

ORDINANCE NO. O2024.60

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING THE TEMPE ZONING AND DEVELOPMENT CODE, PART 3 – SPECIAL USE STANDARDS, SECTIONS 3-102, 3-404, AND PART 7 – DEFINITIONS, SECTIONS 7-104, 7-117, AND 7-120, RELATED TO THE KEEPING AND DEFINITION OF DOMESTIC CHICKENS, AND SECTION 7-109 RELATED TO HB2846 RELATED TO REGULATIONS DEFINING HOOPHOUSES.

The City Council for the City of Tempe makes the following findings of fact:

WHEREAS, the State Legislature adopted House Bill (HB) 2325 to establish requirements relating to residents keeping backyard fowl (A.R.S. 9-462.12);

WHEREAS, municipalities must abide by the mandatory provisions of the new state regulation;

WHEREAS, HB2325 prohibits all municipalities from adopting a law, ordinance or regulation that restricts a resident of a single-family detached residence that is one-half acre or less in size from keeping up to six fowl in the property's backyard;

WHEREAS, HB2325 states that the property rights of owners in Arizona are of statewide concern;

WHEREAS, HB2325 preempts local laws, ordinances and charter provisions that conflict with its mandatory provisions;

WHEREAS, HB2325 defines fowl to mean a cock or hen of the domestic chicken;

WHEREAS, notwithstanding the above, HB2325 allows a municipality to, among other things, prohibit a resident from keeping male fowl, including roosters;

And WHEREAS, the City of Tempe finds that it necessary to adopt certain regulations to conform with state law.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

SECTION 1. That a portion of Table 3-102 of Section 3-102 of the Tempe Zoning and Development Code is hereby amended as follows:

Section 3-102 Permitted Uses in Residential Districts.

Table 3-102 identifies land uses according to permit status. See key below the table:

Table 3-102 - Permitted Land Uses (AG, SFR, MF, MH, RMH, TP)				
Uses	Status of Use in District			
	AG	SFR	MF	MH/RMH/TP
...				
Animals				
Horses [Section 3-404]				
Keeping of, residential use	S	U(S)	N	N
Stables, commercial use	U(S)	N	N	N
Livestock: Cattle, Sheep, or similar [Section 3-404 (B)]	S	N	N	N
Animals on single-family dwelling lots [Section 3-404 (I)]				
<i>Small animals</i> and pot-bellied pigs	<u>S</u> <u>P</u>	S	S	N
<u>DOMESTIC CHICKENS, EXCLUDING ROOSTERS</u>	<u>P</u>	<u>S</u>	<u>S</u>	<u>S</u>
Livestock and additional <i>small animals</i>	<u>U(S)</u> <u>P</u>	U(S)	U(S)	N
Apiaries [Section 3-404]	U(S)	N	N	N
...				

SECTION 2. That Section 3-404(I) of the Tempe Zoning and Development Code, pertaining to agricultural uses, is hereby amended as follows:

I. Small Animals. *Small animals*, as defined herein, and pot-bellied pigs are permitted in all residential districts which have a *single-family dwelling*, subject to the following:

1. No more than five (5) *small animals* collectively are allowed on an individual *lot*;
2. No more than two (2) pot-bellied pigs are allowed on an individual *lot* and shall be counted in the total allotment for *small animals*;
3. NO MORE THAN SIX (6) DOMESTIC CHICKENS ARE ALLOWED ON AN INDIVIDUAL LOT. DOMESTIC CHICKENS DO NOT COUNT IN THE TOTAL ALLOTMENT FOR SMALL ANIMALS.
4. ~~3.~~ The keeping of roosters or peafowl is prohibited, except in the AG district;
5. 4. The keeping of household pets, and all dogs and cats pursuant to the Tempe City Code, Chapter 6, are allowed in all residential districts and do not count towards the number of *small animals*;
6. 5. The keeping of *small animals*, and pot-bellied pigs, AND DOMESTIC CHICKENS, that exceed the maximum allowed quantity in subsection (1) and THROUGH (2)(3) above, and the keeping of livestock, as defined in Section 3-404(B), may be allowed subject to review and approval through a Use Permit application, pursuant to Section 6-308. In addition to the approval criteria, the request must demonstrate adequate area for the animal(s) and control of living

quarters;

~~7. 6.~~ It shall be unlawful to keep *small animals* and livestock in a manner that constitutes a nuisance.

