



CITY OF DUNWOODY

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MEMORANDUM

To: City of Dunwoody, Georgia – Mayor and City Council

From: Howard J. Koontz, City Planner

Date: March 8, 2010

Subject: Backyard Chicken Raising Ordinance Text Amendment

Dunwoody City Councilman Robert Wittenstein with the agreement of the Dunwoody Mayor & City Council has directed staff to review the current Zoning Ordinance as it relates to raising chickens in residential zoning districts. Specifically, staff has been asked to amend the ordinance to allow chickens to be kept and raised in backyards in single family residential districts.

At both the October 2009 and November 2009 work sessions, Council discussed backyard chicken raising, and staff presented a set of proposed regulations regarding the same. These proposals were drafted based on regulations and standards adopted by other jurisdictions both locally and nationally.

Staff has identified two chief concerns with allowing chicken raising in the single family residential districts of the city: the number of animals that will be permitted per lot, and the proximity of the chicken coops to neighboring, off-premise structures.

The answer to the first concern is to limit the number of chickens per lot. Staff believes it is appropriate to allow a maximum of no fewer than six (6) birds on any residential lot that is large enough to sustain chickens (10,000 square feet minimum). Staff has worked with Councilman Wittenstein to establish a scale of allowable chickens based on the size of the lot on which the birds are housed. Residential lots between 10,000 and 15,000 square feet would be entitled to raise six (6) chickens on the lot. Residential lots between 15,000 square feet and one acre (43,560 square feet) would be allowed up to eight (8) chickens. Residential lots larger than one (1) acre are permitted a maximum of eight (8) chickens per acre of land.

As an example, a homeowner with 1.38 acres would be entitled to raise eleven (11) birds ($8 \times 1.38 = 11.04$); a homeowner with 0.45 acres would be entitled to eight (8) on his/her property, and a homeowner with 12,000 square feet of lot area could raise six (6). Lots under 10,000 square feet in area are not permitted to house chickens. See §4-10.1(d) of the ordinance for further clarification.

To answer the second concern --proximity of coops to residential buildings-- staff proposes set-back requirements above and beyond what is currently required for customary accessory structures. Chicken coops would be required to be located in a rear yard only; cannot exist closer than thirty-five (35) feet to a rear property line, and shall be located no less than fifteen (15) from a side property line. This would compel the land owner to move the chicken coop closer toward the lot's primary structure, away from neighboring, off-premise structures.

All other contingencies associated with raising chickens, including security from predators and the prevention of nuisance pests, can be addressed by sound farming practices. These issues are dealt with via code language as well.

Dunwoody's chicken raising requirements will be added to Chapter 27, Article 4, §4-10.1 "Chickens in Single Family Residence Districts". The text of the amendment is proposed to read as follows:

(a) *Purpose and intent.* The purpose and intent of the City Council in enacting the following regulations is to allow Dunwoody citizens the right to raise backyard chickens in all single family residential zoning districts in the City of Dunwoody. Further, the City Council finds it appropriate to regulate backyard chicken raising in the manner presented in this section, so as to be permissive enough to easily allow citizens to keep chickens on their property, but restrictive enough to protect the interests of neighboring residents from unnecessary noise and odor and the invitation of rodents, wild birds and predatory animals to the property. Additionally, these regulations are intended to ensure the humane treatment of animals.

(b) Roosters and crowing hens are prohibited in the City of Dunwoody.

(c) Maximum number of chickens allowed per residential lot:

- 1) Lots between 10,000 and 15,000 square feet – six (6) chickens
- 2) 15,001 square feet up to one (1) acre – eight (8) chickens
- 3) Lots over one (1) acre – eight (8) chickens per acre of lot size.

No chickens may be kept on lots under 10,000 square feet.

(d) Each lot owner shall be required to apply for and obtain a permit for housing of chickens from the City Community Development Department. As part of the application, the lot owner shall provide the City with proof of purchase or construction of a coop as dictated by this section and pursuant to industry standards. Prior to obtaining a permit, the City shall inspect the applicant's lot for compliance with the City Code and this section, and the issuance of the permit shall grant the right to a City Code Enforcement Officer to enter onto applicant's lot at any time to investigate any chicken-related complaints.

