

ORDINANCE NO. 2026-O-12

AN ORDINANCE OF THE CITY OF EDGEWATER, FLORIDA, AMENDING CHAPTER 5 OF THE CODE OF ORDINANCES BY AMENDING SECTION 5-8 TO CLARIFY THAT RESIDENTIAL BACKYARD CHICKENS ARE GOVERNED BY NEW SECTION 5-9 AND CREATING A NEW SECTION 5-9 ENTITLED “RESIDENTIAL BACKYARD CHICKENS” AUTHORIZING THE LIMITED, NON-COMMERCIAL KEEPING OF HENS ON OCCUPIED SINGLE-FAMILY RESIDENTIAL PROPERTY; PROVIDING FOR ELIGIBILITY, PERMITTING, STANDARDS, ENFORCEMENT, INSPECTIONS, REVOCATION, REAPPLICATION, AND APPEALS; PROVIDING FOR SEVERABILITY AND APPLICABILITY; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR CODIFICATION, AN EFFECTIVE DATE AND FOR ADOPTION.

WHEREAS, the City Council of the City of Edgewater, Florida, has made the following determinations:

1. Section 166.021, Florida Statutes, and Article VIII, Section 2(b) of the Florida Constitution, grant municipalities broad home-rule authority to enact ordinances on any subject upon which the Legislature may act, except as otherwise provided by law.
2. Section 5-8 of the City of Edgewater Code of Ordinances currently prohibits the keeping of chickens and other farm or agricultural animals on property within the City, except on property zoned for agricultural use or where authorized through an approved Planned Unit Development.

3. The City Council finds that the limited, non-commercial keeping of female chickens (hens) on occupied single-family residential property, when properly regulated, is consistent with the residential character of the City's neighborhoods and serves resident interest in household pets, personal egg harvesting, and other lawful personal household purposes.
4. The City Council further finds no state or federal law preempts the City's authority to regulate residential backyard chickens on non-agriculturally-classified property; the Florida Right to Farm Act, Section 823.14, Florida Statutes, applies only to land classified as agricultural pursuant to Section 193.461, Florida Statutes; and that personal-use processing of one's own poultry is lawful under applicable federal and state law subject to nuisance, sanitation, and animal-welfare regulation by the City.
5. The City Council finds that protecting public health, safety, sanitation, animal welfare, and the residential character and quiet enjoyment of surrounding properties serves the public health, safety, and welfare of the City.
6. The City Council further finds that any permit issued under this Ordinance is a limited municipal authorization only and does not override or excuse compliance with any homeowners' or property owners' association rule, deed restriction, restrictive covenant, lease, or other private agreement.

NOW THEREFORE, BE IT ENACTED by the City Council of the City of Edgewater, Florida:

PART A. AMENDMENT TO SECTION 5-8 OF THE CODE OF ORDINANCES

Chapter 5 of the Code of Ordinances of the City of Edgewater, Florida, Section 5-8, is hereby amended as set forth below. Added text is shown underscored; deleted text is shown in [brackets]. The codifier is directed to conform numbering and references.

Sec. 5-8. Keeping of farm and prohibited animals.

(a) Except as provided in subsection (c) of this section, it shall be unlawful to keep, maintain, or harbor within the City any horse, cow, goat, swine, sheep, chicken, or other farm or agricultural animal, except on property zoned for agricultural use or where such use is authorized through an approved Planned Unit Development (PUD).

(b) [Existing subsection (b) is unchanged.]

(c) Residential backyard chickens. Notwithstanding any other provision of this section, the keeping of residential backyard chickens (hens) on eligible single-family residential property is governed exclusively by Section 5-9 of this Code. Chickens kept in compliance with a valid permit issued under Section 5-9 are not “prohibited animals” under this section. Chickens kept without a valid permit, or in violation of Section 5-9, remain subject to this section and to all applicable enforcement provisions of this Code.

(d) Subsequent subsections of Sec. 5-8, if any, shall be renumbered as necessary to conform.

PART B. CREATION OF SECTION 5-9 OF THE CODE OF ORDINANCES

Chapter 5 of the Code of Ordinances of the City of Edgewater, Florida, is hereby amended by creating a new Section 5-9, to read as follows:

Sec. 5-9. Residential backyard chickens.

