

**ORDINANCE NO. 14-2021**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; RELATING TO BACKYARD CHICKENS; AMENDING CHAPTER 5 – ANIMALS AND FOWL OF THE CITY CODE TO ALLOW THE KEEPING OF CHICKENS AND CHICKEN COOPS WITHIN CERTAIN RESIDENTIAL ZONING DISTRICTS SUBJECT TO CERTAIN ENUMERATED CONDITIONS; CREATING DEFINITIONS; ESTABLISHING A PERMITTING PROCESS; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, INCORPORATION INTO THE CODE, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Cocoa is granted the authority, under Section 2(b), Article VIII, of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Chapter 166, Florida Statutes, the Municipal Home Rule Powers Act, provides for the ability of the City of Cocoa to enact legislation concerning any subject matter upon which the state Legislature may act, subject to limited exceptions as provided for therein; and

**WHEREAS**, the City Council recognizes the trend in society to incorporate fresh organic products into diets; a lifestyle which can be supported by allowing residents to keep and raise chickens on their single family residential properties for the purposes of producing eggs for personal consumption; and

**WHEREAS**, in recognition of this trend, the City Council presented a non-binding referendum to the registered electorate of the City on November 4, 2014 to gauge community interest and support in establishing a backyard chicken program for purposes of raising and keeping of chickens on residential property for domestic purposes (“Referendum”); and

**WHEREAS**, the Referendum results were 2,777 in favor (54.66%) and 2,283 opposed (45.34%) to the City Council establishing a backyard chicken program under terms and conditions determined by the City Council; and

**WHEREAS**, after the Referendum, City staff conducted additional analysis regarding appropriate terms and conditions for establishing a backyard chicken program within the city of Cocoa, and evaluated several other programs that were initiated by other municipalities and counties around the country, including within the State of Florida; and

**WHEREAS**, the City Council adopted Ordinance 01-2017 on February 14, 2017, which established a Pilot Program to allow for the keeping of backyard chickens and which further expired on February 14, 2019; and

**WHEREAS**, the City Council recognizes the desire of all residents to live in a clean and pleasant environment free of excessive odor, noise, vermin and disease; and

**WHEREAS**, based on staff's analysis, experts seem to suggest that the keeping of four (4) chickens is sufficient to meet the needs of the average family's egg consumption; and

**WHEREAS**, the City Council desires to permit residents to maintain up to four (4) chickens on a lot or parcel occupied by a single family detached residence in the RU-1-7, RU-1-7a, and the RU-1-10 Residential zoning districts, subject to the terms and conditions of this Ordinance; and

**WHEREAS**, the City Council of the City of Cocoa, hereby finds this Ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Cocoa.

**NOW, THEREFORE, THE CITY OF COCOA HEREBY ORDAINS AS FOLLOWS:**

**Section 1. Recitals.** The foregoing recitals are hereby fully incorporated herein by this reference as legislative findings and the intent and purpose of the City Council of the City of Cocoa.

**Section 2. Amendment to Chapter 5, Animal and Fowl.** Chapter 5, Animal and Fowl, Section 5-35, Backyard Chicken Pilot Program, of the Code of Ordinances, City of Cocoa, Florida, is hereby amended as follows (underlined type indicates additions to the City Code and ~~strikeout~~ type indicates deletions, while asterisks (\* \* \*) indicate a deletion from the Ordinance of text existing in Section 5-35. It is intended that the text in Section 5-35 denoted by the asterisks and set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this ordinance):

**Sec. 5-35. – Backyard Chicken Pilot Program.**

- (a) The intent of this section is to ~~create and implement a two (2) year temporary Backyard Chicken Pilot Program~~ to permit the keeping of chickens by no more than fifteen (15) families on occupied single-family property within the RU-1-7, RU-1-7a, and the RU-1-10 Residential zoning districts, subject to the terms and conditions of this section. ~~The number of families eligible under the program may be increased at the city council's sole discretion, by resolution, in increments of five (5) families, not to exceed twenty five (25) upon being advised that the public demand requires the increase, city staff is capable of managing the increase, and the outstanding permits are not causing any adverse effects on the community.~~
- (b) For purposes of this Section, the term "chicken" refers to female chickens (hens) only. The term "predators" includes, but is not limited to, bears, raccoons, coyotes, bobcats, alligators and foxes. The term "subject property" is the single-family residential property with which the ~~Backyard Chicken Pilot Program~~ permit is associated.
- (c) This section does not authorize persons to violate applicable restrictive covenants or homeowner's association rules and regulations. The City does not police and enforce private restrictive covenants or homeowner's association rules and regulations. Persons

applying for and receiving ~~temporary~~ permits under this Section are solely responsible for compliance with all applicable restrictive covenants and homeowner's association rules and regulations.

