

CITY COUNCIL ORDINANCE

ORDINANCE NO: 2199

INTRODUCED BY: Kreutzer

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO AMENDING CHAPTER 6. ANIMALS OF THE BRIGHTON MUNICIPAL CODE TO PROVIDE PRIMARILY FOR AND REGULATE THE KEEPING OF BEES AND POULTRY ON RESIDENTIAL PROPERTIES, INCLUDING AMENDING SECTION 5-4-10. DEFINITIONS; PROVIDING PENALTIES FOR VIOLATIONS OF THE CHAPTER; SPECIFYING WHAT CONSTITUTES A NUISANCE ANIMAL; AMENDING SECTION 6-4-410 RELATED TO CLEANLINESS OF PREMISES, SECTION 6-4-440, THE NUMBER OF ANIMALS PERMITTED, THE ADOPTION OF A NEW DIVISION 10. URBAN AGRICULTURE PERMITTING THE KEEPING OF BEES AND CHICKENS ON RESIDENTIAL PROPERTIES; AMENDING CHAPTER 17. THE LAND USE AND DEVELOPMENT CODE OF THE BRIGHTON MUNICIPAL CODE BY AMENDING SECTION 17-12-20. DEFINITIONS; REPEALING PORTIONS OF SECTION 17-16-240. A/R – AGRICULTURAL/RESIDENTIAL, SECTION 17-16-250 A/E – AGRICULTURAL ESTATE AND SECTION 17-24 PERFORMANCE STANDARDS; AMENDING CERTAIN ALLOWABLE USES IN SECTION 17-32-30. TABLE OF USES, AND SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the City of Brighton has the power and authority to make and publish ordinances which are necessary and proper to preserve the health, safety and welfare of the citizens of the City not inconsistent with the laws of the State; and

WHEREAS, the purpose of these regulations is to permit limited small animal husbandry uses within urban residential environments to permit poultry and beekeeping with reasonable limitations; thus, preventing negative impacts that may occur during large operations or poorly educated practices, while maintaining the health benefits of local and small scale food production; and

WHEREAS, the City Council finds and determines that these regulations permitting the keeping of limited small animal husbandry uses within urban residential environments for food production are in the public interest and are intended to permit poultry and beekeeping with reasonable limitations; and

WHEREAS, the City Council finds and determines that it is not inconsistent with the Constitution or laws of the State of Colorado to adopt ordinances regarding bees and chicken keeping on residential properties, and the provisions adopted herein are intended to assure the health, safety and welfare of the residents of the dwelling, the surrounding neighborhood, and the City itself.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO.

Section 1. Section 6-4-10. **Definitions** of Chapter 6. **Animals** of the Brighton Municipal Code is amended as follows:

A) The definition of “Animal” is repealed and a new definition is hereby adopted to read as follows:

Animal means any live vertebrate or invertebrate creature, domestic or wild.

B) The definition of “Animal control officer” is repealed and a new definition is hereby adopted to read as follows:

Animal control officer means a Code Enforcement Officer of the City as provided in Section 9-4-170 of the Brighton Municipal Code, as may be amended, and designated by the City to enforce provisions of this Chapter or any other ordinance or law of the State pertaining to animals, and shall include police officers.

C) A new definition of “Bee or honeybee” is hereby adopted to read as follows:

Bee or honeybee means any stage of the common honeybee, *apis mellifera* species.

D) A new definition of “Beekeeper” is hereby adopted to read as follows:

Beekeeper means a person who owns or has charge of one (1) or more colonies of honeybees.

E) A new definition of “Colony” is hereby adopted to read as follows:

Colony means a hive and its equipment and appurtenances, including honeybees, comb and honey, pollen and brood including queens, workers, and drones.

F) A new definition of “Hive” is hereby adopted to read as follows:

Hive means a structure intended for the housing of a bee colony.

G) The definition of “Livestock” is repealed and a new definition is hereby adopted to read as follows:

Livestock means animals commonly raised or kept in an agricultural, rather than urban, environment, including but not limited to chickens, pigs, sheep, goats, horses, cattle, llamas, emus, ostriches, donkeys and mules. Poultry and beekeeping which meets the standards set forth under Article 6-4-900 if the Brighton Municipal Code shall not be considered the keeping of livestock animals as defined herein.

H) A new definition of “Poultry or domestic poultry” is hereby adopted to read as follows:

Poultry or domestic poultry means domesticated birds, at any stage, kept by a person at their place of occupancy for the purpose of harvesting eggs or meat.

Section 2. Section 6-4-40. **Penalty** of Chapter 6. **Animals** of the Brighton Municipal Code is repealed and reenacted to read as follows:

Sec. 6-4-40. Penalty.

