City of Cocoa

65 Stone Street
Cocoa, FL 32922

Meeting Agenda

Wednesday, October 6, 2021

6:00 PM

Cocoa City Council Chambers

Planning and Zoning / Local Planning Agency

I. CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

II. APPROVAL OF AGENDA AND MINUTES:

AGENDA:

21-666 Approval of the October 6, 2021 Planning and Zoning Agenda

Attachments: PZ Short Agenda.pdf

MINUTES:

21-667 Approval of the June 2, 2021 Planning and Zoning Minutes

Attachments: 06-02-2021 FINAL.pdf

III: NEW BUSINESS:

21-665 Consideration of an ordinance 14-2021 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.

Attachments: Chicken Ad 14-2021.docx

Ordinance 14-2021 Backyard Chickens.docx

IV. NEXT MEETING DATE:

The next regularly scheduled meeting of the Planning and Zoning Board will be on Wednesday, November 3, 2021 at 6:00 PM at the Cocoa City Hall, 65 Stone Street, Cocoa, Florida.

V. ADJOURNMENT

NOTICE TO THE PUBLIC:

This is a public meeting. All interested parties may attend in person. The facility wherein this public meeting will be held is accessible to the physically handicapped. In accordance with the Americans With Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk of the City of Cocoa, listed below, at least 48 hours prior to the meeting: Carie Shealy, City Clerk, 65 Stone Street, Cocoa, by telephone at (321) 433-8484 or via email at cshealy@cocoafl.org.

Additionally, interested persons may view or listen to the meeting electronically at the following internet sites:
(1) https://tinyurl.com/s5e875r or
(2) https://cocoa.legistar.com/DepartmentDetail.aspx?ID=26365&GUID=FF9D3369-D354-4FAB-800A-57D0AEE30153&Mode=MainBody

However, the City is not responsible for technical difficulties that may occur while attempting to view or listen to the meeting on the internet.

Interested persons may submit their written comments or questions regarding the meeting prior to the meeting through Email at abernard@cocoafl.org. Any electronic comments submitted will be made part of the meeting record. Written comments or questions not relevant to the meeting agenda will not be made part of the meeting record but will be maintained as public record.

Pursuant to Section 286.0105, Florida Statutes, the City hereby advises the public that: if a person decides to appeal any decision made by the City Council with respect to any matter considered at its meeting or hearing, that person will need a record of the proceedings and for such purpose, affected persons may need to assure that a verbatim record of the proceedings is made, and such record shall include the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission into evidence of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals otherwise not allowed by law.

Although members of the public are entitled to be heard by the City Council on certain items on the meeting agenda pursuant to the City Council Rules of Procedure, members of the public are not entitled to an immediate response by either administrative staff members or Council; however, the City Council or administrative staff may provide a response at their discretion. When presenting before the City Council, all comments or questions should be directed to the Mayor or the chair of the meeting. Comments or questions should not be made directly to administrative staff without permission from the Mayor or chair.
Public debate by individual speakers from the audience on public hearing items shall be limited to three (3) minutes. Applicants or representatives of recognized groups with special interests in a matter shall be limited to ten (10) minutes; and total debate on a single issue shall be limited to thirty (30) minutes. Only one presentation per person per item shall be allowed.

A Council member may add an item to the agenda during the meeting only at the time the agenda is approved. If the item requires action by the Council, then it may be added to the agenda by an affirmative vote of the Council, and written documentation must be submitted at the time the item is added to the agenda. Matters may also be raised by the Council, City Manager or City Attorney under reports and acted upon by the City Council.

This agenda is posted on the Municipal Bulletin Board for public review.

CITY OF COCOA
Planning & Zoning Board /
Local Planning Agency
City Council Chambers

Cocoa City Hall
65 Stone Street
Cocoa, FL 32922

AGENDA
Regular Meeting
October 6, 2021
6:00 p.m.

I. **OPENING MATTERS:**
1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE

II. **APPROVAL OF AGENDA AND MINUTES:**
1. AGENDA: Meeting of October 6, 2021
2. MINUTES: Meeting of June 2, 2021

III. **OLD BUSINESS:** None

IV. **NEW BUSINESS:**
A. **PZ-21-002000001 – Backyard Chicken Pilot Program**
Consideration of an ordinance 14-2021 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..

