CITY OF BROKEN BOW

ORDINANCE NO. 1323

AN ORDINANCE OF THE CITY OF BROKEN BOW, NEBRASKA, A CITY OF THE SECOND CLASS, AMENDING CHAPTER 93 OF THE MUNICIPAL CODE BY ADDING SECTIONS 93.60 THROUGH 93.66 REGULATING THE KEEPING OF LIVESTOCK AND POULTRY WITHIN THE CORPORATE LIMITS; PROVIDING FOR CODIFICATION IN TITLE XVII; REPEALING CONFLICTING ORDINANCES TO THE EXTENT OF THE CONFLICT; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BROKEN BOW, NEBRASKA:

SECTION 1. Authority and findings.

This ordinance is adopted pursuant to the authority of a city of the second class under Neb. Rev. Stat. §§ 17-123, 17-138, 17-505, 17-526, 17-547, 17-548, 17-613, 17-614, and 18-1720, and pursuant to Neb. Rev. Stat. § 28-1014. The Mayor and Council find:

(A) Chapter 93 of the Nebraska Basic Code, as adopted by the City, already regulates animals running at large (§ 93.02), wild animals (§ 93.03), enclosures (§ 93.05), cruelty (§ 93.06), impoundment (§ 93.08), and related matters, and provides that nothing in § 93.02 permits a person to keep an animal that the Council has prohibited.

(B) Ordinance No. 1023, adopted January 23, 2007, prohibited livestock and fowl within the corporate limits. Proposed Ordinance No. 1090, which would have created transferable perpetual grandfather rights, was not adopted. On November 8, 2010, the Council repealed Ordinance No. 1023. The City has since relied on general nuisance provisions, including §§ 91.20, 91.21, and 93.05.

(C) Clear standards are needed. Unregulated keeping of hoofed livestock in ordinary residential neighborhoods is incompatible with the residential character of the City. A limited backyard flock of hens, domesticated ducks, and quail can be kept without constituting a nuisance if confined, registered, and maintained in a sanitary enclosure. Geese and guinea fowl are not part of a permitted backyard flock.

(D) The City is the county seat of a livestock-producing county. The livestock market, veterinary clinics, locker plants, fairs, seasonal retail sales of chicks, and educational projects should be protected by express exemptions.

(E) This ordinance is animal-control legislation supplementing Chapter 93. It is not a zoning amendment. It is not intended to declare a "farm or farm operation" as defined in the Nebraska Right to Farm Act, Neb. Rev. Stat. §§ 2-4401 to 2-4404, to be a public or private nuisance in circumstances in which that Act would forbid such a finding.

SECTION 2. Amendment of Chapter 93.

Chapter 93 of the Municipal Code of the City of Broken Bow is hereby amended by adding a new subchapter entitled "Livestock and Poultry," to be numbered and to read as follows:

LIVESTOCK AND POULTRY

§ 93.60 PURPOSE; RELATION TO EXISTING CODE.

(A) The purpose of §§ 93.60 through 93.66 is to prohibit the keeping of livestock within the corporate limits except as expressly provided, to permit a limited backyard flock of hens, domesticated ducks, and quail under stated conditions, to exclude geese and guinea fowl from that permitted flock, and to exempt livestock and poultry lawfully kept within the corporate limits prior to the effective date of this ordinance from the prohibitions of this subchapter so long as the property is registered as a grandfathered property within forty-five days and such keeping does not constitute a public nuisance under §§ 91.20 and 91.21.

(B) Sections 93.60 through 93.66 supplement, and do not repeal, §§ 93.01 through 93.45, § 93.52, or Chapter 91. In the event of conflict between §§ 93.60 through 93.66 and another provision of Chapter 93 on the same subject, §§ 93.60 through 93.66 shall control as local legislation under § 10.17.

(C) The running at large of livestock and poultry remains regulated by § 93.02. The cleanliness of pens and enclosures remains regulated by § 93.05. Impoundment of animals found in violation of this chapter remains regulated by § 93.08. Abatement of a public nuisance remains available under §§ 91.20, 91.21, and 10.99. Animal waste remains regulated by § 93.52.