(e) *Chicken Coops.*

- 1) Coops shall not exceed six (6) feet in height above grade and must allow for a footprint of at least two (2) square feet per chicken housed in the coop. The maximum single coop footprint size is forty (40) square feet.
- 2) Coops must be kept clean, sanitary and free from standing water at all times. Coops shall be designed and maintained in such a way as to be impermeable to rodents, wild

birds, and predators, including, but not limited to, cats, coyotes, dogs, raccoons and skunks.

- 3) Coops must be located in the rear yard of the lot.
 - 4) Coops must be setback no less than thirty-five (35) feet from the rear property line and no less than fifteen (15) feet from side property lines.
- (f) Feed and any other food source provided to the chickens shall be stored in predator-proof containers.
- (g) When not in the coop, chickens must be supervised by the owner or agent thereof. When no humans are immediately present and supervising the chickens, they shall be kept securely within the predator-proof coop.
- (h) Failure of lot owner to abide by all the applicable regulations of this section, the City of Dunwoody Code of Ordinances, or any state or federal law regarding chicken-raising and/or coops, shall be a violation of City Ordinances punishable pursuant to Chapter 1-3-1(a) of the City of Dunwoody Code of Ordinances.
- (i) If the provisions of this section conflict with any other provisions of the City of Dunwoody Code of Ordinances, the provisions contained in this section shall control.

At their regularly scheduled January meeting, the Community Council heard and discussed the item. The Council members heard from and interacted with several interested Dunwoody citizens, some who spoke in favor the text amendment, and some who spoke against the proposal. The Council discussed among themselves several aspects of the proposed text amendment. Some specific changes the Council noted for consideration are:

- a. Revising the scale of the allowable number of birds per lot. An alternative proposal was introduced to read as follows: residential lots from 0 – 10,000 square feet would be allowed to have six (6) chickens; residential lots between 10,001 square feet and one (1) acre would be allowed eight (8) chickens per square lot; and lots of one (1) acre or more would be allowed eight (8) chickens per acre. See part ‘c’ above.
- b. Other proposals mentioned allowed increasing allowable coop height to eight (8) feet above grade instead of six (6) feet. See ‘e-1’ above.
- c. Another proposal for revision would mandate setbacks not from property lines, but from off-premise residential structures. See part ‘e-4’ above.

Page Olson moved to approve the text amendment with the stipulation that the Mayor and City Council consider the above conditions. Austin Kearney seconded. The motion was voted and failed to carry (2-3). The Community Council members in attendance voting against the measure stated they had spoken to citizens in advance of the January meeting, and do not feel chickens should be allowable in Dunwoody.

At their regularly scheduled February meeting, the Planning Commission met to discuss the item at a duly advertised Public Hearing. The Planning Commission heard discussion and viewed a PowerPoint presentation created by several citizens in favor of the amendment. Additional comments were made by others supporting the text amendment. Two citizens spoke against the text

amendment. The Planning Commission discussed the amendment among themselves and asked staff and audience members questions about specifics in the proposed ordinance.

Bob Lundsten moved to approve the proposed ordinance as written, and Bill Grossman seconded. The motion was voted and carried 7-0.

Community Development staff supports the proposed text amendment, as presented.

**AN ORDINANCE OF THE CITY OF DUNWOODY AMENDING CHAPTER 27
(ZONING ORDINANCE) TO ESTABLISH REGULATIONS FOR BACKYARD
CHICKEN RAISING IN SINGLE FAMILY RESIDENTIAL DISTRICTS**

WHEREAS, the City of Dunwoody is charged with providing for the health, safety and welfare of the citizens of the City; and

WHEREAS, allowing raising of chickens in backyards of single family residences may provide certain benefits for the homeowners and community as a whole, such as availability of fresh eggs, as well as provide educational benefits on raising as pets said chickens for children in the community; and

WHEREAS, in order to preserve the health, safety and welfare of the City, certain regulations must be imposed on chicken raising in order to prevent excessive noise, odor, disease or potential predators; and

WHEREAS, the first read of this ordinance occurred on March 8, 2010 and a properly advertised public hearing and second read of this ordinance occurred on March 22, 2010.