V. **OTHER BUSINESS:**
1. Tree Board Update: (none)
2. Recent Development (none)
3. Open Discussion by Board members

VI. **NEXT MEETING DATE:**
Wednesday, November 3, 2021

VII. **ADJOURNMENT**

Public Participation

Members of the public may view the meeting agenda, ordinances, project applications, supporting documents, and staff reports on the City's website at the following link prior to attending or commenting: City of Cocoa meeting calendar at https://cocoa.legistar.com/Calendar.aspx

These documents and information pertaining to the above may also be inspected at the Community Services Department, between 9:00 a.m. and 5:00 p.m., Monday through Friday, or by phoning (321) 433-8535.

Interested parties are invited to attend this public meeting in person. Additionally, interested persons may view or listen to the meeting electronically at the following internet sites:

(1) https://tinyurl.com/s5e875r or

(2) https://cocoa.legistar.com/DepartmentDetail.aspx?ID=26365&GUID=FF9D3369-D354-4FAB-800A-57D0AEE30153&Mode=MainBody

However, the City is not responsible for technical difficulties that may occur while attempting to view or listen to the meeting on the internet.

Interested parties may also submit their written comments or questions regarding the meeting prior to the meeting through Email at abernard@cocoafl.org. Any electronic comments submitted will be made part of the meeting record. Written comments may also be mailed to City of Cocoa, Planning & Zoning Manager, 65 Stone Street, Cocoa, Florida 32922. Written comments or questions not relevant to the Council meeting agenda will not be made part of the meeting record but will be maintained as public record.

This is a public meeting. Interested parties are hereby advised that they may appear at said meeting and be heard. The facility wherein this public meeting will be held is accessible to the physically handicapped. In accordance with the Americans With Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk of the City of Cocoa, listed below, at least 48 hours prior to the meeting: Carie Shealy, City Clerk, 65 Stone Street, Cocoa, by telephone at (321) 433-8484 or via email at cshealy@cocoafl.org.

Pursuant to Section 286.0105, Florida Statutes, the City hereby advises the public that if a person decides to appeal any decision made by the P&Z Board/LPA or City Council with respect to any matter considered at its meeting or hearing, that person will need a record of the proceedings and for such purpose, affected persons may need to assure that a verbatim record of the proceedings is made, and such record shall include the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission into evidence of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals otherwise not allowed by law.

The City Council reserves the right to continue or postpone hearings to a date certain without re-advertising.

MINUTES
CITY OF COCOA
PLANNING & ZONING BOARD/ LOCAL PLANNING AGENCY
REGULAR MEETING
June 2, 2021

A Regular meeting of the Planning & Zoning Board Local Planning Agency was held on June 2, 2021 at City Hall, 65 Stone Street, Cocoa, FL, as publicly noted.

I. CALL TO ORDER:

Chairperson Dobrin called the meeting to order at 6:03 PM.

ROLL CALL:

Michael Dobrin	Chairperson
Al Washington	Vice Chairperson
Todd Anderson	Board Member
Jeri Blanco	Board Member
Trina Gilliam	Board Member
Marilyn Green	Board Member
Susan Mock	Board Member
Russell Sengel	Board Member
Justin Simpson	Board Member
Aleck Greenwood	Alternate Member
Jesse Heredia	Alternate Member
Debbie Joyce	School Board Representative

PRESENT:

Michael Dobrin	Chairperson
Al Washington	Vice Chairperson
Marilyn Green	Board Member (via phone)
Susan Mock	Board Member
Russell Sengel	Board Member
Justin Simpson	Board Member
Aleck Greenwood	Alternate Member
Jesse Heredia	Alternate Member
Debbie Joyce	School Board Representative

ABSENT:

Jeri Blanco	Board Member
Trina Gilliam	Board Member
Todd Anderson	Board Member

STAFF PRESENT:

Kristin Eick, Board Attorney; Dodie Selig, Planning & Zoning Manager, Alix Bernard, Senior Planner and Lori Chabot, Recording Secretary.

Chairperson Dobrin led the assembly in the Pledge of Allegiance.