Penalty, see § 10.99

Statutory reference: Neb. RS 17-123, 17-505, 17-526, 17-547, 17-548, 18-1720, 28-1014

Cross-reference: Local legislation, see § 10.17 and Title XVII; prohibited animals reserved to Council, see § 93.02(D)

§ 93.61 DEFINITIONS.

For the purpose of §§ 93.60 through 93.66, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Terms defined in § 93.01 or § 93.06 have the meaning given in those sections unless a different meaning is stated here.

(BACKYARD FLOCK.) Hen chickens, domesticated ducks, quail, or a combination of those, kept pursuant to § 93.63. The term does not include a goose, guinea fowl, rooster, turkey, or pheasant.

(COOP.) A covered, predator-resistant enclosure providing shelter for a backyard flock.

(DOMESTICATED DUCK.) A domestic duck kept for eggs, meat, or companionship. The term does not include wild waterfowl.

(FARM PARCEL.) A single parcel, or contiguous parcels under common ownership, containing more than ten acres located within the corporate limits and used or devoted to the commercial production of farm products, consistent with the definition of "farm or farm operation" in Neb. Rev. Stat. § 2-4402.

(HEN.) A female chicken.

(HOUSEHOLD PET.) A dog, cat, ferret, indoor rabbit kept solely as a companion animal, small caged bird kept solely as a companion animal and not for egg or meat production, guinea pig, hamster, or aquarium animal. A household pet is not livestock or poultry under §§ 93.60 through 93.66.

(LIVESTOCK.) Any bovine, equine (including horse, mule, donkey, and pony), swine (including potbellied pig, miniature pig, and any other swine), sheep, goat, camelid (including llama and alpaca),

domesticated cervid, ratite (including ostrich and emu), or bison, whether of standard or miniature breed. For purposes of §§ 93.60 through 93.66 only, LIVESTOCK does not include poultry.

(POULTRY.) Chickens, ducks, geese, turkeys, guinea fowl, peafowl, pheasants, quail, and similar domesticated fowl.

(ROOSTER.) A male chicken of any age or breed.

(RUN.) A fenced outdoor enclosure, attached to or immediately adjoining a coop, from which birds cannot escape and into which predators cannot readily enter.

Penalty, see § 10.99

Statutory reference: Livestock Animal Welfare Act definitions, see Neb. RS 54-902; Right to Farm Act definitions, see Neb. RS 2-4402; cruelty definitions, see Neb. RS 28-1008 and § 93.06

§ 93.62 LIVESTOCK PROHIBITED; EXEMPTIONS.

(A) It shall be unlawful for any person to own, harbor, keep, maintain, or permit to be kept any livestock within the corporate limits of the city, except as provided in division (B) of this section or in § 93.65.

(B) Division (A) of this section shall not apply to the following, provided the activity is conducted in a sanitary manner consistent with §§ 93.05 and 93.52 and does not constitute a public nuisance under § 91.20:

(1) The Broken Bow livestock market (sale barn) and any successor livestock-auction facility operating in accordance with applicable law, including the temporary holding of livestock incidental to sale;

(2) A licensed slaughterhouse, locker plant, or meat-processing facility, including the holding of animals for a period reasonably necessary to slaughter or process;

(3) A licensed veterinary clinic, hospital, or animal shelter, for animals kept for treatment, observation, or boarding incidental to those services;

(4) Livestock being lawfully transported through the city without being unloaded, except in an emergency or at a facility described in divisions (B)(1) through (B)(3);

(5) Livestock exhibited at a fair, show, parade, rodeo, circus, or similar event approved by the city, for the duration of the event and a reasonable period for arrival and departure;

(6) Livestock kept by a public school or other educational institution for instructional purposes on the institution's own property;

(7) The temporary retail sale of chicks, ducklings, or other young poultry by a licensed retail business during a limited seasonal period commonly known as "chick days" or a similar seasonal retail event, provided the animals are offered for sale to the public, are not kept as a residential flock on the retail premises, and are removed from the premises at the close of the seasonal sale period;

(8) Livestock kept on a farm parcel, subject to the city's zoning regulations and to §§ 93.02, 93.05, 93.52, and 91.20. This division does not authorize a use prohibited by zoning and does not authorize an intensive livestock confinement facility except as zoning may separately allow;

(9) A police animal as defined in § 93.06; and

(10) Any animal owned, kept, or contracted for exclusively by the city.

