

ORDINANCE NO. 2577

INTRODUCED BY: CHACON, DOUGLAS, DOUGLAS, DUKES, FORD, KIM, MADERA,  
NOBLE, TETER

AN ORDINANCE AMENDING CHAPTER 4 OF THE COMMERCE CITY MUNICIPAL CODE BY ADDING A NEW ARTICLE V REGARDING BACKYARD CHICKENS AND BEES AND AMENDING SECTION 21-5226 OF THE LAND DEVELOPMENT CODE TO ALLOW BACKYARD CHICKENS AND BEES

WHEREAS, the City of Commerce City, Colorado (the “City”), is a home rule municipality and political subdivision of the State of Colorado (the “State”) organized and existing under a home rule charter pursuant to Article XX of the Constitution of the State;

WHEREAS, pursuant to the Charter of the City of Commerce City (the “Charter”), the City has all legislative powers and functions of municipal government as reserved to it by the Colorado Constitution and the laws of the State;

WHEREAS, Chapter 4 of the CCRMC regulates the ownership, maintenance, and keeping of animals within the City;

WHEREAS, Section 21-5226 of the Land Development Code must also be amended to no longer prohibit the keeping of backyard chickens and bees;

WHEREAS, on November 7, 2023, the voters of Commerce City passed Ballot Questions 3Q and 3S directing the City to, by December 31, 2024, adopt an ordinance allowing, with certain restrictions, the backyard keeping of chickens and of bees in addition to the pet limits currently established in the municipal code; and

WHEREAS, the keeping of bees and chickens in backyards is beneficial to the environment, the economy, the local food supply, and wellness of residents.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

**SECTION 1. Findings.** The recitals to this ordinance are incorporated as findings of the City Council. This ordinance is found to be necessary for the preservation of the public health, safety, and welfare and in the public interest.

**SECTION 2. Addition of Article V.** Article V of Chapter 4 of the Code is hereby added and section 21-5226 is hereby amended as set forth in **Exhibit A**.

**SECTION 3. Effective Date.** This Ordinance shall be effective sixty (60) days after both final posting and publication have been accomplished.

INTRODUCED, PASSED ON FIRST READING, AND PUBLIC NOTICE ORDERED THIS 6TH DAY OF MAY, 2024.

PASSED ON SECOND AND FINAL READING, AND PUBLIC NOTICE ORDERED  
THIS 20TH DAY OF MAY, 2024.

CITY OF COMMERCE CITY, COLORADO

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Steven J. Douglas, Mayor

ATTEST

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Dylan A. Gibson, City Clerk

## CHAPTER 12 – ANIMAL CODE

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### ARTICLE V – BACKYARD CHICKENS AND BEES

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#### Section 4-5000. Definitions

The following words, terms, and phrases when used in this Article shall have the meaning ascribed to them in this section. All other words, terms, and phrases not defined in this section shall have their common, ordinary, and accepted meaning.

- (a) Applicant means any person or entity who has or plans to submit an application of a permit issued pursuant to this article. If the applicant is not a natural person the term shall include all persons who are members, managers, officers, directors, or other natural persons who hold the authority within the entity to authorize the application for a permit issued pursuant to this article.
- (b) Department shall mean the city's Community Development Department.
- (c) Director shall mean the Director of the city's Community Development Department.
- (d) Permit means a document issued by the city pursuant to this article authorizing the keeping of backyard chickens or bees.
- (e) Permittee means the person or entity named on the Permit.

#### Section 4-5001. Permit Required

- (a) Zone authorization. No permit is required for the keeping of chickens or bees where such use is allowed by the applicable zone ordinance.
- (b) Backyard Chicken Permit required. In those zoned districts no where the keeping of farm animals and livestock is not otherwise allowed, the keeping of chickens shall be permitted only after a valid backyard chicken permit has been issued to the property owner or occupant.

Backyard chicken permits shall be issued by the Department.

- (1) Applicants must submit a completed application for a permit on forms approved by the Department and must pay a permit application fee.
- (2) Backyard chicken permit applications must contain, at a minimum, the following information:
  - (i) The name, address, and telephone number of the permit applicant.
  - (ii) The name, address, and telephone number of the property owner, if different from the permit applicant.
  - (iii) If the property owner and/or applicant is not a natural person then the name of name, title, address, and telephone number of an agent of the property

