

**ORDINANCE NO. 942**

**AN ORDINANCE AMENDING CHAPTER 7 OF THE DACONO MUNICIPAL CODE TO PERMIT BACKYARD CHICKEN HENS WITHIN THE CITY**

**WHEREAS**, the City regulates health, sanitation and animals in Chapter 7 of the Dacono Municipal Code; and

**WHEREAS**, the City Council recognizes there is a desire among its residents to keep and harbor backyard chicken hens for the purpose of providing organic egg production; and

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

**WHEREAS**, the City Council finds that keeping backyard chicken hens is an activity that may provide certain benefits, but such activity is only appropriate in urban settings if conducted in a manner that does not affect the use and enjoyment of surrounding properties; 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 chicken hens, including construction standards for coops, and public nuisances concerning backyard chicken hens.

**WHEREAS**, the City Council, therefore, desires by this ordinance to permit backyard chicken hen activities within the City; and

**WHEREAS**, the City Council finds and declares it has the power and authority to adopt this ordinance pursuant to Amendment 64, C.R.S. § 29-20-101, *et seq.* (the Local Government Land Use Control Enabling Act), C.R.S. § 31-23-301, *et seq.* (concerning municipal zoning powers), C.R.S. § 31-15-103 (concerning municipal police powers), C.R.S. § 31-15-401 (concerning municipal police powers), Article XX of the Colorado Constitution (concerning municipal home rule), and the City of Dacono Home Rule Charter.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DACONO, COLORADO:**

**Section 1.** The foregoing recitals are hereby affirmed and incorporated herein by this reference as findings of the City Council.

**Section 2.** Section 7-84 of the Dacono Municipal Code is hereby amended to read as follows (words to be added underlined; words to be deleted ~~stricken~~):

**Sec. 7-84. Prohibited animals.**

Except as may be permitted in the Agricultural Zone District pursuant to Section 16-272 of this Code or as may be permitted by a PUD Final Development Plan for property located within a PUD Zone District approved pursuant to Chapter 16, Article 27 of this Code, no person shall keep or harbor within the City limits any animal that may reasonably and generally be categorized as a fowl, except as permitted pursuant to Section 7-130 of this Code, livestock or wild animal with the following exceptions: there shall be permitted in each household in the City no more than a total of two (2) ducks or two (2) rabbits, or a combination of ducks and rabbits not to exceed four (4) in number. However, when a duck or a rabbit has a litter, the household shall not fall within the prohibition of this Section until such time as the ducklings or bunnies are four (4) weeks of age in order to give the owners time to conform with this Section. Tropical birds and fish commonly kept within the home are not banned by this Section. For purposes of this Section, "livestock" shall include horses, cattle, sheep, goats, pigs, bees, and other useful animals commonly kept on a ranch or farm.

**Section 3.** Chapter 7 of the Dacono Municipal Code is hereby amended by the addition of a new Article 7 to read as follows:

#### **ARTICLE 7 – Backyard Chicken Hens**

##### **Sec. 7-130. Keeping of chicken hens; limitations and requirements.**

It shall be unlawful for any person to possess, harbor, keep, maintain, or permit backyard chicken hens in any area unless the following conditions and requirements are met:

(a) Backyard chicken hens, chicken coops, and chicken hen runs are permitted as an accessory use only in conjunction with an established single-family residence.

(b) No more than four (4) backyard chicken hens are permitted per lot.

(c) Only chicken hens (female chickens) are allowed. Roosters (male chickens) are prohibited.

(d) All structures devoted to the keeping of chicken hens shall be located between the rear-most portion of the residence and the rear lot line of the parcel in question. No chicken hens shall be permitted within any other portion of the lot or parcel.

(e) No chicken hen coops and enclosures shall exceed six feet or greater in height. Electrical and heat sources shall comply with the City's building code.

(f) The chicken hen facilities shall include a coop and run that are fully enclosed, properly ventilated, designed to be easily accessed, cleaned, maintained, and at least 2 square feet per chicken in size. The chicken hen facilities shall be adequately designed and constructed to prevent the escape of chicken hens and entry by predators.

(g) The chicken hens must be sheltered or confined in such a fashion as to prevent them from coming into contact with wild ducks or geese or their excrement.

(h) Chicken hen feed shall be stored in a resealable, airtight, metal, and pest-proof container to discourage attracting mice, rats, and other vermin. Spillage and leftover feed must be removed daily.