Any violation of this Chapter shall be punishable, upon conviction, as provided in Article 1-24 of the Brighton Municipal Code, as the same may be amended.

Section 3. Section 6-4-200. **Vicious animal** of Chapter 6. **Animals** of the Brighton Municipal Code is amended by the adoption of a new subsection (e) to read as follows:

(e) The keeping of bees shall be in accordance with Section 6-4-900, **Urban Agriculture** of the Brighton Municipal Code, as the same shall be amended, and the provisions of this Division 3 of Article 6-4. shall not apply to the keeping of bees.

Section 4. Subsections 6-4-220(a)(1) and (c) **Nuisance animal** of Chapter 6. **Animals** of the Brighton Municipal Code are repealed and reenacted to read as follows:

(a)(1) Create a disturbance by loud and persistent or habitual barking, howling, yelping, clucking, calling or other unreasonable noise; or

- (c) For purposes of this Section, persons shall not be deemed to have provoked, incited or caused the howling, barking, clucking, calling or other unreasonable noise of an animal merely by the ordinary or reasonable use of private properties, public roadways, sidewalks or alleyways, or common areas of condominiums, townhouses or apartment buildings.

Section 5. Section 6-4-310. **Livestock unlawful except in specified zoning districts** of Chapter 6. **Animals** of the Brighton Municipal Code is repealed and reenacted to read as follows:

Section 6-4-310. Livestock unlawful except in specified zoning districts

It shall be unlawful for any person to own or have custody of any livestock except in a zoning district where such use is permitted in accordance with Chapter 17, Land Use and Development Code of the Brighton Municipal Code, or as permitted within Article 6-4-900, as the same may be amended from time to time.

Section 6. Section 6-4-320. **Guard dog** of Chapter 6. **Animals** of the Brighton Municipal Code is repealed and reenacted to read as follows:

Sec. 6-4-320. Guard dog.

It is unlawful to place or maintain a guard dog in any area for the protection of persons or property unless the following conditions are met:

- (1) It shall be under the complete control of a handler at all times; or
- (2) The dog shall be confined to an enclosed area adequate to ensure that it will not escape. The enclosure shall include a minimum seventy-two (72) inch chain link fence, with security arms and barbed wire turning in, or a ninety six (96) inch high chain link fence; and
- (3) Warning signs shall be conspicuously posted indicating the presence of a guard dog, and such signs shall plainly show a telephone number where some person responsible for controlling the guard dog can be reached at all times; and
- (4) The guard dog shall be kept on and used for protecting property developed and used as industrial, commercial, flood plain control, mineral extraction purposes or other public lands.

Section 7. Section 6-4-410. **Cleanliness of premises** of Chapter 6. **Animals** of the Brighton Municipal Code is amended by the addition of subsection (b)(1) to read as follows:

- (b)(1) Properties which are not connected to city sewer service and use an on-site wastewater treatment system for the disposal of their waste shall not use the toilet as a means for disposal of animal feces and disposal of animal waste and feces shall be in a covered, fly-tight container used for garbage.

Section 8. Section 6-4-440. **Accumulation of animals** of Chapter 6. **Animals** of the Brighton Municipal Code is repealed and reenacted to read as follows:

Sec. 6-4-440. Accumulation of animals.

- (a) Within the City limits, no person or household shall own or have custody of more than:
- (1) Four (4) dogs of more than four (4) months of age;
 - (2) Four (4) cats of more than four (4) months of age;

- (3) Four (4) rabbits of more than four (4) months of age; or
- (4) A total of four (4) dogs, cats, and/or rabbits of more than (4) months of age in any combination.

(b) In addition to the limits set forth above, no person or household shall own or have custody of more than ten (10) small animals such as guinea pigs, hamsters, caged birds or the like, more than four (4) months of age. Additional allowances for certain residential properties shall also be made for poultry and bee keeping as permitted in Sec. 6-4-900, as the same may be amended.

(c) If an owner or custodian who violates this Section has been convicted in the past two (2) years of possession or harboring of a vicious, aggressive or nuisance animal, the total number of animals permitted under this Section may be reduced by the Municipal Court to a total of two (2) animals in any combination.

(d) Unless otherwise specified in a Planned Unit Development (PUD) zone district, properties which are zoned for the keeping of livestock shall not exceed more than four (4) animals per acre. Properties which are smaller than five (5) acres shall not exceed more than one (1) animal per acre of land, and must have a minimum of one (1) acre of land to keep livestock.

