

City of South Daytona
Community Development Department

1672 S. Ridgewood Avenue • South Daytona, FL 32121 • 386/322-3022 • Fax 386/322-3018



MEMORANDUM

To: James L. Gillis Jr., City Manager

From: S. Laureen Kornel, AICP
Community Development Director

Date: August 3, 2021

Re: Second Reading of Ordinance No. 2021-10 Code of Ordinances Amendment
allowing Temporary Urban Chicken Pilot Program

AGENDA ITEM

Item # D16

Date: August 10, 2021

Introduction

This is a request to amend Chapter 4, Article I, Sections 4-9 and 4-13 of the Code of Ordinances to allow a Temporary Urban Chicken Pilot Program for one (1) year for the keeping of chickens on residential lots under certain conditions for no more than ten (10) households and limiting the keeping of chickens to one (1) active temporary chicken permit on any given street.

At the July 27, 2021, public hearing for the subject ordinance, the City Commission unanimously voted to revise the ordinance to include the following 3 revisions.

1. Inspections by the City may only be conducted after permit approval in response to a code enforcement complaint.
2. Require written consent from the abutting residential property owners only, similar to the ownership of pot belly pigs. For those property owners whose land is two acres or greater, written consent is required from residential property owners within 150-feet of the proposed chicken coop's location.
3. In addition to a maximum combination of four dogs, cats, pigs and rabbits, a maximum number of four chickens shall be allowed (pursuant to the Temporary Urban Chicken Pilot Program).

Background and Analysis

The Code of Ordinances does not currently contain regulations to allow chickens in the City of South Daytona. Recently there has been citizen interest to allow urban chickens in the City of South Daytona. The City Council directed staff to prepare an ordinance to allow for a Temporary Urban Chicken Pilot Program for the keeping of chickens on residential lots under certain conditions.

The attached May 12, 2021, Planning and Appeals Board (PAB) staff report provides the

background and analysis for the proposed Temporary Urban Chick Pilot Program and was reviewed and tabled at the May 19, 2021, PAB meeting. The Board requested staff add additional sanitation language and consider expanding the notification requirement from abutting property owners to a maximum notification requirement of a 250' radius. As provided in the attached PAB memorandum reviewed by the Board at the June 16, 2021, meeting, staff recommended additional sanitation regulations, a notification requirement of 250' and the prohibition of the Pilot Program within the Community Redevelopment Area (CRA). Overall, the PAB agreed to recommend approval of the Temporary Chicken Pilot Program with added sanitation language and the prohibition of the program within the CRA. However, ultimately the Board was divided on the notification requirement with three Board members voting in favor of a 200' radius notification requirement and two Board members voting in favor of requiring only abutting property notification.

Based on resident interest, the PAB recommendations and the direction of the City Council, staff has prepared an ordinance to amend the Code of Ordinances to allow for the Temporary Urban Chicken Pilot Program for the ownership of chickens. The Code of Ordinances amendment, attached as Attachment 2 generally proposes the following regulations:

- The property must be an owner-occupied single-family residence;
- The chicken coop and pen are required to be screened with a 6' tall opaque fence;
- Setbacks for the coop and pen must be consistent with current shed setbacks;
- The applicant is required to successfully complete a University of Florida Agricultural Extension Service (UF/IFAS) or equivalent class regarding the keeping of chickens prior to permit approval;
- Temporary chicken permits shall be permitted for no more than ten (10) households and limiting the keeping of chickens to one (1) household per street;
- The Pilot Program will be prohibited within the CRA; and
- The permit fee will be \$20.00.

Permit applications for temporary urban chickens are proposed to be regulated through the Police Department's Animal Control Division for a fee of \$20.00. If approved by Council, the pilot program is proposed to expire August 10, 2022, unless the City Council acts to extend the Pilot Program or to adopt permanent regulations.

Staff Recommendation

Staff recommends amending Chapter 4, Article I, Sections 4-9 and 4-13 of the Code of Ordinances to allow a Temporary Urban Chicken Pilot Program for one (1) year for the keeping of chickens on residential lots under certain conditions for no more than ten (10) households and limiting the keeping of chickens to one (1) active temporary chicken permit on any given street. Attached as Attachment 2 is Ordinance 2021-10 which achieves this purpose.

Attachments: Attachment 1 – June 16, 2021, PAB Memorandum (including May 12, 2021, Staff Report)
Attachment 2 – Ordinance 2021-10 Temporary Urban Chicken Pilot Program

ATTACHMENT 1

June 16, 2021 PAB Memorandum
(including the May 12, 2021 Staff Report)

CITY OF SOUTH DAYTONA
FLORIDA
COMMUNITY DEVELOPMENT DEPARTMENT

M E M O R A N D U M

TO: Chairman Agront and Planning and Appeals Board Members

FROM: S. Laureen Kornel, Community Development Director

DATE: June 9, 2021

SUBJECT: Temporary Urban Chicken Pilot Program Code of Ordinances
Amendment – Chapter 4, Article 1 Sections 4-9 and 4-13

Attached to this Memorandum is the Planning and Appeals Board (PAB) staff report for COO 2021-12, a Code of Ordinances amendment to amend Chapter 4, Article 1 Sections 4-9 and 4-13, to consider allowing a Temporary Urban Chicken Pilot Program in the City of South Daytona. This item was previously reviewed by the PAB on May 19, 2021, and unanimously recommended to be tabled for further discussion. Also included with this memorandum is a revised ordinance, and an exhibit showing distance options for notification requirements.