(C) It shall be unlawful for any person to own, harbor, keep, maintain, or permit to be kept any poultry within the corporate limits except a backyard flock kept in full compliance with § 93.63, or poultry kept under an exemption in division (B) of this section that by its terms applies to the poultry, or poultry kept by an educational institution for instructional purposes on the institution's own property, or poultry kept under § 93.65, or poultry held solely for temporary seasonal retail sale under division (B)(7). Geese and guinea fowl are not a backyard flock and are not permitted under § 93.63.

(D) Nothing in this section authorizes a use prohibited by the zoning regulations or by a lawful private covenant. Private restrictive covenants may be more restrictive than this section.

(E) Except for livestock held only temporarily under divisions (B)(1) through (B)(5), (B)(7), (B)(9), or (B)(10), any livestock kept within the corporate limits shall be provided a pen, stall, corral, or combination of shelter and outdoor enclosure that meets or exceeds the following minimum areas per animal. On September 22, 2026, the Council directed that cattle and horses be treated the same. The figures below use the larger of the standards previously proposed for those animals (144 square feet of shelter and 200 square feet of outdoor pen), drawn from commonly used Midwest Plan Service, agricultural-extension, and Guide for the Care and Use of Agricultural Animals recommendations. A farm parcel on which the animals have continuous access to pasture need not meet the outdoor-pen column if the pasture area available to the animals is at least as large as that column. These minima are in addition to §§ 93.05 and 93.52.

(1) Large animals — horse, mule, donkey, pony, bovine (cattle), and bison, adult: 144 square feet of shelter or stall (12 feet by 12 feet) and 200 square feet of outdoor pen or corral.

(2) Sheep or goat: 20 square feet of shelter and 50 square feet of outdoor pen or corral.

(3) Alpaca: 20 square feet of shelter and 50 square feet of outdoor pen or corral.

(4) Llama: 50 square feet of shelter and 75 square feet of outdoor pen or corral.

(5) Swine, including a potbellied or miniature pig: 48 square feet of shelter and 200 square feet of outdoor pen or corral.

(6) Domesticated cervid or ratite: 100 square feet of shelter and 300 square feet of outdoor pen or corral.

(7) An animal younger than six months of age may be kept in one-half the area required for an adult of the same species, except that a mare with foal or a cow with nursing calf shall be provided the adult area for the dam plus one-half for the offspring.

(8) The enclosure shall be of sufficient height and construction to confine the animal, shall be located in a rear or side yard and not in a front yard, and shall meet the setbacks of § 93.63(F) unless a farm parcel or a facility described in divisions (B)(1) through (B)(3) is involved.

Penalty, see § 10.99

Statutory reference: Neb. RS 17-123, 17-526, 17-547; Right to Farm Act, Neb. RS 2-4401 to 2-4404

Cross-reference: Running at large, see § 93.02; enclosures, see § 93.05; nuisances, see §§ 91.20 and 91.21

§ 93.63 BACKYARD FLOCK.

A person may keep a backyard flock within the corporate limits only if all of the following conditions are met at all times:

(A) Number and species. Not more than twelve birds in the aggregate, consisting only of hens, domesticated ducks, and/or quail, may be kept on any one zoning lot. Roosters are prohibited. Geese are prohibited. Turkeys, pheasants, and all other poultry are prohibited. Chicks under eight weeks of age being brooded indoors as replacements for a lawful flock shall not be counted against the twelve-bird limit, provided that upon reaching eight weeks the total number of birds on the lot shall not exceed twelve.

(B) Occupied residential lot. The principal use of the lot shall be an occupied single-family or two-family dwelling. No backyard flock shall be kept on a vacant or uninhabited lot, or on a lot whose principal use is commercial or industrial, except as provided in § 93.62(B).

(C) Owner or occupant; landlord consent. The keeper of the flock shall be the owner-occupant of the dwelling or a tenant who has the written consent of the property owner. A copy of such consent shall be provided upon request of an enforcing officer.

(D) Confinement. Birds shall be confined to the coop and run at all times and shall not run at large. Birds shall be secured inside the coop from sunset to sunrise. Section 93.02 continues to apply.

(E) Location. The coop and run shall be located only in the rear yard. No coop or run shall be located in a front yard or in a side yard adjoining a street.

