

ORDINANCE NO. 2017-1

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 10, SECTION 10-12 RELATED TO THE LIMITATION OF NUMBER OF ANIMALS; AND ESTABLISHING A NEW SECTION 10-20 IMPLEMENTING AN URBAN CHICKEN PILOT PROGRAM; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 2(b) of the Florida Constitution, and Sections 166.021 and 828.27 of the Florida Statutes, the City has the authority to enact ordinances relating to the ownership, care, and custody of animals; and

WHEREAS, the City Council recognizes the recent demand from residential homeowners to raise chickens on residential property; and

WHEREAS, the City Council desires to establish an Urban Chicken Pilot Program to provide such an opportunity on a trial basis subject to the regulations established herein; and

WHEREAS, for purposes of this ordinance words with underlined (underlined) type shall constitute additions to the original text and words with strikethrough (~~strikethrough~~) type shall constitute deletions from the original text.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

SECTION 1. The City Council of the City of Port Orange, Florida, hereby amends Chapter 10, Section 10-12 of the City of Port Orange Code of Ordinances to read as follows:

Sec. 10-12. - Limitation of number of animals.

- (a) No animal shall be permitted or allowed on any residential property which exceeds the maximum number of animals listed in this section. It is a violation of this chapter for the owner of an animal or the owner or occupant of residential property to permit or allow any animal on such property which exceeds the maximum number of animals listed in this section.
- (b) No animal shall be permitted or allowed on any residential property which does not belong to the species of animals listed in this section. It is a violation of this chapter for the owner of an animal or the owner or occupant of residential property to permit or allow any animal on such property which does not belong to the species of animals listed in this section.
- (c) The maximum number and species of animals for each residential dwelling unit shall be limited to:
 - (1) A total of fourteen animals which may consist of:
 - a. No more ~~that~~ than four adult dogs, cats, rabbits, guinea pigs of ferrets; and
 - b. No more than ten nonadult dogs, cats, rabbits, guinea pigs or ferrets; and
 - (2) A total of four adult house geckos, iguanas or birds of the psittaciforme order; and
 - (3) Any number of the following animals, provided that such animals are confined or maintained in cages or aquariums and that the size of such cage or aquarium provides sufficient space for humane confinement of the animals:
 - a. Gerbils, hamsters and mice, provided that the total volume of all cages for such animals does not exceed 40 cubic feet;

- b. Birds of the passeriforme order, provided that the total volume of all cages for such birds does not exceed 120 cubic feet; and
- c. Aquarium fish, aquarium amphibians and aquarium reptiles.
- (d) An unlimited number and species of animals may be maintained or boarded in a licensed kennel, wildlife rehabilitation center or shelter facility, provided that such kennel, center or facility complies with the requirements of the land development code and any special permit or special exception.
- (e) An unlimited number of livestock, as defined in F.S. § 588.13, may be maintained or boarded on ~~nonresidential~~ zoned flood plain-conservation (F-C), agriculture preservation (AP) or agriculture (A), provided that such property complies with the requirements of the land development code and any special permit or special exception.
- (f) Horses may be maintained or boarded on rural residential (RR) zoned property, provided that such property complies with the requirements of the land development code and any special permit or special exception.
- (g) Any person may apply for a waiver from the limitation on the maximum number of animals and/or species of animals listed in this section by filing a written request with the animal control authority. The request shall include the following information:
 - (1) Name and address of the owner of the animal.
 - (2) Name of the owner and location of the property.
 - (3) Description of the animal.
 - (4) Species of animal.
 - (5) Number of animals.
 - (6) Justification for the waiver.
- (h) Upon receipt of a request for waiver, the animal control authority shall review the request and make recommendations to the city council on the waiver. The city council shall review the request, consider the recommendations of the animal control authority, and either grant or deny the waiver.

- (i) In reviewing a request for waiver, the animal control authority and city council shall consider the following factors:
 - (1) Conditions of confinement of the animal, including but not limited to sanitation and security;
 - (2) Proximity of the animal to adjacent residential property;
 - (3) Impact of the animal on surrounding property and residents;
 - (4) Nuisance or disturbance to the public caused by the animal; and
 - (5) Interest of the public health, safety and welfare.
- (j) In approving any waiver, the animal control authority may recommend and the city council may prescribe appropriate conditions and safeguards for the animal and the public. Such conditions may include criteria for cages and fencing, minimum distance from adjacent residential property, time limits for the waiver, and any other requirements reasonably related to the provisions of this chapter.
- (k) A waiver shall apply to a specified animal and shall not be transferred to any other animal. The owner of an animal for which a waiver is approved shall notify the animal control authority immediately upon the death, relocation, sale or transfer of such animal.

SECTION 2. The City Council of the City of Port Orange, Florida, hereby amends Chapter 10 of the City of Port Orange Code of Ordinances to establish a new Section 10-20 creating and implementing the Urban Chicken Pilot Program which shall read as follows:

Sec. 10-20. – Urban Chicken Pilot Program.

- (a) The intent of this program is to create and implement a two-year temporary Urban Chicken Pilot Program to permit the keeping of up to five chickens per household by no more than thirty households, on owner-occupied single-family properties, subject to the terms and conditions of this section.
- (b) Section 10-12 shall not apply to permitted activities under the Urban Chicken Pilot Program.

