

**CITY OF DAPHNE, ALABAMA
ORDINANCE NUMBER 2018-05**

**AN ORDINANCE AMENDING SECTION 4-3 OF THE DAPHNE CODE OF ORDINANCES
AND PROVIDING STANDARDS FOR THE KEEPING OF DOMESTIC POULTRY IN THE
CITY OF DAPHNE**

WHEREAS, Section 4-3 of the Daphne Code of Ordinances provides that it is unlawful for any person to keep any fowl, including domestic poultry, within the city limits of the City of Daphne; and

WHEREAS, a Public Hearing was held during the City Council's regularly scheduled meeting of November 20, 2017, to discuss the possibility of allowing domestic poultry within the city limits of the City of Daphne; and

WHEREAS, the City Council has determined that a complete prohibition on the keeping of domestic poultry within the City is not in the best interests of the residents of the City; and

WHEREAS, the City Council desires to allow the keeping of domestic poultry in the City, subject to standards deemed necessary by the Council to protect the health, safety, and welfare of the residents of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, AS FOLLOWS:

SECTION I: Section 4-2 of the Daphne Code of Ordinances is hereby amended to add the following definitions:

Crowing Hen. A hen that crows like a rooster.

Domestic poultry. A common gallinaceous farm bird (*gallus domesticus*) raised for its edible eggs.

Hen. Female domestic poultry.

Henhouse. An enclosed structure designed for the purpose of keeping and securing hens.

Rooster. Male domestic poultry.

Run. A fenced enclosure that is connected to and/or surrounding a henhouse for the purpose of allowing hens to leave the coop while remaining in an enclosed environment.

SECTION II: Section 4-3(a)(1) of the Daphne Code of Ordinances, which currently reads as follows:

Sec. 4-3 – Livestock and fowl.

(a) *General Provisions.*

(1) *General prohibition.* It shall be unlawful for any person to keep any livestock or fowl within the city limits of the city.

is hereby amended to read as follows:

Sec. 4-3 – Livestock and fowl.

(a) *General Provisions.*

- (1) *General prohibition.* It shall be unlawful for any person to keep any livestock or fowl, except for hens as defined in Section 4.2 of this Chapter, within the city limits of the city.

SECTION III: Section 4-25 is hereby added to the Daphne Code of Ordinances to read as follows:

Sec. 4-25 – Keeping of hens.

(a) *Purpose.* The purpose of this section is to provide standards for the keeping of hens in single-family residential zones and limited institutional settings in the City of Daphne. It is intended to enable residents to keep a limited number of hens for non-commercial purposes, while establishing standards to limit the adverse impacts on neighboring properties, and ensuring the health and sanitation of the domestic poultry and related structures. It is also intended to enable educators to keep a limited number of hens on the premises of an institution of education for educational purposes.

(b) *General Requirements.* Domestic poultry may be kept in single-family residential zones and single family residential PUD (Planned Unit Development) districts in accordance with the following regulations:

- (1) It shall be unlawful for any resident to keep roosters, crowing hens, peafowl, or waterfowl within the city limits of the city.
- (2) Hens may be kept on all parcels in single-family residential zones having a minimum lot area of five thousand (5,000) square feet.
- (3) For parcels with a lot area of between five thousand (5,000) square feet and seven thousand seven hundred ninety-nine (7,799) square feet, residents may keep up to two (2) hens.
- (4) For parcels with a lot area of between seven thousand eight hundred (7,800) square feet and three (3) acres, residents may keep up to four (4) hens.
- (5) For parcels with a lot area in excess of three (3) acres, residents may keep up to eight (8) hens.
- (6) Residents shall not be eligible to keep hens on parcels in single-family residential zones that contain more than two (2) residential dwelling units or a non-conforming multifamily structure.
- (7) Hens shall be kept for personal use only. The selling of eggs or fertilizer or the breeding of hens is prohibited.
- (8) All hens shall be kept in a henhouse or run. Henhouses and runs shall be fenced and maintained in accordance with the design standards set forth in subsection (c) of this section. Hens may be allowed to roam freely in enclosed rear yards during daylight hours only.
- (9) It shall be unlawful for any domestic poultry to be at large within city limits.
- (10) It shall be unlawful for the owner, keeper, or custodian of any domestic poultry to allow the animal(s) to be a nuisance to any neighbor(s), including but not limited to noxious odors from the animals or related structure, associated rodent or pest infestation, particulate matter runoff, and noise of a loud and persistent and habitual nature. An officer of the City of Daphne

Animal Control Service, City of Daphne Code Enforcement, City of Daphne Police Department, or the Baldwin County Health Department shall determine whether or not a nuisance exists.