The PAB recommended to table this item and requested staff to research additional requirements for sanitation as well as to consider increasing the distance notification requirement. As documented in the attached May 19, 2021, PAB meeting minutes, the Board discussed various options to extend the notification requirement ranging from the recommended abutters only to a radius (100', 200' or 250') from the relative center of the property. Below is a rendering that illustrates an average residential lot in the City of South Daytona showing 3 options for distance notification requirements that were previously discussed, including 100', 200' or 250'.



As provided in the attached draft ordinance, Staff is recommending a radius requirement of 250' as measured from the relative center of the property. This will ensure that an applicant across the right-of-way from a property where a chicken permit may be requested, will receive notification and a request for written consent on whether chickens should be permitted at that location. The draft ordinance also includes additional sanitation requirements for the boards' consideration. Finally, after further discussion, staff is recommending that the Community Redevelopment Area (CRA) be excluded from the Temporary Urban Chicken Pilot Program which is consistent with the City's vision to improve the visual quality of this economically important area of the City through design and regulation.

Staff is recommending the approval of the attached revised ordinance which includes a 250 foot notification requirement, additional sanitation requirements and the prohibition of the program within the boundaries of the CRA for Case #COO 2021-12, Chapter 4, Article I, *Sections 4-9 and 4-13* of the Code of Ordinances to allow a Temporary Urban Chicken Pilot Program for one (1) year for the keeping of chickens on residential lots under certain conditions for no more than ten (10) households and limiting the keeping of chickens to one (1) active temporary chicken permit on any given street, as shown in Attachment 1.

If there are any additional questions, I may be contacted at (386) 322-3022 or by e-mail at lkornel@southdaytona.org. Thank you.

Attachments: May 12, 2021 - COO 2021-12 PAB Staff Report
Revised Draft Ordinance 2021-10

STAFF REPORT

City of South Daytona Community Development Department

DATE: May 12, 2021

SUBJECT: Temporary Urban Chicken Pilot Program Code of Ordinances Amendment – Chapter 4, Article 1 Sections 4-9 and 4-13

APPLICANT: City initiated

NUMBER: COO 2021-12

PROJECT PLANNER: S. Lauren Kornel, AICP, Community Development Department

INTRODUCTION: This is a request to amend Chapter 4, Article I, Sections 4-9 and 4-13 of the Code of Ordinances to allow a Temporary Urban Chicken Pilot Program for one (1) year for the keeping of chickens on residential lots under certain conditions for no more than ten (10) households and limiting the keeping of chickens to one (1) active temporary chicken permit on any given street.

BACKGROUND AND ANALYSIS: Recently there has been citizen interest to allow urban chickens in the City of South Daytona. The City Council directed staff to prepare an ordinance to allow for a Temporary Urban Chicken Pilot Program for the keeping of chickens on residential lots under certain conditions.

The term urban chickens refers to chickens that are kept in a city typically in residential zoning districts. Residential chickens are currently allowed in a number of nearby communities such as Port Orange, Debary, Deltona, Orange City, and New Smyrna Beach. Although specific regulations vary by community, there are common ordinance provisions regulating urban chickens including:

- Limits on the number of chickens;
- Prohibitions on roosters and slaughtering;
- Required permits and fees;
- Setback for enclosures (coops) from property lines;
- Requirements for enclosures; and
- Proper sanitation.

Common cited benefits of urban chickens include, a source of fresh eggs, companionship as pets, pest control and childhood education. Common concerns include noise, odor such as ammonia and disease such as avian flu and salmonella.

Based on the resident interest and direction of the City Council, staff has prepared an ordinance to amend the Code of Ordinances to allow for a temporary urban chicken pilot program for the ownership of chickens. The Code of Ordinances amendment, attached as Attachment 1 proposes the following conditions:

- The property must be an owner-occupied single-family residence;
- The chicken coop and pen is required to be screened with a 6' tall opaque fence;
- Setbacks for the coop and pen must be consistent with current shed setbacks;
- The applicant is required to successfully complete a University of Florida Agricultural Extension Service (UF/IFAS) or equivalent class regarding the keeping of chickens prior to permit approval; and
- Temporary chicken permits shall be permitted for no more than ten (10) households and limiting the keeping of chickens to one (1) household per street.

Permit applications for temporary urban chickens are proposed to be regulated through the Police Department's Animal Control Division for a fee of \$20.00. As part of the application process, written permission from each abutting property owner must be submitted, and a Home Owner's Association approval as well, where one exists, stating they have no objection to the applicant's ownership and maintenance of chickens.