(F) Setbacks. No coop or run shall be located closer than ten feet to any side or rear property line, or closer than 25 feet to any dwelling on an adjoining lot. If the zoning regulations impose a more restrictive accessory-building setback, the more restrictive requirement shall control.

(G) Size and construction. The coop shall provide at least four square feet of floor area per bird. The run shall provide at least ten square feet of open area per bird. The combined footprint of coop and run shall not exceed 200 square feet. No coop shall exceed seven feet in height at the highest point. The coop shall be roofed, ventilated, and constructed so as to exclude rodents and predators. The run shall be enclosed on all sides and covered, or of sufficient height and construction to prevent escape and to reasonably exclude predators.

(H) Sanitation. The coop, run, and surrounding area shall be kept clean, dry, and free of accumulated manure, spoiled feed, and standing water, consistent with §§ 93.05, 93.52, and 91.20(A)(4) and (A)(11). Manure and soiled bedding shall be removed as often as necessary to prevent odor detectable on adjoining property and, if stored on the premises, shall be stored in a covered, rodent-resistant container and disposed of in a lawful manner.

(I) Feed storage. All feed shall be stored in sealed, rodent-resistant containers.

(J) Commercial activity. A backyard flock is an accessory residential use. It shall be unlawful to operate a commercial hatchery, broiler operation, or egg-production business from a residential lot under this section. Incidental sale of surplus eggs from a lawful backyard flock is not, standing alone, a commercial poultry operation.

(K) Nuisance. No backyard flock shall be kept in a manner that creates a public nuisance, including persistent odor, infestation of flies or rodents, repeated escape, or noise that unreasonably disturbs persons of ordinary sensibility on adjoining property. A flock kept in violation of this section is a public nuisance without regard to the twelve-bird limit and may be abated under § 91.21.

Penalty, see § 10.99

Cross-reference: Enclosures, see § 93.05; animal waste, see § 93.52; chicken pens as nuisance when foul, see § 91.20(A)(11)

§ 93.64 REGISTRATION.

(A) Before keeping a backyard flock, and within 30 days after the effective date of this section for any flock already kept, the keeper shall register the flock with the City Clerk on a form prescribed by the City Clerk or City Administrator. The registration shall identify the property address, the name and contact information of the keeper, the property owner if different, the number and species of birds, and a simple description or sketch of the coop and run location. A registration shall not be issued for a goose or guinea fowl. By submitting the registration, the keeper consents to inspection of the backyard flock and its enclosure by an authorized city officer upon at least twenty-four hours' notice.

(B) The City Council may establish a registration fee by resolution. Unless and until a fee is established, registration shall be without charge.

(C) Registration is not transferable to a new owner or a new address and shall be updated within 30 days of any change in the registered information. Failure to register or to update a registration is a violation of this section.

Penalty, see § 10.99

§ 93.65 EXISTING LIVESTOCK AND POULTRY; GRANDFATHERED PROPERTY.

(A) Any livestock or poultry lawfully kept within the corporate limits prior to the effective date of this ordinance is exempt from the prohibitions of this subchapter, so long as the lot on which the animals are kept is registered as a grandfathered property under division (C) and such keeping does not constitute a public nuisance under §§ 91.20 and 91.21.

(B) The exemption in division (A) is attached to the lot that is timely registered as a grandfathered property. Upon sale, conveyance, or other transfer of that lot, the grandfathered status continues in favor of the successor owner or occupant so long as all conditions permitting that status continue to be met, including that: (1) the one-time property registration was filed under division (C); (2) the number of animals and the species kept on the lot do not exceed those described in the registration; (3) the keeping is not a public nuisance under §§ 91.20 and 91.21; (4) the enclosures meet division (D) and, for livestock, § 93.62(E); and (5) the successor files with the City Clerk, within 30 days after closing or taking occupancy, a written notice of transfer stating the new keeper's name and contact information. The exemption does not authorize an increase in the number of animals, the introduction of a species that was not lawfully kept on the lot on the effective date, or a use prohibited by the zoning regulations or by a lawful private covenant. If any condition of this section ceases to be met, the exemption terminates as to that lot.