Section 9. Chapter 6. **Animals** of the Brighton Municipal Code is amended by the addition of a new Division 10. **Urban Agriculture** related to the keeping of bees and specified poultry to read as follows:

Division 10

Urban Agriculture

Sec. 6-4-900. Urban agriculture and small animal husbandry

(a) **Purpose and Intent.** The purpose of these regulations is to permit limited small animal husbandry uses within urban residential environments. The regulations below are intended to permit poultry and beekeeping with reasonable limitations, while preventing negative impacts that may occur during large operations or poorly educated practices to maintain the health benefits of local and small scale food production.

(b) **Applicability.** The regulations below apply to single family detached properties where farming is not permitted by Chapter 17 Land Use and Development Code of the Brighton Municipal Code, as it may be amended. The regulations below shall not restrict farming uses already permitted within the Agricultural/Residential (A/R) and Agricultural Estate (A/E) zone districts or specific provisions of a Planned Unit Development (PUD) district which specifically permit agricultural uses with higher densities than what is contained within this Section.

(c) **Location.** In order to ensure adequate care and minimal negative impacts to surrounding property and property owners, the following regulations shall only apply to single family detached structures being used for residential purposes. Regulations and permits, as applicable, for urban agriculture may be permitted within City owned parks and open space properties as determined by the City of Brighton Parks and Recreation Department.

(d) **Use Consent.** The keeping of bees or poultry as provided in this Section may occur on properties zoned for and used as a single family detached property under the ownership of the person keeping the poultry or bees or by a tenant or occupant of the premises with the written consent or permission of the property owner, manager or person in control thereof, or the homeowner's association for any property located in a common-interest development. The required consent shall be obtained prior to establishing any use within these regulations. The written consent or permission by the property owner, manager, person in control thereof or the homeowner's association for a common interest development shall be kept available at the location of the bee or poultry keeping to be produced by the person keeping the poultry or bees or an occupant of the premises upon request of any officer or agent of the City. Nothing in this Subsection 6-4-900(D) shall be deemed to require the City's agents or officers to secure the required written permission of the owner, manager, person in control of the premises or homeowner's association, and it shall be the sole responsibility of the person keeping the bees or poultry or occupant of the premises to do so.

(e) **Use Regulations.**

(1) **Poultry Keeping.**

a. **Good practices required.** Poultry shall be properly kept by providing sufficient shelter for protection from weather and predators. The shelter shall be cleaned regularly to prevent infestation, disease, or rotten eggs and other disagreeable odors from emanating beyond the property line.

(i) Removal and disposal of poultry waste and feces shall be in accordance with Sections 6-4-400 and 6-4-410, as the same may be amended. No animal waste or feces shall be disposed of or allowed to enter into the sanitary sewer system without the prior written approval from the City Department of Utilities.

b. All shelters shall be located and maintained in accordance with the setback and height regulations for accessory structures for the applicable zone district in which the property is located. The construction, expansion or maintenance of structures and the installation of any heating or lighting elements shall be approved through the applicable building permit process.

c. Food and fresh water shall be provided and maintained for the poultry. Feed shall be stored and served within a building or structure in a rodent-proof container.

d. The slaughter of poultry shall be performed off-site or in a location shielded from public view. If performed on-site, the meat shall only be used for personal use, and all remains must be properly disposed of in a safe and sanitary manner and in accordance with Sections 6-4-410 and 6-4-430, as they may be amended, as they relate to disposal of waste.

e. **Number of animals.** In addition to the limits of domestic pets as provided in Section 6-4-440, as the same may be amended, a person may keep

up to six (6) domestic poultry in any combination of permitted types and species as listed in subsection f. below.

f. **Poultry type.** Only chickens and/or ducks shall be kept on properties for residential use as permitted under this Section 6-4-900, as it may be amended. Male chickens (roosters), turkeys, geese, guinea fowl, pheasants, peafowl, and large birds such as ostriches and emus shall be prohibited. Doves and pigeons caged outside of the residence shall also be considered poultry keeping and subject to the restrictions of this Section 6-4-900, as the same be amended from time to time. Doves and pigeons caged inside a residence shall be considered a household pet and shall meet the requirements set forth in Article 6-4-440(c), as the same may be amended.

(2) **Apiculture.**

a. **Good practices required.**

(i) Only the common honeybee (*apis mellifera*) may be kept and raised within City limits. The keeping of any other bee type is strictly prohibited within City limits.

(ii) Non-aggressive queens shall be selected for the generation of the colony. Any colony which exhibits unusual aggressive characteristics shall be re-queened.

(iii) The hive shall be built and designed for regular maintenance and upkeep. It shall have proper ventilation and be elevated off the ground to prevent swarming and weather damage.

