

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE CREATING THE ACCESSORY USE OF CITY AGRICULTURE AND AMENDING THE ZONING REGULATIONS OF THE CITY OF OTTAWA, KANSAS, AS ADOPTED BY ORDINANCE NO. 3501-05.

BE IT ORDAINED by the Governing Body of the City of Ottawa, Kansas, as follows:

**Section 1: Definition and Exclusions.** City Agriculture is the growing, processing and distribution of plant and animal products within an urban environment. City Agriculture includes, but is not limited to: aquaculture, horticulture, permaculture, hydroculture, agroforestry, beekeeping, gardening, and the keeping of chickens for the purpose of producing unfertilized eggs. City Agriculture does not include such commercial activities as:

- a. commercial dog kennels,
- b. dog breeding facilities,
- c. livestock sales,
- d. animal husbandry,
- e. butchering or animal processing,
- f. on-site sales of animal products on a property with any residential zoning in the City, or
- g. on-site sales of produce, bulbs, plantings, or cut flowers on a property with any residential zoning in violation of Section 24-501(a)(5).

**Section 2: Regulations.** City Agriculture shall be allowed in the A District, CS, R-1, R-2, R-3, TN, MHS and MP residential districts on tracts with a lawfully occupied residential dwelling subject to the following restrictions and limitations:

- a. Materials or equipment used in City Agriculture may not be stored outdoors in a manner that would create a nuisance, as defined by Section 10-501 of the Municipal Code of the City of Ottawa.
- b. City Agriculture activities may not be conducted in a manner that would create a nuisance, as defined by Section 10-501 of the Municipal Code of the City of Ottawa.
- c. Any person engaged in City Agriculture must be and remain in compliance with all other limits on the number, type, and confinement of animals contained in state law and city ordinances.
- d. No equipment or material shall be used which creates any noise, vibration, smoke or odors which would be in excess of that ordinarily created by a residential dwelling.
- e. No agricultural operation may take place which changes the primary character of the property from residential to agricultural.
- f. No animal product produced by City Agriculture activities may be sold in any residential area of the City.
- g. No plant product produced by City Agriculture activities may be sold in any residential area of the City, except as may be permitted by Section 24-501(a)(5).

**Section 3: Not Home Occupation.** City Agriculture activities conducted in conformity with this section are not a Home Occupation as defined in 2-301 of this code.

**Section 4: Codification.** This amendment to Ordinance No. 3501-05 shall be codified in the City of Ottawa Zoning Regulations as Section 24-603 et seq.

**Section 5: Effective Date.** This ordinance shall be effective from and after its passage, approval, and publication in the official city newspaper.

PASSED AND ADOPTED by the governing body of the City of Ottawa, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE ALLOWING THE KEEPING OF BEES WITHIN THE CITY LIMITS OF THE CITY OF OTTAWA.

WHEREAS, The Governing Body of the City of Ottawa, Kansas, finds that there is a need to regulate and set minimum standards for the keeping of bees within the corporate limits of the City to protect the public health, safety, and welfare of the residents of Ottawa.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OTTAWA, KANSAS:

**Section 1: New Section.** The Municipal Code of the City of Ottawa is amended to include the following new language:

Definitions. The following terms, as used in this section, shall have the following meanings:

- (a) "Apiary" means any place or location where one or more colonies of bees are kept.
- (b) "Beekeeper" means any individual, person, firm, association or corporation owning, possessing or controlling one or more colonies of bees for the production of honey, beeswax, or byproducts thereof, or for the pollination of crops for either personal or commercial use.
- (c) "Bees" means any stage of the common honeybee, *Apis mellifera*, or other bees kept for the production of honey, beeswax, or byproducts thereof, or for the pollination of crops for either personal or commercial use.
- (d) "Colony" means the bees inhabiting a single hive or other dwelling place.
- (e) "Hive" means the receptacle inhabited by a colony that is manufactured for that purpose.

**Section 2: Registration and License.** Beekeepers shall register the number of hives and the location of each hive on the first day of March of each year or not less than 30 calendar days prior to acquiring a new hive. The registration may be submitted by regular mail, electronic mail or facsimile. After submitting the above required information, the City shall issue a license to the beekeeper. No registration fee shall be required. Licenses for beekeeping are non-transferrable. No colony or hive shall be maintained without first obtaining a license.

