

**ORDINANCE NO. 16-33**

**AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, CREATING A TEMPORARY BACKYARD CHICKEN PILOT PROGRAM TO ALLOW THE KEEPING OF CHICKENS ON PROPERTIES DEVELOPED WITH DETACHED SINGLE-FAMILY RESIDENTIAL STRUCTURES WITHIN CERTAIN ZONING DISTRICTS AND CREATING TERMS AND CONDITIONS CONCERNING THE KEEPING OF CHICKENS; PROVIDING FOR CONFLICTS, SEVERABILITY, EFFECTIVE DATE AND SUNSET 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 Commission 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 Commission also recognizes the desire of all residents to live in a clean and pleasant environment 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 three (3) to four (4) chickens are sufficient to meet the needs of the average family's egg consumption; and

**WHEREAS**, the City Commission desires to implement a temporary pilot program to permit the keeping of up to four (4) chickens on an occupied detached single-family property within the R-1A, R-1, R-1B, R-2, R-4, R-5 and PUDs (in areas where detached single-family residential is permitted) zoning districts as an accessory use, subject to the terms and conditions of this Ordinance; and

**WHEREAS**, after evaluating all relevant data and feedback on the success or failures of the pilot program, the City will determine if the keeping of chickens as an accessory use shall continue for a further determined amount of time, enacted permanently into the City of Winter Garden Code of Ordinance, or if it shall be discontinued.

**WHEREAS**, the City Commission finds that this Ordinance will be in the best interest of the residents of the City of Winter Garden, and that this Ordinance is consistent with the Comprehensive Plan.

**NOW THEREFORE, BE IT ENACTED BY THE CITY OF WINTER GARDEN AS FOLLOWS:**

**SECTION 1. Authority/Findings.** The City of Winter Garden has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida, the City of Winter Garden Charter, and Chapters 163 and 166, Florida Statutes. The "Whereas" clauses set forth above shall constitute the legislative findings of the City Commission of the City of Winter Garden.

**SECTION 2. Adoption.** The following provisions are hereby adopted by the City of Winter Garden:

*A. Backyard Chicken Pilot Program.*

(1) The intent of this Ordinance is to create and implement a temporary Backyard Chicken Pilot Program to permit the keeping of up to four (4) chickens on an occupied detached single-family property within the R-1A, R-1, R-1B, R-2, R-4, R-5 and PUDs (in areas where detached single-family residential is permitted) zoning districts, subject to the terms and conditions of this Ordinance.

(2) For the purposes of this Ordinance, the term "chicken" refers to female chickens only (i.e., hens).

(3) 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 temporary permits under this Ordinance are solely responsible for compliance with all applicable restrictive covenants and homeowners' association rules and regulations.

*B. Temporary permit and general conditions for the keeping of chickens in the certain residential zoning districts.*

(1) Persons desiring to participate in the temporary chicken keeping program under this Ordinance shall apply for and obtain a temporary permit from the Community Development Director or his/her designee prior to keeping chickens. The Community Development Director or his/her designee shall charge a fee of \$25.00 to persons applying for a temporary permit under this Ordinance to cover processing costs. If the person applying for a temporary permit is not the fee simple owner of the subject property, the fee simple owner must join in and consent to the application. No more than twenty-five (25) temporary permits will be issued under this Ordinance. Temporary permits shall be awarded by the City on a first-come, first-served basis. If a person holding a temporary permit chooses to leave the pilot program, they must provide notice to the City of the same. The City is then authorized to re-issue the temporary permit to another qualified applicant.

(2) The application for a temporary permit shall include proof to the City that the applicant has attended and successfully completed a class at the Orange County Agricultural Extension Service or the University of Florida Extension Office (UF/IFAS) on the care and raising of chickens.

(3) In order to obtain a temporary permit under this Ordinance, persons applying for a temporary permit for the keeping of chickens must show that they can meet the requirements of this Ordinance. The City may conduct site inspections of the subject property to make compliance determinations under this Ordinance prior and after issuance of a permit. The Community Development Director may deny a temporary permit application if he/she determines that the person(s) applying for a temporary permit cannot meet the requirements of this Ordinance. The issuance of a temporary permit for the keeping of chickens is conditioned upon and subject to the terms and conditions of this Ordinance. Regardless of the date a temporary permit is issued for the keeping of chickens, such temporary permit shall terminate and expire on December 31, 2017, unless terminated earlier or extended by City Commission action extending the sunset and termination date set forth in Section 7 of this Ordinance. The City Commission shall have the right to terminate this temporary pilot program early and upon thirty (30) days notice to the permit holders to revoke all outstanding temporary permits issued under this Ordinance.

(4) By applying for a temporary 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 temporary permit, (c) agree to remove chickens and chicken coops and enclosures upon the termination or expiration of a temporary 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 temporary permit and this Ordinance. As a condition of obtaining a temporary permit, the Community Development Director may require persons applying for a temporary

permit to sign an agreement, in a form acceptable to the Community Development Director, incorporating the agreements of this subsection (4).

