl through effective regulation; and

WHEREAS, The Diamond City City Council acknowledges that having domestic fowl within an urban environment has the potential to affect the interests of others; and

WHEREAS, certain minimum standards for keeping domestic fowl are necessary to protect the health, welfare and quality of life of both the animals and citizens of Diamond City; and

WHEREAS, it is the intent of the Diamond City City Council to provide and maintain, for the citizens of Diamond City, opportunities for healthy consumption of locally produced foods and products and the Diamond City City Council acknowledges that the act of food production on one's own property may improve the quality of life of its residents.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DIAMOND CITY, ARKANSAS, that Ordinance 02-10: Section 1b and Section 2 be amended as follows:

Section 2.

A. No person shall keep any farm, or exotic animal or fowl within the city limits of Diamond City, Arkansa, Boone Co. except that it shall be lawful to keep chickens under the following limitations:

1. The principal use of the property shall be a single family dwelling in a residential R-2 zone.
2. No more than six (6) hens shall be allowed for each single-family dwelling.
3. No birds shall be allowed in multi-family complexes, including duplexes.
4. No roosters shall be allowed.
5. There shall be no outside slaughtering of birds.
6. The chickens must, at all times, be kept in the side or rear yard in a secure enclosure constructed at least two (2) feet above ground level.
7. Enclosures must be situated at least twenty five (25) feet from any neighboring dwelling.

8. Enclosures must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors, attractions of flies or vermin, all to prevent the creation of an environment injurious to the public health and safety, or that would obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property by members of the neighborhood, city, or other persons.

B. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

1. Disinfected means the use of a disinfectant. A disinfectant is a product recognized and marketed as a germicidal disinfectant compound.
2. Coop means an elevated enclosure designed to accommodate up to six (6) hens. The coop will provide the hens or chicks with a covered, predator-proof, adequately ventilated area of sufficient size to allow for water, feed, and free movement of the fowl. It shall be constructed in such a manner as to provide for the well being of the chickens.
3. Hen means an adult female chicken.
4. Chick(s) means a fowl of unknown sex up to the age of three (3) months. Any chick determined to be a rooster shall be removed from the property.

C. Enclosures and Animal Welfare.

Enclosures for fowl shall be kept in good repair, maintained in a sanitary condition, free of vermin, obnoxious smells, and waste substances. Food and fresh water containers shall be kept in the coop with adequate access. Leftover feed, trash, and manure shall be removed weekly. Stored feed must be kept in a rodent and predator proof container. Fowl shall be maintained in a healthy condition.

D. Inspection and Enforcement.

The Animal Control Officer or designee is authorized to enter upon any premises, public, or private for the purpose of making inspection to determine if the provisions of this Ordinance are being violated. If upon inspection, the Animal Control Officer or designee finds that the provision of the Ordinance have not been or are not being complied with, they shall:

1. Give a written notice of the non-compliance to the owner, possessor, or custodian of the fowl; and such owner, possessor, or custodian shall, within seven (7) days after the receipt of such notice, proceed to fully comply with the provision of this Ordinance. Failure to comply with the seven (7) day notice of the non-compliance shall be considered a violation of this Ordinance and the owner may be cited into District Court.

2. After the seven (7) days, the City may remove the chickens and coop. Any expense incurred by the City for the removal of the fowl and enclosure (coop) under this provision may be levied against the fowl owner or the property owner.
3. Upon revocation of a person's ability to keep fowl at one location within the City shall be cause to prohibit the keeping of fowl and any other location within the City limits of Diamond City by that person.
4. Interference with the Animal Control Officer or designee in the performance of his duties with regard to this Ordinance shall be a violation of this Ordinance and cause the fowl owner to forfeiture his right to keep fowl at any location inside the City limits of Diamond City.
5. Any violation of this Code Section is declared a misdemeanor violation and is punishable by a fine up to \$1,000 and jail time up to one (1) year for each day of violation.
6. If any section of this ordinance shall be declared unconstitutional or unlawful, only that section shall be affected and all other provisions of the ordinance shall remain in full force and effect.

NOTE: This Ordinance shall not apply to commercial businesses that sell poultry.

ADOPTED this 28th day of May, 2013.

CITY OF DIAMOND CITY, ARKANSAS

5 Yes 0 No 1 Absent 0 Abstain

BY:


Shari L. Marshall, Mayor

ATTEST:


Cheryl Guthrie, Recorder/Treasurer

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF BOONE

We, Shari Marshall and Cheryl Guthrie, do solemnly swear that as Mayor and City Recorder/Treasurer, respectively, of and for the City of Diamond City, Boone County, Arkansas, that a certified copy of Ordinance No. 7 - 2013 was, on the 29th day of May, 2013, duly posted in five separate and distinct places inside the corporate limits of the Town in accordance with Ordinance No. 03 - 10 of the City, and that the above listed Ordinance remains posted for thirty (30) days.

Dated this 29th day of June, 2013.



Cheryl Guthrie, Recorder/Treasurer



Shari Marshall, Mayor