

ORDINANCE NO. 2011 - 012

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF CLARE BY AMENDING THE CITY CODE ZONING ORDINANCE NO. 52, Article V, Section 52-349 and 52-350.

Short Title: CITY OF CLARE – ZONING ORDINANCE AMENDMENT

Chapter 52, Article V, Section 52-349, of the Clare City Code is hereby added as follows:

Sec. 52-349 Farm animals, except chickens.

Animals usually associated with farms, except chickens, may be allowed in R-1 Residential Zoning Districts by special exception use permit provided:

1. The property is located in a rural area of the City.
2. The property is at least two acres in size for small animals, such as turkeys or rabbits and four acres in size for large animals, such as goats, pigs or horses.
3. Under no circumstances may a rooster qualify as an animal permitted within any district within the City of Clare.
4. Such animals are to be used as pets and shall not be used to produce income. The by-products such as eggs or meat shall not be sold.
5. A person who has been issued a permit shall submit it for examination upon demand by any Police Officer or Code Enforcement Officer.
6. All barns and similar structures to be used in conjunction with any large animals shall be located at least eighty (80) feet from all property lines. The location of all other structures shall conform to the yard and setback requirements of this ordinance.
7. The area to be used as pasture shall be adequately fenced to prevent animals from leaving the property.
8. The Planning Commission shall determine the maximum of each type of animal allowed on the property as part of the approval process.
9. The applicant shall provide the Planning Commission with a site plan indicating: a) all existing buildings located on the property and within three hundred feet of the property; b) the location of all proposed structures, either existing or to be constructed to be used in connection with the animals; and c) the location of all waste

- storage areas and a disposal plan for removal of all waste from the property.
10. The applicant shall provide any additional information deemed necessary for the commission to approve or deny the request.
 11. Animals to be used for 4-H or similar activities shall be governed by this use permit. Permits for such activities shall be limited to not more than one year by the Planning Commission.

Chapter 52, Article V, Section 52-350, of the Clare City Code is hereby added as follows:

Sec. 52-350

Chickens may be raised within the City by special permit as provided.

1. Any person who keeps chickens in the City of Clare shall obtain a permit from the City prior to acquiring any chickens. No chickens shall be kept unless the owners of all residentially zoned adjacent properties (as defined below in subsection 5(j)) consent in writing to the permit and this consent is presented along with an application for a permit. The permit fee shall be as determined from time to time by the City Commission by resolution. Permits expire and become invalid five (5) years after the date of issuance. A person who wishes to continue keeping chickens shall have obtained a new permit on or before the expiration date of the previous permit. Application for a new permit shall be pursuant to the procedures and requirements that are applicable at the time the person applies for a new permit.
2. Notwithstanding the issuance of a permit by the City, private restrictions on the use of property shall remain enforceable and take precedence over a permit. Private restrictions include but are not limited to deed restrictions, condominium master deed restrictions, neighborhood association by-laws, and covenant deeds. A permit issued to a person whose property is subject to private restrictions that prohibit the keeping of chickens is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.
3. A person who keeps or houses chickens on his or her property shall comply with all of the following requirements:
 - a. Have been issued the permit required under subsection 3 above.
 - b. Keep no more than two (2) chickens.
 - c. The principal use of the person's property is for a single-family dwelling or two-family dwelling.
 - d. No person shall keep any rooster.

- e. The chickens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times. Fenced enclosures are subject to all provisions of the City Code.
- f. A person shall not keep chickens in any location on the property other than in the backyard. For purposes of this section, "backyard" means that portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the single-family or two-family structure and extending to the side lot lines.
- g. No covered enclosure or fenced enclosure shall be located closer than 10 feet to any property line of an adjacent property.
- h. A covered enclosure or fenced enclosure shall not be located closer than 40 feet to any residential structure on an adjacent property provided, however, this requirement can be waived as follows:
 - i) if the principal use of applicant's property is for a single-family dwelling, to obtain such a waiver the applicant shall present at the time of applying for a permit the written statements of all adjacent landowners that there is no objection to the issuance of the permit.
 - ii) If the principal use of the applicant's property is for a two-family dwelling, to obtain such a waiver the applicant shall present at the time of applying for a permit the written statements of all adjacent landowners and of the occupants of the other dwelling stating that there is no objection to the issuance of the permit.
- i. For purposes of this section, adjacent property means all parcels of property that the applicant's property comes into contact with at one or more points, except for parcels that are legally adjacent to but are in fact separated from the applicant's property by a public or private street.
- j. All enclosures for the keeping of chickens shall be so constructed or repaired as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure.
- k. All feed and other items associated with the keeping of chickens that are likely to attract or to become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with them.
- l. If the above requirements are not complied with, the City may revoke any permit granted under this section and/or initiate prosecution for a civil infraction violation.

4. A person who has been issued a permit shall submit it for examination upon demand by any Police Officer or Code Enforcement Officer.
5. The area to be used as pasture shall be adequately fenced to prevent animals from leaving the property.
6. The applicant shall provide the Planning Commission with a site plan indicating: a) all existing buildings located on the property and within three hundred feet of the property; b) the location of all proposed structures, either existing or to be constructed to be used in connection with the animals; and c) the location of all waste storage areas and a disposal plan for removal of all waste from the property.
7. The applicant shall provide any additional information deemed necessary for the commission to approve or deny the request.
12. Animals to be used for 4-H or similar activities shall be governed by this use permit. Permits for such activities shall be limited to not more than one year by the Planning Commission.

Effective Date

This Ordinance shall take effect thirty (30) days following date of publication as required by law. All Ordinances or part Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Adopted by the City Commission of the City of Clare this _____ day of _____, 2011.

Diane Schmidt, Clerk