

## REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT

OCTOBER 24, 2013

The Planning and Development Department hereby forwards to the Planning Commission, Land Use and Zoning Committee and City Council its comments and recommendations on:

### **ORDINANCE 2013-415**

**AN ORDINANCE AMENDING SECTION 656.401(A)(3), PART 4 (SUPPLEMENTAL REGULATIONS), SUBPART A (PERFORMANCE STANDARDS AND DEVELOPMENT CRITERIA), CHAPTER 656 (ZONING CODE), ORDINANCE CODE, TO DISTINGUISH BETWEEN CHICKENS ALLOWED IN AGR AND RR ZONING DISTRICTS AND CHICKENS IN OTHER RESIDENTIAL ZONING DISTRICTS; CREATING A NEW 656.401 SUBSECTION (LL), ENTITLED CHICKENS (GALLUS DOMESTICUS) IN RESIDENTIAL ZONING DISTRICTS (OTHER THAN AGR AND RR ACRE), REGARDING THE KEEPING OF CHICKENS IN RESIDENTIAL ZONING DISTRICTS SUBJECT TO REQUIRED PERFORMANCE STANDARDS; AMENDING CHAPTER 462 (ANIMALS), PART 1 (GENERAL), SECTION 462.102 (DEFINITIONS), TO REMOVE CHICKENS PERMITTED UNDER SECTION 656.411(LL) FROM THE DEFINITION OF POULTRY; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

#### **I. GENERAL INFORMATION**

This bill amends Ordinance Code Chapter 656 – Zoning Code – to allow hens to be kept on single family residential lots as a permitted use, and to require a shelter for such hens. Roosters are only permitted in Agriculture (AGR) or Residential Rural-Acre (RR-Acre) zoning districts.

The keeping of poultry is currently prohibited in all zoning districts other than AGR or RR-Acre. This bill provides that up to 5 hens (specifically Gallus domesticus) may be kept on a single family residential lot of up to 1 acre. For lots larger than 1 acre, an additional 5 hens may be allowed for each additional 21,780 square feet of lot size (half-acre). There is no maximum number provided there is sufficient land area.

Currently, chickens are only allowed in the AGR and RR-Acre zoning districts, and shelters are required to be at least 50 feet from the nearest property line in RR-Acre, and 25 feet in AGR.

In the original staff report dated August 15, 2013, the Planning and Development Department recommended denial of the legislation. This revised report addressed recently filed substitute legislation.

## II. EVALUATION

- A. *The need and justification for the change* The change is needed in order to allow the keeping of hens at single-family residences in residential zoning districts. Without this change, the keeping of hens in most residential districts is a zoning violation.

The proposal to allow hens in conjunction with any single-family dwelling presents numerous potential issues:

**Odor.** There are thousands of single-family dwellings, both new and old, with minimal yard space. This could result in the concentration of chicken droppings, possibly leading to odor and health issues. There are no specific rules or regulations regarding the disposal or management of the droppings. Therefore, neighbors would have to rely on Animal Care and Control to enforce Section 462.301(c) which states:

*An owner shall remove and properly dispose of feces and other animal wastes on owner's property so as to avoid noxious and nauseous odors that are irritating, annoying or offensive to a person of normal sensibilities; or that are injurious to human, plant or animal life; or that reasonably interfere with the use and enjoyment of property.*

**Noise.** While four hens may not sound like much, the peace and tranquility of a single family neighborhood could very well be altered when multiple neighbors introduce chickens. As the hens are treated as accessory uses (due to being placed under 656.403), the setback standards are merely five feet from the nearest side and rear property line. It may well be inappropriate to allow hens so close to a neighboring yard and dwelling.

**Rodents.** The presence of hens including their eggs and feed could encourage a proliferation of rodents and predators. Rats, snakes, raccoons, and other vermin could be attracted to the eggs and feed; while dogs, cats, and wild predators could be attracted to the chickens themselves. Additionally, some dogs may become disruptive knowing that there are chickens in the vicinity.

**Location.** As mentioned earlier, hens would be treated as accessory uses with the same setback requirements as other accessory uses. Typical accessory uses are detached garages, tool sheds, children's play equipment, swimming pools, and barbeque grills and pits. Accessory uses are not allowed in the front yard setback or within five feet on the side and rear property lines. Allowing hens and chicken coops five feet from neighboring yards may be inappropriate.

