

BOARD OF COUNTY COMMISSIONERS

DATE: December 20, 2011

AGENDA ITEM NO. 36

Consent Agenda

Regular Agenda

Public Hearing

County Administrator's Signature:

Subject:

Proposed Amendments to Chapter 138, the Zoning Provisions, of the Pinellas County Land Development Code, Regarding Residential Zoning Districts in which the Keeping of Chickens is Permitted (Second Hearing)

Department:

Planning Department

Staff Member Responsible:

Larry Arrington, Director

Recommended Action:

I RECOMMEND THAT THE BOARD CONDUCT A PUBLIC HEARING AND ADOPT THE ORDINANCE AMENDING CHAPTER 138 OF THE LAND DEVELOPMENT CODE

Summary Explanation/Background:

The keeping of chickens (and other livestock, fowl, etc.), is currently allowed in the Agricultural Estate (A-E), Estate (E-1), and Residential Rural (RR) zoning districts, when the chickens/livestock are being kept for personal (not commercial) use. The keeping of livestock/chickens for commercial purposes is currently allowed in the A-E district as a conditional use. The A-E, E-1, and RR zoning districts generally represent the more rural, larger-lot sized, zoning districts.

The proposed Ordinance would expand the number of zoning districts where the keeping of chickens would be a permitted use to now include more urban/suburban residential zoning districts (i.e., zoning districts R-1 through R-6). It would not allow chickens to be kept in multi-family districts, nor would it allow for the keeping of ducks, geese, etc., in the R-1 through R-6 districts.

In order to address any neighborhood compatibility issues associated with keeping chickens in an urban setting, the Ordinance proposes to limit the number of chickens to 4, and requires, among other things, that they be kept in a secure coop and enclosure that is screened from the neighbors. The limit on the number of chickens, as well as the other requirements and restrictions proposed in the Ordinance are based on staff research on neighboring municipalities, other Counties, technical publications and publications from groups that support the keeping of "backyard chickens" as part of a sustainable lifestyle.

The Local Planning Agency reviewed the proposed Ordinance at their November 10, 2011, public hearing, and recommended adoption (see attached staff report). As the Ordinance impacts the list of permitted uses in the Zoning Code, two public hearings by the Board are required in order for it to be adopted. The Board conducted its first public hearing on December 6, 2011. As a result of that hearing, staff has revised some sentence construction, and clarified that only female chickens (i.e, hens) would be permitted in the R-1 through R-6 zoning districts.

Fiscal Impact/Cost/Revenue Summary:

NA

Exhibits/Attachments Attached:

Staff Report with November 10, 2011, Local Planning Agency Recommendation
Proposed Ordinance (strike-through and underline versions)

**LOCAL PLANNING AGENCY (LPA) RECOMMENDATION to the
Board of County Commissioners**



REGARDING: Proposed Amendments to the Pinellas County Land Development Code amending the Zoning Provisions of Chapter 138 relating to the keeping of Chickens in certain Zoning Districts

LPA Recommendation: The LPA finds that the proposed Ordinance amending the Zoning Provisions of Chapter 138 of the Pinellas County Land Development regarding keeping of chickens in certain zoning districts is consistent with the Pinellas County Comprehensive Plan, and recommends that the amendment be approved. (The vote was 6-1, in favor)

LPA Report No. LPA-28-11-11

LPA Public Hearing Date: November 10, 2011

PLANNING STAFF RECOMMENDATION: That the proposed amendments to Chapter 138, the Zoning Provisions, of the Pinellas County Land Development Code are consistent with the Pinellas County Comprehensive Plan, and that the Board of County Commissioners therefore conduct the required two public hearings and approve the proposed amendments.

Staff Discussion and Analysis

At the request of the Board of County Commissioners, staff has reviewed the County's regulations regarding the keeping of "backyard" chickens with the intent of broadening the number of districts in which chickens are allowed to be kept.