(a) **Purpose and intent.** The purpose of this section is to permit the limited, non-commercial keeping of female chickens (hens) on eligible single-family residential property as household pets and for personal use, while protecting public health, safety, sanitation, animal welfare, and the residential character and quiet enjoyment of surrounding properties. This section shall be construed to balance the privilege of keeping backyard hens against the rights of neighboring residents.

(b) **Definitions.** For purposes of this section, the following terms shall apply. Terms not defined here have their ordinary meaning or the meaning given elsewhere in this Code.

- (1) Chicken or hen means a female domesticated fowl of the species *Gallus gallus domesticus*. Rooster means a male of that species and includes any male fowl, capon, or cockerel.
- (2) Coop means a fully enclosed, weather-resistant, predator-resistant structure in which hens are housed and sheltered.
- (3) Run means a fully enclosed outdoor area, attached or adjacent to the coop, in which hens may move about.
- (4) Eligible property means an occupied single-family detached residential dwelling and the lot on which it sits, used as a residence by the permit holder.
- (5) Permit holder means the natural person to whom a permit is issued under this section, who must be an adult occupant of the eligible property and either the property owner or a tenant with the documented written consent of the property owner.
- (6) Rear yard means the portion of the lot to the rear of the principal dwelling, as defined in the City's land development regulations.

(7) Standard residential lot means an eligible lot smaller than one-half (1/2) acre in total area.

(8) Half-acre lot or larger means an eligible lot of one-half (1/2) acre or greater in total area, measured by the recorded lot or parcel area as shown on the official records of the Volusia County Property Appraiser.

(c) *Eligible properties; ineligible properties.* Hens may be kept only on an eligible property under a valid permit. The following properties are not eligible and no permit shall be issued for them:

(1) Multifamily dwellings (with shared back yards and no fencing) and apartment properties;

(2) Townhomes and condominium units or properties (with shared or no back yard or common area back yards);

(3) Vacant or unoccupied lots;

(4) Commercial, industrial, office, mixed-use, and institutional properties; and

(5) Any property not containing an occupied single-family detached dwelling used as the permit holder's residence.

A property does not become eligible by subdividing use, by accessory dwelling arrangements, or by any configuration other than a single occupied single-family dwelling.

(d) *Number of hens; roosters prohibited.*

(1) Roosters are prohibited. No male chicken of any age may be kept, harbored, or maintained on any property within the City under this section.

- (2) On a standard residential lot (less than one-half acre), no more than five (5) hens may be kept.
- (3) On an eligible lot of one-half (1/2) acre or larger, no more than seven (7) hens may be kept.
- (4) The applicable limit is the maximum at all times, including chicks and pullets. There is no exception for temporary excess.

(e) *Permitted purposes; personal use only.* Hens may be kept as household pets, for personal egg harvesting, or for other lawful personal household purposes. An applicant is not required to demonstrate or maintain any food-production purpose. Personal egg harvesting is permitted. Eggs produced on the property may be consumed by the household and may be gifted without compensation of any kind.

(f) *Commercial use prohibited.* The following are prohibited:

- (1) The sale, barter, trade, or exchange for value of chickens, eggs, meat, manure, feathers, or any chicken-derived product;
- (2) Breeding, hatching, or raising chickens for sale or distribution;
- (3) Boarding, renting, or housing chickens owned by others, or providing chicken-keeping services for compensation; and
- (4) Any other commercial, business, or income-producing use of chickens or chicken-derived products.

Gifting eggs to neighbors, family, or others without any compensation, as described in subsection (e), is not a commercial use.

(g) *Personal-use processing.* Processing of a permit holder's own hens for personal household consumption is permitted, consistent with applicable state and federal law, subject to all of the following conditions:

- (1) The activity shall be conducted inside an enclosed structure or visually screened area and shall not be visible from any public street, sidewalk, or neighboring property;
- (2) All remains, blood, and waste shall be contained, removed, and disposed of immediately and lawfully, by sealed-container disposal in regular waste or by burial at sufficient depth, with no accumulation, odor, runoff, attraction of pests, or other nuisance condition;
- (3) The activity shall be conducted humanely and in compliance with Chapter 828, Florida Statutes;
- (4) The activity shall not be conducted on a routine, production-scale, or commercial basis; and
- (5) No meat, parts, or by-products may be sold, bartered, or distributed for value.