**Property values.** One of the main purposes of the Zoning Code is to provide property owners with a reasonable expectation of how neighboring properties can be developed. A current expectation is that farm animals are not allowed in residential developments. The introduction of hens could have an impact upon the desirability of living in certain neighborhoods, thereby impacting property values.

**Fate of unproductive or unwanted hens.** Some research indicates that hens tend to be between 100 and 130 weeks of age when they reach the end of their egg production cycle. The life span for chickens typically exceeds five years. If the purpose of the legislation is to allow hens for the purpose of raising eggs, this raises the question of what to do when hens

are no longer productive. Some owners may decide to keep the older hens, but could then be tempted to add additional younger hens for egg production, thus resulting in too many hens on a property. Other owners may decide to let go of older hens, possibly letting them loose in the neighborhood or on public property such as a park. The revised legislation indicates that owners should take unwanted chickens to certain pre-identified locations. However, these locations are not identified, so it isn't possible to know if this is an adequate solution.

**Hens getting loose.** The legislation contains language prohibiting chickens from public places or neighboring properties, and classifies chickens on the loose as a nuisance. While chickens may not be disposed to flying, they have wings and are capable of sufficient flight to escape containment. Allowing hens in residential areas seems to invite nuisance complaints.

**Code Enforcement.** The legislation relies on the Municipal Code Compliance Division to enforce zoning violations regarding hens. However, MCCD officers are precluded from trespassing on private property due to curtilage laws. As owners are likely to keep the hens in the back yard, it may be difficult for MCCD officers to observe and thus cite zoning violations.

**Animal Care and Control.** Many owners are familiar with raising domestic pets such as cats and dogs, yet Animal Care and Control is constantly citing owners for animal neglect. Owners are much less likely to be familiar with the proper care and maintenance of hens, thus raising the specter of additional animal neglect cases.

B. Summary of Bill The bill amends Ordinance Code Chapter 656 – Zoning Code – to allow hens to be kept on single family residential lots as a permitted use, and to require a shelter for such hens. Roosters are only permitted in Agriculture (AGR) or Residential Rural-Acre (RR-Acre) zoning districts. The bill also amends the Zoning Code to make it unlawful to allow chickens to run at large on public property or upon private property other than the owner's, even though Section 462.303 of the Ordinance Code already prohibits animals at-large.

C. The relationship of the proposed amendment to the Comprehensive Plan and the work of the Department with appropriate consideration as to whether the proposed amendment will further the purposes of the Zoning Code and Comprehensive Plan.

As noted previously, the Zoning Code has become more restrictive regarding poultry. This bill is contrary to the spirit and intent of the Zoning Code by reversing course and allowing poultry in residential areas by right, something that has not been allowed since before Consolidation. The bill is also inconsistent with numerous parts of the Comprehensive plan as specified below.

D. Consistency with the Comprehensive Plan.

Ordinance 2013-415 is inconsistent with the following Goals, Objectives, and Policies of the 2030 Comprehensive Plan:

Future Land Use Element (FLUE) Goal 1: To ensure that the character and location of land uses optimize the combined potentials for economic benefit and enjoyment and protection of natural resources, while minimizing the threat to health, safety and welfare posed by hazards, nuisances, incompatible land uses and environmental degradation.

FLUE Policy 1.1.16: Require mitigation of adverse land use impacts on adjacent uses during development and redevelopment through:

1. Creation of like uses;
2. Creation of complementary uses;
3. Enhancement of transportation connections;
4. Use of noise, odor, vibration and visual/aesthetic controls; and/or
5. Other appropriate mitigation measures such as requirements for buffer zones and landscaping between uses.

FLUE Policy 2.2.4: Maintain existing stable neighborhoods through coordinated rehabilitation and conservation action by the Building Inspection Division and Planning and Development Department. Protect residential areas from encroachment by incompatible land uses through proper zoning, and from through or heavy traffic by use of buffers and other mitigating measures.

Housing Element 1.4.2: The City shall continue to strengthen its ability to investigate Zoning Code and Building Code violations with an emphasis on maintaining the residential character of neighborhoods.