- owner and/or applicant with the authority to authorize the keeping of chickens on the property must also be included.
- (iv) The address of property the permit shall apply to.
  - (v) The total number of chickens to be kept on the property.
  - (vi) A diagram of the property which shall clearly indicate the size and location of the proposed chicken enclosure and coop.
- (3) If the applicant is not the property owner then the permit application must be accompanied by a notarized letter from the property owner explicitly granting the applicant permission to keep chickens on the property, the maximum number of chickens to be permitted, and the maximum size of any enclosure and/or coop to be allowed on the property .
- (c) Backyard Beekeeping Permit required. In those zoned districts where the keeping of bees is not otherwise allowed, the keeping of bees shall be permitted only after a valid backyard beekeeping permit has been issued to the property owner of occupant.
- (d) Backyard beekeeping permits shall be issued by the Department.
- (1) Applicants must submit a completed application for a permit on forms approved by the Department and must pay a permit application fee.
  - (2) Backyard beekeeping permit applications must contain, at a minimum, the following information:
    - (i) The name, address, and telephone number of the permit applicant.
    - (ii) The name, address, and telephone number of the property owner, if different from the permit applicant.
    - (iii) If the property owner and/or applicant is not a natural person then the name of name, title, address, and telephone number of an agent of the property owner and/or applicant with the authority to authorize the keeping of bees on the property must also be included.
    - (iv) The address of property the permit shall apply to.
    - (v) A diagram of the property which shall clearly indicate the size and location of the proposed hives, the location of the hive entrance(s), and the size and location of any required flyway barriers.
  - (3) If the applicant is not the property owner then the permit application must be accompanied by a notarized letter from the property owner explicitly granting the applicant permission to keep bees on the property and the number of hives to be allowed by the property owner on the property.
- (e) Multiple dwelling units. If a property has more than one dwelling unit on the property then all adult residents and the owner(s) of the property must consent in writing to allowing chickens or bees onto the property.
- (f) Non-transferable. Permits are non-transferable and are valid only for the named permittee and the named property. Permits shall not run with the land.
- (g) Term. Permits shall be valid until the keeping of chickens and/or bees has terminated for 12 consecutive months or more.

#### **Section 4-5002. Backyard Chicken Requirements**

- (a) Roosters. No roosters may be kept under a backyard chicken permit.
- (b) Outdoor enclosure. An outdoor enclosure must be provided for the chickens which, at a minimum, must:
  - (1) Provide sixteen (16) feet of permeable land area available for each chicken within the enclosure; and
  - (2) Be adequately fenced to prevent chickens from escaping the enclosure and/or permitted property.
- (c) Coops.
  - (1) An adequate coop or other shelter must be provided for the chickens which, at a minimum, must:
    - (i) Be sufficiently high so that chickens contained inside can stand erect without the touching the tops of their containers;
    - (ii) Provide a minimum of two (2) square feet per chicken and does not result in the overcrowding of the chickens inside;
    - (iii) Provide troughs or other receptacles accessible to the chickens confined inside, but placed so the contents of the troughs or receptacles cannot be befouled by the chickens;
    - (iv) Provide adequate protection from predators;
    - (v) Be well ventilated;
    - (vi) Not expose chickens to excessive heat or cold; and
    - (vii) Be designed to be easily accessed, cleaned, and maintained.
  - (2) Coops less than six (6) feet in height and less than thirty-two (32) square feet or less in size shall not require a building permit.
- (d) Clean water. Chickens must have access to clean water at all times.
- (e) Daylight hours. During daylight hours chickens must have access to the coop and outdoor space sufficient in size to satisfy the requirements of (b) of this section.
- (f) Night hours. All chickens must be secured in the coop from dusk until dawn.
- (g) Wild fowl. All chickens must be kept and sheltered in a manner designed to prevent them from coming into contact with wild ducks or geese and their excrement, and to prevent the chickens from running at large.
- (h) Sanitation and cleanliness. Coops and outdoor enclosures shall be kept in a neat and sanitary condition at all times, and shall be cleaned on a regular basis so as to prevent offensive odors or excessive build-up of chicken waste.
  - (1) Coops and enclosures shall be considered unclean when it contains more than one day's elimination of each animal enclosed within.
  - (2) Coops and enclosures shall be considered unhealthy when the conditions within are likely to cause illness or injury of the animals enclosed within.
- (i) Front yard. Chickens may not be kept in the front yard at any time.
- (j) Killing of chickens.
  - (1) Animals kept under this article may only be killed in an enclosed area completely screened from public view.

- (2) The killing of any animal kept under this article may only be done in a humane and safe way and must be done in compliance with all local, state, and federal laws, rules, and regulations.
- (k) Disease outbreak controls. The Director, or the Director's designee, is authorized to confiscate, quarantine, or euthanize any chicken kept in the city for the purpose of controlling the outbreak of contagious or infectious disease within the city. Nothing herein shall affect the authority of the State of Colorado from enforcing the provision of the Colorado Livestock Health Act, C.R.S. § 35-50-101, et seq., as amended, to control the outbreak of contagious or infectious disease among livestock in the city by quarantine or slaughter.
- (l) Set-back. Coops and enclosures must have a set-back from the nearest property line equal to the set-back required of the principal building on the property.

