

MEMORANDUM

To: Mayor and City Council
From: Steve Foote, AICP
Community Development
Date: May 8, 2017
Subject: Text Amendment 1st Read - Keeping & Raising Backyard Chickens

Background. In 2009 the Dunwoody City Council directed staff to review the Zoning Ordinance as it related to raising chickens in residential zoning districts. Specifically, staff was asked to amend the ordinance to allow chickens to be kept and raised in backyards in single family residential districts. Following discussions with Council, staff prepared a draft amendment to the Zoning Ordinance that would allow backyard chickens. The proposal was based on regulations and standards adopted by other jurisdictions both locally and nationally.

At their regularly scheduled February 2010 meeting, the Planning Commission met to discuss the item. 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.

The proposed amendments were not adopted by the Council.

Discussion. The subject of backyard chickens was discussed at the Council's February 2017 retreat and Council subsequently requested that the subject be reconsidered. In response, staff located the original amendment and reviewed the proposal. Limited research was also performed into the subject matter, all of which resulted in minor edits and additions to the 2009 ordinance. The attached proposal to allow the keeping and raising of chickens on single family zoned lots incorporates current staff comments. The Planning Commission during their meeting of April 12, 2017 recommended approval of the text amendment with several changes. Those changes have also been incorporated into the attached draft.

Staff has clarified that the maximum number of chickens allowed on any residential lot is eight (8). The requirement that coops be located in the rear yard was retained, but setbacks have been modified. Staff has also included additional regulations for the provision of 'run' areas and setbacks thereto.

Dunwoody's chicken raising requirements will be added to Chapter 27, Article 3, Division 3 Accessory Uses, Section 176 "Chickens in Single Family Residence Districts". The text of the amendment is attached for review. Changes are shown from the 2009 proposal.

RECOMMENDATION

Staff recommends approval of the text amendment to allow the raising and keeping of backyard chickens.

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 the entire community such as the 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 May ____, 2017 and a properly advertised public hearing and second read of this ordinance occurred on May ____, 2017.

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

Section 1: Chapter 27 (Zoning Ordinance), Article III (Use and Use-Specific Regulations), Division 3 (Accessory Uses) of the City of Dunwoody Code of Ordinances shall be amended as follows:

ARTICLE III. USE AND USE-SPECIFIC REGULATIONS

....
....

DIVISION 3. ACCESSORY USES

....

~~Secs. 27-176--27-185. Reserved.~~

Sec. 27-176. Chickens in Single Family Residence 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 keep and 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, 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) *Prior Authorization.*

- (1) The Community Development Director or their designee shall develop an application form and determine the submittal requirements for the review of these requests. A person seeking to keep and raise chickens on a single-family property shall first submit a complete application to the Community Development Department.
- (2) In order to obtain zoning approval, persons keeping chickens must show that they can meet the requirements of this Ordinance by providing a sketch site plan showing the property with dimensions and the location of existing and required structures. The City may conduct site inspections of the subject property to make compliance determinations under this Ordinance prior to and after zoning approval. The Community Development Director is authorized to approve or disapprove an application if he/she determines that the application fails to meet the requirements of this Ordinance.
- (3) Prior to obtaining zoning approval, the City may inspect the applicant's lot for compliance with City Codes and zoning approval 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 or concerns.
- (4) This Ordinance does not authorize persons to violate applicable restrictive covenants and/or homeowners' association rules and regulations. Persons applying for and receiving zoning approval under this Ordinance are solely responsible for compliance with all applicable restrictive covenants and homeowners' association rules and regulations.
- (5) Zoning approval for the keeping and raising of chickens shall be granted to the applicant only and shall not transfer to any future occupant or property owner.

(c) General regulations.

- (1) For the purposes of this section:
 - i. the term "coop" means an enclosure, cage or pen, usually with bars or wires, in which chickens are traditionally confined; and
 - ii. the term "chicken" refers to female chickens only (i.e., hens). The keeping and raising roosters, crowing hens, ducks, geese, turkeys and other poultry or fowl are prohibited in the City of Dunwoody.
- (2) Feed and any other food source provided to the chickens shall be stored in predator-proof containers.
- (3) Every person who owns, controls, keeps, maintains or harbors chickens must keep them confined on the premises at all times within a chicken coop or chicken run unless a person is supervising the chickens within the confines of a fenced rear yard on the same premises as the coop. After a person has completed the personal interaction and supervision of chickens within the confines of the fenced rear yard, the chickens shall be returned to the coop or run enclosure.
- (4) Chickens shall be kept for personal use only. Selling chickens, eggs, or chicken manure, or the breeding of chickens for commercial purposes is prohibited.
- (5) The construction of chicken coops and runs shall comply with all applicable building codes.
- (6) Maximum number of chickens allowed per residential lot:
 - i. Lots between 10,000 and 15,000 square feet – up to six (6) chickens;
 - ii. Lots over 15,000 square feet – up to eight (8) chickens; and
 - iii. No more than eight (8) chickens shall be kept on any lot in the City of Dunwoody.