Violation of any condition of this subsection is grounds for immediate permit revocation and referral to code enforcement, and may constitute a separate violation of state law.

(h) *Permit required.*

- (1) No person shall keep hens under this section without first obtaining a residential backyard chicken permit from the City. Keeping hens without a valid permit is a violation of this Code and of Section 5-8.
- (2) The permit fee is twenty-five dollars (\$25.00), which includes the initial compliance inspection.
- (3) The permit is personal to the permit holder and the permitted property, is non-transferable, and does not run with the land. A new owner or occupant must apply separately.

- (4) The permit must be renewed as required by the City and remains subject to all standards and enforcement provisions of this section at all times.
- (5) Only one (1) permit shall be issued for any eligible property at any given time. A property owner and a tenant of the same property, or two or more occupants of the same property, may not concurrently hold permits at the same property. The permit must be held in the name of a single adult occupant who is personally responsible for compliance with this section.

(i) *Fee waiver; backyard chicken course; training.*

- (1) Training is optional for an initial permit, except as required to obtain the fee waiver or as required for reapplication after revocation.
- (2) The \$25.00 permit and inspection fee shall be waived for an initial applicant who, at the time of application, both (i) proves completion of a City-approved backyard chicken course, and (ii) submits coop and enclosure plans that comply with subsection (j).
- (3) The fee waiver is available only for an initial permit. It is not available to any applicant or property that has been subject to a permit revocation, suspension, or other enforcement action under this section.
- (4) Training is mandatory as a condition of any reapplication following a revocation, in addition to all other reapplication requirements.

(j) *Coop, run, and property standards.* All hens must be housed in a coop and run that comply with the following standards:

- (1) Location. The coop and run shall be located in the rear yard only, and not in any platted easement, drainage swale, retention area, or public right-of-way.

- (2) Setbacks. The coop and run shall be set back at least ten (10) feet from any side or rear property line and at least twenty (20) feet from any dwelling on a neighboring property.
- (3) Construction. The coop and run shall be predator-resistant, structurally sound, weather-resistant, adequately ventilated, and maintained in a clean and sanitary condition.
- (4) Space. The coop shall provide at least four (4) square feet of coop floor area per hen, and the run shall provide at least five (5) square feet per hen.
- (5) Size limits. The combined coop and run footprint shall not exceed one hundred fifty (150) square feet, and no structure shall exceed eight (8) feet in height.
- (6) Feed. All feed shall be stored in sealed, rodent-resistant containers.
- (7) Waste. Manure and waste shall be collected, stored, and removed so as to prevent odor, pests, fly breeding, runoff, contamination, or any nuisance condition. Manure may not be accumulated for or used in any commercial manner.

(k) *Enforcement; inspections; access.*

- (1) Enforcement is primarily complaint-based. The City may also act on its own direct observation, or where there is a reasonable basis to believe a condition affecting public health, safety, sanitation, animal welfare, or nuisance exists.
- (2) As a condition of the permit, the permit holder consents to reasonable planned and unplanned compliance inspections of the coop and chicken-keeping area, conducted in accordance with applicable law.

- (3) All inspections shall be conducted in accordance with applicable constitutional and statutory limits. Nothing in this section authorizes any unlawful or warrantless entry onto private property, into a dwelling, or into a constitutionally protected area. Where lawful entry is refused, the City may seek an inspection or administrative warrant or pursue any other lawful remedy.
- (4) A permit holder may decline a particular inspection. However, refusal to permit a lawful and reasonable compliance inspection, obstruction of City staff, failure to provide reasonable access to the coop or chicken-keeping area, or failure to cooperate with a lawful inspection shall result in revocation of the permit and referral to the code enforcement process. This consequence is the forfeiture of a permit privilege and is not a criminal penalty for the refusal itself.

(l) *Revocation; removal; correction.*

- (1) The City may suspend or revoke a permit for any violation of this section, including violation of the standards, commercial-use prohibition, processing conditions, or access provisions, or where a public-health, safety, animal-welfare, or nuisance condition exists.
- (2) Upon revocation, the permit holder shall, within the time specified by the City in the revocation notice, either lawfully remove all chickens from the property or bring the property into full compliance as directed by the City.
- (3) Failure to comply within the specified time is a continuing violation subject to the code enforcement process and all available remedies.