#### **Section 4-5003. Dyeing and Sale of Chickens**

It shall be unlawful for any person to dye or color live chickens or any other animals or have in possession, display, sell, or give away such dyed or colored animals. Violation of this section shall constitute a misdemeanor.

#### **Section 4-5004. Backyard Beekeeping Requirements**

- (a) Aggressive bees. No Africanized honeybees or bees that exhibit aggressive bee behavior may be kept. Hives shall be requeened following any swarming or aggressive bee behavior.
- (b) Hives.
  - (1) Unless the zoning district of the property allows for greater numbers of hives, properties may contain a maximum of two (2) hives.
  - (2) Hives shall not exceed five (5) feet in height or twenty (20) feet in cubic volume.
  - (3) Hive entrances shall face away from, or parallel to, the nearest adjacent property and shall face away from all doors and windows.
  - (4) Hives shall be situated so the general flight pattern of bees entering and exiting the hive will be in direction that deters contact with humans or domestic animals.
  - (5) Hives shall be of an inspectable type with removable combs kept in sound and usable condition.
- (c) Flyways.
  - (1) Flyway barriers are allowed on any property where beekeeping is permitted and ongoing regardless of zoning type and shall not require a building permit if they:
    - (i) Consist of a wall, fence, dense vegetation, or combination thereof;
    - (ii) Are at least six feet in height and no more than eight feet in height;
    - (iii) Continue seven feet in either direction parallel to the open of the hive; and
    - (iv) Are not a property line fence.
  - (2) Flyways must be constructed and placed in a manner that forces bees to fly at an elevation of at least six feet above ground level over the property lines of adjacent developed property.

- (3) Flyway requirements shall apply when any property adjacent to the permittee's property has been developed, regardless of whether the permittee's bee hives predated the development of the adjacent property.
- (d) Water. A convenient and constant source of water shall be available to the bees at all times so the bees will not congregate at swimming pools, bibcocks, pet water bowls, birdbaths, or other water source where they may cause human, bird, or domestic animal contact. The water shall be maintained so as not to become fouled or stagnant.
- (e) Front yard. Hives may not be kept in the front yard of a property at any time.
- (f) Set-back. Hives must be set back at least twenty (20) feet from the nearest developed public or private property line or, if the hive is located less than twenty (20) feet from the nearest property line, the permittee must provide a flyaway barrier.

#### **Section 4-5005. Cottage Foods**

- (a) Requirements. To engage in the home occupation of cottage food production and sales, a person must meet the following requirements:
  - (1) Comply with all provisions of the Colorado Cottage Foods Act as codified at C.R.S. § 25-4-1614, as amended;
  - (2) Cottage foods products offered for sale shall be limited to those foods identified by the Colorado Cottage Foods Act, C.R.S. § 25-4-1614, as amended, which are processed on the premises;
  - (3) Obtain a city Sales and Use Tax License as required by Section 9-2000 of this code and the Commerce City Sales and Use Tax Code and Regulations; and
  - (4) Offer products for sale only between the hours of 7:00 a.m. and sunset.
- (b) Marijuana shall not be considered a cottage food product under this section. The cultivation and sale of marijuana if governed by Chapter 8 of this code. Nothing in this section is meant to supersede those provisions

#### **Section 4-5006. Violations and Enforcement**

- (a) Civil infraction. Unless indicated otherwise, a violation of any provision of this article shall be deemed a civil infraction and, as such, may be prosecuted in the municipal court or through the city's administrative hearing process.
- (b) Suspension, revocation, denial. In addition to any penalties assessed for violations prosecuted in the municipal court or through the administrative hearing process a permittee convicted or found liable for any violation of this Article or any term or condition of a permit issued pursuant to this Article may have their permit suspended, revoked, or denied.
- (c) Hearing. If the city exercises its right to revoke or suspend a permit issued pursuant to this Article and such violation has not already been adjudicated in the municipal court or through the city's administrative hearing process the Department shall notify the permittee in writing of the following, by first-class mail or personal delivery:
  - (1) The alleged violation;
  - (2) That the permit will be suspended or revoked on account of such violation on a date not less than twenty-one (21) days from the date of the notice unless the violation is cured;

- (3) That the permittee may protest the violation and request a hearing in front of the city's hearing officer pursuant to the protest hearing procedures and rules established in Division 3 of Article II of Chapter 3 of this Code.
- (d) Denials. Denials of permit applications by the city shall include a short description of the reason for the denial and are final decisions not subject to protest.

