

**ORDINANCE 18-43**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING CHAPTER 118, ARTICLE XIII OF ORDINANCES OF THE CITY OF WINTER GARDEN TO CREATE A BACKYARD CHICKEN PROGRAM RELATING TO THE KEEPING OF CHICKENS ON PROPERTIES DEVELOPED WITH DETACHED SINGLE-FAMILY RESIDENTIAL STRUCTURES WITHIN CERTAIN ZONING DISTRICTS; PROVIDING FOR TERMS, CONDITIONS, AND PENALTIES CONCERNING THE KEEPING OF CHICKENS; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission of the City of Winter Garden (“City”) recognizes the general trend in society to pursue a green lifestyle, to incorporate fresher products into diets, and to provide additional methods for allowing residents to engage in backyard food production through keeping and raising a limited number of chickens on single-family properties for production of eggs for the property owners’ consumption; and

**WHEREAS**, the City acknowledges that the aforementioned goals have been achieved through the implementation of a previous temporary backyard chicken pilot program, which the City now desires to codify and implement on a permanent basis;

**WHEREAS**, the City recognizes that the allowance of keeping backyard chickens into an urban residential setting must be balanced with the compatibility of surrounding property uses and that the accommodation of allowing backyard chickens in residential areas not cause undue noise, odor, or unsanitary conditions within the community; and

**WHEREAS**, the City desires to allow the keeping of up to four (4) chickens on an occupied detached single-family property within the R-1A, R-1, R-1B, R-2, R-4, R-5, and PUDs (in areas where detached single-family residential is permitted) zoning districts as an accessory use, subject to the terms and conditions herein; and

**WHEREAS**, the City has determined that the allowance of a limited number of backyard chickens as an accessory use as provided herein is in the best interests of the health, safety, and welfare of the residents of the City, and that this Ordinance is consistent with the City’s Comprehensive Plan.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA, AS FOLLOWS:**

**Section 1: Recitals.** The above recitals are hereby incorporated by reference and shall constitute the legislative findings of the City Commission of the City of Winter Garden.

**Section 2: Adoption:** Chapter 118 regarding Zoning is hereby amended to create new Article XIII, sections 118-1613 through 118-1617 relating to a Backyard Chicken Program to read as follows (words that are underlined are additions; words that are ~~stricken~~ are deletions; and all other provisions of Chapter 118 shall remain unchanged):

**CHAPTER 118 – ZONING**

\* \* \*

**ARTICLE XIII. – BACKYARD CHICKEN PROGRAM~~RESERVED~~**

**Secs. 118-1613. – Purpose and intent; program created; definitions.**

(1) The intent of the Backyard Chicken Program is to permit the keeping of up to four (4) chickens on an occupied detached single-family property within the R-1A, R-1, R-1B, R-2, R-4, R-5 and PUDs (in areas where detached single-family residential is permitted) zoning districts, subject to the terms and conditions herein.

(2) For the purposes of this article, the term "chicken" refers to female chickens only (i.e., hens).

(3) This article does not authorize persons to violate applicable restrictive covenants and homeowners' association rules and regulations. The City does not police or enforce private restrictive covenants and homeowners' association rules and regulations. Persons applying for and receiving permits under this article are solely responsible for compliance with all applicable restrictive covenants and homeowners' association rules and regulations.

**Sec. 118-1614. –Permit and general conditions for the keeping of chickens in certain residential zoning districts.**

(1) Persons desiring to participate in the Backyard Chicken Program shall apply for and obtain a permit from the Community Development Director or his/her designee prior to keeping chickens. The Community Development Director or his/her designee shall charge a fee of \$50.00 to persons applying for a permit under this article to cover processing costs. If the person applying for a permit is not the fee simple owner of the subject property, the fee simple owner must join in and consent to the application. No more than twenty-five (25) permits will be issued under this article. Permits shall be awarded by the City on a first-come, first-served basis. If a person holding a permit chooses to leave the program, they must provide notice to the City of the same. The City is then authorized to re-issue the permit to another qualified applicant.