II. APPROVAL OF AGENDA AND MINUTES:

1. AGENDA: Meeting of June 2, 2021

* **MOTION BY VICE CHAIPERSON WASHINGTON; SECONDED BY BOARD MEMBER SENGEL TO APPROVE THE JUNE 2, 2021 AGENDA AS WRITTEN.**

AYES: DOBRIN, WASHINGTON, GREEN, GREENWOOD, HEREDIA, MOCK, SENGEL, SIMPSON

MOTION PASSED UNANIMOUSLY (8-0)

2. MINUTES: Meeting of March 17, 2021

* **MOTION BY VICE CHAIPERSON WASHINGTON; SECONDED BY BOARD MEMBER SENGEL TO APPROVE THE MARCH 17, 2021 MINUTES AS WRITTEN.**

AYES: DOBRIN, WASHINGTON, GREEN, GREENWOOD, HEREDIA, MOCK, SENGEL, SIMPSON

MOTION PASSED UNANIMOUSLY (8-0)

III. OLD BUSINESS:

None

IV. NEW BUSINESS:

A. PZ-21-016 – Zoning Map Amendment (GEM Industries)

Ms. Selig gave a presentation[1] and provided the project summary. She explained that the current future land use is industrial and the current zoning is Brevard

[1] Exhibit A: Zoning Map Amendment – 4050 W. King St.

County light industrial. The proposed zoning is City of Cocoa M-1, light industrial and warehouse and the property is a vacant commercial building, formerly a fencing company.

Ms. Selig stated that in accordance with Appendix A Zoning, Article XXI, Section 1(G), a total of 16 criteria are to be considered in the review of an application for a rezoning. These criteria address issues such as the established land use pattern, population density, the comprehensive plan, living conditions in the adjoining neighborhood, traffic congestion, public safety, drainage, property values, public welfare, and others related to the impact of the proposed change.

Additionally, staff found that the proposed rezoning is nearly identical to the existing Brevard County zoning classification. The land use pattern along the northern side of W. King Street in this area consists of commercial, retail, and light industrial-type uses. Parcels located to the west and on the south side of W. King Street are vacant land. Changed or changing conditions make the passage of the proposed amendment necessary. The subject property is seeking to apply a City zoning district designation as a result of the recent annexation of the parcel into the City of Cocoa.

Ms. Selig shared the location map and added that staff is recommending that the Planning & Zoning Board recommend approval to City Council of the Zoning Map Amendment consistent with Appendix A, Zoning, Article XXI, to change the Zoning Map designation of one parcel (0.6 acres) from Brevard County IU (Light Industrial) to City of Cocoa M-1 (Light Industrial and Warehouse) as depicted on Exhibit A.

Discussion continued and Ms. Selig clarified the location for the board members. The property owner, Ann Miner was in attendance and expressed she was in favor of the change. It would allow her to do as she would like with the property, to create business space. Board Member Greenwood expressed the advantages and what an asset it would be.

For the Record- No one was in the audience other than the property owner.

* **MOTION BY ALTERNATE MEMBER GREENWOOD; SECONDED BY VICE CHAIPERSON WASHINGTON TO RECOMMEND APPROVAL TO CITY COUNCIL OF THE ZONING MAP AMENDMENT CONSISTENT WITH APPENDIX A, ZONING, ARTICLE XXI, TO CHANGE THE ZONING MAP DESIGNATION OF ONE PARCEL (0.6 ACRES) FROM BREVARD COUNTY IU TO CITY OF COCOA M-1 AS DEPICTED ON EXHIBIT A.**

AYES: DOBRIN, WASHINGTON, GREEN, GREENWOOD, HEREDIA, MOCK, SENGEL, SIMPSON

MOTION PASSED UNANIMOUSLY (8-0)

VII. NEXT MEETING DATE:

The next scheduled meeting for the Planning and Zoning Board will be held on Wednesday, July 7th at 6pm in Cocoa City Hall, 65 Stone St, Cocoa, FL 32922.

VIII. ADJOURNMENT:

* **MOTION BY VICE CHAIPERSON WASHINGTON; SECONDED BY BOARD MEMBER SENGEL TO ADJOURN THE REGULAR MEETING OF JUNE 2, 2021.**

AYES: DOBRIN, WASHINGTON, GREEN, GREENWOOD, HEREDIA, MOCK, SENGEL, SIMPSON

MOTION PASSED UNANIMOUSLY (8-0)

MEETING WAS ADJOURNED AT 6:43 PM.

