

CITY OF WATAUGA, TEXAS
ORDINANCE NO. 1702

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF WATAUGA, TEXAS ADOPTING CHAPTER 6, ARTICLE VII, DIVISION 3 OF THE CODE OF ORDINANCES OF THE CITY OF WATAUGA, TEXAS; PROVIDING FOR THE CREATION OF REGULATIONS CONCERNING THE KEEPING AND HARBORING OF BACKYARD CHICKENS; PROVIDING THAT ALL ORDINANCES IN CONFLICT HERewith ARE HEREBY REPEALED TO THE EXTENT THEY ARE IN CONFLICT; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Watauga, Texas (“City”) recognizes that there is a desire amongst its residents to keep and harbor backyard chickens for the purpose of providing organic egg production; and

WHEREAS, the City acknowledges that thorough regulation and enforcement for keeping and harboring backyard chickens is necessary to prevent potential nuisances related to the harboring of such animals; and

WHEREAS, the City recognizes the necessity of establishing and regulating: the type of backyard chickens allowed, the related permitting process, the standards for keeping backyard chickens including construction standards for coops and exercise yards, public nuisances concerning backyard chickens, the keeping of prohibiting fowl, and the revocation process of related permits.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Watauga, Texas, as follows:

I.

Chapter 6, Article VII, Division 3 of the Code of Ordinances for the City of Watauga, Texas, concerning Backyard Chickens, is hereby adopted to read as follows:

**ARTICLE VII. – LIVESTOCK AND FOWL
DIVISION 3. BACKYARD CHICKENS**

Sec. 6-374. – Definitions.

Backyard chicken means a female chicken (hen) which is possessed or harbored for providing organic egg production in compliance with this Article.

Chicken coop means an enclosed structure which meets the construction standards set forth in Section 6-378 (“Construction standards for chicken coops and exercise yards”).

Exercise yard means the enclosure attached to the chicken coop that provides exercise for the backyard chickens and prohibits the backyard chickens from escaping such enclosure, which meets the construction standards set forth in Section 6-378 (“Construction standards for chicken coops and exercise yards”).

Prohibited fowl means roosters, chickens, turkeys, pheasants, quail, guineas, geese, ducks, pigeons, peacocks, emu, ostriches and other similar feathered animals regardless of age or sex which are kept on property within the City but which shall not include backyard chickens kept in accordance with this Article.

Sec. 6-375. - Backyard Chickens Allowed; Permits.

- (a) A person may harbor or possess no more than six (6) backyard chickens on residential property or on property owned or leased by the City, a school, or an educational facility within the City after first having obtained a permit from the City for such location and payment of a nonrefundable application fee set forth in the fee schedule found in Chapter 12.
- (b) *Permit application.* A person who desires to harbor or possess backyard chickens on residential property within the City on which the person identifies as the person's primary residence shall:

- (1) Submit an application for a permit to Animal Services on a form provided by the City accompanied by a site plan showing the proposed location for the chicken coop on the property, and a floor plan and side elevations for the chicken coop to be located on the property. The site plan shall also include all property lines, building lines, yard setbacks, right-of-way, easements and/or other structures located on the property;
 - (2) Pay a nonrefundable registration fee in the amount set forth in the fee schedule found in Chapter 12;
 - (3) If the applicant is a person other than the owner of the property on which the backyard chicken(s) will be kept, submit with the permit application written authorization from the property owner to keep backyard chickens on the property identified in the permit application, which authorization must bear the property owner's notarized signature;
 - (4) Successfully attend and complete an education program offered by the City for the keeping of backyard chickens and submit the certificate of completion of the program with the application for permit;
 - (5) The premises for which an application is submitted shall be inspected upon initial application to determine a backyard is large enough for the construction of a chicken coop and exercise yard that will meet the standards set forth in this Article. Further, upon completion of the construction of the chicken coop, the structure shall be inspected again to ensure compliance with the requirements of this Article.
- (c) Not more than one permit may be issued for an individual property, tract or residential lot.
- (d) The permit is non-transferable and shall be valid and effective until the permit holder no longer resides at the property for which the permit was issued, in the event the person ceases to harbor or keep backyard chickens on the property, or the permit is otherwise revoked pursuant to this Article.
- (e) The permit shall not supersede, replace or control over any recorded deed restrictions, covenants or other restrictions applicable to such residential property.

Sec. 6-376. - Standards for Keeping Backyard Chickens.