THEREFORE, THE MAYOR AND COUNCIL FOR THE CITY OF DUNWOODY HEREBY ORDAIN AS FOLLOWS:

Section 1: Chapter 27 (Zoning Ordinance) of the City of Dunwoody Code of Ordinances shall be amended to add a definition of the term “coop” to Article I, Section 1-17 to read as follows:

“coop” means an enclosure, cage or pen, usually with bars or wires, in which chickens are traditionally confined.

Section 2: Chapter 27 of the City of Dunwoody Code of Ordinances shall be amended by adding the following accessory use to Article II, Sections 2C-4(c), 2D-4(c), 2E-4(c), 2F-4(c), 2F(1)-4(c), 2F(2)-4(c), 2G-4(b), and 2H-2(a)(4):

“Coops for chicken raising (subject to additional regulations in Section 4-10.1).”

Section 3: Chapter 27 of the City of Dunwoody Code of Ordinances shall be amended by adding a new provision to Article IV, designated as Section 4-10.1, to read as follows:

Sec. 4-10.1. Chickens in Single Family Residential Districts.

(a) *Purpose and Intent.* The purpose and intent of the City Council in enacting the following regulations is to allow Dunwoody citizens the right to raise backyard chickens in single family residential zoning districts in the City of Dunwoody. Further, the City Council finds it appropriate to regulate backyard chicken raising in the manner presented in this section, so as to be permissive enough to easily

allow citizens to keep chickens on their property, but restrictive enough to protect the interests of neighboring residents from unnecessary noise and odor and the invitation of rodents, wild birds and predatory animals to the property. Additionally, these regulations are intended to ensure the humane treatment of animals.

- (b) Roosters and crowing hens are prohibited.
- (c) The Maximum number of chickens allowed per residential lot is as follows:
 - (1) Lots between 10,000 and 15,000 square feet – no more than six (6) chickens total.
 - (2) Lots 15,001 square feet up to one (1) acre – no more than eight (8) chickens.
 - (3) Lots over one (1) acre – eight (8) chickens per acre of lot size.

No chickens may be kept on lots under 10,000 square feet.

- (d) Each lot owner shall be required to apply for and obtain a permit for housing of chickens from the City Community Development Department. As part of the application, the lot owner shall provide the City with documentation that the proposed or existing coop will be in compliance with this ordinance. Prior to obtaining a permit, the City shall inspect the applicant's lot for compliance with the City Code and this section, and the issuance of the permit shall grant the right to a City Code Enforcement Officer to enter onto applicant's lot at any time to investigate any chicken-related complaints.

- (e) *Chicken Coops.*

- (1) Coops shall not exceed six (6) feet in height above grade and must allow for a footprint of at least two (2) square feet per chicken housed in the coop. The Maximum single coop footprint size is forty (40) square feet.
- (2) Coops must be kept clean, sanitary and free from standing water at all times. Coops shall be designed and maintained in such a way as to be impermeable to rodents, wild birds, and predators, including, but not limited to, cats coyotes, dogs, raccoons and skunks.
- (3) Coops must be located in the rear yard of the lot.
- (4) Coops must be setback at least thirty-five (35) feet from the nearest property line and no less than fifteen (15) feet from side property lines.

- (f) Feed and any other food sources provided to the chickens shall be stored in predator-proof containers.
- (g) When not in the coop, chickens must be supervised by the owner or agent thereof. When no humans are immediately present and supervising the chickens, they shall be kept securely within the predator-proof coop.
- (h) Failure of lot owner to abide by all the applicable regulations of this section, the City of Dunwoody Code of Ordinances or any state or federal law regarding chicken-raising and/or coops shall be a violation of City Ordinances punishable pursuant to Chapter 1-3-1(a) of the City of Dunwoody Code of Ordinances.
- (i) If the provisions of this section conflict with any other provisions of the City of Dunwoody Code of Ordinances, the provisions contained in this section shall control.

Section 4: This Amendment shall become effective immediately upon its adoption by the City Council, and incorporated into the Code of the City of Dunwoody, Georgia. This Amendment hereby repeals any and all conflicting ordinances and amendments.

SO ORDAINED, this ___ day of _____, 2010.

Approved:

Ken Wright, Mayor

ATTEST:

Approved as to Form and Content:

Sharon Lowery, City Clerk
(Seal)

Brian Anderson, City Attorney