(iv) Hives should be worked safely and at appropriate times according to the season and time of day, without the presence of neighbors and other public, and using the proper safety equipment.

(v) A convenient water source shall be provided for the hive(s). A clear path between the hive(s) and the water source shall be evident so that the honeybee flight path does not create a nuisance to persons or pets when entering and exiting the hive.

b. **Hive location.** All hives must be placed no closer than fifteen feet (15') from any property line, or public right-of-way, and must be located behind the front setback of the house. Optimal hive orientation and the installation of flyway may be used to reduce the setback requirement to a minimum of five feet (5') from the property line or public right-of-way. Said reduction shall be permitted if the following conditions are met:

(i) A flyway is provided between the hive and the property line(s) and/or public area which requires the bees to fly upward from the hive. At a minimum, the flyway shall consist of a solid wall, fence, dense vegetation or some combination thereof which is a minimum of six feet

(6') in height and extends a distance beyond the hive to properly direct the bee fly pattern. The flyway must be properly maintained and repaired to ensure functionality of the flyway. The City may require the relocation of the hive(s) including additional requirements or setbacks should evidence exist which indicates that the flyway does not shift the bee fly pattern above six feet (6') at the property line or public right-of-way.

(ii) The entrance to the hive shall be oriented to face towards the interior of the property with a minimum of a ten foot (10') clear path to deter contact with humans and domestic pets.

c. **Hive density.** The number of hives permitted for each beekeeper will be determined by the size of the property in which the hive(s) will be located, as follows:

(i) One-half acre (21,780 square feet) or less shall have a maximum of two hives;

(ii) More than one-half acre (21,780 square feet) but less than one acre (43,560 square feet) shall have no more than six hives;

(iii) One acre (43,560 square feet) or more shall have no more than eight hives.

Hives located on any property which maintains a minimum 200' setback from any property line or public right-of-way shall be exempt from the density limits listed above.

Section 10. Section 17-12-20. **Words, terms or phrases** of Article 17-12. **Definitions** of the Land Use and Development Code is amended as follows:

Section 17-12-20. **Words, terms or phrases.**

A) The definition of "*Animal, livestock*" is repealed and a new definition is hereby adopted to read as follows:

Animal, livestock or livestock. Animals commonly raised or kept in an agricultural, rather than urban, environment, including but not limited to chickens, pigs, sheep, goats, horses, cattle, llamas, emus, ostriches, donkeys and mules. Poultry and beekeeping which meets the standards set forth under Article 6-4-900 of the Brighton Municipal Code shall not be considered the keeping of livestock animals as defined herein.

B) The definition of "*Animal, pet or domesticated*" is repealed and a new definition is hereby adopted to read as follows:

Animal, pet or domesticated. Dogs, cats, rodents, birds, reptiles, fish, potbellied pigs weighing less than seventy (70) pounds and any other species of animal which is sold or retained as a household pet, but does not include skunks, nonhuman primates and other species of wild, exotic or carnivorous animals that may be further restricted by the

Brighton Municipal Code (BMC), or urban agriculture practices as further defined in section 6-4-900 of the BMC.

C) The definition of “*Barn*” is repealed and a new definition is hereby adopted to read as follows:

Barn. A detached farm building for storing grain or animal feed and housing farm animals. Enclosures for small animals such as poultry and rabbits or bee hives shall not be considered a barn.

D) The definition of “*Kennel*” is repealed and a new definition is adopted to read as follows:

Kennel. Any establishment or other place where one (1) or more animals, either temporarily or permanently, are bred, born, raised, boarded, trained, kept, sold or fed for money or any other consideration. Does not include feedlots or urban agriculture practices permitted within Article 6-4-900 of the *Brighton Municipal Code* (BMC).

E) The definition of “*Livestock*” is repealed in its entirety.

F) A new definition of “*Urban agriculture*” is hereby adopted to read as follows:

Urban agriculture. The practice of certain agricultural uses performed as an accessory use within single-family residential, park and open space properties as permitted and outlined in Article 6-4-900 of the *Brighton Municipal Code* (BMC).

Section 11. Section 17-16-240. **A/R – Agricultural/Residential** of Article 17-16. **Defining and Application of District Regulations** of the Land Use and Development Code is amended by the repeal of subsection (5) and the re-numbering of subsection (6) as (5), and (7) as (6).

Section 12. Section 17-16-250. **A/E – Agricultural Estate** of Article 17-16. **Defining and Application of District Regulations** of the Land Use and Development Code is amended by the repeal of subsection (5) and the re-numbering of subsection (6) as (5), and (7) as (6).