**Section 3: Standards.**

- (a) Up to 3 Colonies may be located on a lot of  $\frac{1}{4}$  acre or less; 4 Colonies on lots between  $\frac{1}{4}$  and  $\frac{1}{2}$  acre; 6 Colonies on lots of  $\frac{1}{2}$  to full acre. 8 Colonies are permitted on any lot larger than an acre.
  - 1. For every 2 Colonies permitted on a lot there may be maintained upon the same lot one nucleus Colony in a hive structure not exceeding one standard  $9 \frac{5}{8}$  inch depth 10-frame hive body with no supers, the part of the beehive that is used to collect honey, attached as required from time to time for swarm management.
  - 2. Each such nucleus Colony shall be moved to another lot or combined with another Colony on the subject lot within 30 days after the date made or acquired.

3. The beekeeper shall notify the City in the same manner as provided for registration of hives, of his or her addition of a nucleus colony no less than five calendar days after moving in or creating the nucleus colony. Such notice shall include the date the nucleus colony was added.
- (b) The beekeeper shall maintain and manage the apiary and colonies in a reasonable manner to minimize swarming and to prevent the creation of a public nuisance.
  - (c) No beehive shall be placed or kept in violation of the requirements, including setback requirements, of the Ottawa Zoning Regulations, and in no event shall be located:
    1. closer than 5 feet to the property line of adjoining property;
    2. closer than 25 feet to any house located on developed property other than the residence or lot on which the beehives are located;
    3. closer than 10 feet from a public pedestrian path, or sidewalk;
    4. closer than 25 feet from the edge of a public street, excluding alleyways;
    5. anywhere other than the rear or side yard of the property; or
    6. upon land not owned by the beekeeper unless the owner thereof consents in writing.
  - (d) If a hive is within 10 feet of a property line and is located less than 10 feet off the ground, the owner of any hive or apiary will install and maintain a flyway barrier six feet in height consisting of a solid wall, fence, vegetation or combination thereof that is parallel to the property line and that extends ten feet beyond the hive or apiary in each direction so that all bees are forced to fly at an elevation of at least six feet above ground level over property lines in the vicinity of the hive or apiary.
  - (e) The beekeeper shall provide and maintain an adequate supply of water for each bee colony on the same lot as the hive or apiary.
  - (f) The beekeeper shall promptly re-queen the colony if the colony exhibits unusually defensive behavior without due provocation.
  - (g) No beehive shall exceed 20 cubic feet in volume.
  - (h) The beekeeper shall conspicuously post their name and phone number in characters at least one inch high on a contrasting background at each apiary site that is located on property other than the beekeeper's residence.
  - (i) Should adjacent property be later developed, or residential structures located closer than the distances herein prescribed, the keeper shall move such beehive(s) to comply with these regulations.

**Section 4. Penalty.** Violation of any term of this section may be addressed through injunction in a court of competent jurisdiction or prosecuted in municipal court. The Municipal Judge shall have the authority to revoke or suspend a license and order any colonies removed from the city. If the Municipal Judge

finds that the violation has been remedied within 14 days of a notice of violation or notice to appear being issued the license shall not be revoked and no penalty shall be assessed. Failure to remedy a violation, keeping a colony without a license, or failure to remove a colony from the City when so ordered shall be subject to a penalty fixed by the Municipal Court and shall not exceed the penalties for a Class C misdemeanor for a first offense and a Class B misdemeanor for a second or subsequent offense. If a beekeeper fails or refuses to remove a colony when so ordered the court may order the condition be abated and assess costs.

**Section 5. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not effect the validity or effectiveness of the remaining portions of this ordinance.

**Section 6. Effective Date.** This ordinance shall be effective from and after its passage, approval, and publication in the official city newspaper.

PASSED AND ADOPTED by the governing body of the City of Ottawa, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE ALLOWING FOR THE KEEPING OF FEMALE CHICKENS WITHIN THE CITY LIMITS OF THE CITY OF OTTAWA AND AMENDED SECTION 24-602(d) OF THE CITY OF OTTAWA ZONING REGULATIONS AS ADOPTED BY ORDINANCE 3501-05.

WHEREAS, The Governing Body of the City of Ottawa, Kansas, finds that there is a need to regulate and set minimum standards for the keeping of chickens within the corporate limits of the City to protect the public health, safety, and welfare of the residents of Ottawa.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OTTAWA, KANSAS:

**Section 1: Chickens Allowed When.** Notwithstanding Section 24-602 of the City of Ottawa Zoning Regulations up to five (5) female chickens may be maintained as part of a single-family residence on lots up to three (3) acres in size, and only upon the issuance of a permit therefor submitted by the property owner, approved by the director of Community Development or his or her designee, and issued by the city clerk.