8. LOTS LESS THAN ONE (1) ACRE. CHICKEN ENCLOSURES SHALL BE NO TALLER THAN THE HEIGHT OF THE FENCE/WALL LINE LOCATED ON THE PROPERTY.

(Ord. No. 2009.15, 10-22-2009; Ord. No. O2019.08, 4-11-2019)

SECTION 3. That a portion of Section 7-104 of the Tempe Zoning and Development Code, pertaining to "C" Definitions, is hereby amended as follows:

...

Caretaker residence means one (1) permanent residential dwelling unit that is ancillary to the principal use on a commercial or industrial zoned parcel(s) of land and is needed for security purposes or housing for the owner or operator of a business.

CHICKEN, DOMESTIC MEANS A FEMALE CHICKEN OR HEN, EXCLUDING ROOSTERS OR COCKS.

Childcare centers means any use, regulated by the State of Arizona involving the care of other people's children during the day and that accommodate more than four (4) children for childcare. Some instruction may be offered in connection with such care. The use shall not be considered a "school" within the meaning of this Code. See also, nursery and day care school.

...

SECTION 4. That a portion of Section 7-109 of the Tempe Zoning and Development Code, pertaining to "H" Definitions, is hereby amended as follows:

...

Hookah lounge means any business which primarily serves tobacco and related products, whereby patrons share the tobacco from a communal hookah or water pipe which is placed at each table. The business may sell beverages and snacks, but the gross sales of these items shall not exceed that of tobacco and related products.

HOOPHOUSE, ALSO INCLUDING POLYHOUSE, MEANS A GREENHOUSE USED EXCLUSIVELY FOR PRODUCING AND STORING LIVE PLANTS. FOR PURPOSES OF THIS CODE A HOOPHOUSE SHALL COMPLY WITH ALL HEIGHT, SETBACKS, AND LOT COVERAGE REQUIREMENTS AS A DETACHED ACCESSORY BUILDING OR ACCESSORY STRUCTURE.

SECTION 5. That a portion of Section 7-117 of the Tempe Zoning and Development Code, pertaining to "P" Definitions, is hereby amended as follows:

...

Plasma donation center means a medical clinic which accepts blood product donations, particularly plasma, and provides monetary payment for donations.

~~Poultry mean chickens, ducks, geese, turkeys, guinea fowl, or other domestic fowl~~

Primary building entrance means the entry to a building intended for the majority of public access.

...

SECTION 6. That a portion of Section 7-120 of the Tempe Zoning and Development Code, pertaining to "S" Definitions, is hereby amended as follows:

...


Small animal means ~~poultry as defined herein~~ DUCKS, GEESE, TURKEYS, GUINEA FOWL, pot-bellied pigs, rabbits, or other similar small animals, EXCLUDING DOMESTIC CHICKENS.

...

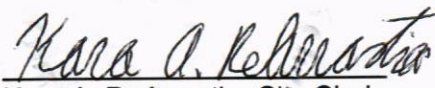
SECTION 7. Pursuant to A.R.S. § 9-462.01(J), the City Council has considered a housing impact statement regarding the impact of the zoning ordinance text amendment.

SECTION 8. Pursuant to City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

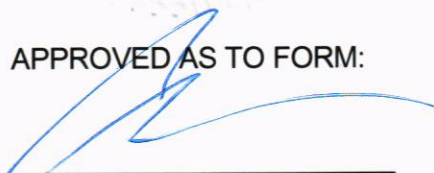
PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this 19th day of December, 2024.


Corey D. Woods, Mayor

ATTEST:


Kara A. DeArrastia, City Clerk

APPROVED AS TO FORM:


Eric C. Anderson, City Attorney