

## PLANNING & DEVELOPMENT STAFF REPORT

### Backyard Chickens

#### Background

On April 3, 2012, the Board of County Commissioners directed staff to prepare a report in response to a citizen request for approval of backyard poultry, excluding roosters, on residential lots having a minimum of .20 acre (8,712 square feet) in unincorporated residential neighborhoods. The citizen's request suggested an allowance of two fowl per .10 acre of property.

#### Current Code

Currently, Brevard County's Zoning Code allows one chicken (hen) per residentially zoned lot regardless of its size. Agriculturally zoned lots such as AU and AGR, which are a minimum of 2.5 acres and 5 acres, respectively, do not place a limit on the number of chickens. By comparison, horses are not limited on agricultural properties and are permitted as accessory uses in certain rural single-family residential zones. The minimum lot size requirement is one acre (RR-1) but the number of horses cannot exceed four per acre. Applying a similar rationale to chickens, if a residential property owner wishes to have more than one chicken, the Board may wish to consider a minimum acreage requirement of one half acre for two chickens and a ratio of two hens per half acre. A minimum acreage requirement of one half acre would allow larger lots to have more than one hen without an agricultural zoning requirement.

Barns and stalls require 50 foot setbacks on both agricultural and rural residential zoned properties in order to provide appropriate buffering. Given that this request would allow more than one hen on a property that is not agriculturally zoned, the Board may wish to consider requiring a structure to accommodate the intermittent housing of fowl for nesting and protection from the elements and predators. If treated as a typical residential accessory structure, coops would traditionally be required to observe setbacks of 5 to 15 feet from side and rear property lines. The Board may wish to consider increased setbacks. From a practical standpoint, however, it can be challenging to meet an accessory structure setback of more than 7.5' on an 8,712 square foot residential property. Therefore, a half acre lot could more readily comply with additional setback standards for coops, thereby ensuring adequate buffering of neighboring properties.

#### Options for the Board to Consider

##### Option 1--Administrative Permit

Applicants that wish to raise more than one hen on their property could request an administrative permit. Applicants must demonstrate that they have the appropriate amount of property (as determined by the Board) to have more than one hen. They must specify the number to be kept and the location of the coop. The permit is granted on a yearly basis and would be renewable for successive one-year periods. Currently, the County has a provision

(62-2133) to permit certain exotic or miniature species such as Vietnamese Pot Bellied Pigs or Pygmy Goats, which would otherwise be classified as farm animals, to be permitted as pets on a GU zoned property. A provision to regulate chickens via administrative permit could be enacted. Staff research reveals that the City of Melbourne requires an administrative permit for animals other than domestic dogs, cats, for any animals, reptiles or fowl kept outside of a residence. The City of Orlando recently launched a pilot program for a maximum of 3 hens in a backyard (refer to the attached comparison matrix).

The County's administrative permit code currently reads as follows:

**Sec. 62-2133. - Administrative permit for a farm animal as a pet at a residence.**

(a) Any residential property owner on a GU zoned lot may request from the zoning official an administrative permit for a farm animal as a pet at a residence. The intent of this permit is to allow certain exotic or miniature species such as Vietnamese Pot Bellied Pigs or Pygmy Goats, which would otherwise be classified as farm animals under this regulation, to be permitted as pets. Such a permit may be issued only under the following conditions:

- (1) The applicant shall specify the number and species of animals to be kept as pets.
- (2) The request shall be made on a residentially developed lot zoned GU of at least one acre.
- (3) There shall be no more than one pet farm animal per acre.
- (4) No such pet shall exceed 150 pounds in weight.
- (5) The animals shall not be used for breeding purposes.

(b) Applicants for the administrative permit shall submit a letter to the zoning official setting forth the specific request and the need therefore. The letter shall have the following documents attached thereto:

- (1) A signed affidavit from all property owners within 200 feet indicating no objection to the requested permit.
- (2) Verification by certified survey, recorded deed or other means satisfactory to the zoning official to determine the size of the lot.
- (3) Verification by a licensed veterinarian of the species and weight of the animal.

(c) Failure of the applicant to obtain signatures of all property owners within 200 feet will result in denial of the administrative permit. Denial of the request for an administrative permit under the provisions of this section may be appealed to the board of county commissioners in public meeting. The county shall notify all property owners within 200 feet of the date, place and time of the meeting.