A person keeping backyard chickens on residential property or on property owned or leased by the City, a school district, an educational facility or non-profit organization within the City shall comply with the following:

- (a) Not more than six (6) backyard chickens may be kept on an individual property, tract or residential lot;
- (b) Backyard chickens shall be kept within a secure chicken coop constructed with three (3) or more sides with a roof or other cover capable of allowing the chickens within the coop to remain dry and protected from the elements and which provides for direct access by an enclosed passage between the roosting area and exercise yard. Backyard chickens shall be kept within the chicken coop and exercise yard except when being removed to be transported off the property, or returned from a location off the property; provided, however, during day light hours, backyard chickens, under the direct supervision and control of a responsible person, may be allowed to roam in the rear yard outside of the chicken coop and exercise yard if the entire rear yard is secured by an enclosed perimeter fence not less than four (4) feet in height prior to allowing a permit for a backyard chicken coop;
- (c) No more than one (1) chicken coop and one (1) exercise yard shall be allowed on the property and must be located in the rear half of the lot; however, the use of a garage or indoor space may be used for extreme cold or brooding. The coop and exercise yard may not be located less than five (5) feet from any property line or any other structure and must not be placed within any building line, yard setback, right-of-way, and/or easement. The property plat and the zoning district regulations in Section 115-62 of the Watauga Code of Ordinances should be referenced when determining where these lines, setbacks and easements may exist during the initial inspection of the premises and prior to obtaining a permit under this Article;
- (d) The rear yard of the residence or location must be properly fenced and not less than four (4) feet in height prior to allowing a permit for a backyard chicken coop;
- (e) The height of the chicken coop shall not exceed the greater of eight (8) feet or the lowest height of the existing fence enclosing the rear yard where the chicken coop is located, but in no case greater than eight (8) feet in height, excluding the height of any structure being used to house or maintain the chicken coop;
- (f) The chicken coop shall provide at least five (5) square feet of area per backyard chicken, but in no case, exceed a total of eighty (80) square feet of area;
- (g) The exercise yard shall be not less than fifteen (15) square feet in area per backyard chicken not exceed a total of one hundred and twenty (120) square feet in area;
- (h) Chicken coops and exercise yards must be maintained in a sanitary condition and the accumulation of backyard chicken waste on the property is prohibited;
- (i) Adequate food, shelter, water, and care shall be provided in a humane manner to the backyard chicken(s);

- (j) All hay, grain and feed shall be enclosed in such a manner that the same is not accessible to rats, flies, mosquitos or other rodents and insects;
- (k) The feeding of vegetables, meat scraps and garbage shall be done only in impervious containers on an impervious platform;
- (l) Watering troughs or tanks shall be provided by the permit owner, which shall be equipped with adequate facilities for draining the overflow so as to prevent the breeding of flies, mosquitos or other insects;
- (m) Nuisance odors or excessive noise shall not be allowed to travel beyond the property line and disturb neighbors of ordinary sensibilities;
- (n) Manure and droppings shall be removed from pens, yards, coops and other enclosures regularly and handled or disposed of in such a manner as to keep the premises free of any nuisance;
- (o) No backyard chicken or backyard chicken byproducts, including, but not limited to eggs, may be sold by, under the direction of, or with the consent of the permit holder;
- (p) Medical treatment from a Texas-licensed veterinarian must be timely obtained by the permit holder and provided to any backyard chicken(s) showing symptoms of illness or injury;
- (q) Any processing of deceased backyard chickens shall not occur in any area visible from the public right-of-way; and
- (r) Properly clip and maintain the wings of the backyard chickens so as to prevent the backyard chickens from flying over the backyard fence.

Sec. 6-377. - Construction Standards for Chicken Coops and Exercise Yards.

- (a) *Chicken coops.* Chicken coops shall be constructed in accordance with the following requirements:
 - (1) The chicken coop must be constructed in a workmanship like manner of naturally decay-resistant wood, or wood that has been pressure treated to resist decay or galvanized steel or aluminum;
 - (2) The chicken coop may be located above the exercise yard; and
 - (3) The tallest part of the chicken coop shall not exceed the greater of eight (8) feet above grade or the lowest height above grade of the existing fence enclosing the rear yard where the chicken coop is located, but in no case greater than eight (8)

feet in height, excluding the height of any structure used to house or maintain the chicken coop.

(b) *Exercise yard construction.* Exercise yards shall be constructed in accordance with the following requirements:

- (1) The exercise yard shall be constructed in a workmanship like manner of a frame of naturally decay resistant wood, wood that has been pressure treated to resist decay, galvanized steel or aluminum;
- (2) The exercise yard frame shall be maintained in good and sound condition; and
- (3) The exercise yard frame shall securely hold the wire enclosure on all edges of the enclosure.

