



RETURN TO:  
CITY OF ST. CLOUD  
DEPT OF PLANNING AND ZONING  
1300 9<sup>th</sup> Street  
ST. CLOUD, FL 34769

**ORDINANCE NO. 2019-35**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ST. CLOUD, FLORIDA AMENDING THE CITY CODE TO AMEND CHAPTER 8 - ANIMALS, SECTION 8-2. – NUMBER OF PET ANIMALS RESTRICTED, AND SECTION 8-3. – KEEPING POULTRY, DOMESTIC FOWL, PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.**

WHEREAS, the concept of local sustainability and a desire for fresher food products has inspired an interest in backyard food production; and

WHEREAS, the City Council recognizes the general trend in society to pursue a green lifestyle and to incorporate fresher products into diets, a lifestyle which can be supported by allowing residents to keep and raise a limited number of chickens on their single-family property for the purposes of producing their own eggs for consumption; and

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

WHEREAS, to ensure the long-term viability of residential neighborhoods and conformity and compatibility with surrounding uses, the amendment provides that the accommodation of chickens in residential areas shall not cause undue noise, odor, and unsanitary conditions within the community; and

WHEREAS, many communities around the country have been exploring how to compatibly integrate backyard chickens into the urban residential setting; and

WHEREAS, other local governments have found in passing ordinances allowing the keeping of chickens in residential areas that up to four (4) chickens are sufficient to meet the needs of the average family’s egg consumption; and

WHEREAS, the City Council implemented a pilot program to permit the keeping of up to four (4) chickens on an occupied detached single-family or duplex property as an accessory use, subject to the terms and conditions of Ordinance No. 2016-36; and

WHEREAS, after evaluating all relevant data and feedback on the success or failures of the pilot program, the City has determined that the keeping of chickens as an accessory use shall be enacted permanently into the City of St. Cloud Code of Ordinances; and

WHEREAS, the City Council finds that this Ordinance will be in the best interest of the residents of the City of St. Cloud, and that this Ordinance is consistent with the Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED by the City Council of St. Cloud, Florida, as follows:

**SECTION I**

Chapter 8, Section 8-2. – “Number of pet animals restricted” of the City Code of the City of St. Cloud is hereby amended as follows:

**Section 8-2. – Number of pet animals restricted.**

It shall be unlawful for any person to keep on a single premises within the city more than three pet animals, such as dogs, cats, rabbits or other animals, excluding therefrom tropical or exotic fish, but including birds maintained outside the living area of the residential structure; provided that for a period of not more than ten weeks after birth of offspring of such pet animals, they may be kept on the premises. Where otherwise permitted, nothing contained in this section shall prohibit any duly licensed business entity in such business from keeping for sale, or any duly licensed doctor of veterinary medicine from keeping, any reasonable number of such small animals.

An exemption to this section is granted by Section 8-3. – Backyard Chicken-keeping Program. The holder of a valid backyard chicken-keeping permit is allowed up to a maximum of four (4) chickens in addition to the three (3) pet animals already permitted by this section.

**SECTION II**

Chapter 8, Section 8-3. – “Keeping poultry, domestic fowl” of the City of St. Cloud City Code is hereby amended as follows:

**Section 8-3. - Backyard Chicken-keeping Program.**

(a) *Intent.* The intent of this Ordinance is to establish and implement a permanent Backyard Chicken-keeping Program allowing residents to keep or raise chickens on developed and occupied detached single-family and duplex properties subject to the terms and conditions of this Ordinance.

- (1) For the purpose of this Section, the term “chicken” refers to female chickens only (i.e. hens).
- (2) This Ordinance 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 Ordinance are solely responsible for compliance with all applicable restrictive covenants and homeowners’ association rules and regulations.

(b) *General conditions for backyard chicken-keeping in certain residential zoning districts.*

- (1) Persons desiring to participate in the backyard chicken-keeping program under this Ordinance shall apply for and obtain a permit from the Planning and Zoning Department prior to keeping chickens.
- (2) If a tenant or person applying for a permit for backyard chicken-keeping is not a fee simple owner of the subject property, the fee simple owner must join in and consent to the application.
- (3) In order to obtain a permit under this Ordinance, persons applying for a permit for the keeping of chickens must show that they can meet the requirements of this Ordinance by providing a sketch plan of the back yard including all required structures and approval from a Homeowners’ Association where applicable.
- (4) The City may conduct site inspections of the subject property to make compliance determinations under this Ordinance prior to and after issuance of a permit. The city shall provide forty-eight (48) hour notice to permit holders prior to performing inspections.
- (5) The City may deny a permit application if it is determined that the person(s) applying for a permit cannot meet the requirements of this Ordinance. The issuance of a permit for the keeping of chickens is conditioned upon and subject to the terms and conditions of this Ordinance.