(d) The permit is valid only for a specific animal on a specific lot. The permit shall not be transferable to any other animal or to some other residential lot. Should the animal exceed the weight limit described above, or be used for breeding purposes, the permit shall become invalid. Should it be determined by the county animal control director that the animal is being treated in an inhumane manner, or has become a nuisance to the neighborhood, the permit shall become invalid and may be revoked.

(e) Administrative permits are valid for one year and are renewable for successive one-year periods. However, if the activity ceases to be compatible with the character of the neighborhood, as evidenced by code enforcement investigation, the permit shall not be renewed and may be revoked. The owner will be notified in writing if the permit is revoked or will not be renewed administratively. Renewals of permits that are revoked administratively or which are not renewed administratively may be reconsidered only by board of county commissioners action pursuant to subsection (c) above.

Administrative permit language for more than one hen on non agriculturally zoned property could be tailored, if the Board selects this option. This provision could include a requirement that the applicant agree to not breed, sell, slaughter or make any commercial use of the animal.

Option 2--Possible code change to Section 62-2108:

**Sec. 62-2108. - Farm animals and fowl.**

It shall be unlawful for any person to keep, harbor, breed or maintain upon any premises not zoned for agricultural use or otherwise excepted in accordance with this chapter, any of the following: bees, roosters, peacocks, horses, ponies, cattle, goats, pigs or other livestock, more than one of the following: pigeons, ducks or other fowl or more than ~~####~~ chickens/hens. Any person who violates the provisions of this section shall be liable in accordance with sections 62-1105 and 62-1106

Option 3—Alternative Chicken/Acreage Ratios

The Board may wish to consider an alternative to staff's suggestion of 2 hens per one half acre.

The attached table compares Brevard County's current regulations for fowl with other nearby jurisdictions.

**COMPARISON OF BACKYARD CHICKEN REGULATIONS  
BY JURISDICTION**

<b>Jurisdiction</b>	<b>Required Zoning</b>	<b>No. Permitted in Residential Zoning</b>	<b>Comments/Observations</b>
Brevard	Agricultural	1	
Volusia	Agricultural	1	No plan to amend code at this time.
Orange	Agricultural, RCE		No plan to amend code at this time.
Osceola	Agricultural & Estate (5 acres)	0	Considering enacting Orlando's Pilot Program (Oct. 2012) to allow a maximum of 6 hens, and 100' setbacks.
Seminole	Agricultural	0	
Cocoa	RR	0	RR requires 20,000 sf per grazing animal.
Cocoa Beach	N/A	Defers to County Regs.	No agricultural zoning. Slaughtering animals prohibited.
Grant-Valkaria	Agricultural	1	Identical to Brevard County
Indialantic	N/A	0	City Council discussed but made no changes.
Indian Harbour Beach	N/A	0	No plan to amend code at this time.
Malabar	RR-65 (65,000 sf) or Agricultural	No Maximum	No maximum, unless there are complaints
Melbourne	Animal Permit from City Clerk's	Determined by permit	Number set by C.E. site visit, cannot pose a nuisance to neighbors, must comply with HOA, and 10' setbacks
Melbourne Beach	N/A	0	City is considering backyard chickens
Melbourne Village	Permitted in SFR	No Maximum	No maximum, unless there are complaints
Palm Bay	Agricultural & Rural Residential	0	No plan to amend code at this time.
Palm Shores	N/A	1	Follows Brevard County regulations.
Rockledge	RCE (1-10 acre lots )	0	No plan to amend code at this time.

Jurisdiction	Required Zoning	No. Permitted in Residential Zoning	Comments/Observations
Satellite Beach	N/A	0	No plan to amend code at this time.
Titusville	Agricultural, Business	0	May be future City Council discussion.
West Melbourne	RA (Residential Agricultural)	1	
Tampa	N/A	0	Will consider code change in January 2013. No roosters, must have coops with 100' setback, no slaughtering.
Orlando	Single-family residential only.	3	SFR only, no apartments or duplexes. Fenced pen required, 5' min. setbacks/20' spacing from neighboring homes. Only 25 permits available under the pilot program. Ag. Ext. inspection required. Owners must take course on caring for chickens.
Winter Park	N/A	0	No plan to amend code at this time.