

MEMORANDUM

TO: City Councilmembers, City Manager
FROM: Mayor Derek Dobies
DATE: June 3, 2021
SUBJECT: Urban Farming Ordinance

Recommendation: Review and recommend to City Council an Ordinance amending Section 4-1 through 4-11 of Chapter 4 of the Code of Ordinances of the City of Jackson, Michigan to allow for urban farming, and the keeping of certain animals, within the city limits.

For the last few years, then Councilmember Colleen Sullivan and I worked with a number of local environmental advocates in reviewing Chapter 4 of our City Code to explore changes that could be made to allow for the responsible use of chicken coups and apiaries within the city limits.

A number of residents were engaged at a variety of public meetings. Many expressed support for local efforts to source eggs, honey, and other products thereby through changes to our code. Those conversations also acknowledged that a great deal of care should be taken in the development of the language so as not to allow such activities to become a nuisance in a city where people live in close proximity.

The following ordinance is a result of those efforts.

The ordinance includes language added from the previous City Manager to ensure the provisions of this ordinance coincide with other sections of the Code, as well as strengthens some of the stipulations around the responsible operation of these activities within the city limits.

Attached is a black lined version of the proposed ordinance for your review.

Your consideration is greatly appreciated.

ORDINANCE NO. 2020-##

An Ordinance amending Section 4-1 through 4-11 of Chapter 4 of the Code of Ordinances of the City of Jackson, Michigan to allow for urban farming, and the keeping of certain animals, within the city limits.

THE PEOPLE OF THE CITY OF JACKSON ORDAIN:

CHAPTER 4 - ANIMALS

Sec. 4-1. - Purpose.

The purpose of this chapter is to promote the proper control and care of animals by their owners and others, for the health, safety, and welfare of the citizens of the City of Jackson, Michigan.

Sec. 4-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this chapter, except where the context clearly indicates a different meaning:

Cat means an animal of any age of the species *Felis Catus*.

City means City of Jackson, Michigan.

County means County of Jackson, State of Michigan.

Hen means a female chicken.

Hive means one colony of bees with only one Queen.

Kennel means any lot or premises permitted in the city's zoning ordinance (Chapter 28) on which more than three (3) dogs or more than three (3) cats, or any combination of dogs and cats totaling more than three (3), are confined either permanently or temporarily. This does not include dogs and cats less than four (4) months old.

Law enforcement officer means a person employed or elected by the people of the City of Jackson, Michigan, to preserve peace, make arrests, and/or to enforce the law including Inspectors.

Livestock means horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids and swine, and fur-bearing animals being raised in captivity.

Miniature Pig means Chinese, Asian or Vietnamese pot-bellied pigs.

Owner means a person having a right of property ownership in an animal, who keeps or harbors the animal or has the animal in his or her care or custody, or who permits the animal to remain on or about any premises occupied by the person. An owner does not mean a person who harbors an animal in the course of conducting a boarding, grooming, or training business, or a veterinary hospital, or a person who harbors an animal in violation of Act 309 of the Public Acts of 1939, being § 287.301 et seq. of the Michigan Compiled Laws.

Owner's agent means an individual authorized in writing by the owner or lessee of an animal to intervene on behalf of the owner or lessee to protect the animal, except in cases where the animal is in imminent danger of harm, in which case no written authorization is required.

Owner Occupied means a structure or premise occupied by the owner of said premise.

Tenant means an individual person or group of persons who occupy a structure or premise that has no full ownership in a property they occupy or person or persons that lease but do not occupy said structure or premise.

Person means an adult individual, partnership, corporation, cooperative, association, joint venture, or other legal entity.

Pet means any animal kept for pleasure rather than utility.

Rooster means a male chicken.

Sec. 4-3. - Deer feeding prohibited.

- (a) Deer feeding within the City of Jackson is prohibited unless conducted by or with the permission of the City of Jackson Parks and Recreation Department.
- (b) As used in this section, "*deer feeding*" means the depositing, distributing, or tending of feed intended for consumption by deer for the purposes of preventing deer from starving or for recreational viewing.
- (c) As used in this section, "*feed*" means a substance composed of grain, mineral, salt, fruit, vegetable, hay, or any other food material or combination of these materials that may attract deer.