(2) The application for a permit shall include proof to the City that the applicant has attended and successfully completed a class at the Orange County Agricultural Extension Service or the University of Florida Extension Office (UF/IFAS) on the care and raising of chickens.

(3) In order to obtain a permit under this article, persons applying for a permit for the keeping of chickens must show that they can meet the requirements of this article. The City may

conduct site inspections of the subject property to make compliance determinations under this article prior and after issuance of a permit. The Community Development Director may deny a permit application if he/she determines that the person(s) applying for a permit cannot meet the requirements of this article. The issuance of a permit for the keeping of chickens is conditioned upon and subject to the terms and conditions of this article.

(4) By applying for a temporary permit under this article, persons applying for such permit thereby: (a) agree to the terms and conditions of this article; (b) grant the City and its officers, employees, and agents a right-of-entry upon the Subject Property (including the rear yard) for inspection purposes to ensure compliance with this article prior to and after the issuance of a permit, (c) agree to remove chickens and chicken coops and enclosures upon the termination or expiration of a permit and/or non-compliance with this article; and (d) hold the City and its officials, officers, employees and agents harmless concerning matters relating to or concerning the permit and this article. As a condition of obtaining a permit, the Community Development Director may require persons applying for a permit to sign an agreement, in a form acceptable to the Community Development Director, incorporating the agreements of this subsection (4).

(5) Up to four (4) chickens may be kept on an occupied detached single-family property located in the R-1A, R-1, R-1B, R-2, R-4, R-5 and PUDs (in areas where detached single-family residential is permitted) zoning districts upon receiving a permit from the Community Development Director or his designee. Regardless of the underlying zoning district, chickens shall not be kept on properties developed with commercial uses, mobile home/manufactured home parks, duplexes, triplexes, and apartments or other multifamily properties.

(6) Chickens must be kept within a coop or enclosure at all times, unless the Community Development Directors grants a reasonable accommodation in regards to a claimed disability to allow a person to interact with and supervise the chickens within the confines of a fenced rear yard on the permitted premises. After a person has completed personal interaction and supervision of chickens within the confines of a fenced rear yard on the permitted premises, chickens shall be placed back into a coop or enclosure.

(7) Ducks, geese, turkeys, peafowl, male chickens/roosters, or any other poultry or fowl are not allowed under the provisions of this article.

(8) Chickens shall be kept for personal use only. Selling chickens, eggs, or chicken manure, or the breeding of chickens for commercial purposes is prohibited.

(9) Chickens shall not be slaughtered on premises.

(10) The coop and enclosure must be screened from the neighbor's view, using an opaque fence and/or a landscape screen.

(11) All applicable building permits shall be obtained prior to constructing enclosures to house chickens.

**Sec. 118-1615. –Location and requirements for chicken coops and enclosures.**

(1) The maximum size of the coop and pen area shall be one hundred (100) square feet. A building permit from the building division will be required. The application submittal shall show construction materials and methods as well as anchoring methods, such as tie-downs. Mobile coops shall be prohibited unless properly anchored to the satisfaction of the building department.

(2) The maximum height of a coop and the pen fence around the coop shall be six (6) feet, as measured from the existing grade to the highest part of the coop or fence.

(3) The coop and pen area shall be located in the rear yard of the single-family detached residence and be set back a minimum of seven and one-half (7½) feet from the side and rear lot lines and a minimum of twenty (20) feet from any side street, so long as the coop and pen area shall be at least twenty-five (25) feet from any residential structure on an adjoining lot.

(4) A coop or pen must be built within a rear yard that is surrounded by an opaque wall or fence that is at least six (6) feet in height. A chain-link fence, chain-link fence with slats, or similar fence shall not constitute an opaque wall or fence. Nothing in this section shall prevent construction of a coop and pen to abut the side of an applicant's house, so long as it otherwise meets the requirements of the Code of Ordinances.

(5) Chicken coops shall be covered and ventilated, and a fenced pen enclosure/run is required. The coop and pen must be constructed in a way that establishes a clean, safe and pleasant environment free of odor, vermin, noise, and disease.