Currently, chickens (and other livestock, fowl, etc.), are allowed in the Agricultural Estate (A-E), Estate (E-1), and Residential Rural (RR) zoning districts, if the chickens/livestock are being kept for personal (not commercial) use. The keeping of livestock/chickens for commercial purposes is currently allowed in the A-E district, but as a conditional use. The A-E, E-1, and RR zoning districts generally represent the more rural, larger-lot sized, zoning districts.

The proposed Ordinance would expand the number of zoning districts where the keeping of chickens would be a permitted use to now include the more urban/suburban residential zoning districts (i.e., zoning districts R-1 through R-6). It would not allow chickens to be kept in multi-family districts, nor would it allow for the keeping of ducks, geese, etc., in the R-1 through R-6 districts.

In order to address any neighborhood compatibility issues associated with keeping chickens in an urban setting, the Ordinance proposes to limit the number of chickens to 4 on a single family property, and requires, among other things, that they be kept in a secure coop and enclosure that is screened from the neighbors. The limit on the number of chickens, as well as the other

requirements and restrictions proposed in the Ordinance are based on staff research on neighboring municipalities, other Counties, technical publications and publications from groups that support the keeping of "backyard chickens" as part of a sustainable lifestyle.

Staff believes that the criteria in the proposed Ordinance, particularly the limit on the number of chickens, would address nuisance concerns such as odors, as well as the potential for environmental impacts associated with accumulated waste.

As the Ordinance impacts the list of permitted uses in the Zoning Code, two public hearings by the Board are required for final action.

**IMPLEMENTATION OF
THE PINELLAS COUNTY COMPREHENSIVE PLAN**

Staff finds that the proposed amendments to the Land Development Code are consistent with the following goal, objective, and policies of the Pinellas County's Comprehensive Plan:

Future Land Use and quality Communities Element:

- Objective 1.2 Establish development regulations that respond to the challenges of a mature urban county with established communities that are experiencing infill development and redevelopment activity.

- Policy 1.9.1 The Board shall continue to utilize its innovative development regulations and staff shall continue to examine innovative techniques used elsewhere for incorporation into the Board's planning and regulatory program.

Natural Resource Conservation and Management Element:

GOAL SEVEN: PINELLAS COUNTY WILL BE A LEADER IN ENVIRONMENTALLY SUSTAINABLE GOVERNMENT OPERATIONS, A PROPONENT OF SMART AND SUSTAINABLE GROWTH MANAGEMENT PRACTICES AND WILL HAVE A STRONG ECONOMY SUPPORTED BY SOUND ENVIRONMENTAL PRINCIPLES, PROGRAMS AND PRACTICES.

- Policy 7.1.10 Pinellas County will continue to work in partnership with its citizens, neighboring governments, developers, businesses, educators and agencies to achieve a sustainable future, and will collaborate locally, regionally and nationally to identify innovative opportunities and ideas for consideration.

STRIKE-THROUGH/UNDERLINE
Version of the Ordinance

ORDINANCE 11-__

AN ORDINANCE OF THE COUNTY OF PINELLAS, AMENDING CHAPTER 138 OF THE PINELLAS COUNTY LAND DEVELOPMENT CODE TO ADDRESS THE KEEPING OF CHICKENS WITHIN CERTAIN RESIDENTIAL ZONES; AMENDING SECTION 138-1, DEFINITIONS; CREATING SECTION 138-1348 REGARDING THE KEEPING OF CHICKENS; PROVIDING FOR OTHER MODIFICATIONS THAT MAY ARISE FROM REVIEW OF THIS ORDINANCE AT THE PUBLIC HEARING AND/OR WITH RESPONSIBLE PARTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the concept of local sustainability has inspired an interest in backyard food production; and

WHEREAS, currently the Pinellas County zoning code allows for farm animals and poultry in certain low density/rural residential districts, but not in the urban environment; and

WHEREAS, many communities around the Country have been exploring how to compatibly integrate backyard chickens into the urban residential setting; and

WHEREAS, chickens are social not solitary animals, can make good pets, and findings indicate that 3 to 4 chickens are sufficient to meet the needs of the average family's egg consumption; and

WHEREAS, Pinellas County is uniquely built-out and of a density such that special attention to how chickens can be successfully integrated into residential neighborhoods is required; and

WHEREAS, the findings and recommendations of the Local Planning Agency have been considered.