Sec. 4-4. - Keeping of certain animals restricted.

- (a) The keeping of any hogs or swine or cows within the limits of the city is declared to be a nuisance and is prohibited, unless otherwise exempted under Section 4-11.
- (b) The keeping of all poisonous reptiles is prohibited. The keeping or sale of all wild or exotic reptiles or animals is prohibited, unless applicable state and/or federal licenses are obtained.

- (c) The keeping of any horses, goats, ducks, geese, doves, pigeons, ~~chickens~~ roosters or other livestock or fowl is likewise declared to be a nuisance and is prohibited with the exception of no more than three (3) hen chickens only as provided for below in Section 4-9. No such livestock or fowl shall be permitted at large.
- (d) The keeping of more than three (3) dogs, more than three (3) cats, or more than two (2) miniature pigs, or any combination of dogs, cats or miniature pigs totaling more than three (3), is prohibited unless the property is classified as a kennel in a C-4 zoning district as provided in subsection 28-71(3) of this Code. This does not include dogs or cats less than four (4) months old.
- (e) Exceptions allowing hens and bees shall only be permitted in owner occupied structures or premises.
- (f) The number of hives shall be limited to 1 per 100% owner occupied structure.

The owner of all private real property shall ~~also~~ comply with this section.

Sec. 4-5. - Cost recovery.

The city may recover all costs of abatement of any public nuisance either by action at law or by specially assessing the costs against the property where the abatement was performed in accordance with Section 15.7 of the City of Jackson Charter or other applicable Charter or Code provision.

Sec. 4-6. - Rules and regulations.

The city manager shall make administrative rules and regulations supplementary to this chapter and not in conflict herewith, as he may from time to time deem necessary. Until changed pursuant to this section, the rules and regulations in effect at the adoption of this Code shall continue in effect. No person shall fail to obey any rule or regulation effective hereunder.

Sec. 4-7. - Severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision will not affect the validity of any other section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions thereof may be declared invalid or unconstitutional.

Sec. 4-8. - Inconsistent provisions repealed.

Ordinances or parts of ordinances in conflict with the provisions of this chapter are hereby repealed.

Sec. 4-9. - Keeping of backyard hens.

- (a) Any person residing in an R-1 or R-2 residentially zoned district property, in an owner occupied single family detached structure on a lot not less than 5,000 square feet, obtaining a permit from the city, may keep not more than three hen chickens in the city for personal use only and not for any business or commercial use. Completed applications for a permit shall be submitted along with a non-refundable \$50 fee to the office of Neighborhood and Economic Operations. Applicants must obtain the signed, notarized consent of all property owners within 100 feet and/or that share a common boundary with the applicant and submit this as part of the application along with a plot plan and any other information required by the department. The department shall issue a permit where the application after the owner enters into a development agreement with the city and is in compliance with all requirements, regulations and ordinances of the city.
- (b) Approved permit holders shall schedule an inspection within 30 days of permit issuance. Failure to schedule an inspection shall result in an automatic revocation of the permit. Permit holders will be billed an hourly rate and in a manner consistent with the fees charged for any housing inspection performed by the Department of Neighborhood and Economic Operations (NEO). Automatic re-inspections are required on an annual basis. If an inspection identifies noncompliance with any of the requirements set forth in subsection (e) of this section and rules promulgated by the city manager as required by this ordinance, the permit holder shall have 10 days to achieve compliance with the requirements or the department may revoke the permit.
- (c) Permits shall be valid for up to one year, shall be non-transferable, site-specific and shall expire on December 31st of each year. A person who wishes to continue keeping chickens shall obtain a new permit prior to expiration of the previous permit. This shall be considered a renewal and will not require neighboring property permission but all other requirements in place at the time of renewal will apply including a new permit and inspection fee and subsequent inspections.
- (d) Notwithstanding this section, private restrictions on the use of property shall remain enforceable. Private restrictions include but are not limited to deed restrictions, neighborhood association by-laws, and covenant deeds.
- (e) A person residing in an R-1 or R-2 residential zoned district property, in an owner occupied single family detached structure who obtains a permit and passes inspection shall comply with all of the following requirements:
1. Keep no more than three (3) hen chickens at any time.
 2. Roosters or male chickens and any other type of fowl or poultry are prohibited.
 3. Slaughtering, butchering, or otherwise killing of any chickens at the property is prohibited.
 4. Chickens shall be maintained in a fully enclosed structure or a fenced and covered enclosure and shall be kept in the enclosed structure or fenced and covered enclosure at all times. Fenced enclosures are subject to all provisions and restrictions in Sec. 28 - 125 of the Jackson Code. An enclosed structure shall be constructed of permanent materials approved by the chief building official, comply with city of Jackson accessory structure regulations in Sec 28-120, and shall be properly maintained in accordance with the Housing code as it applies to Non-Residential Buildings found in Chapter 14. Article