(6) All enclosures for the keeping of chickens shall be so constructed and maintained as to prevent rodents or other pests from being harbored underneath, within, or within the walls of the enclosure.

(7) Chicken coops must be impermeable to rodents, wild birds, predators and weather, including all openings, ventilation holes, doors and gates. Enclosures shall be kept in neat condition, including provision of clean, dry bedding materials and regular removal of waste materials, so as to not create an odor.

(8) The space per chicken in the coop shall not be less than three (3) square feet.

(9) All chicken feed shall be kept in a secured and covered metal or plastic container, or otherwise protected so as to prevent rodents and other pests from gaining access to it.

(10) Chicken coops and pens shall be completely screened from adjacent roadways and parcels by a six-foot tall opaque fence, wall, or equivalent landscape vegetative material.

(11) A signed affidavit is required to be submitted with all chicken-keeping permit applications. The affidavit shall state that the chicken coop and pen will be designed, constructed and operated to the standards outlined in this article. The affidavit shall also state that the drawings submitted as part of the petition are a reasonably accurate representation of the subject site features and adjacent properties.

**Sec. 118-1616. –Health, sanitation, and nuisance as applied to the keeping of chickens.**

(1) Chickens shall be kept within a coop and enclosure. No person shall release or set any chicken free from such coop or enclosure except as set forth in this article. Chickens shall not be permitted to trespass on neighboring properties.

(2) Chicken coops and enclosures shall be maintained in a clean and sanitary condition at all times. Chickens shall not be permitted to create a nuisance consisting of odor, noise or pests, or contribute to any other nuisance condition.

(3) In a public health emergency declared by the Orange 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 and in conjunction with Animal Services.

**Sec. 118-1617. –Violations.**

In the event that a violation of this article occurs, the City shall have the right to one or more of the following remedies or actions:

(1) Institute code enforcement proceedings and prosecute code violations against the violator and the property owner of the real property where the violation occurs;

(2) Prosecute the violator for a criminal misdemeanor punishable by a fine not exceeding \$500.00 or imprisonment for a term not exceeding 60 days, or by both such fine and imprisonment in the discretion of the court;

(3) Issue a civil citation as a Class III violation to the violator for each violation in accordance with Section 2-92 City of Winter Garden Code of Ordinances, including graduated fines as permitted for repeat violations;

(4) Take any other action or remedy authorized by law or in equity, including but not limited to, instituting an action in court to enjoin violating actions, in which case the violating person shall be liable to the City for reimbursement of the City’s attorneys’ fees and costs concerning such action; and/or

(5) Revoke the permit for the keeping of chickens.

No person convicted or declared as a repeat violator of subsections one (1) through five (5) of this section may be permitted to, or continue to, keep chickens on their premises.

**Secs.118-1618—118-1635. – Reserved.**

**SECTION 3: Codification:** Section 2 of this Ordinance shall be codified and made part of the City of Winter Garden Code of Ordinances.

**SECTION 4: Conflicts:** In the event of a conflict or conflicts between this ordinance and other ordinances, this ordinance controls to the extent of the conflict.

**SECTION 5: Severability:** The provisions of this Ordinance are declared to be separable and if any section, paragraph, sentence or word of this Ordinance or the application thereto any person or circumstance is held invalid, that invalidity shall not affect other sections or words or applications of this Ordinance. If any part of this Ordinance is found to be preempted or otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent permitted by the severance of such preempted or superseded part.

**SECTION 6: Effective Date:** This Ordinance shall become effective upon adoption at its second reading.

**FIRST READING:** \_\_\_\_\_ NOVEMBER 8 \_\_\_\_\_, 2018

**SECOND READING AND PUBLIC HEARING:** \_\_ DECEMBER 13 \_\_, 2018

**ADOPTED** this \_\_13TH\_\_ day of \_\_DECEMBER\_\_, 2018, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

\_\_\_\_\_/S/\_\_\_\_\_  
John Rees, Mayor/Commissioner

ATTEST:

\_\_\_\_\_/S/\_\_\_\_\_  
Angela Grimmage, City Clerk