

City of Jacksonville, Florida

Lenny Curry, Mayor

City Hall at St. James
117 W. Duval St.
Jacksonville, FL 32202
(904) 630-CITY
www.coj.net

May 20, 2021

The Honorable Tommy Hazouri, President
The Honorable Michael Boylan, LUZ Chair
And Members of the City Council
City Hall
117 West Duval Street
Jacksonville, Florida 32202

**RE: Planning Commission Advisory Report
Ordinance No.: 2021-222**

Dear Honorable Council President Hazouri, Honorable Council Member and LUZ Chairperson Boylan and Honorable Members of the City Council:

Pursuant to the provisions of Section 30.204 and Section 656.129, *Ordinance Code*, the Planning Commission respectfully offers this report for consideration by the Land Use and Zoning Committee.

Planning and Development Department Recommendation: **Approve**

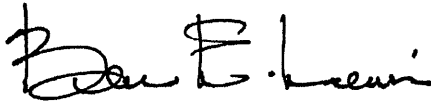
Planning Commission Recommendation: **Approve**

Planning Commission Commentary: There were no speakers in opposition and little discussion among the Commissioners.

Planning Commission Vote:	5-0
Joshua Garrison, Chair	Aye
Dawn Motes, Vice Chair	Absent
David Hacker, Secretary	Aye
Marshall Adkison	Aye
Daniel Blanchard	Aye
Ian Brown	Aye
Alex Moldovan	Absent
Jason Porter	Absent

If you have any questions or concerns, please do not hesitate to contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce E. Lewis". The signature is written in a cursive style with a large initial "B".

Bruce E. Lewis
City Planner Supervisor – Current Planning Division
City of Jacksonville - Planning and Development Department
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Jacksonville, FL 32202
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REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT

The Planning and Development Department hereby forwards to the Planning Commission and City Council its comments and recommendations on:

ORDINANCE 2021-222

AN ORDINANCE REGARDING CHAPTER 656 (ZONING CODE), ORDINANCE CODE; AMENDING SECTION 656.422 (CHICKENS ALLOWED BY PERMIT IN CERTAIN ZONING DISTRICTS), TO MAKE CLEAR THAT ISSUANCE OF PERMIT DOES NOT SUPERSEDE DEED RESTRICTIONS OR HOMEOWNERS OR NEIGHBORHOOD ASSOCIATION COVENANTS, BYLAWS, OR REGULATIONS; AMENDING EXEMPTION PROVIDED FOR IN 2015-337-E FOR CERTAIN IDENTIFIED NEIGHBORHOODS TO INCLUDE DEERCREEK COUNTRY CLUB; APPROVING AND ADOPTING A MODIFIED APPLICATION THAT INCLUDES ADDITIONAL CERTIFICATIONS BY THE APPLICANT AND CONSENT OF ASSOCIATION IF A PROPERTY IS LOCATED IN A DEED RESTRICTED COMMUNITY OR ONE SUBJECT TO A HOMEOWNERS, NEIGHBORHOOD, OR MASTER ASSOCIATION; PROVIDING AN EFFECTIVE DATE.

I. GENERAL INFORMATION

The bill amends Chapter 656 (Zoning Code), Ordinance Code, to clarify and confirm that the issuance by the City of a permit to keep chickens on their property does not supersede deed restrictions or association covenants and regulations that prohibit keeping of chickens in a neighborhood. This bill also requires that applicants certify if their property is part of a deed restricted community and if so, provide a separate consent form signed by an officer of the entity confirming that chickens are permitted by the entity on the property. This bill also adds Deercreek Country Club to the list of neighborhoods exempt from the provisions allowing backyard hens.

II. EVALUATION

A. The need and justification for the change

There have been instances where homeowners obtain City permits to allow for backyard hens in neighborhoods where there are private covenants and restrictions prohibiting chickens, and then the permit is used as a means to circumvent the deed restrictions. This bill clarifies that City issued permits for chickens does not supersede any deed restriction to the contrary. It also requires the applicant to declare if they are bound by deed restrictions and to provide documentation by the association attesting that the chickens are permitted under the deed restrictions.

B. 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.

This bill is consistent with the spirit and intent of both the Comprehensive Plan and the Zoning Code in that it is the intent of the legislation to protect and preserve the public health, safety and welfare of the people of the City of Jacksonville by promoting and sustaining the viability of existing and emerging residential areas.

III. RECOMMENDATION

The Planning and Development Department recommends that **Ordinance 2021-222** be approved.