**Section 4-5007. Fees**

- (a) Fees. All fees, including without limitation, application, inspection, permitting, and late fees shall be paid to the city in the amount established by resolution of the city council.
- (b) Time of payment. All application fees shall be paid to the Department at the time an application is submitted to the Department. All other fees shall be paid to the city within thirty (30) days of notice of the fees due being issued to the permittee.
- (c) Payment required. No permit shall be issued under this Article until after the payment of all fees required by this Article or any other provision of the Commerce City Municipal Code.
- (d) Refunds. All fees, including application and late fees, are non-refundable.

**Section 4-5008. Rules and Regulations**

The Director, subject to approval by the city manager, may promulgate such rules and regulations as they deem appropriate for the administration of this article.



## CHAPTER 21 – LAND USE DEVELOPMENT CODE

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### ARTICLE V – USE AND ACCESSORY STRUCTURES

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#### DIVISION 2 – PRINCIPAL USES

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#### SUB-DIVISION B – SUPPLEMENTAL REGULATIONS FOR PARTICULAR USES

##### Section 21-5226. Community Gardens

(1) General Standards.

(a) All community gardens shall have on-site irrigation.

(b) The growing and/or cultivation of marijuana, for any purpose, is prohibited.

(c) ~~The keeping of animals is prohibited.~~ The keeping of animals is prohibited except for those animals allowed with a valid permit issued in accordance with Article V of Chapter IV of this Code and kept in accordance with the applicable provisions of the city's Code and state laws.

(d) No community garden shall be permitted on any property on which a single-family dwelling, either attached or detached, exists.

(e) Off-street parking, if any, shall include a dust-free surface approved by the city engineer.

(f) Tools and equipment must be stored in sheds. Hoop houses and greenhouses shall not be used to store tools or equipment.

(g) All compost materials shall be kept in an enclosure that limits the negative impacts to adjacent properties.

(2) Sign Standards.

(a) Identification signs shall be monument type and shall not exceed 20 square feet in area or 6 feet in height. Each community garden shall be limited to one identification sign per street frontage that is setback a minimum of 10 feet.

(b) Each community garden shall be allowed one entrance sign per entrance that is intended to communicate garden information, rules, regulations, or policies. Entrance signs shall

not exceed 15 square feet in area or 6 feet in height. Entrance signs shall be setback a minimum of 10 feet.

(c) Signage to communicate and/or distinguish specific crops or garden orientation shall be limited to 3 square feet and shall not require a permit from the Planning Division.

(3) Accessory Structures Limited. The following accessory structures may be located on property being used as a community garden: sheds, hoop houses, green houses, fences, compost enclosures, and vertical growing structures. All other accessory structures are prohibited.

(4) Accessory Structure Standards. Unless a different standard is specified in this section, all accessory structures must comply with the general standards of this code.

(a) No accessory structure shall exceed 15 feet in height.

(b) No more than 3 sheds shall be permitted.

(c) No more than a combined total of 3 hoop houses and/or green houses shall be permitted and the cumulative square footage of all such hoop houses and greenhouses shall not exceed ten (10) percent of the lot area.

(d) Hoop houses, green houses, and sheds shall be set back ten (10) feet from the front property line, five (5) feet from the side and rear property lines, and ten (10) feet from any property line adjacent to a street.

(e) No more than one (1) compost enclosure shall be permitted on any property that is one acre or less in size. No more than two (2) compost enclosures shall be permitted on any property that is more than one acre in size. Compost enclosures shall be set back ten (10) feet from all property lines and shall not exceed six feet in height. Compost enclosures may consist of multiple sections.

(5) Fences.

(a) Electric and barbed wire fences are prohibited.

(b) To the maximum extent feasible, fences shall be compatible in appearance and placement with the fences in the area.

(c) Height and style:

(i) Along the right-of-way, fences shall be open style, as that term is used in section 21-7730, and shall not exceed 42 inches in height.

(ii) Portions not along the right-of-way shall comply with the fence standards of the applicable underlying zone district.

(d) Setbacks:

(i) Residential. Fences along the right-of-way shall be set back a minimum of 30 inches from the property line. Fences that are not along the right-of-way shall comply with the general setback requirements for fences in residential zone districts.

(ii) Nonresidential. Fences along the right-of-way shall be set back a minimum of 5 feet from the property line. Fences that are not along the right-of-way shall comply with the general setback requirements for fences in the applicable underlying zone districts.