5. Divisions 1 & 2 including architectural standards as per Jackson zoning ordinance. Each fenced and covered enclosure shall be designed with a minimum of 10 square feet of yard space for each chicken, and the enclosed structure or fenced and covered enclosure combined shall not cover more than 10% of the rear yard not already occupied by other accessory structures.

5. Chickens shall not be kept in any location on the property other than in the rear yard. For purposes of this section, "rear yard" means that portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the single-family structure and extending to the side lot lines but excludes all other accessory structures already in existence in the rear yard.
 6. No enclosed structure shall be located within any side or rear yard setback area. An enclosed structure or fenced enclosure shall not be located closer than ten (10) feet to any adjacent property.
 7. All structures and enclosures for the keeping of chickens shall be constructed and maintained so as to prevent rats, mice or other rodents or vermin from being harbored underneath or within the walls of the structure or enclosure.
 8. All feed and other items associated with the keeping of chickens likely to attract rats, mice, or other vermin shall be secured and protected in sealed weatherproof containers in an enclosed accessory structure i.e. approved garage or shed.
 9. Chickens shall be kept in compliance with the Michigan Department of Agriculture Generally Accepted Agricultural and Management Practices for the Care of Farm Animals, as it relates to laying chickens, as amended, except as otherwise provided in this section.
- (f) Any permit may be suspended or revoked, by written notice to the permit holder, upon a finding that the permittee has violated any applicable City ordinance provisions, permit conditions, or due to substantiated neighbor complaint(s).

Sec. 4-10. - Keeping of honey bees.

- (a) Any person residing in an R-1 or R-2 residentially zoned district property, in an owner occupied single family detached structure located on a property with an area no less than 10,000 square feet and obtaining a permit from the city, may keep not more than one honey bee hive in the city for personal use only and not for any business or commercial use. Completed applications for a permit shall be submitted along with a non-refundable \$50 fee to the office of Neighborhood and Economic Operations. Permit holders will be billed an hourly rate and in a manner consistent with the fees charged for any housing inspection performed by the Department of Neighborhood and Economic Operations (NEO). Automatic re-inspections are required on an annual basis. Applicants must obtain the signed consent of all property owners within 100 feet or that share a common boundary with the applicant and submit this as part of the application. Applicants must also submit proof of having completed a beekeeping course through a beekeeping club, a university extension office or other reputable source. Plot plans and site drawings and any other

information required by the department must also be submitted with the application. The department shall issue a permit where the application is in compliance with all requirements, regulations and ordinances of the city after the owner enters into a development agreement with the city listing safety and other architectural provisions to protect neighboring residents and property.