- (d) Persons desiring to ~~participate in the Backyard Chicken Pilot Program~~ keep chickens on eligible residential property within the RU-1-7, RU-1-7a, and the RU-1-10 Residential zoning districts must apply for and obtain a permit from the city's community services director or designee ~~prior to keeping chickens within the RU-1-7, RU-1-7a, and the RU-1-10 Residential zoning districts~~. The city shall charge a non-refundable fee of \$50.00 dollars to persons applying for a permit to cover processing costs. If the person is not the fee simple owner of the subject property, the fee simple owner must provide owner authorization and consent to the application. ~~No more than twenty five (25) permits will be issued under this section~~. Only one permit per occupied single-family property will be issued. ~~Permits shall be awarded by the city on a first come, first served basis. If a participant chooses to leave the program, he/she must provide notice to the city. The city is then authorized to re-issue the permit to another qualified applicant. If a participant is removed from the pilot program due to violations of the terms of this section, his/her permit may also be re-issued to another qualified applicant.~~
- (e) In order to obtain a permit under this section, persons applying for a permit must submit a sketch showing the location of the proposed chicken coop and enclosure and must demonstrate that he/she can meet the requirements of this section. The city will conduct site inspections of the subject property to make compliance determinations under this section. The community services director or designee may deny a permit application if he/she determines that the person(s) applying for a permit cannot meet the requirements of this section. The issuance of a permit is conditioned upon and subject to the terms and conditions of this section. ~~Regardless of the date of the permit issued, such permit shall terminate and expire two years from the effective date of this section on February 14, 2019 unless terminated earlier or extended by action of the city to extend the sunset and termination date set forth herein.~~
- (f) Persons applying for a permit under this section must provide proof of successful completion of a University of Florida Agricultural Extension Service class, or equivalent, on the care and raising of chickens. The community services director or designee will maintain a schedule of such classes that are available for complying with this condition.
- (g) Persons applying for a permit under this section shall be deemed to have agreed to the following terms and conditions: ~~(i) agree to the terms and conditions of this section;~~ (i) granted the city and its officers, employees and agents a right-of-entry upon the subject property (including rear yard) for inspection purposes to ensure compliance with this section; (ii) agreed to remove chickens and chicken coops and enclosures upon the termination ~~or expiration~~ of a permit issued under this section, and ~~(iii) to~~ to hold the city and its officials, employees and agents harmless concerning matters relating to the permit and this section.
- (h) Up to four (4) chickens may be kept on an occupied single-family property zoned RU-1-7, RU-1-7a, and the RU-1-10 upon receiving a permit from the community services director or designee. Chickens are prohibited within other zoning districts unless expressly

provided otherwise in the City Code applicable. Chickens shall not be kept on duplex, triplex, or multi-family properties, or within mobile home/manufactured home parks.

- (i) Chickens must be kept within a coop or enclosure and may not be released or set free to roam unless under the direct supervision of the owner in compliance with this section. Such roaming must be confined to the backyard of the subject property.
- (j) Ducks, geese, turkeys, peafowl, male chickens/roosters, or any other poultry or fowl are not allowed under the provisions of this section.
- (k) Chickens must be kept for personal use only. Selling chickens, eggs, feathers or chicken manure, or the breeding of chickens for commercial purposes is strictly prohibited.
- (l) Chickens may not be bred or slaughtered on premises. Chickens shall not be used or trained for the purpose of fighting for amusement, sport or financial gain.
- (m) The coop and enclosure must be screened from neighboring property. Screening must be accomplished using an opaque fence and/or landscape screen (existing vegetation may be used if sufficient enough to create an opaque screen).
- (n) All applicable building permits must be obtained prior to constructing fences and the coop and enclosures to house chickens.
- (o) Unless otherwise in conflict with Florida Statutes, a dog or cat that injures or kills a chicken that wanders onto the property at which the dog or cat resides will not, for that reason alone, be considered a dangerous or aggressive animal.
- (p) Deceased chickens must be properly disposed of within 24-hours of expiring and in accordance with Florida law. Permit holders may contact the University of Florida Agricultural Extension Service office for requirements regarding the proper disposal methods.
- (q) No manure may be allowed to accumulate on the floor of the coop or ground. Permit holders must implement a manure management program. For example, a fly-tight bin for storage of manure could be utilized; the size of which must be sufficient to contain all accumulation or manure. A manure box inside the coop is recommended. The fly-tight tin must be kept at least twenty (20) feet away from all property lines. Composting chicken manure may be allowed in the enclosed bin. Perceptible odor shall not emanate from the manure storage/composting bin.
- (r) Chicken coops and fence enclosures must be located in the rear/back yard (behind the home). No coop or enclosure will be allowed in any front or side yard. Yard, as used in this ~~provision~~section, references location, not building setback area. The coop and enclosure must be at least five (5) feet from the single family structure, a minimum of ten (10) feet from the rear or side property lines, a minimum of twenty (20) feet from any side street, and a minimum twenty (20) feet from any neighboring residential homes. On corner lots, coops and enclosures must meet the required side street setback per the property's applicable zoning district. The community services director may authorize an administrative waiver, in writing, of up to ten percent (10%) of any setback requirement set forth in this subsection if the subject property has extraordinary conditions that make

compliance with any particular setback requirement impracticable or unfeasible, provided such waiver does not undermine the intent and purpose of the safeguards required under this section.

