

cityclerk@stacymn.org

From: James Monge <JMonge@ck-law.com>
Sent: Thursday, July 14, 2022 11:27 AM
To: 'cityclerk@stacymn.org'
Cc: 'Jim Ness'; 'MARK NESS'; 'Tim Sawatzky'
Subject: RE: Penalty for not obtaining Pet/Chicken License

Under Minn. Stat. § 609.02 subd. 3, the maximum penalty for a misdemeanor is a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

Under Minn. Stat. § 609.02 subd. 4, the maximum penalty for a petty misdemeanor is \$300. An individual cannot be jailed/confined for a petty misdemeanor. A petty misdemeanor is a “petty offense” but not a “crime”. A “crime” is “conduct which is prohibited by statute and for which the actor may be sentenced to imprisonment, with or without a fine.”

City Code Section 92.02 requires a license for dogs and cats.

City Code Section 92.19 requires a Certificate of Compliance for chickens. I do not see a license requirement for chickens.

City Code Section 92.99 says violation of the dog license requirements is a petty misdemeanor.

City Code Section 92.99 says that violation of the Certificate of Compliance for chickens is a misdemeanor.

The City can also charge an administrative fee for failing to obtain a license in addition to or in lieu of the petty misdemeanor/misdemeanor penalty. City Code Section 34.01 (Fee Schedule) sets a fee for not obtaining a dog license of \$25.00 per dog. It is probably best to change the wording from “penalty” to “fee”. I do not see a similar fee in the Fee Schedule for chickens.

Let me know if there are any questions.

James J. Mongé III

Attorney

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CAMPBELL KNUTSON
PROFESSIONAL ASSOCIATION

From: cityclerk@stacymn.org <cityclerk@stacymn.org>
Sent: Wednesday, July 13, 2022 2:47 PM
To: James Monge <JMonge@ck-law.com>
Cc: 'Jim Ness' <jimness@stacymn.org>; 'MARK NESS' <markness@stacymn.org>; 'Tim Sawatzky' <timsawatzky@stacymn.org>
Subject: Penalty for not obtaining Pet/Chicken License

Hi,
Please see below excerpt from last night's meeting, can the city charge both a fee and a misdemeanor, petty-misdemeanor?
Thank you.

The Planning Commission requested direction, from the commission's June 21, 2022, meeting:

The Stacy City Fee Schedule contains a penalty for not obtaining a pet license; however, the city code section it references §92.24 does not exist.

Possibly amend §92.02, add an Item (E) Violation of this code section will incur a penalty as established in the city's fee schedule.

§92.02 contains the language requiring the license; later in Chapter 92, after domesticated chickens it states:

§ 92.99 PENALTY.

(A) *Separate offenses.* Each day a violation of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable under this section.

(B) *Misdemeanor.* Unless otherwise provided, violation of this chapter shall constitute a misdemeanor punishable as provided in § 10.99.

(C) *Petty misdemeanor.* Violations of §§ 92.02, 92.07, 92.13 and 92.14 are petty misdemeanors punishable as provided in § 10.99.

Does the council want to have the penalty for not obtaining a pet or chicken license? Yes, the penalty amount will be determined later; to be based on actual expense incurred in the process of enforcement.

Member Ness clarified that the council's desire was to establish a fee penalty as well as misdemeanor or petty misdemeanor? Yes.

Sharon MT Payne, City Clerk
30955 Forest Blvd
Stacy, MN 55079
651-462-4486, 651-605-1851 Cell
Hours: Monday, Wednesday, Thursday 9-5, Tuesday 11-7, Closed on Friday



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From: James Monge <JMonge@ck-law.com>
Sent: Tuesday, July 26, 2022 11:00 AM
To: 'cityclerk@stacymn.org'
Subject: Chicken License Enforcement

Sharon,

To enforce the City Code's Certificate of Compliance requirements for keeping chickens, the City could first send an enforcement letter and then if the property owner does not respond move forward with the petty misdemeanor phase. That is consistent with what other cities do. Some cities send a second "we really mean it or else" letter from the city attorney's office before issuing a citation.

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