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

(d) Requirements for Chicken Coops and Enclosures/Runs.

- (1) Chickens shall be securely housed in coops and provided with runs.
- (2) 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. The minimum ground space required per chicken in a run is five (5) sq. ft.

- (3) Coops and runs must be kept clean, sanitary and free from standing water at all times. Coops and runs shall be constructed, designed and maintained in such a way as to be impermeable to and free of rodents, vermin, wild birds, and predators, including, but not limited to, cats, coyotes, dogs, raccoons and skunks.
- (4) Coops and runs must be located in the rear yard of the lot.
- (5) Coops and runs must be setback no less than twenty (20) feet from the rear property line and no less than fifteen (15) feet from side property lines. Coops and runs must be a minimum of 20 feet from corner side lot lines.
- (6) The maximum size of the total coop and run area shall be one hundred (100) square feet. Mobile coops shall be prohibited unless properly anchored to the satisfaction of the Building Official or his/her designee.
- (7) Nothing in this section shall prevent construction of a coop or pen that abuts the applicant's house.
- (8) Runs must be situated on a well-drained area that allows the chickens to have access to dry ground at all times. Feces shall be removed and disposed of, composted or land applied in a manner to avoid odor.
- (9) As provided for herein, the keeping of chickens is not considered an 'agricultural' activity.

(e) Health, sanitation and nuisance as applied to the keeping of chickens.

- (1) Chickens shall be kept within a coop and run. No person shall release or set any chicken free from such coop or enclosure except as set forth in section (c)(3), above. Chickens shall not be permitted to trespass on neighboring properties.
- (2) Chicken coops and runs shall be maintained in a clean and sanitary condition at all times. Chickens shall not be permitted to create a nuisance consisting of odor, noise or pests, or contribute to any other nuisance condition on-site or on adjacent property.

**STATE OF GEORGIA
CITY OF DUNWOODY**

ORDINANCE 2017-XX-XX

(f) Violations.

- (1) Failure of the applicant 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 the City of Dunwoody Code of Ordinances.
- (2) The applicant and/or property owner shall be jointly responsible for compliance with all provisions of this Section.
- (3) No person convicted as a repeat violator of subsections (a)–(e) of this Ordinance will be permitted to, or continue to, keep chickens on their premises.
- (4) 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.

Secs. 27-177 – 27-185. – Reserved.

Section 2: 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 _____, 2017.

Approved:

Denis L. Shortal, Mayor

**ATTEST:
Content:**

Approved as to Form and

Sharon Lowery, City Clerk

Office of City Attorney

Draft Ordinance Dunwoody text amendment
Chickens in single family residential zoning

Chapter 27, Article ~~III~~4, ~~Division 3 Accessory Uses, Section 176-§4-10.1~~ "Chickens in Single Family Residence 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 keep and 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) *Prior Authorization.*

- (1) The Community Development Director or their designee shall develop an application form and determine the submittal requirements for the review of these requests. A person seeking to keep and raise chickens on a single family property shall first submit a complete application to the Community Development Department.
- (2) In order to obtain zoning approval, persons keeping chickens must show that they can meet the requirements of this Ordinance by providing a sketch site plan showing the property with dimensions and the location of existing and required structures. The City may conduct site inspections of the subject property to make compliance determinations under this Ordinance prior to and after zoning approval. The Community Development Director is authorized to approve or disapprove an application if he/she determines that the application fails to meet the requirements of this Ordinance.
- (3) ~~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 zoning approval, the City ~~shall~~may inspect the applicant's lot for compliance with ~~the City Codes and this section,~~ and zoning approval ~~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 or concerns.

Draft Ordinance Dunwoody text amendment
Chickens in single family residential zoning

(4) This Ordinance does not authorize persons to violate applicable restrictive covenants and/or homeowners' association rules and regulations. Persons applying for and receiving zoning approval under this Ordinance are solely responsible for compliance with all applicable restrictive covenants and homeowners' association rules and regulations.

