

ORDINANCE NUMBER 95-17-113

AN ORDINANCE OF THE CITY OF ATLANTIC BEACH CREATING A PILOT PROGRAM FOR PERMITTING BACKYARD HENS IN CERTAIN RESIDENTIAL DISTRICTS SUBJECT TO A FEE OF \$50; LIMITING THE NUMBER OF PERMITS ISSUED UNDER THE PILOT PROGRAM TO 50; PROVIDING FOR EVALUATION AND REPORTING OF THE PILOT PROGRAM TO THE CITY COMMISSION AFTER EIGHTEEN MONTHS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE

WHEREAS, Article VIII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate and proprietary powers to enable municipalities to conduct municipal government, perform municipal functions and render municipal services; and.

WHEREAS, pursuant to the referenced provision of the Florida Constitution, a city may exercise any power for municipal purposes except as otherwise provided by law; and

WHEREAS, the importance of sustainability and local food sourcing has inspired an interest in backyard and community food production within our city limits, and

WHEREAS, many communities in Northeast Florida and throughout the United States have been exploring and implementing programs to integrate the keeping of backyard chickens into urban and suburban residential settings;

WHEREAS, chickens are social not solitary animals, can make good pets, and findings indicate that five (5) are sufficient to meet the needs of the average family's egg consumption; and

WHEREAS, residents of the city living in residentially zoned areas that are not currently allowed to keep chickens have indicated a desire to do so, asking that special attention be initiated as to how chickens can be successfully and lawfully integrated into their residential environments; and

WHEREAS, the findings and recommendations of the City Commission have been considered.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION ON BEHALF OF THE PEOPLE OF THE CITY OF ATLANTIC BEACH FLORIDA:

Section 1. Purpose and Intent. Creation of a pilot program to permit backyard hens in certain residential zoning districts in which they are currently not permitted. This ordinance provides for a temporary exception to Section 4-7(a) of the Atlantic Beach Code of Ordinances

so as to allow for the creation of a pilot program for the keeping of backyard hens, and establishes criteria and limitations so as to avoid adverse impacts on neighboring properties and residents, and to provide for the health and safety of the chickens. Nothing herein shall supersede any effective, recorded deed restriction prohibiting backyard hens on property located within the City.

Section 2. Creation, Limitation, Permits, Approvals and Fees under the Pilot Program. The Commission hereby approves a pilot program for permitting backyard hens in certain residential districts enumerated herein, upon meeting the performance standards and development criteria set forth below in Section 3, and subject to the following conditions:

- (A) The pilot program shall allow for the issuance of no more than 50 permits within the Atlantic Beach City Limits. Permits shall be issued on a first come, first served basis and only upon the subject applicant meeting the standards and development criteria set forth in Section 3.
- (B) A \$50 permit fee shall be required for each application.
- (C) Within 60 days from the date of adoption of this ordinance, the Community Development Department shall create an application for a backyard hens permit and shall establish an administrative procedure for issuing said permits, collecting the permit fees, ensuring that an application meets the requirements for issuance of the backyard hens permit and for maintaining a database for tracking the households which receive permits and renewal of permits.
- (D) The pilot program shall remain in place for two (2) years from the date of adoption of this ordinance at which time it shall be extended or discontinued by action of the Commission.
- (E) Within eighteen (18) months from the date of adoption of this ordinance, the City Manager shall evaluate and review the pilot program, with input from Animal Control, the Building Department, and the Community Development Department, and shall issue a report to the City Commission as to the success of the pilot program, complaints lodged and the welfare of the hens being kept within the Atlantic Beach City limits.

Section 3. Backyard Hen Permits Special Conditions. The permit for backyard hens issued pursuant to this ordinance shall be subject to the following regulations, standards and development criteria:

- (A) For the purpose of this pilot program, a hen (*gallus domesticus*) refers only to a female chicken. Up to five (5) hens (*gallus domesticus*) may be permitted in the rear yard of only single family dwellings located in the RS-L, RS-1, RS-2, RG, RG-M, PUD, and SPA zoning districts, subject to the following standards and development criteria:

