

ORDINANCE NO. 2013- 8

AN ORDINANCE AMENDING APPENDIX A (ZONING CODE) ARTICLE V (ADMINISTRATION), SECTION 4 (CONDITIONAL USE PERMIT) PROVIDING FOR SPECIFIC PERFORMANCE STANDARDS FOR CHICKENS IN RESIDENTIAL DISTRICTS; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR FILING WITH DEPARTMENT OF STATE; PROVIDING FOR INCLUSION IN CODE AND PROVIDING FOR AN EFFECTIVE DATE.

OFFICE OF THE CLERK OF THE BOARD OF COUNTY COMMISSIONERS HERNANDO COUNTY FLORIDA

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FILED

WHEREAS, the Board of County Commissioners (County) has adopted the Hernando County Comprehensive Plan within which are included goals, objectives, and policies related to the process for review and approval of certain development applications; and

WHEREAS, Chapter 163, Part II, Florida Statutes, requires the implementation of these goals, objectives, and policies through the adoption of consistent land development regulations; and

WHEREAS, the County desires to update and modernize its land development regulations, and to provide for additional criteria and standards for the Conditional Use Permit review and approval of chickens in residential areas; and

WHEREAS, this proposed amendment to the Hernando County Land Development Regulations, Appendix "A", (Zoning Code), has received public hearings before the Planning and Zoning Commission, Local Planning Agency and the Board of County Commissioners as required by state and local law; and

WHEREAS, the Board of County Commissioners, for itself and acting as the Local Planning Agency, finds and determines that the proposed amendment is consistent with the goals, objectives, and policies of the Comprehensive Plan.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA:

The recitals set forth above, including findings of fact and conclusions of law, are true and correct and incorporated herein by this reference.

SECTION I. Hernando County Code of Ordinances, Appendix "A" (Zoning Code) Article V (Administration), Section 4 (Conditional Use Permit), Paragraph C (Conditional Use Permits Allowed in Any Zoning Category with Administrative Official Approval), is hereby amended to permit chickens in single family residential districts subject to performance standards, as more precisely delineated with strike-through and underlined text below:

1 **Section 4. - Conditional use permit.**

2 The conditional use permit is intended to be utilized as a special permit
3 which temporarily allows uses not otherwise permitted by this ordinance for a
4 specified period of time.

5 *** [Paragraph A and B - Omitted] ***
6

7 C. *Conditional use permits allowed in ~~any zoning category~~ with administrative
8 official approval:*

- 9 (1) Carnivals, circuses, tent revivals, festivals and special events of a
10 similar nature where any associated retail sales are incidental to
11 the use and not a principal or primary aspect of the use. The sale
12 of alcoholic beverages in association with these types of events are
13 exempt from the minimum separation distance for the sale of
14 alcoholic beverages from a church or school.
- 15 (2) Conditional use permits approved by the administrative official may
16 be issued for a period not to exceed four (4) weeks.
- 17 (3) Backyard chickens may be permitted in any residential district,
18 excluding multifamily districts, provided that no permit shall be
19 issued unless the owners of all residentially zoned adjacent
20 properties consent in writing to the permit and this consent is
21 provided with the permit application. Adjacent property shall mean
22 all parcels of land that the applicant's property comes into contact
23 with at one or more points, except for parcels separated by a public
24 or private street. All permits shall be subject to the following
25 restrictions:
- 26 (a) The number of chickens shall be limited to no more than four
27 (4) birds and no ducks, geese, turkeys, peafowl, male
28 chickens/roosters, or any other poultry or fowl are allowed.
- 29 (b) Chickens shall be kept in an enclosed area with a coop that
30 provides for the free movement of chickens, and are not
31 permitted to be free range. The coop must have a roof, and
32 be completely secured from predators, including all
33 openings, ventilation holes, doors and gates. No more than
34 one coop allowed per permitted parcel.
- 35 (c) If the coop structure exceeds 100 square feet (10 x 10 feet),
36 a building permit shall be required pursuant to the Florida
37 Building Code.
- 38 (d) The minimum lot size shall be 10,000 square feet.
- 39 (e) The chicken coop shall be kept in the rear yard and must not
40 be visible from adjoining properties or the street. Fence
41 construction shall meet standards pursuant to the fence
42 ordinance and shall be permitted separately. The chicken
43 coop shall be situated a minimum of 25 feet from the nearest
44 neighbor's residence and at least 5 feet from all property
45 lines.