(5) Zoning approval for the keeping and raising of chickens shall be granted to the applicant only and shall not transfer to any future occupant or property owner.

(c) General regulations.

(1) For the purposes of this section:

i. the term "coop" means an enclosure, cage or pen, usually with bars or wires, in which chickens are traditionally confined; and

ii. the term "chicken" refers to female chickens only (i.e., hens). The keeping and raising of ~~R~~roosters, ~~and~~ crowing hens, ducks, geese, turkeys and other poultry or fowl are prohibited in the City of Dunwoody.

~~(1)~~(2) Feed and any other food source provided to the chickens shall be stored in predator-proof containers.

(3) Every person who owns, controls, keeps, maintains or harbors chickens must keep them confined on the premises at all times within a chicken coop or chicken run unless a person is supervising the chickens within the confines of a fenced rear yard on the same premises as the coop. After a person has completed the personal interaction and supervision of chickens within the confines of the fenced rear yard, the chickens shall be returned to the coop or run enclosure.

~~(2) 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.~~

(4) Chickens shall be kept for personal use only. Selling chickens, eggs, or chicken manure, or the breeding of chickens for commercial purposes is prohibited.

~~(3) Chickens shall not be slaughtered on premises.~~

(5) The construction of chicken coops and runs shall comply with all applicable building codes.

~~(e)~~(6) Maximum number of chickens allowed per residential lot:

Draft Ordinance Dunwoody text amendment
Chickens in single family residential zoning

- i. Lots between 10,000 and 15,000 square feet – up to six (6) chickens
- ii. Lots over 15,000± square feet ~~up to one (1) acre~~ – up to eight (8) chickens
- iii. No more than eight (8) chickens shall be kept on any lot in the City of Dunwoody.
- iii. ~~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.

~~(4) 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.~~

(d) Requirements for Chicken Coops and Enclosures/Runs.

(1) Chickens shall be securely housed in coops and provided with runs.

~~1)2)~~ 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. The minimum ground space required per chicken in a run is five (5) sq. ft.

~~2)3)~~ Coops and runs must be kept clean, sanitary and free from standing water at all times. Coops and runs shall be constructed, designed and maintained in such a way as to be impermeable to and free of rodents, vermin, wild birds, and predators, including, but not limited to, cats, coyotes, dogs, raccoons and skunks.

~~3)4)~~ Coops and runs must be located in the rear yard of the lot.

~~4)5)~~ Coops and runs must be setback no less than ~~twenty~~ ~~thirty five~~ (20)35) feet from the rear property line and no less than fifteen (15) feet from side property lines. Coops and runs must be a minimum of 20 feet from corner side lot lines.

(6) The maximum size of the total coop and run area shall be one hundred (100) square feet. Mobile coops shall be prohibited unless properly anchored to the satisfaction of the Building Official or his/her designee.

(7) Nothing in this section shall prevent construction of a coop or pen that abuts the applicant's house.

(8) Runs must be situated on a well-drained area that allows the chickens to have access to dry ground at all times. Feces shall be removed and disposed of, composted or land applied in a manner to avoid odor.

~~5)9)~~ As provided for herein, the keeping of chickens is not considered an 'agricultural' activity.

(e) Health, sanitation and nuisance as applied to the keeping of chickens.

Draft Ordinance Dunwoody text amendment
Chickens in single family residential zoning

(1) Chickens shall be kept within a coop and run. No person shall release or set any chicken free from such coop or enclosure except as set forth in section (c)(3), above. Chickens shall not be permitted to trespass on neighboring properties.

(2) Chicken coops and runs shall be maintained in a clean and sanitary condition at all times. Chickens shall not be permitted to create a nuisance consisting of odor, noise or pests, or contribute to any other nuisance condition on-site or on adjacent property.

(f) Violations.

~~1.~~(1) Failure of ~~lot owner~~ the applicant 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.

~~2.~~(2) The applicant and/or property owner shall be jointly responsible for compliance with all provisions of this Section.

(3) No person convicted as a repeat violator of subsections (a) – (e) ~~A. through E.~~ of this Ordinance ~~may~~ will be permitted to, or continue to, keep chickens on their premises.

(4) 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.

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.

STATE OF GEORGIA
CITY OF DUNWOODY

ORDINANCE 2010-XX-XX

- (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