NOW THEREFORE BE IT ORDAINED, on this _____ day of December, 2011, by the Board of County Commissioners of Pinellas County, Florida, that:

SECTION 1. Purpose and Intent

The purpose of this ordinance is to provide appropriate standards and regulations for keeping chickens for non-commercial purposes within an urban residential environment. The ordinance establishes standards and limitations so as to avoid adverse impacts on neighboring properties and residents, and to provide for the health and safety of the chickens.

SECTION 2. Section 138-1 of Chapter 138, the Zoning Provisions, is amended by adding the following definitions to the *Definitions and Rules of Construction*:

Chicken – for the purpose of this code, a chicken refers to *Gallus domesticus*.

Coop – the covered house, structure or room that is required in order to provide chickens with shelter from the weather and with a roosting area protected from predators.

Chicken enclosure – means a fenced (or wire) area, or pen, required in association with a coop in order to provide an outside exercise area for chickens free from predators, and of a size that allows for access to a foraging area, sunlight, etc.

Repeat violation – shall mean a violation of a provision of a code or ordinance by a person who has been previously found, through a code enforcement special magistrate or any other quasi-judicial or judicial process, to have violated, or who has admitted violating, the same provision within five years prior to the violation, notwithstanding that the violations may occur at different locations. For the purposes of this definition, a plea of "No Contest" or "Nolo Contendere" shall be deemed an admission of a violation.

SECTION 3. Chapter 138, the Zoning Provisions, is amended by adding Section 138-1348, Chickens, to read as follows:

Sec. 138-1348. - Chickens

(a) General Conditions for the keeping of chickens in the R-1 through R-6 zoning districts.

1. For the purposes of this Section of the Code, the term “chicken” refers to female chickens only (i.e., hens).
2. Up to 4 chickens may be kept within an occupied single family property located in the R-1, R-2, R-3, R-4, and R-6 zoning districts. Chickens may be kept within manufactured home subdivisions, but not on duplex, triplex or multifamily properties, or within mobile home/manufactured home parks.
3. Chickens must be kept within the coop or enclosure at all times.
4. Ducks, geese, turkeys, peafowl, male chickens/roosters, or any other poultry or fowl are not allowed under the provisions of this Section of the Code.
5. Chickens shall be kept for personal use only. Selling chickens, eggs, or chicken manure, or the breeding of chickens for commercial purposes is prohibited.
6. Chickens shall not be slaughtered on premises.
7. The coop and enclosure must be screened from the neighbor’s view, using an opaque fence and/or a landscape screen.

(b) Location and Requirements for Chicken Coops and Enclosures in the R-1 through R-6 zoning districts.

1. Any chicken coop and fenced enclosure must be located in the rear yard. No coop or enclosure shall be allowed in any front or side yard. (Corner Lots shall be excluded from the side setback restriction).
2. The coop and enclosure must be a minimum of 10 feet from the rear and side property line.
3. If the coop structure exceeds 100 square feet in size (10 foot by 10 foot), a building permit is required under the Florida Building Code.
4. The coop shall be covered and ventilated, and a fenced enclosure/run is required. The coop and enclosure must be completely secured from predators, including all openings, ventilation holes, doors and gates (fencing or roofing is required over the enclosure in addition to the coop, in order to protect the chickens from predators).
5. All stored feed must be kept in a rodent and predator-proof container.
6. The coop shall provide a minimum of three (3) square feet per chicken and be of sufficient size to permit free movement of the chickens. The coop may not be taller than six (6) feet, measured from the natural grade, and must be easily accessible for cleaning and maintenance.