Housing Element 1.4.5: The City's Planning and Development Department shall continue to identify those incompatible, non-residential land uses within recognized, established neighborhoods which degrade the residential character of the neighborhood, and that are not in conformance with the 2030 Comprehensive Plan.

### III. RECOMMENDATIONS

Based upon examination of the proposed ordinance with respect to the goals, objectives and policies of the 2030 Comprehensive Plan, and the intent of the Zoning Code, the Planning and Development Department finds that Ordinance 2013-415 is inconsistent with the Comprehensive Plan and does not further the spirit and intent of the Zoning Code. Therefore, it is the recommendation of the Planning and Development Department that Ordinance 2013-415 be **DENIED**.

1 The Land Use and Zoning Committee offers its first substitute to  
2 Ordinance 2013-415:

3  
4 Introduced by Council Members Carter and Redman:

5  
6 **ORDINANCE 2013-415**

7 AN ORDINANCE AMENDING SECTION 656.401(A)(3),  
8 PART 4 (SUPPLEMENTAL REGULATIONS), SUBPART A  
9 (PERFORMANCE STANDARDS AND DEVELOPMENT  
10 CRITERIA), CHAPTER 656 (ZONING CODE),  
11 ORDINANCE CODE, TO DISTINGUISH BETWEEN  
12 CHICKENS ALLOWED IN AGR AND RR ZONINGS  
13 DISTRICTS AND CHICKENS IN OTHER RESIDENTIAL  
14 ZONING DISTRICTS; CREATING A NEW 656.401  
15 SUBSECTION (LL), ENTITLED CHICKENS (GALLUS  
16 DOMESTICUS) IN RESIDENTIAL ZONING DISTRICTS  
17 (OTHER THAN AGR AND RR ACRE), REGARDING THE  
18 KEEPING OF CHICKENS IN RESIDENTIAL ZONING  
19 DISTRICTS SUBJECT TO REQUIRED PERFORMANCE  
20 STANDARDS; AMENDING CHAPTER 462 (ANIMALS),  
21 PART 1 (GENERAL), SECTION 462.102  
22 (DEFINITIONS,) TO REMOVE CHICKENS PERMITTED  
23 UNDER SECTION 656.401(LL) FROM THE DEFINITION  
24 OF POULTRY; PROVIDING FOR SEVERABILITY;  
25 PROVIDING AN EFFECTIVE DATE.

26 **WHEREAS**, the concept of local sustainability has inspired an  
27 interest in backyard and community food production to provide local  
28 food sources, a concept that is congruent with the City's  
29 encouragement of community gardens in paragraph 6.3.8 of the City's  
30 Future Land Use Element of its 2030 Comprehensive plan; and

31 **WHEREAS**, currently the Zoning Code allows the keeping of

1 chickens only in its low density/rural Agricultural and Rural  
2 Residential Acre Zoning Districts, but not in the urban  
3 environment; and

4 **WHEREAS**, many communities in Florida and throughout the United  
5 States have been exploring and implementing performance standards  
6 that compatibly integrate the keeping of backyard chickens into  
7 their urban residential settings; and

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

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

16 **WHEREAS**, the findings and recommendations of the City's  
17 Planning Commission and its City Council have been considered; now  
18 therefore

19 **BE IT ORDAINED** by the Council of the City of Jacksonville:

20 **Section 1. Purpose and Intent.** The purpose of this  
21 ordinance is to provide appropriate standards and regulations for  
22 the keeping of chickens for non-commercial purposes within an urban  
23 residential environment. The ordinance establishes standards and  
24 limitations so as to avoid adverse impacts on neighboring  
25 properties and residents, and to provide for the health and safety  
26 of the chickens.

27 **Section 2. Section 656.401 (Performance standards and**  
28 **development criteria), Ordinance Code, Amended.** Section 656.401  
29 (Performance Standards and Development Criteria), Subpart A  
30 (Performance Standards and Development Standards Criteria), Part 4  
31 (Supplementary Regulations), Chapter 656 (Zoning Code), Ordinance

1 Code, is amended to read as follows:

2 CHAPTER 656. ZONING CODE

3 \* \* \*

4 PART 4, SUPPLEMENTARY REGULATIONS

5 SUBPART A. PERFORMANCE STANDARDS AND DEVELOPMENT CRITERIA

6 Sec. 656.401. Performance standards and development criteria.

7 It is the intent of the City of Jacksonville that these  
8 supplementary standards and criteria be read in addition to, rather  
9 than in lieu of, any other requirement in this Chapter. The  
10 following uses, whether permitted or permissible by exception, must  
11 meet the criteria listed under each use as a prerequisite for  
12 further consideration under this Zoning Code.