(5) Up to four (4) chickens may be kept on an occupied detached single-family property located in the R-1A, R-1, R-1B, R-2, R-4, R-5 and PUDs (in areas where detached single-family residential is permitted) zoning districts upon receiving a temporary permit from the Community Development Director or his designee. Regardless of the underlying zoning district, chickens shall not be kept on properties developed with commercial uses, mobile home/manufactured home parks, duplexes, triplexes, and apartments or other multifamily properties.

(6) Chickens must be kept within a coop or enclosure at all times, unless the Community Development Directors grants a reasonable accommodation in regards to a claimed disability to allow a person to interact with and supervise the chickens within the confines of a fenced rear yard on the permitted premises. After a person has completed personal interaction and supervision of chickens within the confines of a fenced rear yard on the permitted premises, chickens shall be placed back into a coop or enclosure.

(7) Ducks, geese, turkeys, peafowl, male chickens/roosters, or any other poultry or fowl are not allowed under the provisions of this Ordinance.

(8) Chickens shall be kept for personal use only. Selling chickens, eggs, or chicken manure, or the breeding of chickens for commercial purposes is prohibited.

(9) Chickens shall not be slaughtered on premises.

(10) The coop and enclosure must be screened from the neighbor's view, using an opaque fence and/or a landscape screen.

(11) All applicable building permits shall be obtained prior to constructing enclosures to house chickens.

*C. Location and requirements for chicken coops and enclosures.*

(1) The minimum size of the coop shall be one hundred (100) square feet and the maximum size of the coop shall be one hundred and sixty (160) square feet. A building permit from the building division will be required. The application submittal shall show construction materials and methods as well as anchoring methods, such as tie-downs. Mobile coops shall be prohibited unless properly anchored to the satisfaction of the building department.

(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 single-family detached residence and be set back a minimum of seven and one-half (7½) 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.

(4) A coop or pen must be built within a rear yard that is surrounded by an opaque wall or fence that is at least six (6) feet in height. A chain-link fence, chain-link fence with slats, or similar fence shall not constitute an opaque wall or fence. Nothing in this section shall prevent construction of a coop and pen to abut the side of an applicant's house, so long as it otherwise meets the requirements of the Code of Ordinances.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) Chicken coops and pens shall be completely screened from adjacent roadways and parcels by a six-foot tall opaque fence, wall, or equivalent landscape vegetative material.

(10) A signed affidavit is required to be submitted with all chicken-keeping permit petitions. The affidavit shall state that the chicken coop and pen will be designed, constructed and operated to the standards outlined in this Ordinance. 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.

*D. Health, sanitation and nuisance as applied to the keeping of chickens.*

(1) Chickens shall be kept within a coop and enclosure. No person shall release or set any chicken free from such coop or enclosure except as set forth in section B (5), above. Chickens shall not be permitted to trespass on neighboring properties.

(2) Chicken coops and enclosures 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.

(3) In a public health emergency declared by the Orange 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 Services.

*E. 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) Prosecute the violator for a criminal misdemeanor punishable by a fine not exceeding \$500.00 or imprisonment for a term not exceeding 60 days, or by both such fine and imprisonment in the discretion of the court;

(3) Issue a civil citation as a Class III violation to the violator for each violation in accordance with Section 2-92 City of Winter Garden Code of Ordinances, including graduated fines as permitted for repeat violations;

(4) 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

(5) Revoke the temporary permit for the keeping of chickens.

*F. Deviations.* Deviations of up to 20 percent from each of the size, height, and other dimensions required by this ordinance may be granted by City staff if the applicant establishes to the City by competent, substantial evidence that no adverse impact to adjoining properties will occur.

No person convicted as a repeat violator of subsections A. through F. of Section 2 of this Ordinance may be permitted to, or continue to, keep chickens on their premises.

**SECTION 3. Conflicts.** This Ordinance shall control over any ordinances or parts of ordinances in conflict herewith.

**SECTION 4. Severability.** The provisions of this Ordinance are declared to be separable and if any section, paragraph, sentence or word of this Ordinance or the application thereto any person or circumstance is held invalid, that invalidity shall not affect other sections or words or applications of this Ordinance. If any part of this Ordinance is found to be preempted or otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent permitted by the severance of such preempted or superseded part.

**SECTION 5. No Codification.** Given the temporary nature of this Ordinance as a pilot program, it is the intention of the City Commission of the City of Winter Garden, Florida, that the provisions of this Ordinance not be codified.

**SECTION 6. Effective Date.** This Ordinance shall take effect immediately upon the second reading and final adoption of this Ordinance.

**SECTION 7. Sunset Date.** This Ordinance and the provisions hereof shall sunset and expire on December 31, 2017; provided however, such shall not affect the City's ability to prosecute violations of this Ordinance for violations occurring prior to such sunset and expiration date. The City Commission may, by resolution or ordinance, extend the December 31, 2017, sunset and expiration date of this Ordinance.

First reading and public hearing was held on the 14th day of April, 2016.

Second reading, public hearing and adoption was held on the 28th day of April, 2016.

**CITY COMMISSION  
CITY OF WINTER GARDEN, FLORIDA**

/S/ \_\_\_\_\_  
John Rees, Mayor

**ATTEST:**

/S/ \_\_\_\_\_  
Kathy Golden, City Clerk