(c) Health, Sanitation and Nuisance as applied to the keeping of chickens in the R-1 through R-6 zoning districts.

1. Chickens shall be kept within a coop and enclosure. No person shall release or set any chicken free from such coop or enclosure.
2. Chicken coops and enclosures 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.

(d) Enforcement.

1. Enforcement regarding the keeping of chickens within any zoning district is addressed within Section 138-54 of this Code.
2. In a public health emergency declared by the Director of the Pinellas County Health Department, including but not limited to an outbreak of Avian Flu or West Nile virus, the County may require immediate corrective action in accordance with applicable public health regulations and procedures.

3. No person convicted as a repeat violator of Sections 138-1348(a) through (d) of this Code may be permitted to, or continue to, keep chickens on their premises. Repeat violators are as defined in Section 138-1 of this Code.

SECTION 4. Severability

If any section, sentence, clause, phrase, or word of this Ordinance is, for any reason, held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Ordinance, and it shall be construed to be the legislative intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein.

SECTION 5. Inclusion in the Code

The provisions of this Ordinance shall be included and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Code.

SECTION 6. Filing of Ordinances; Effective Date

Pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners. This Ordinance shall become effective when the acknowledgment is received from the Secretary of State that the Ordinance has been duly filed.

CLEAN VERSION of the Ordinance

ORDINANCE 11-__

AN ORDINANCE OF THE COUNTY OF PINELLAS, AMENDING CHAPTER 138 OF THE PINELLAS COUNTY LAND DEVELOPMENT CODE TO ADDRESS THE KEEPING OF CHICKENS WITHIN CERTAIN RESIDENTIAL ZONES; AMENDING SECTION 138-1, DEFINITIONS; CREATING SECTION 138-1348 REGARDING THE KEEPING OF CHICKENS; PROVIDING FOR OTHER MODIFICATIONS THAT MAY ARISE FROM REVIEW OF THIS ORDINANCE AT THE PUBLIC HEARING AND/OR WITH RESPONSIBLE PARTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the concept of local sustainability has inspired an interest in backyard food production; and

WHEREAS, currently the Pinellas County zoning code allows for farm animals and poultry in certain low density/rural residential districts, but not in the urban environment; and

WHEREAS, many communities around the Country have been exploring how to compatibly integrate backyard chickens into the urban residential setting; and

WHEREAS, chickens are social not solitary animals, can make good pets, and findings indicate that 3 to 4 chickens are sufficient to meet the needs of the average family's egg consumption; and

WHEREAS, Pinellas County is uniquely built-out and of a density such that special attention to how chickens can be successfully integrated into residential neighborhoods is required; and

WHEREAS, the findings and recommendations of the Local Planning Agency have been considered.

NOW THEREFORE BE IT ORDAINED, on this _____ day of December, 2011, by the Board of County Commissioners of Pinellas County, Florida, that:

SECTION 1. Purpose and Intent

The purpose of this ordinance is to provide appropriate standards and regulations for keeping chickens for non-commercial purposes within an urban residential environment. The ordinance establishes standards and limitations so as to avoid adverse impacts on neighboring properties and residents, and to provide for the health and safety of the chickens.

SECTION 2. Section 138-1 of Chapter 138, the Zoning Provisions, is amended by adding the following definitions to the *Definitions and Rules of Construction*:

Chicken – for the purpose of this code, a chicken refers to *Gallus domesticus*.

Coop – the covered house, structure or room that is required in order to provide chickens with shelter from the weather and with a roosting area protected from predators.

Chicken enclosure – means a fenced (or wire) area, or pen, required in association with a coop in order to provide an outside exercise area for chickens free from predators, and of a size that allows for access to a foraging area, sunlight, etc.