1 Introduced by Council Member Becton:
2
3

4 **ORDINANCE 2021-222**

5 AN ORDINANCE AMENDING CHAPTER 656.422
6 (CHICKENS ALLOWED BY PERMIT IN CERTAIN ZONING
7 DISTRICTS), CHAPTER 656 (ZONING CODE),
8 *ORDINANCE CODE*, TO MAKE CLEAR THAT ISSUANCE OF
9 PERMIT DOES NOT SUPERSEDE DEED RESTRICTIONS OR
10 HOMEOWNERS' OR NEIGHBORHOOD ASSOCIATION
11 COVENANTS, BYLAWS OR REGULATIONS; AMENDING
12 EXEMPTION PROVIDED FOR IN 2015-337-E FOR
13 CERTAIN IDENTIFIED NEIGHBORHOODS TO INCLUDE
14 DEERCREEK COUNTRY CLUB; APPROVING AND ADOPTING
15 A MODIFIED APPLICATION THAT INCLUDES
16 ADDITIONAL CERTIFICATIONS BY APPLICANT AND
17 CONSENT OF ASSOCIATION IF A PROPERTY IS
18 LOCATED IN A DEED RESTRICTED COMMUNITY OR ONE
19 SUBJECT TO A HOMEOWNERS', NEIGHBORHOOD OR
20 MASTER ASSOCIATION; PROVIDING AN EFFECTIVE
21 DATE.
22

23 **WHEREAS**, since 2015, the City of Jacksonville has allowed for
24 backyard chickens in certain zoning districts and within certain
25 neighborhoods, subject to issuance of a City permit and
26 notwithstanding any contrary private deed restrictions or covenants
27 on the subject property; and

28 **WHEREAS**, while the current language in the Ordinance Code and
29 in the Application for Backyard Hen Permit clearly states that a
30 City permit cannot supersede contrary homeowners' association
31 covenants or deed restrictions, some residents have attempted to

1 circumvent the process and to rely on issuance of a permit to
2 counteract deed restrictions or homeowners' or neighborhood
3 association bylaws, covenants or regulations to the contrary; and

4 **WHEREAS**, the City does not police or enforce private
5 restrictive covenants or rules and regulations of a neighborhood or
6 homeowners' association but does desire to make clear that issuance
7 of a backyard chicken permit does not supersede any covenants,
8 rules or regulations enforced by private parties; now therefore

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

10 **Section 1. Amending Section 656.422 (Chickens allowed by**
11 **permit in certain zoning districts), Ordinance Code.** Section
12 656.422 (Chickens allowed by permit in certain zoning districts),
13 Subpart B (Miscellaneous Regulations), Part 4 (Supplementary
14 Regulations), Chapter 656 (Zoning Code), *Ordinance Code*, is hereby
15 amended to read as follows:

16 **CHAPTER 656. ZONING CODE**

17 * * *

18 **PART 4. SUPPLEMENTARY REGULATIONS**

19 * * *

20 **SUBPART B. MISCELLANEOUS REGULATIONS**

21 * * *

22 **Sec. 656.422. Chickens allowed by permit in certain zoning**
23 **districts.**

24 * * *

25 (h) This section does not supersede any legally adopted, recorded
26 restriction within any platted neighborhood. Moreover, this
27 section does not authorize persons to violate applicable
28 restrictive covenants and homeowners' association rules and
29 regulations. Therefore, persons applying for and receiving
30 permits under this section are required to certify whether
31 their property is part of a deed restricted community or

1 subject to a homeowners, neighborhood or master association,
2 and if they answer in the affirmative, must provide a
3 separate consent form (which is part of the application)
4 signed by an officer of such entity that confirms that
5 chickens are permitted by the entity on the subject property.
6 The City does not police or enforce private restrictive
7 covenants and homeowners', neighborhood and master
8 association bylaws, rules and regulations. Persons applying
9 for and receiving permits under this section are solely
10 responsible for compliance with all applicable restrictive
11 covenants and homeowners', neighborhood or master association
12 bylaws, rules and regulations.

13 * * *

14 **Section 2. Amending the exemption provided for in**
15 **Ordinance 2015-337-E for certain identified neighborhoods.** Revised
16 Exhibit 1 to Ordinance 2015-337-E is hereby amended to includes the
17 Deer creek Country Club community to the exempt single-family
18 residential neighborhoods identified in Ordinance 2015-337-E. A
19 copy of the Second Revised Exhibit 1, to incorporate the additional
20 neighborhood is attached hereto and incorporated by reference
21 herein as **Exhibit 1**. All other applicable laws remain in full force
22 and effect with regard to animal control and code enforcement
23 matters in the neighborhoods so identified.

24 **Section 3. Approving and adopting modifications of**
25 **application to include additional applicant certifications and**
26 **consent of homeowners' association, where applicable.** The
27 Application for Backyard Hens (the "Application"), attached hereto
28 and as **Exhibit 2** and incorporated by reference herein, is approved
29 and adopted for use by the Planning and Development Department. The
30 revised Application includes additions to the certification section
31 which require the applicant to certify whether the subject property

1 is located in a deed restricted community or in communities with a
2 homeowners', neighborhood or master association. If the subject
3 property is located in a deed restricted community or is subject to
4 a homeowners', neighborhood or master association, then the
5 applicant is required to submit with the Application, at the time
6 of filing, a consent completed by the homeowners', neighborhood or
7 master association, consistent with the amendment to Section
8 656.422, Ordinance Code, as provided for herein.

9 **Section 4. Effective Date.** This Ordinance shall become
10 effective upon signature by the Mayor or upon becoming effective
11 without the Mayor's signature.

12
13 Form Approved:

14
15 /s/ Paige H. Johnston

16 Office of General Counsel

17 Legislation Prepared By: Paige H. Johnston

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