(i) Chicken hen coops and chicken hen runs shall be maintained and shall be regularly cleaned to control dust, odor, and waste and not constitute a nuisance, safety hazard, or health problem to surrounding properties. All waste materials shall be properly disposed of and not allowed to accumulate on the property.

(j) The chicken hens shall be killed by or at the direction of the owner or keeper if so ordered pursuant to the lawful order of state or county health officials or for the purpose of euthanasia when surrendered to a licensed veterinarian for such purpose, or as otherwise expressly permitted by law.

(k) If the parcel upon which the keeping of chicken hens is proposed falls within the jurisdiction of a homeowners' association or similar covenant-based property owners' association, the requirements of this Article shall be considered minimum requirements. Any such association shall have the right to lawfully adopt more stringent chicken-keeping standards, including the outright prohibition of chicken-keeping, for any parcel within the regulatory authority of such association.

**Sec 7-131. Permit required.**

(a) Any person keeping chicken hens pursuant to this Article must first have been issued a permit by the City, the application for which shall be made available by the City Clerk and shall expressly incorporate an acknowledgment of the provisions and requirements of Section 7-130 of this Code.

(b) A \$25 permit fee is required for backyard chicken hens.

(c) Chicken hen permits issued shall be valid from the date of issuance until the current license holder sells or moves from the property for which the license was issued unless the license is earlier terminated pursuant to these regulations. Licenses issued shall only be valid for the applicant listed on the

application.

(d) A new license and application fee shall be required if an applicant or licensee moves to a new address or transfers the chicken hens to a person not already possessing the appropriate license.

**Sec. 7-132. Declaration of nuisance and unlawful acts; duty to maintain chicken hen habitat.**

(a) The unsanitary or unsafe keeping of chicken hens within the City is hereby declared unlawful and a public nuisance. It shall be the duty of every owner or keeper of chicken hens to maintain the chicken hen habitat in a secure, neat, tidy, methodical, systematic, clean, and orderly condition, permitting no accumulation of odor, dust, droppings, feed, organic material, pests or loitering of predators.

(b) Any animal that attacks, injures, or kills a backyard chicken hen not on the permitted property shall not be deemed a "vicious animal," and the owner of such animal shall not be charged with violating any provision of Section 7-85.

**Sec 7-133. City disposal of chicken hens found at large.**

The City shall have the authority to seize, impound and dispose of any chicken hens found at large within the City's corporate limits. Such seizure, impoundment and disposal shall not require notice to any owner or keeper, nor any attempt to locate the owner thereof.

**Section 4.** If any article, Section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

**Section 5.** All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

**Section 6.** The repeal or modification of any provision of any prior ordinance by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

**Section 7.** Any person charged with a violation of this ordinance, upon conviction thereof, shall be subject to the General Penalty in Section 1-70 of the Dacono Municipal Code, which currently provides for incarceration for a period not to exceed three hundred sixty-four (364) days, a fine not to exceed one thousand dollars (\$1,000.00), or both such fine and imprisonment. As provided in Section 1-70(b), each and every day during any portion of which any violation is committed, continued or permitted shall be a separate violation, and the violator shall be punished accordingly.

**INTRODUCED, READ, ADOPTED ON FIRST READING, AND ORDERED PUBLISHED AND POSTED BY TITLE this 24<sup>th</sup> day of April, 2023.**

**PUBLIC HEARING AND SECOND READING WILL BE THE 8th day of May, 2023 AT 6:00 P.M. AT DACONO CITY HALL, 512 CHERRY AVENUE, DACONO, CO.**

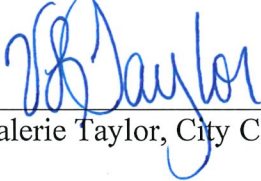
**READ, ADOPTED ON SECOND READING, APPROVED, SIGNED, AND ORDERED PUBLISHED BY TITLE this day 8<sup>th</sup> day of May, 2023.**

CITY OF DACONO, COLORADO



Adam Morehead, Mayor

ATTEST:



Valerie Taylor, City Clerk

Summary of Ordinance No. 942, " **AN ORDINANCE AMENDING CHAPTER 7 OF THE DACONO MUNICIPAL CODE TO PERMIT BACKYARD CHICKEN HENS WITHIN THE CITY.**" Amends Section 7-84 and add a new Chapter 7, Article 7 permitting backyard chicken hens with restrictions.