Repeat violation – shall mean a violation of a provision of a code or ordinance by a person who has been previously found, through a code enforcement special magistrate or any other quasi-judicial or judicial process, to have violated, or who has admitted violating, the same provision within five years prior to the violation, notwithstanding that the violations may occur at different locations. For the purposes of this definition, a plea of "No Contest" or "Nolo Contendere" shall be deemed an admission of a violation.

SECTION 3. Chapter 138, the Zoning Provisions, is amended by adding Section 138-1348, Chickens, to read as follows:

Sec. 138-1348. - Chickens

(a) General Conditions for the keeping of chickens in the R-1 through R-6 zoning districts.

1. For the purposes of this Section of the Code, the term “chicken” refers to female chickens only (i.e., hens).
2. Up to 4 chickens may be kept within an occupied single family property located in the R-1, R-2, R-3, R-4, and R-6 zoning districts. Chickens may be kept within manufactured home subdivisions, but not on duplex, triplex or multifamily properties, or within mobile home/manufactured home parks.
3. Chickens must be kept within the coop or enclosure at all times.
4. Ducks, geese, turkeys, peafowl, male chickens/roosters, or any other poultry or fowl are not allowed under the provisions of this Section of the Code.
5. Chickens shall be kept for personal use only. Selling chickens, eggs, or chicken manure, or the breeding of chickens for commercial purposes is prohibited.
6. Chickens shall not be slaughtered on premises.
7. The coop and enclosure must be screened from the neighbor’s view, using an opaque fence and/or a landscape screen.

(b) Location and Requirements for Chicken Coops and Enclosures in the R-1 through R-6 zoning districts.

1. Any chicken coop and fenced enclosure must be located in the rear yard. No coop or enclosure shall be allowed in any front or side yard. (Corner Lots shall be excluded from the side setback restriction).
2. The coop and enclosure must be a minimum of 10 feet from the rear and side property line.
3. If the coop structure exceeds 100 square feet in size (10 foot by 10 foot), a building permit is required under the Florida Building Code.
4. The coop shall be covered and ventilated, and a fenced enclosure/run is required. The coop and enclosure must be completely secured from predators, including all openings, ventilation holes, doors and gates (fencing or roofing is required over the enclosure in addition to the coop, in order to protect the chickens from predators).
5. All stored feed must be kept in a rodent and predator-proof container.
6. The coop shall provide a minimum of three (3) square feet per chicken and be of sufficient size to permit free movement of the chickens. The coop may not be taller than six (6) feet, measured from the natural grade, and must be easily accessible for cleaning and maintenance.

(c) Health, Sanitation and Nuisance as applied to the keeping of chickens in the R-1 through R-6 zoning districts.

1. Chickens shall be kept within a coop and enclosure. No person shall release or set any chicken free from such coop or enclosure.
2. Chicken coops and enclosures 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.

(d) Enforcement.

1. Enforcement regarding the keeping of chickens within any zoning district is addressed within Section 138-54 of this Code.
2. In a public health emergency declared by the Director of the Pinellas County Health Department, including but not limited to an outbreak of Avian Flu or West Nile virus, the County may require immediate corrective action in accordance with applicable public health regulations and procedures.

3. No person convicted as a repeat violator of Sections 138-1348(a) through (d) of this Code may be permitted to, or continue to, keep chickens on their premises. Repeat violators are as defined in Section 138-1 of this Code.

SECTION 4. Severability

If any section, sentence, clause, phrase, or word of this Ordinance is, for any reason, held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Ordinance, and it shall be construed to be the legislative intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein.

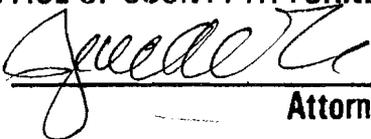
SECTION 5. Inclusion in the Code

The provisions of this Ordinance shall be included and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Code.

SECTION 6. Filing of Ordinances; Effective Date

Pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners. This Ordinance shall become effective when the acknowledgment is received from the Secretary of State that the Ordinance has been duly filed.

APPROVED AS TO FORM
OFFICE OF COUNTY ATTORNEY

By 
Attorney