- (s) The coop must be covered and ventilated, and a fenced enclosure/run is required. The coop and enclosure must be completely secured from predators, including all openings, ventilation holes, doors, and gates. Fencing or roofing is required over the enclosure in addition to the coop, in order to protect the chickens from predators. The coop must also be tied down for wind resistance.
- (t) All stored feed must be kept in a rodent and predator-proof container or be kept inside a secured structure.
- (u) The coop must provide a minimum of four (4) square feet per chicken; a minimum of five (5) square feet of run per chicken, and be of sufficient size to permit free movement of the chickens. The coop may not be taller than six (6) feet, measured from the natural grade, and may be easily accessible for cleaning and maintenance. Coops may not exceed a maximum of 150 square feet.
- (v) Chicken coops and enclosures must be maintained in a clean and sanitary condition at all times including dry bedding materials. Activities permitted by this section must be conducted in a manner that does not create any nuisance consisting of odor, noise or pests, or contribute to any other nuisance condition. There shall be no perceptible odor that is objectionable, under the reasonable person standard, to neighboring properties emanating from the chickens or the enclosure.
- (w) In a public health emergency declared by the Brevard County Health Department including, but not limited to, an outbreak of Avian Flu or West Nile Virus, immediate corrective action may be required in accordance with applicable public health regulations and procedures. Any person issued a permit under this section shall be deemed to have consented to compliance with such required corrective action.
- (x) In the event of a person violates any of the provisions of this section, the city shall have the right to legally pursue any of the following remedies or actions:
  - (1) Institute code enforcement ~~actions~~ proceedings against the violator and the property owner of the subject property where the violation occurs;
  - (2) Issue a civil citation as a Class II violation to the violator for the first violation, and Class III for all other violations whether concurrent with or subsequent to the first violation, in accordance with Chapter 6, Article II, Division 2 of the City Code.
  - (3) Each violation of this section shall be considered a separate offense.
  - (4) Take any other action or remedy authorized by law or equity, including, but not limited to, instituting an action in court to enjoin violating actions, in which case, the person violating this section shall be liable to the City for reimbursement of the city's attorney's fees and costs concerning such action; and/or

(5) Revoke the permit issued under this section for keeping of chickens and require that the chickens be removed within ten (10) calendar days of said revocation. Upon revocation, the community services director or designee shall give notice of such action to the permittee in writing, stating the reason therefore. Any permittee whose permit has been revoked under this subsection may, within ten (10) calendar days after said revocation, appeal to the city manager. The filing of an appeal stays the revocation until the city manager makes a final decision. If the city manager denies the appeal or an appeal has not been filed, the permittee may not re-apply until at least twelve (12) months have elapsed since the date the revocation took effect.

~~(y) This section shall be subject to a two (2) year sunset period and shall expire on February 14, 2019 unless otherwise extended by the city council, by resolution, for an additional period of up to one year. During the effective period of this section, the community services department and code enforcement staff shall track complaints and compliance issues regarding the permits issued under this section. At least one hundred and twenty (120) days prior to the sunset expiration date, the community services director and code enforcement staff shall present a written report to the city council as to the results. Prior to the sunset expiration date, the city council shall conduct a public hearing and review the data compiled by staff in the report, and feedback from staff, the public and professionals on the successes and failures of the Backyard Chicken Pilot Program. After the hearing, the city council may permit the program to sunset and expire, extend the pilot program, or take other action as appropriate. However, the sunset of this section shall not affect the city's ability to prosecute violations of this section for violations occurring prior to the sunset and expiration date.~~

**Section 3. Repeal of Prior Inconsistent Ordinances and Resolutions.** All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

**Section 4. Incorporation Into Code.** This Ordinance shall be incorporated into the Cocoa City Code and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and like errors may be corrected and additions, alterations, and omissions, not affecting the construction or meaning of this Ordinance and the City Code may be freely made.

**Section 5. Severability.** If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

**Section 6. Effective Date.** This Ordinance shall become effective immediately upon adoption by the City Council of the City of Cocoa, Florida.

**ADOPTED**, by the City Council of the City of Cocoa, Florida, this 22<sup>nd</sup> day of February, 2022.

---

**Michael C. Blake, Mayor**

ATTEST:

---

**Carie Shealy, City Clerk**

First Reading: 11/09/2021  
Second Reading: 02/22/2022  
Legal Ads Published: 10/29/2021 & 02/07/2022  
Effective Date: 02/22/2022