- (c) Regardless of the date a temporary permit is issued for the keeping of chickens, such temporary permit shall terminate and expire on January 31, 2019, unless terminated earlier or extended by City Council action extending the Urban Chicken Pilot Program or implementing a permanent regulation.
- (d) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
- (1) Chicken. A domesticated fowl of the gallus genus. This term shall include only the female chicken (hen), and shall exclude the male chicken (rooster).
 - (2) Chicken coop. The house or cage in which a chicken lives. Inside coops are often nest boxes for egg-laying and perches on which the birds can sleep.
 - (3) Chicken pen. The outside area around a coop. An enclosure that is connected to and/or surrounding a chicken coop for the purpose of allowing chickens to leave the coop while remaining in an enclosed predator-safe environment.
 - (4) Chicken tractor. A movable chicken coop lacking a floor. Chicken tractors may be a lightly built A-frame which one person can drag about the yard. It may have wheels on one or both ends to make this easier.
- (e) Temporary urban chicken permit regulations. It shall be unlawful to keep, harbor, raise or maintain chickens without a temporary chicken permit. A temporary chicken permit shall not be required for keeping chickens in the agricultural (A), flood plain-conservative (F-C), or agricultural preservation (AP) zoning districts. Temporary chicken permits shall include the following conditions and restrictions:
- (1) No more than five chickens may be kept on a single-family detached residential lot.
 - (2) A temporary urban chicken permit shall only be issued for a lot with an existing single-family detached residence that is owner-occupied.
 - (3) Ducks, geese, turkeys, peafowl, pigeons, roosters or any other poultry or fowl are not permitted under the provisions of this section.

- (4) Chickens and associated activities shall be kept for personal use only. Selling chickens, eggs, feathers, or chicken manure, or the breeding of chickens is prohibited.
 - (5) Chickens shall not be slaughtered on premises.
 - (6) The coop, pen and enclosure shall be located behind the single-family residence in the rear yard and shall be screened from all adjacent properties and rights-of-way with a six-foot-tall opaque fence. Chicken tractors shall not be permitted.
 - (7) The coop, pen, and enclosure shall comply with the standard setbacks for a shed set forth in Chapter 16, Section 3 of the land development code.
 - (8) Chicken coops shall provide a minimum of four square feet per chicken to permit free movement of the chickens, shall not exceed 50 square feet, and may have an attached run. The coop shall be tied down for wind resistance. The coop and enclosure shall not be taller than 6 feet, measured from the natural grade, shall be at least six inches lower than the fence to provide full screening, and shall be easily accessible for cleaning and maintenance.
 - (9) The coop, pen and enclosure shall 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.
 - (10) All feed and other items associated with the keeping of chickens that can attract or to become infested with rodents or other pests shall be kept in a rodent and pest-proof container.
 - (11) Chickens shall be secured within a covered chicken coop or fenced pen/run area at all times and shall not be permitted to run at large.
 - (12) Chicken coops, pens, and enclosures shall be cleaned regularly and 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, as defined in the code or State Law.
- (f) Procedures for the granting of temporary urban chicken permits. Application for temporary urban chicken permit shall be submitted to the Community Development Department. Such submittal shall include the application form as provided by the city, together with all documents required under this section.

application form as provided by the city, together with all documents required under this section.

- (1) No more than 30 temporary chicken permits shall be active citywide. Permits shall be issued on a first-come, first-served basis. Once the City has issued the initial 30 temporary chicken permits, approved applicants shall be placed on a waiting list. If a participant chooses to leave the program, he/she shall provide notice to the City. The City is then authorized to issue a permit to the next qualified applicant on the waiting list. If a participant is removed from the program due to one or more violations of this section, the City shall be authorized to issue a permit to the next qualified applicant on the waiting list.
- (2) A temporary urban chicken permit shall not be issued for a property with an outstanding code enforcement case or any city imposed liens on said property.
- (3) The temporary chicken permit is personal to the permittee and shall not be assigned.
- (4) An applicant for a permit shall demonstrate compliance with the criteria in this section in order to obtain a permit. Applicants shall submit photos of the proposed site of the coop/run areas, a survey of the subject property showing the location, and proof of successful completion of a University of Florida Agricultural Extension Service class regarding the keeping of chickens or an equivalent class approved by the Administrative Official.
- (5) The temporary chicken permit applicant shall sign a statement acknowledging that the temporary chicken permit may be revoked for any violation of this section, and may be revoked if this section is amended in the future, and the City shall not be held responsible or liable for any losses, including the costs of improvements constructed for the keeping of chickens, to the applicant if such chicken permit is revoked.
- (6) If any condition or restriction of the temporary chicken permit has been violated, the city may revoke the permit upon seven days' written notice. If the violation is cured within the seven-day notice period, the permit shall not be revoked; however, a repeat offense may result in the city's immediate revocation of the permit. The city is responsible for the determination of compliance with the requirements of this section. In matters of interpretation, the Administrative Official has the authority to determine compliance with this section.

(g) Appeal. A person aggrieved by a decision of the Administrative Official in the issuance, denial or revocation of a temporary chicken permit may appeal to the City Manager in writing within five business days of the Administrative Official's written decision by filing an appeal with the City Clerk. Said appeal shall state fully the grounds for the appeal and all facts relied upon by the appellant. A person aggrieved by a decision of the City Manager may appeal to the City Council within five business days of the City Manager's written decision by filing an appeal with the City Clerk. Said appeal shall state fully the grounds for the appeal and all facts relied upon by the appellant. The decision of City Council shall be final.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 5. This ordinance shall become effective immediately upon final passage by the City Council.

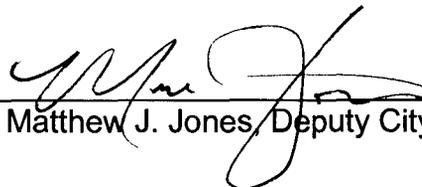

MAYOR DONALD O. BURNETTE

ATTEST:

Robin L. Fenwick, CMC, City Clerk

Passed on first reading on the 10 day of Jan, 2017.

Passed and adopted on second and final reading on the 7 day of Feb, 2017.

Reviewed and Approved: 
Matthew J. Jones, Deputy City Attorney