- (6) By applying for a permit under this Ordinance, persons applying for such permit thereby:
- a. Agree to the terms and conditions of this Ordinance,
  - 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 Ordinance 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 this Ordinance, and
  - d. Hold the City and its officials, officers, employees and agents harmless concerning matters relating to or concerning the permit and this Ordinance.

As a condition of obtaining a permit, the Planning and Zoning Department may require persons applying for a permit to sign an agreement, in a form acceptable to the Planning and Zoning Department, incorporating the agreements of this subsection (6).

- (7) Up to four (4) chickens may be kept on an occupied detached single-family or duplex property upon receiving a permit from the Planning and Zoning Department. Regardless of the underlying future land use designation, chickens shall not be kept on properties developed with commercial uses, mobile home/manufactured home parks, triplexes, townhomes and apartments or other multifamily properties.
  - (8) Existing developed and occupied detached single-family or duplex residence that were lawfully approved to raise chickens prior to adoption of this ordinance, shall be grandfathered and allowed to continue the use without requiring a permit.
  - (9) Every person who owns, controls, keeps, maintains or harbors chickens must keep them confined on the premises at all times within a chicken coop or chicken pen unless a person is supervising the chickens within the confines of a fenced rear yard on the same premises as the coop. After a person has completed the personal interaction and supervision of chickens within the confines of the fenced rear yard, the chickens shall be returned to the coop or pen enclosure.
  - (10) Ducks, geese, turkeys, guineas, pigeons, pea fowl, roosters, or any other poultry or fowl are not allowed under the provisions of this Ordinance, except in agricultural districts. Where otherwise permitted, nothing contained in this section shall prohibit any duly licensed business entity in such business from keeping for sale any reasonable number of such poultry or domestic fowl which are less than ten weeks of age, provided the same are maintained within the business structure.
  - (11) Chickens shall be kept for personal use only. Selling chickens, eggs, or chicken manure, or the breeding of chickens for commercial purposes is prohibited.
  - (12) Chickens shall not be bred or slaughtered on premises.
- (c) *Location and requirements for chicken coops and enclosures.* Backyard chicken-keeping shall be permitted as an accessory use within single-family residential zoning districts, where the lot or parcel is developed and occupied by a single-family detached or duplex residence. Chickens shall not be kept on residential property with mobile home/manufactured home parks, triplexes, townhomes and apartments or other multi-family properties.

Permission for backyard chicken-keeping shall be subject to the following standards and conditions:

- (1) The maximum size of the coop and pen area shall be one hundred and twenty (120) square feet.
- (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 developed and occupied single-family detached or duplex property.
- (4) The coop and pen shall be set back a minimum of five (5) 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.
- (5) Chicken coops and pens shall be completely screened from adjacent roadways and neighboring parcels by a six-foot tall opaque fence or wall erected on the property line. A chain-link fence, chain-link fence with slats, or similar fence shall not constitute an opaque wall or fence.
- (6) Nothing in this section shall prevent construction of a coop and pen to abut the rear of an applicant's house, so long as it otherwise meets the requirements of this Code.
- (7) 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.
- (8) 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. 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.
- (9) The space per bird in the coop shall not be less than three (3) square feet.
- (10) 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.
- (11) A signed and notarized affidavit is required to be submitted with all backyard 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 the City of St. Cloud's Code of Ordinances. 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.
- (12) The application for a backyard chicken-keeping permit shall include proof to the Planning & Zoning department that the applicant has attended and successfully completed a class at the University of Florida Agricultural Extension Service on the care and raising of chickens, or an equivalent class at a similar institution, subject to approval by the City Manager or designee.
- (13) Once a backyard chicken-keeping permit has been issued, the location will be subject to an annual inspection to ensure that the area is being maintained in a manner that is safe and sanitary for the animals and does not create a nuisance for the neighbors.
- (14) If a resident decides not to continue with their permit, or if the permit is revoked, per Subsection (e), the resident is responsible for finding appropriate homes for the chickens within thirty (30) days. In addition, a final inspection shall be completed in thirty (30) days to ensure that the chickens, coop, and pen have been removed from the property.

- (15) The city council hereby establishes the legal authority for a fee to cover processing costs for new permit applications, and a fee for annual renewals of any existing permits for residential backyard chicken-keeping as currently established or as hereafter adopted by resolution by the city council from time to time.