- (11) The slaughtering of hens in residential zones is prohibited.
- (12) The provisions of this section shall not be interpreted to supersede any covenant or deed restriction prohibiting the keeping of domestic poultry on a particular parcel that is subject to such covenant or deed restriction.
- (13) Up to eight (8) hens may be kept on the premises of any public or private school for educational purposes, subject to the requirements of this section.

The penalty for violation of any provision of this section shall be as specified in Section 4-21 of this Chapter for "Keeping prohibited fowl in city."

(c) *Requirements for Henhouses and Runs.*

(1) *Location.*

- a. The henhouse and run shall not be visible from any public right-of-way. On double frontage lots or corner lots, henhouses and runs shall not be allowed within thirty (30) feet of any public right-of-way.
- b. The henhouse and run shall be a minimum of ten (10) feet from any property line.
- c. The henhouse and run shall be a minimum of twenty-five (25) feet from the residence.
- d. For purposes of this section, an officer of the City of Daphne Code Enforcement shall determine whether or not a setback violation exists, and shall not be required to prove such a violation by a land survey. Any resident charged with a right-of-way setback violation under this section shall be entitled to rebut the officer's determination with a land survey or other suitable evidence.

(2) *Design Requirements.*

- a. The henhouse shall be enclosed on all sides and have a roof and access door that are able to be shut and secured. The henhouse shall be ventilated and impermeable to rodents, wild birds, and predators including raccoons, skunks, dogs, and cats. Any openings on the henhouse or the entire henhouse shall be elevated at least eighteen (18) inches above ground. Except for access doors, all other openings shall be sealed with rodent and predator-proof wire mesh with openings of one-quarter (1/4) inch or smaller.
- b. The henhouse shall be free-standing and accessible on all sides for cleaning and maintenance.
- c. The run shall be fully enclosed, including a roof, by a secured fence at all times. The fence must be at least (5) feet in height and no more than (6) feet in height. The fence shall be made of one-quarter (1/4) inch metal mesh hardware cloth and buried. Chicken wire shall not be permitted.
- d. The total area of the henhouse and run shall be at least of six (6) square feet per hen and the total area of the henhouse shall be at least of two (2)

square feet per hen. The total area of the run shall not exceed eighty (80) square feet and the total area of the henhouse shall not exceed thirty-six (36) square feet.

- e. Materials used for henhouses and runs shall be suitable for use in single-family residential zones. Prefabricated henhouses are allowed, provided they meet the specification for excluding rodents.
- f. The henhouse shall not exceed eight (8) feet in height at its tallest point.

(3) *Sanitation Requirements.*

- a. All henhouses and runs shall be kept and maintained in a clean and sanitary condition. All droppings shall be cleaned out at least once every week. Chicken pens shall be thoroughly cleaned with a standard disinfectant at least three (3) times yearly, once in each of the months of March, July and October. At all times, all hens shall have access to feed and clean liquid water.

SECTION IV: SEVERABILITY

The provisions of this Ordinance are severable. If any provision, section, paragraph, sentence, or part thereof shall be held to be unconstitutional or invalid, such decision shall not affect or impair the remainder of this Ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence, and part thereof separately and independently of each other.

SECTION V: EFFECTIVE DATE

This Ordinance shall become effective immediately and be in full force after final passage and publication as required by law.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THE 19TH DAY OF FEBRUARY, 2018.



Dane Haygood, Mayor

ATTEST:


Candace G. Antinarella, City Clerk