(C) A person claiming the exemption in division (A) shall, within forty-five days after the effective date of this section, file with the City Clerk a one-time registration of the lot as a grandfathered property. The registration shall identify the address of the lot, the name and contact information of the keeper, and a description of the species and number of livestock and poultry then kept on the lot and claimed as exempt. Timely filing of that one-time property registration is a condition of the exemption. If the registration is not filed on or before the last day of the forty-five-day period, the exemption in division (A) does not attach to that lot, and the animals are thereafter subject to §§ 93.62 and 93.63. The registration is a one-time registration of the property; it is not an annual inventory of animals.

(D) An existing enclosure used for animals described in division (A) shall, within twelve months after the effective date, be maintained in a clean and sanitary condition consistent with §§ 93.05 and 93.52 and, for livestock, shall be brought into compliance with the minimum pen sizes in § 93.62(E). An existing backyard-flock coop or run shall be brought into compliance with § 93.63(D) through (I) within twelve months after the effective date, or such longer period as the City Administrator may grant in writing for good cause, not to exceed an additional ninety days. An existing goose or guinea fowl is not made a permitted backyard flock by this section; it may be kept only under the exemption in division (A), and only while that exemption continues.

(E) Nothing in this section authorizes a public nuisance. The city may require abatement of any condition that constitutes a public nuisance or an imminent threat to public health or safety, using the procedures in § 91.21 or any other remedy available at law, without regard to the forty-five-day period in division (C) or the twelve-month period in division (D).

(F) The running at large of any animal remains regulated by § 93.02. Cruelty, inspection, and related matters remain regulated by § 93.06. Impoundment remains regulated by § 93.08.

Penalty, see § 10.99

Cross-reference: Nuisances, see §§ 91.20 and 91.21; enclosures, see § 93.05; animal waste, see § 93.52

§ 93.66 ENFORCEMENT; APPEALS.

(A) The Police Department, Animal Control Officer, Code Enforcement Officer, and such other officials as the City Administrator may designate shall enforce §§ 93.60 through 93.66.

(B) Entry upon private property to inspect a coop, run, or animal enclosure, and entry into a dwelling, shall be made only as authorized by § 93.06, by consent, by warrant, or as otherwise authorized by law. A backyard-flock registration under § 93.64 includes consent to inspection of the flock and its enclosure upon at least twenty-four hours' notice.

(C) A violation of §§ 93.60 through 93.66 is a public nuisance and may be abated under §§ 91.20, 91.21, and 10.99. Animals found in violation may be impounded as provided in § 93.08.

(D) A person aggrieved by a registration decision or by an enforcement determination under §§ 93.60 through 93.66, other than the issuance of a citation to be heard in court and other than a nuisance-abatement notice already appealable under § 91.21, may appeal to the City Council by filing a written notice of appeal with the City Clerk within ten business days after the determination is issued. The filing of an appeal does not stay a requirement to correct an imminent health or safety hazard. The Council shall hear the appeal at a regular or special meeting and may affirm, modify, or reverse the determination.

Penalty, see § 10.99

Statutory reference: Warrant and citation authority, see Neb. RS 28-1012 and § 93.06; nuisance abatement, see Neb. RS 18-1720 and §§ 91.21, 10.99; general penalty not exceeding $500, see Neb. RS 17-505 and § 10.99

SECTION 3. Codification.

Pursuant to § 10.17 of this code, this ordinance shall be codified in Title XVII, Local Legislation, as an amendment of Chapter 93, and the City Clerk is directed to cause §§ 93.60 through 93.66 to be incorporated

into the official Municipal Code. The chapter table of contents for Chapter 93 shall be revised to list the new subchapter and sections.

SECTION 4. Repealer; non-revival.

(A) Ordinance No. 1023, having been repealed by action of the City Council on November 8, 2010, remains repealed. This ordinance does not revive Ordinance No. 1023.

(B) All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict only. Sections 93.01 through 93.45, § 93.52, and Chapter 91 are not repealed except to the extent of actual conflict with §§ 93.60 through 93.66.

SECTION 5. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions.

SECTION 6. Effective date and publication.

This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by Neb. Rev. Stat. § 17-613. The City Clerk is directed to cause this ordinance to be published or posted as required by law.

PASSED AND APPROVED this _____ day of _____, 20____.

ATTEST:

_____
Rodney W. Sonnichsen, Mayor

_____
Jennifer A. Waterhouse, City Clerk