(d) *Health, sanitation and nuisance as applied to the keeping of chickens.*

- (1) Chickens shall be housed at all times within a covered coop or fenced pen area, except that they may be removed from the coop or fenced pen area by a resident or visitor of the home, provided the resident keeps them under his or her continuous custody and control while they are outside the coop or fenced pen area.
- (2) Chickens must be secured within the chicken coop during non-daylight hours.
- (3) Chickens shall not be permitted to trespass on neighboring properties, run at large, be released or set free at any time.
- (4) Chicken coops and runs 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.
- (5) If a chicken is injured or bitten by a family dog or neighbor's dog, said dog shall not be classified as a dangerous dog pursuant to Section 4-39 of the Osceola County Code, as amended.
- (6) All deceased chickens shall be properly disposed of off-site within 24 hours of expiring.
- (7) In a public health emergency declared by the Osceola County Health Department, including but not limited to an outbreak of Avian Flu or West Nile virus, immediate corrective action shall be required, in accordance with applicable public health regulations and procedures and Animal Services.

(e) *Revocation and transfer of permits*

- (1) *Revocation.* A permit may be revoked by the city for the following reasons:
  - a. If a permit holder fails to obtain chickens within six (6) months of obtaining the permit.
  - b. If a permit holder discontinues raising chickens for a six (6) month period.
  - c. If any condition of the chicken-keeping permit has been violated, the city may revoke the permit immediately if the violation has not been remedied within seven (7) days after written notice of the violation.
  - d. Without affording the permit holder the opportunity to remedy a violation as set forth above, revocation shall occur if there are more than three separate violations occurring in a 90-day period arising from the backyard chickens.
  - e. If revoked, neither the resident nor anyone else on the same premises may reapply for a period for twelve (12) months from the date of revocation. All chickens must be removed from the property during any time the permit is revoked.
  - f. A person aggrieved by a decision to deny or revoke a chicken-keeping temporary permit may appeal to the city manager or their designee.

- (2) *Transfer.* A permit issued pursuant to this section shall not be transferred to a subsequent property owner. Any subsequent property owner will be required to reapply for a permit pursuant to this section if the subsequent property owner wants chickens.
  - (3) *Relocation.* Any active permit holder who relocates to a new location may apply for a chicken-keeping permit without having to be waitlisted behind property owners who do not currently have a permit. The reason is to allow continuity of ownership for existing chickens in the City of St. Cloud.
  - (4) *Cancellation.* If a participant chooses to discontinue backyard chicken-keeping, they must provide notice to the city and remove the coop and pen within thirty (30) days of the notice being given.
- (f) *Violations.* In the event that a violation of this Ordinance 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) 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
  - (3) Revoke the permit for the keeping of chickens.

### SECTION III SEVERABILITY.

It is declared to be the intent of the City Council that, if any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

### SECTION IV CONFLICTS.

This action supersedes all codes and ordinances of the City or parts of, in conflict with this ordinance, to the extent of the conflict.

### SECTION V CODIFICATION.

Sections I and II of this Ordinance shall be codified in the Code of St. Cloud. The codifier is authorized to make editorial changes not affecting the substance of this ordinance in the substitution of "article" for "ordinance," "section" for "paragraph," or otherwise take such editorial license.

### SECTION VI SCRIVENER'S ERRORS.

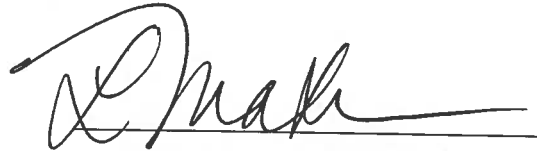
The City Clerk, after consultation with the City Attorney, is authorized to correct scrivener's errors found by filing a corrected copy of this ordinance in the official records of the City.

SECTION VII EFFECTIVE DATE.

This ordinance has been published and shall take effect as provided by law.

FIRST READING ON THE 27<sup>th</sup> DAY OF JUNE, 2019

SECOND READING ON THE 25<sup>th</sup> DAY OF JULY, 2019



Linette Matheny, Deputy Mayor

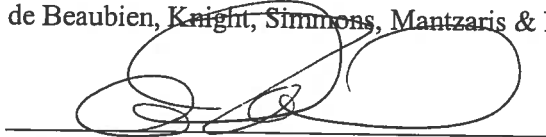
ATTEST:



Linda P. Jaworski, City Clerk

LEGAL IN FORM AND VALID IF ADOPTED:

de Beaubien, Knight, Simmons, Mantzaris & Neal



Daniel F. Mantzaris, City Attorney

Pursuant to Section 695.26 (3) (f), this instrument exempt from Chapter 695, F.S.: Prepared by and return to a Public Official: City Manager, City of St. Cloud, 1300 9<sup>th</sup> Street, St. Cloud, Florida 34769.