_____
Michael Dobrin, Chairperson

Respectfully Submitted By:

_____
Lori Chabot, Recording Secretary

PLANNING & ZONING BOARD/LOCAL PLANNING AGENCY AGENDA ITEM

Memo Date: September 29, 2021
Agenda Date: October 6, 2021
Prepared By: Alix Bernard, Interim Planning & Zoning Manager
Through: Charlene Neuterman, Interim Community Services Director
Requested Action:

Consideration of an ordinance 14-2021 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.

BACKGROUND:

In February 2017 The City implemented the Backyard Chicken Pilot Program. This pilot program was in place for two years and sunset in February of 2019. In that two-year time frame, according to Code Enforcement two residents have signed up to have backyard chickens. In addition, Code Enforcement has received some complaints from people who have not followed the proper process and have gotten roosters, which are very noisy and not permitted.

I. Zoning Ordinance Amendment Analysis

In accordance with Appendix A. Zoning, Article XXI, Section 1(G)(2) of the Code of the City of Cocoa, the Planning and Zoning Board shall consider and study the following when an amendment to the zoning code is proposed:

a. *The need and justification for the change.*

b. *The relationship of the proposed amendment to the purposes and objectives of the comprehensive planning programs and to the comprehensive plan, with appropriate consideration as to whether the proposed changes will further the purposes of [the] zoning code and other codes, regulations, and actions designed to implement the comprehensive plan.*

Need and justification for change

City Council presented a non-binding referendum on the November 4, 2014 election ballot 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. The referendum results were 2,777 in favor (54.66%) and 2,283 opposed (45.34%) to City

Council establishing a backyard chicken program under terms and conditions established by City Council.

City staff has conducted analysis regarding appropriate terms and conditions. Proposed revisions of the section of code (Section 5-35. – Backyard Chicken Pilot Program) have been updated under Chapter 5, Animals and Fowl. The details of the proposed revisions of code can be found in the attached ordinance (Ordinance No. 14-2021). Some of the highlights of the ordinance include the following:

- Persons desiring to participate in the Backyard Chicken Pilot Program must apply for and obtain a permit ($75.00 fee) prior to the keeping of chickens.
- Persons applying for a permit must provide evidence of successful completion of a University of Florida Agricultural Extension Service class, or equivalent, on the care and raising of chickens.
- Up to 4 chickens may be kept on an occupied single-family property within the proper zoning district as noted above.
- Chickens must be kept within a coop and enclosure, and may not be released or set free to roam unless under the direct supervision of the owner and such roaming must be confined to the backyard of the subject property.
- Chickens must be kept for personal use only. Selling of chickens, eggs, feathers, chicken manure, or the breeding of chickens for commercial purposes is strictly prohibited.
- The coop and enclosure must be screened from neighboring property.
- 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. The coop and enclosure must be at least 10 feet from the single-family structure, a minimum of 10 feet from the rear or side property, a minimum of 20 feet from any side street, and a minimum of 20 feet from any neighboring residential homes.

Relationship and consistency with Comprehensive Plan Policies and Objectives
The following Comprehensive Plan policies support the applicant's request:

- Housing Element Objective 3.2.4 – Neighborhood Preservation: The City of Cocoa shall promote neighborhood preservation through the continued application and enforcement of zoning district regulations, land development regulations, and nuisance abatement regulations.

- Housing Element Policy 3.2.4.4: The City shall protect residential neighborhoods from noise, water, and air pollution by regulating land development practices to ensure all applicable local, state, and federal air & water quality standards are met and maintained. Activities creating noise related disturbances shall be restricted from inappropriate locations or required to provide more stringent attenuation measures.

BUDGETARY IMPACT:

N/A

PREVIOUS ACTION:

N/A

RECOMMENDED MOTION:

Staff recommends that the Planning and Zoning Board recommend **approval** to City Council of Ordinance No. 14-2021 amending Chapter 5, Animals and Fowl to allow for Backyard Chickens.

ORDINANCE NO. XX-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;~~ (ii) 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; (iii) agreed to remove chickens and chicken coops and enclosures upon the termination ~~or expiration~~ of a permit issued under this section, and (iii~~iv~~) 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 _____ day of October, 2021.

_____
Michael C. Blake, Mayor

ATTEST:

_____
Carie Shealy, City Clerk