- (b) Approved permit holders shall submit within 30 days of permit issuance, proof that their hive has been inspected by a licensed beekeeper with at least three (3) years of beekeeping experience or representative of the State Apiarist and meets sound beekeeping practices and shall not operate until a report of said inspection is filed with the Department of Neighborhood & Economic Operations (NEO). Failure to submit proof of inspection shall result in an automatic revocation of the permit. All permit holders are further required to comply with all requirements described in sub-section (e) of this section and rules promulgated by the city manager as required by this ordinance.
- (c) Permits shall be valid for up to one year, shall be non-transferable, site-specific and shall expire on December 31st of each year. A person who wishes to continue keeping bees shall obtain a new permit prior to expiration of the previous permit. This shall be considered a renewal and will not require neighboring property permission but all other requirements in place at the time of renewal will apply including a new permit fee and independent verification of hive inspection.
- (d) Notwithstanding this section, private restrictions on the use of property shall remain enforceable. Private restrictions include but are not limited to deed restrictions, neighborhood association by-laws, and covenant deeds.
- (e) A person residing in an R-1 or R-2 residentially zoned district property, in an owner occupied single family, 100% PRE, detached structure who obtains a permit and submits proof of an independent inspection shall comply with all of the following requirements:
 - 1. The hives must be at least 25 feet from any edge of a permit holder's property line unless one of the following circumstances applies, in which case the hives must be at least 10 feet from each property line:
 - a. The hives are at least eight feet above the adjacent ground.
 - b. The hives are less than six feet above the adjacent ground and are behind a flyaway barrier consisting of dense hedges, shrubbery, solid fencing or combination thereof which is at least six feet in height and parallel to any property within 25 feet of the hives and extending at least 20 feet beyond the hive in both directions.
 - 2. All permit holders shall maintain around each hive a flyaway barrier consisting of dense hedges, shrubbery, solid fencing or combination thereof at least six (6) feet but not exceed 6 ft. in height, parallel to the property line and suitable to cause all bees to fly at an elevation of at least 6 feet above ground level over the property lines in the vicinity of the apiary when exiting and entering their hives. This barrier must also extend at least ten (10) feet beyond the colony in each direction and comply with all standards set forth in Section 18 - 125 of City code.

3. All honeybee colonies shall be kept in hives with movable frames, which shall be kept in sound and usable condition. No hive shall be taller than four (4) feet.
 4. Each permit holder shall ensure that a convenient source of water is available to the bees at all times during the year so that the bees will not congregate at swimming pools, pet watering bowls, bird baths or other water sources where they may cause human, bird or domestic pet contact.
 5. Each permit holder shall ensure that no bee comb or other materials are left upon the grounds of the apiary site. Upon their removal from the hive, all such materials shall promptly be disposed of in a sealed container and placed within a building or other approved accessory bee-proof structure.
 6. In any instance in which a colony exhibits unusual aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition toward swarming, it shall be the duty of the permit holder to promptly re-queen the colony with another queen. Queens shall be selected from European stock bred for gentleness and non-swarmling characteristics.
 7. No more than one (1) hive shall be kept on any premise, in the City.
 8. All permit holding beekeepers must post a clear sign every 50 ft. along any public frontage, but in no instance beyond the front or side building line as defined in the city of Jackson zoning ordinance, notifying the public that honey bees are kept on the premises. This sign should contain the name of the permit holder and a current phone number to reach them and shall comply with city of Jackson sign regulations. Signs should be no less than 25 ft. from any hive.
- (f) Any permit may be suspended or revoked, by written notice to the permit holder or by posting on owner's premise, upon a finding that the permittee has violated applicable City ordinance provisions, permit conditions, or due to substantiated neighbor complaint(s).

Sec. 4-11. - Keeping of miniature pigs.

- (a) Registered purebred miniature Vietnamese, Chinese or Oriental potbellied pigs (*Sus scrota vittatus*) and other similar registered purebred miniature pigs may be kept within the city limits, subject to the conditions stated in subsections (c) and (d) of this section.
- (b) It is unlawful for any person to maintain a registered purebred miniature pig which:
 - (1) Weighs more than 100 pounds.
 - (2) Is not spayed or neutered upon reaching maturity.
 - (3) Has not undergone a blood test to show the animal is free from pseudorabies.
 - (4) Is maintained as a food source.

- (5) Is taller than 18 inches.
- (c) It is unlawful for any person to keep or maintain more than two registered purebred miniature pigs at one premises within the city.