13 (a) Animals.

- 14 (1) Horses and ponies are kept for private riding use  
15 only and the minimum lot area shall be not less than one  
16 and one half acres. The same shall be kept inside a  
17 fenced enclosure.
- 18 (2) Goats, sheep or swine shall not be kept or permitted  
19 within 200 feet of a private property line.
- 20 (3) In the AGR and RR Acre zoning districts, poultry,  
21 including chickens (Gallus domesticus), shall be  
22 permitted on a property, provided that a shelter for the  
23 poultry, not less than 50 feet from any property line, is  
24 constructed and maintained. For performance standards and  
25 requirements concerning chickens (Gallus domesticus) in  
26 other residential zoning districts see subsection  
27 656.401(11) below. A shelter shall be provided for any  
28 poultry, which shall be located not less than 50 feet  
29 from any property line. Poultry shall be permitted in  
30 the ADR and RR Districts only.
- 31 (4) Animals other than household pets shall not be kept

1 for commercial purposes.

2 \* \* \*

3 (11) Chickens (Gallus domesticus) in Residential Zoning  
4 Districts (Other Than AGR and RR Acre).

5 1. For the purpose of this subsection, a chicken (Gallus  
6 domesticus) refers only to a female chicken. Up to five (5)  
7 chickens (Gallus domesticus) shall be permitted in the RLD-120,  
8 RLD-100B, RLD-90, RLD-70, RLD-60, and RLD-50 Districts, or in  
9 conjunction with a single family dwelling in the RMD-A, RMD-B, RMD-  
10 C, RMD-D, RMD-S and CRO-S Districts. Five (5) additional chickens  
11 may be permitted per each additional 21,780 square feet in size  
12 above one (1) acre. The aforementioned land requirements are the  
13 gross area of premises harboring such chickens and include areas  
14 used by the resident for residential or other purposes, in addition  
15 to the keeping of the chickens, subject to the following  
16 performance standards and development criteria:

17 (i). Chickens shall be kept within a coop or  
18 enclosure (a fenced or wired in area, or pen,  
19 required in conjunction with a coop to provide an  
20 outside exercise area for chickens free from  
21 predators and of a size that allows access to a  
22 foraging area, sunlight, etc.) at all times. A coop  
23 is herein defined as a covered house, structure or  
24 room that will provide chickens with shelter from  
25 weather and with a roosting area protected from  
26 predators.

27 (ii). The coop shall be screened from the neighbors'  
28 view, using an opaque fence and/or landscape screen.

29 (iii). Any chicken coop and fenced enclosure shall  
30 be located in the rear yard of the property, unless  
31 the property is deemed to have double frontage on a



1 navigable waterway. No coop, enclosure or chickens  
2 shall be allowed in any front or side yard (corner  
3 lots and through lots shall be excluded from side  
4 setback restriction) unless as otherwise described  
5 above.

6 (iv). If the coop exceeds 100 square feet in size  
7 (10 foot by 10 foot), a building permit must be  
8 obtained from the City's Planning and Development  
9 Department.

10 (v). The coop shall be covered and ventilated, and a  
11 fenced enclosure/run is required that is well  
12 drained so that there is no accumulation of  
13 moisture. The coop and enclosure shall be  
14 completely secured from predators, including  
15 openings, ventilation holes, doors and gates  
16 (fencing or roofing is required over the enclosure  
17 in addition to the coop).

18 (vi). The coop shall provide a minimum of three (3)  
19 square feet per chicken and be of sufficient size to  
20 afford free movement of the chickens. The coop may  
21 not be taller than six (6) feet measured from the  
22 natural grade, and must be easily accessible for  
23 cleaning and maintenance.

24 (vii). All stored feed shall be kept in a rodent and  
25 predator proof container.

26 (viii). Chickens may not be kept on duplex, triplex  
27 or in multifamily properties. Chickens are allowed  
28 in manufactured home subdivisions but are not  
29 allowed within mobile home/ manufactured home or  
30 recreational vehicle home parks or rental  
31 communities.