- 1 (f) Persons wishing to have chickens in residential districts shall
2 be subject to a compliance inspection after permit issuance.
3 Accessibility and allowable entry shall be required for such
4 inspection.
5 (g) The coop shall provide a minimum of three square feet per
6 chicken and be of sufficient size to permit free movement of
7 the chickens. The coop may not be taller than six feet,
8 measured from the natural grade. The coop must be easily
9 accessible for cleaning and maintenance.
10 (h) The coops and surrounding area shall be kept clean,
11 sanitary and odor free at all times.
12 (i) Chickens shall not be permitted to create a nuisance
13 consisting of odor, noise or pests, or contribute to any other
14 nuisance condition.
15 (j) All stored feed must be kept in a rodent and predator-proof
16 container.
17 (k) The chickens shall be for personal use only, and there shall
18 be no sales of products from the residence and the breeding
19 of chickens for commercial purposes shall not be allowed.
20 (l) In a public health emergency declared by the County Health
21 Department, including but not limited to an outbreak of Avian
22 Flu or West Nile virus, the county may require immediate
23 corrective action in accordance with applicable public health
24 regulations and procedures.
25 (m) Notwithstanding the issuance of a permit by the County,
26 private restrictions on the use of property shall remain
27 enforceable and take precedence over a permit. Private
28 restrictions include but are not limited to deed restrictions,
29 condominium master deed restrictions, neighborhood
30 association by-laws, and deed covenants. A permit issued
31 to a person whose property is subject to private restrictions
32 that prohibit the keeping of chickens and large animals is
33 void. The interpretation and enforcement of the private
34 restriction is the sole responsibility of the private parties
35 involved.
36 (n) The permit may be issued for a maximum time period of up
37 to five (5) years by the approving authority.
38 (o) Failure to comply with these standards, or any other
39 standards imposed by the conditional use permit shall result
40 in the permit being revoked by the Administrative Official.

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42 **SECTION II. APPLICABILITY.** This Ordinance shall be applicable throughout the
43 unincorporated area of Hernando County.
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45 **SECTION III. SEVERABILITY.** It is declared to be the intent of the Board of County
46 Commissioners that if any section, subsection, clause, sentence, phrase, or provision of

1 this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof
2 shall not affect the validity of the remaining portions of this ordinance.

3 **SECTION IV. CONFLICTING PROVISIONS.** Special acts of the Florida Legislature
4 applicable only to unincorporated areas of Hernando County, Hernando County
5 ordinances, County resolutions, or parts thereof, in conflict with this ordinance are
6 hereby superseded by this ordinance to the extent of such conflict except for ordinances
7 concerning either adoption or amendment of the Comprehensive Plan, pursuant to
8 Chapter 163, part II, Florida Statutes.

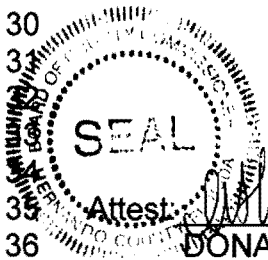
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10 **SECTION V. FILING WITH THE DEPARTMENT OF STATE.** The clerk shall be and is
11 hereby directed forthwith to send a certified copy of this ordinance to the Bureau of
12 Administrative Code, Department of State, R.A. Gray Bldg., Room 101, 500 S.
13 Bronough Street, Tallahassee, FL 32399-0250.

14
15 **SECTION VI. INCLUSION IN CODE.** It is the intention of the Board of County
16 Commissioners of Hernando County, Florida, and it is hereby provided, that the
17 provisions of this Ordinance shall become and be made a part of the Code of
18 Ordinances of Hernando County, Florida. To this end, any section or subsection of this
19 Ordinance may be renumbered or re-lettered to accomplish such intention, and the
20 word "ordinance" may be changed to "section," "article," or other appropriate
21 designation. Section II thorough Section VII and italicized instructions shall not be
22 codified.

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24 **SECTION VII. EFFECTIVE DATE.** This ordinance shall take effect immediately upon
25 filing with the Department of State.

26
27 **DULY PASSED AND ADOPTED IN REGULAR SESSION THIS** 12
28 **DAY OF** March, 2013

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31 **BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**



32
33 **Attest:** Donald C. Barbée, Jr.
34 **DONALD C. BARBEE, JR., CLERK**

35 **By:** David D. Russell, Jr.
36 **DAVID D. RUSSELL, JR., CHAIRMAN**

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41 (SEAL)

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43 **Approved as to Form and
44 Legal Sufficiency**

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46 **By:** [Signature]
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FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

March 22, 2013

Honorable Karen Nicolai
Clerk of the Circuit Court
Hernando County
20 North Main Street
Brooksville, Florida 34601-2800

Attention: Ms. Ashley Hofecker, Deputy Clerk

Dear Ms. Nicolai:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated March 13, 2013 and certified copies of Hernando County Ordinance Nos. 2013-8 and 2013-9, which were filed in this office on March 21, 2013.

As requested, the date stamped originals are being return for your records.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud
Program Administrator

LC/lb

Enclosure