(m) *Reapplication after revocation; ineligibility at the residence.*

- (1) After a first revocation, the same permit holder may reapply for a permit at the same residence only after (i) correcting all violations, (ii) completing the City-approved backyard chicken course, (iii)

submitting compliant coop and enclosure plans, and (iv) paying the \$25.00 fee. The fee waiver is not available following any revocation.

(2) If a permit issued to the same permit holder is revoked a second time at the same residence, that permit holder shall not be eligible to hold any further permit under this section at that residence. The permit holder remains eligible to apply for a permit at a different eligible property within the City, subject to all other requirements of this section.

(3) Nothing in this subsection prohibits another eligible adult occupant of the same residence, including a co-occupant, family member, or successor tenant or owner, from applying for and holding a permit at that residence in that person's own name, provided that person personally satisfies all requirements of this section and was not a co-applicant or co-permittee on the revoked permit.

(n) Appeals. Any person aggrieved by a permit denial, suspension, revocation, or determination under this section may appeal through the City's generally applicable code enforcement and administrative appeal process, in the manner and within the time provided by that process. Exhaustion of that process is required before judicial review.

(o) Private restrictions not affected. A permit issued under this section is a limited municipal authorization only. It does not override, supersede, or excuse compliance with any homeowners' or property owners' association rule, deed restriction, restrictive covenant, plat restriction, lease, or other private agreement. The City does not enforce private restrictions, and issuance of a permit is not a determination that keeping hens is permitted under any private restriction.

(p) Relationship to other law; general provisions.

- (1) This section does not authorize any animal cruelty, nuisance, or condition otherwise prohibited by this Code or by state law, and all other applicable provisions continue to apply.
- (2) Each day a violation continues may be treated as a separate violation.
- (3) If any subsection, sentence, or provision of this section is held invalid, that holding shall not affect the remaining provisions, which shall remain in full force.

(q) *Disposal of deceased poultry; reporting of disease.*

- (1) *Routine mortality.* The death of an individual hen from non-suspicious causes shall be handled promptly and sanitarily. Acceptable methods include double-bagging in sealed, leak-proof containers for regular residential waste collection; on-site burial in compliance with Section 823.041, Florida Statutes, and applicable Florida Department of Agriculture and Consumer Services (FDACS) rules; or delivery to a licensed disposal facility. Carcasses shall not be left exposed, composted in open piles, or otherwise disposed of in a manner that creates an odor, pest, runoff, or nuisance condition.
- (2) *Suspected disease or flock mortality.* In the event of suspected infectious disease (including, but not limited to, avian influenza or Exotic Newcastle Disease) or the death of multiple birds within a short time, the permit holder shall:
 - (i) immediately isolate any surviving birds from contact with other animals and people;
 - (ii) immediately contact the Florida Department of Agriculture and Consumer Services, Division of Animal Industry, or the

State Veterinarian's office, to report the event and obtain disposal direction;

- (iii) dispose of all deceased birds strictly in accordance with FDACS direction and Section 823.041, Florida Statutes; and
- (iv) not place deceased birds in residential curbside waste collection.

(3) *Cooperation.* The permit holder shall cooperate fully with FDACS, the State Veterinarian, the Volusia County Health Department, and the City regarding any reportable disease, quarantine direction, or disposal order. Violation of this subsection is grounds for immediate permit revocation.

PART C. SEVERABILITY AND APPLICABILITY

If any portion of this Ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance.

If this Ordinance or any provision thereof is held inapplicable to any person, property, or circumstance, such holding shall not affect its applicability to any other person, property, or circumstance.

PART D. CONFLICTING PROVISIONS

All ordinances and resolutions, or parts thereof, in conflict with this Ordinance are hereby repealed to the extent of such conflict.

PART E. CODIFICATION

The codifier is hereby authorized and directed to codify the amendment to Section 5-8 and new Section 5-9 of the City Code of Ordinances set forth in this Ordinance, and to make non-substantive numbering, lettering, punctuation, and formatting conformities as necessary.

PART F. EFFECTIVE DATE

This Ordinance shall take effect immediately upon its adoption.

PASSED AND DULY ADOPTED this _____ day of _____, 2026.

Diezel DePew, Mayor

ATTEST:

Monique Toupin, Interim City Clerk

REVIEWED AND APPROVED:

Anthony Sabatini, City Attorney