Sec. 6-378. – Keeping of Prohibited Fowl Unlawful.

It shall be unlawful for any person to keep, stable, board, possess, harbor or house any prohibited fowl on premises under the person' s control within the city limits of the City of Watauga.

Sec. 6-379. - Roosters and Crowing Backyard Chickens not Authorized.

- (a) A permit issued pursuant to this Article does not authorize the possession or keeping of a rooster on any property within the City. It is an offense for any person to keep, harbor or possess a rooster within the City. A person convicted of such offense shall be subject to a penalty of a fine in an amount not to exceed two hundred dollars (\$200.00).
- (b) It shall be a defense to a violation of this Section if on the date of the offense if the permit holder did not reasonably know the sex of the fowl, and the rooster was sixty (60) days old or younger.
- (c) A permit issued pursuant to this Article does not authorize the possession or keeping of a crowing backyard chicken on any property within the City. It is an offense for any person to knowingly and intentionally keep, harbor or possess a crowing backyard chicken within the City. A person convicted of such offense shall be subject to a penalty of fine in an amount not to exceed two hundred dollars (\$200.00). A crowing backyard chicken shall mean:
 - (1) A backyard chicken which crows in a similar manner to a rooster; and
 - (2) creates excessive noise which travels beyond the property line and disturbs neighbors of ordinary sensibilities; and

(3) for which a noise violation complaint has been sustained in Municipal Court.

Sec. 6-380. - Keeping Excess Backyard Chickens.

A person commits an offense if the person possesses or keeps more than six (6) backyard chickens on any property within the City. Each day that a person keeps or possesses more than six (6) backyard chickens on property within the City shall constitute a separate offense. A person convicted of an offense under this section shall be subject to a penalty or fine in an amount not to exceed one hundred dollars (\$100.00) for each backyard chicken in excess of six (6) that the person has possessed or kept on property within the City.

Sec. 6-381. —Other Violations; Enforcement.

The Animal Services officer shall have the authority to issue citations for any violation(s) under this Article.

Sec. 6-382. - Revocation of Permit.

- (a) A permit issued by the City pursuant to this Article may be revoked upon a finding by the Animal Services Manager or other applicable City staff after written notice to the permit holder that the permit holder has violated any provision of this Article. The permit holder may appeal the revocation to the City Manager, or designee whose decision shall be final. The permit holder shall have until 5:00 p.m. of the fifth business day following receipt of the notice of revocation to appeal the permit revocation to the City Manager by submitting such appeal in writing to the City Manager (email shall constitute “writing” for the purposes of this Section). The appeal shall be heard by the City Manager within ten (10) business days following receipt of a timely notice of appeal at a hearing at which the Animal Services and permit holder may submit oral and documentary evidence and testimony, and are provided an opportunity to ask questions of witnesses. No rules of evidence will apply to the conduct of such hearing. The City Manager, or designee, shall make a final determination to either repeal or uphold the permit revocation, which decision shall be final. If the permit holder fails to timely file an appeal of the permit revocation, or if the City Manager, or designee upholds the permit revocation following an appeal, the permit holder will have seventy-two (72) hours to remove the backyard chickens from the City following the date the notice of revocation is delivered to the permit holder or the date the City Manager, or designee denies the appeal of the permit revocation, whichever is later.

- (b) A permit issued by the City pursuant to this Article shall be revoked upon a finding by Animal Services or other applicable City staff that the permit holder has been convicted of three (3) or more violations of the Code of Ordinances including this Article. A permit revoked pursuant to this subsection (b) is not appealable and such person (and such premises while owned or occupied by any such person) shall not be eligible for a permit for back yard chickens under this Article.

Sec. 6-383. – Fee schedule

Application for permit for keeping backyard chickens, including education program, shall be \$60.00, or as increased by the City Council.

Secs. 6-384—6-400. - Reserved.

II.

This Ordinance shall be and is hereby cumulative of all other ordinances of the City of Watauga, Texas, and this Ordinance shall not operate to repeal or affect any of such other ordinances, except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, in such other ordinance(s) are hereby repealed.

III.

If any section, sub-section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

IV.

This Ordinance shall become effective and be in full force and effect from and after sixty (60) days after the date of passage and adoption by the City Council and upon approval thereof by the Mayor of the City of Watauga, Texas and publication hereof as prescribed by law.

PASSED AND ADOPTED by the City Council of the City of Watauga, Texas, on the 13th day of May, 2019.

APPROVED:

/s/ Arthur L. Miner
ARTHUR L. MINER, Mayor

ATTEST:

/s/ Terri Johnson
TERRI JOHNSON, Interim City Secretary