**Section 2. Permits.** A Chicken Permit shall be required to keep or maintain chickens in accordance with this section on any premises less than three acres within the City.

- (a) Permits will be granted and renewed on a biennial basis and shall expire on the first day of March in the second year after issuance or renewal. The City Clerk with assistance from the Community Development Department shall determine whether to approve, conditionally approve, or deny the application. In approving or denying the application, the City Clerk may consider all relevant factors including, but not limited to, the following:
  - 1. Whether the applicant has complied with all regulations provided for in this ordinance and the City of Ottawa Municipal Code and City of Ottawa Zoning Regulations.
  - 2. Any prior complaints, charges, or convictions for nuisance or other animal or property maintenance related violations involving the applicant or owner of the property.
- (b) If the City Clerk denies a permit, notice of the denial shall be given in writing to the permit holder at the address provided for in the application, identifying the reasons for the denial and the opportunity for review by the City Manager, or their designee. Such decision shall be final.
- (c) Submission of an application to the City shall be deemed to be the consent of the applicant to the right of entry and inspection of the premises sought to be permitted at all reasonable times with the applicant, or applicant's representative, present.
- (d) The fee for such a permit shall be as adopted by the City Commission by resolution.
- (e) A permit must be obtained prior to the establishment of any chicken coop.
- (f) Permits hereunder are not transferable.

**Section 3: Standards and Regulations.** Female chickens permitted under this section shall be kept and maintained under the following standards:

- (a) Female chickens shall be provided access to both a predator-proof fenced coop and a fenced run which shall be built in compliance with all building code requirements and setback regulations applicable to residential accessory structures, and in no event shall be located:
  - 1. Closer than 10 feet to the property line of an adjoining property;
  - 2. Closer than 50 feet to any house or other building located on developed property other than the residence or lot on which the coop is located;
  - 3. Anywhere other than the rear yard of the property; or
  - 4. Upon land not owned by the permit holder, unless the permit holder is a tenant who has obtained the written consent of the owner.
  
- (b) The permit holder shall comply with all orders and regulations issued by the animal control officer or other legal authority in the event of outbreak in the region of any disease or affliction potentially affecting or being passed by fowl, or in the event of any other matter of public health or safety necessity.
  
- (c) There shall be no outdoor slaughtering of chickens.

**Section 4. Penalty.** Violation of any term of this section or condition of the permit may result in revocation of the permit and seizure of the hives or apiary. The Municipal Judge shall have the authority to order any seized animal confined, destroyed or removed from the City and assess costs against the owner. The penalty for the violation of any provision of this Article shall be fixed by the Municipal Court and shall not exceed the penalties for a Class C misdemeanor for a first offense and a Class B misdemeanor for any second or subsequent offense.

**Section 5. Amendment.** Section 24-602(d) of the City of Ottawa Zoning Regulations adopted by Ordinance No. 3501-05 is hereby amended as follows:

- d. Chickens, geese or other poultry and ponies no greater than 36 inches at the shoulder may be kept on lots no smaller than three (3) acres in size in the A, CS, R-1, & R-2 districts, when permitted by approval of a conditional use permit.

**Section 6. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not effect the validity or effectiveness of the remaining portions of this ordinance.

**Section 7. Effective Date.** This ordinance shall be effective from and after its passage, approval, and publication in the official city newspaper.

PASSED AND ADOPTED by the governing body of the City of Ottawa, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION SETTING A PERMIT FEE FOR THE KEEPING OF FEMALE CHICKENS IN THE CITY OF OTTAWA, KANSAS.**

WHEREAS, the Governing Body of City of Ottawa, Kansas (the "City") has adopted an ordinance allowing for the keeping of a limited number of female chickens in the City, and

WHEREAS, the Governing Body requires a permit for the keeping of said chickens; and

WHEREAS, the Governing Body has reserved to itself the authority set such fee by resolution and now desires to do so; and

**THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF OTTAWA, KANSAS, AS FOLLOWS:**

**Section 1. Fee.** The fee for a permit for the keeping of not more than five female chickens in the City of Ottawa shall be \$20 for a two-year permit.

**Section 2. Effective Date.** This resolution shall take effect and be in full force and effect upon adoption by the Governing Body.

**Section 3. Prior Resolutions.** Prior resolutions on this subject are hereby rescinded when in conflict with this resolution.

Adopted by the Governing Body of the City of Ottawa, Kansas \_\_\_day of \_\_\_\_\_2023.

\_\_\_\_\_  
Mayor

(SEAL)

ATTEST:

\_\_\_\_\_  
City Clerk