1 (ix). No male chickens/roosters, ducks, geese,  
2 turkeys, peafowl, pheasants, quail or any other  
3 poultry or fowl may be kept under this subsection of  
4 the Zoning Code.

5 (x). The slaughtering of chickens on the premises is  
6 strictly prohibited and therefore not allowed.

7 (xi). Chickens shall be kept for personal use only.  
8 The selling of chickens, eggs or chicken manure, or  
9 the breeding of chickens for commercial purposes is  
10 prohibited.

11 (xii). Chickens shall not be permitted to trespass  
12 on neighboring properties, be released or set free  
13 and shall be kept within a coop and enclosure at all  
14 times.

15 (xiii). Chicken coops and enclosures shall be  
16 maintained in a clean and sanitary condition at all  
17 times. Chickens shall not be permitted to create a  
18 nuisance consisting of odor, noise or pests, or  
19 contribute to any other nuisance condition.

20 (xiv). No dog or cat that kills a chicken shall,  
21 for that reason alone, be considered a dangerous  
22 and/or aggressive animal.

23 (xv). Chickens that are no longer wanted by their  
24 owners shall not be taken to Animal Care and  
25 Protective Services, nor shall they be released.  
26 Said chickens shall be taken to certain pre-  
27 identified locations, such as Standard Feed that  
28 will accept and place any and all unwanted chickens.  
29 Animal Care and Protective Services shall maintain a  
30 list of approved locations for the abandonment of  
31 chickens.

1                   (xvi). Residents wishing to acquire chickens for use  
2                   in residential districts under this subsection, or  
3                   that currently have existing chickens, must evidence  
4                   the completion of a chicken keeping seminar from the  
5                   Duval County Agricultural Extension. Proof of  
6                   completion of the chicken keeping seminar shall be  
7                   maintained at the residence and provided to City  
8                   staff upon request.

9                   Section 3.           Chapter 462 (Animals), Part 1 (General),  
10                  Ordinance Code, Amended. Chapter 462 (Animals), Part 1 (General),  
11                  Ordinance Code, is hereby amended, in part, to read as follows:

12   CHAPTER 462. ANIMALS

13   PART 1, GENERAL

14   \* \* \*

15                   Section 462.102. Definitions.

16                  For purposes of this Chapter, the following terms shall have  
17                  the following definitions unless the context clearly requires  
18                  otherwise.

19   \* \* \*

20                  (u). *Household pet* means an animal including, but not limited to:  
21                  dog, bird, domesticated cat, rodent, such as a gerbil, guinea pig,  
22                  hamster, domesticated mouse, and domesticated rat; domesticated or  
23                  European ferret, rabbit, fish, nonvenomous reptile and amphibian;  
24                  that is kept as subordinate to residential use for the purpose of  
25                  providing human companionship and that is not protected by the  
26                  Commission and that does not require a permit by the Commission to  
27                  possess for personal use. The following animals are not considered  
28                  household pets: wild animals as defined in this Section; poultry,  
29                  as defined in this Section, with the exception of chickens (*Gallus*  
30                  *domesticus*) allowable pursuant to Section 656.401 (11), Ordinance  
31                  Code, livestock, as defined in this Section; and hoofed animals of

1 any kind, including but not limited to, miniature horse, miniature  
2 goat and teacup pig, except that purebred miniature Vietnamese  
3 potbellied pigs, kept for the sole purpose of providing human  
4 companionship and which are in compliance with all the applicable  
5 portions of this Chapter are not considered livestock.

6 \* \* \*

7 **Section 4. Severability.** If any section, sentence, clause,  
8 phrase, or word of this Ordinance is, for any reason, held or  
9 declared to be unconstitutional, inoperative or void, such holding  
10 or invalidity shall not affect the remaining portions of this  
11 Ordinance, and it shall be construed to be the legislative intent  
12 to pass this Ordinance without such unconstitutional, invalid or  
13 inoperative part therein.

14 **Section 5. Effective Date.** This Ordinance shall become  
15 effective upon signature by the Mayor or upon becoming effective  
16 without the Mayor's signature.

17  
18 Form Approved:

19  
20 \_\_\_\_\_  
21 Office of General Counsel

22 Legislation Prepared By: Paige Hobbs Johnston

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