- (i) Hens shall be kept within a coop and will not be allowed to be free roaming. A fenced or wired in area, or "enclosed pen" is required in conjunction with a coop to provide an outside exercise area free from predators for hens. Said area shall be of a size that allows access to foraging area, sunlight, and exercise.
- (ii) The coop and enclosed pen shall be screened when viewed from neighbor's property, using a 6 foot tall opaque fence and/or landscape screen or evergreen plantings.
- (iii) Any coop and enclosed pen shall be located only in the rear yard area of the property. No coop or enclosed pen shall be allowed in any front or side yard area.
- (iv) All coops shall be required to be anchored in such a way so as to prevent them from becoming airborne during a wind event.
- (v) The coop shall be covered and ventilated and an enclosed pen must be well drained so that there is no accumulation of moisture. The coop and enclosed pen shall be completely secured from predators, including openings, ventilation holes, doors and gates (fencing or roofing is required over the enclosed pen in addition to the coop.)
- (vi) The coops shall provide a minimum of three (3) square feet per hen and be of sufficient size to afford free movement of the hens. The enclosed pens shall provide a minimum of ten (10) square feet per hen. The coop and enclosed pen must be easily accessible for cleaning and maintenance.
- (vii) All stored feed shall be kept in a rodent and predator proof container.
- (viii) Hens may not be kept on properties developed with townhome, duplex, triplex or multifamily dwellings or any other structures except single family dwellings.
- (ix) Except for hens, no, ducks, geese, turkeys, peafowl, pheasants, quail, male chickens (roosters) or any other poultry or fowl may be kept under this pilot program.
- (x) Hens shall be kept for personal use only. The selling of hens, eggs or manure or the breeding of chickens for commercial purposes is prohibited.
- (xi) Hens shall not be permitted to trespass on neighboring properties, be released or set free and shall be kept within a coop and enclosed pen at all times.
- (xii) No dog or cat that kills a hen shall, for that reason alone, be considered a dangerous and/or aggressive animal.
- (xiii) Hens that are no longer wanted by their owners shall not be taken to Animal Control, nor shall they be released.
- (xiv) All residents wishing to acquire a permit must evidence the completion of a hen keeping seminar from the Duval County Agricultural Extension Office.
- (xv) Upon submission of a completed application as determined by the Building Department, completion of the seminar from the Duval County Agricultural Extension Office, where applicable have a letter from their homeowners association allowing the keeping of hens and payment of the \$50 permit fee, and following an inspection by Code Enforcement, the City shall issue the permit.
- (xvi) All hen coops and enclosed pens shall meet the setbacks for accessory

structures pursuant to Section 24-151 (b)(1)(k). Storage and Tool Sheds of the Atlantic Beach Land Development Regulations except that chicken coops and enclosed pens shall not exceed six (6) feet in height and may not exceed one hundred (100) total square feet in area.

- (B) As a condition of the issuance of a permit, a permit holder consents to inspection of his or her property, upon application for a permit and upon complaint to the City, by Code Enforcement or Animal Control as related to backyard hens. Following a complaint as to a particular property and upon notice to the permit holder, the permit holder shall allow the Animal Control and/or Code Enforcement personnel to enter onto his or her property to ensure compliance with the regulations, standards and development criteria herein. The permit is also subject to the condition that, if the pilot program is not extended then all permittees shall be required to remove all hens from the property, and cease further keeping of said hens.
- (C) Chicken coops and enclosed pens shall be maintained in a clean and sanitary condition at all times. Hens shall not be permitted to create a nuisance consisting of odor, noise or pests, or contribute to any other nuisance condition.
- (D) In a public health emergency declared by the Duval 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 Control Services.

Section 4. Violations of the Ordinance: In the event that a violation of this Ordinance occurs, the City shall have the right to pursue any one or more of the following remedies or actions:

- (A) Institute a code enforcement action and prosecute as code violations against the violator and the property owner of the real property where the violation occurs, in accordance with the City of Atlantic Beach's Code of Ordinances,
- (B) Take any other action or remedy authorized by law or in equity, including but not limited to, instituting an action in court to enjoin violations, in which case the violator and property owner shall be jointly and severally liable to the City for reimbursement of the City's attorneys' fees and costs concerning such action through any appellate action, if taken.
- (C) Revoke the permit for the keeping of hens on the property.

Section 5. Severability: If any section, sentence, clause, phrase, or word of this ordinance is, for any reason, held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this ordinance, and it shall be construed to be the legislative intent to pass this ordinance without such unconstitutional, invalid or inoperative part therein.

Section 6. Oversight Department: The Community Development Department shall oversee the pilot program as described herein. This Department shall coordinate with the Animal Control Division as to the evaluation report required by Section 2 herein and also with the Duval County Agricultural Extension Office.

Section 7. Sunset: The provisions of Ordinance 95-17-113, providing for a pilot program for backyard hen permits, shall sunset, be repealed, and be of no further effect as of January 23, 2019, unless extended in subsequent legislation.

Section 8. Effective Date. This ordinance shall become effective upon adoption at the second and final reading. This ordinance shall not be codified.

Section 9. Conflict. All ordinances, resolutions, official determinations or parts thereof previously adopted or entered by the City or any of its officials and in conflict with this ordinance are repealed to the extent inconsistent herewith.

Passed by City Commission on first reading this 9th day of January 2017.

Passed by the City Commission on second and final reading this 23rd day of January 2017.

CITY OF ATLANTIC BEACH, FLORIDA

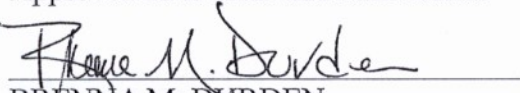


MITCHELL E. REEVES, MAYOR

ATTEST:


DONNA L. BARTLE
City Clerk

Approved as to form and correctness:


BRENNA M. DURDEN
City Attorney