Section 13. Article 17-24. **Performance Standards** of the Land Use and Development Code is hereby amended by the repeal of Section 17-14-20 **Animals and household pets**. in its entirety; the repeal of Section 17-24-30. **Guard dogs**. in its entirety; and the re-numbering of the subsequent sections as follows:

Sec. 17-24-10	Accessory dwelling
Sec. 17-24-20	Home occupations
Sec. 17-24-30	Prohibiting offensive emissions
Sec. 17-24-40	Temporary sales stands
Sec. 17-24-50	Group homes
Sec. 17-24-60	Manufactured homes
Sec. 17-24-70	Crematoriums
Sec. 17-24-80	Tattoo and body piercing establishments

Section 14. Section 17-32-30. **Table of Uses** of Article 17-16. of the Land Use and Development Code is amended by the repeal of Apiculture (Beekeeping) as listed as an Accessory use; and adopts Urban Agriculture as an Accessory Use as follows:

Use Categories	Specific Uses	Zone Districts																											
		R E	R 1	R 1 A	R 1 B	R 2	R 3	M H	D T	M U N C	M U C	M U R / E C	P U D	S 4 C R	S 4 G W	C O	C 1	C 2	C 3	B P	I 1	I 2	M C	F C	P L	O P E N	A / R	A / E	
AGRICULTURAL USES																													
Agricultural Support Business and Services	Animal confinement operation												#										C		C		C	C	
	Grain elevator												#									X	X		C			C	C
	Veterinary clinic, livestock												#									X	X					C	C
Farming	Farm	C											#										C	C			X	X	
	Fish hatchery												#									X	X	C	C	C			
	Nursery and greenhouse, commercial											X	#						X		X	X						C	C
ACCESSORY USES																													
	Airport and airstrip	C										C	#								C				C	C		C	C
	Accessory building	X	X	X	X	X	X	X	X	X	X	X	#	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	Apiculture (beekeeping)												#															X	
	Barn or stable	X											#											C	C	C		X	X

X = Use by Right

C = Conditional Use

S = Special Use

T = Temporary Use

None = Prohibited

Use Categories	Specific Uses	Zone Districts																										
		R E	R 1	R 1 A	R 1 B	R 2	R 3	M H	D T	M U N C	M U C C	M U R / E C	P U D	S 4 C R	S 4 G W	C O	C 1	C 2	C 3	B P	I 1	I 2	M C	F C	P L	O P E N	A / R	A / E
ACCESSORY USES (Cont'd)																												
	Storage of gasoline, gasses or liquefied petroleum gases (in approved portable metal cylinder for use	C							C	C	C	X	#			C	C	C	X	X	X	X	X	C	X	C	X	X
	Urban Agriculture	X	X	X	X	X					X	X	#	X											X	X	X	X
TEMPORARY USES																												
	Auction, indoor (including livestock)												#								T	T	T	T	T	T	T	T
	Auction, indoor (not including livestock)							T		T	T	#				T	T	T	T	T	T	T	T	T	T	T	T	T
	Auction, outdoor (including livestock)											#									T	T	T	T	T	T	T	T
	Auction, outdoor (not including livestock)							T		T	T	#					T	T	T	T	T	T	T	T	T	T	T	T
	Automobile sale (up to 1.5 tons)							T		T	T	#					T	T	T	T	T	T	T	T	T	T		
X = Use by Right C = Conditional Use S = Special Use T = Temporary Use None = Prohibited																												

X = Use by Right

C = Conditional Use

S = Special Use

T = Temporary Use

None = Prohibited

17-32-23

Section 15. PURPOSE. The purpose of this Ordinance is to provide for the health, safety and welfare of the people.

Section 16. REPEAL. Existing or parts of ordinances covering the same matters as embraced in this Ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

Section 17. VALIDITY. If any part or parts of this Ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid.

Section 18. INTERPRETATION. This Ordinance shall be so interpreted and construed as to effectuate its general purpose.

INTRODUCED, PASSED ON FIRST READING AND ORDERED PUBLISHED THIS 3rd DAY OF March, 2015.

CITY OF BRIGHTON, COLORADO

Richard N. McLean, Mayor

ATTEST:

Natalie Hoel, City Clerk

APPROVED AS TO FORM:

Margaret R. Brubaker, City Attorney

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PASSED ON SECOND AND FINAL READING AND ORDERED PUBLISHED BY TITLE ONLY THIS 17th
DAY OF March, 2015.

CITY OF BRIGHTON, COLORADO

Richard N. McLean, Mayor

ATTEST:

Natalie Hoel, City Clerk

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