CONCLUSION: The pilot program is proposed to expire July 31, 2022, unless the City Council acts to extend the Pilot Program or to adopt permanent regulations. If the City Council chooses to end the Pilot Program, notices will be sent to permit holders that chickens must be removed from the property within 90 days of the program expiring. It is expected that the proposed Code of Ordinances amendment will be reviewed by the City Council on June 8, 2021 (1st Reading) and July 13, 2021 (2nd reading). If approved, Temporary Urban Chicken permit applications will be available after the 2nd and Final Reading.

RECOMMENDATION: It is recommended that the Planning & Appeals Board recommend **APPROVAL** of Case #COO 2021-12, Chapter 4, Article I, *Sections 4-9 and 4-13* of the Code of Ordinances to allow a Temporary Urban Chicken Pilot Program for one (1) year for the keeping of chickens on residential lots under certain conditions for no more than ten (10) households and limiting the keeping of chickens to one (1) active temporary chicken permit on any given street, as shown in Attachment 1.

ATTACHMENT 2

Ordinance 2021-10 Temporary Urban Chicken Pilot Program

ORDINANCE NO. 2021-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, FLORIDA, AMENDING CHAPTER 4 (ANIMALS AND FOWLS), ARTICLE 1 (GENERAL), SECTION 4-9 (KEEPING FOWL PROHIBITED) AND SECTION 4-13 (NUMBER OF DOGS, CATS, RABBITS AND POT BELLY PIGS THAT MAY BE KEPT AT RESIDENCE) OF THE CODE OF ORDINANCES TO ALLOW FOR A TEMPORARY URBAN CHICKEN PILOT PROGRAM FOR THE OWNERSHIP OF CHICKENS ON RESIDENTIAL LOTS UNDER CERTAIN CONDITIONS; AND PROVIDING FOR RECITALS, ADMINISTRATIVE ACTIONS, CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 2(b) of the Florida Constitution, and Sections 166.021 and 828.27 of the Florida Statutes, the City has the authority to enact ordinances relating to the ownership, care, and custody of animals; and

WHEREAS, the City Council recognizes the recent requests from residential homeowners to raise chickens on residential property; and

WHEREAS, the City Council desires to establish a Temporary Urban Chicken Pilot Program to provide such an opportunity on a trial basis subject to the regulations established herein; and

WHEREAS, the City of South Daytona's Code of Ordinances currently prohibits the ownership of livestock by residents within the City; and

WHEREAS, several neighboring jurisdictions allow for the ownership of chickens; and

WHEREAS, after thorough research, staff is now recommending that the City allow residential homeowners to raise chickens on residential properties with certain conditions, pursuant to the Temporary Urban Chicken Pilot Program; and

WHEREAS, for purposes of this ordinance words with underlined (underlined) type shall constitute additions to the original text and words with strikethrough (~~strikethrough~~) type shall constitute deletions from the original text.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, VOLUSIA COUNTY, FLORIDA:

Section 1. Recitals. The foregoing recitals are true and correct and by this reference are hereby incorporated herein and made an integral part hereof as though fully set forth herein, and adopted as findings of the City Council of the City of South Daytona.

Section 2. The City Council of the City of South Daytona hereby amends Section 4-9 of the South Daytona Code of Ordinances to read as follows:

Sec. 4-9. – Keeping fowl prohibited, with the exception of chickens regulated through the Urban Chicken Pilot Program.

It shall be unlawful to keep or maintain any ~~chicken~~ goose, turkey, duck, peafowl, pigeons, roosters or any other fowl not permitted under the provisions of this section within the City. Chickens shall be allowed by permit only under all of the following conditions:

(1) Temporary Urban Chicken Pilot Program. The intent of this program is to create and implement a one-year temporary urban chicken pilot program to permit the keeping of urban chickens at no more than ten (10) households, on owner-occupied single-family properties, subject to the terms and conditions of this section.

(2) Limited Duration. Regardless of the date a temporary permit is issued for the keeping of chickens, such temporary permit shall terminate and expire on August 10, 2022, unless terminated earlier or extended by city council action extending the urban chicken pilot program or implementing a permanent regulation.

(3) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Chicken. A domesticated fowl of the gallus genus. This term shall include only the female chicken (hen), and shall exclude the male chicken (rooster).

Chicken coop. The house or cage in which a chicken lives. Inside coops are often nest boxes for egg-laying and perches on which the birds can sleep.

Chicken pen. The outside area around a coop. An enclosure that is connected to and/or surrounding a chicken coop for the purpose of allowing chickens to leave the coop while remaining in an enclosed predator-safe environment.

Chicken tractor. A movable chicken coop lacking a floor. Chicken tractors may be a lightly built A-frame which one person can drag about the yard. It may have wheels on one or both ends to make it easier.

(4) Temporary urban chicken permit regulations. It shall be unlawful to keep, harbor, raise or maintain chickens without a temporary chicken permit. Temporary chicken permits shall include the following conditions and restrictions:

- a. The maximum number of urban chickens allowed per household on a single-family detached residential lot shall be in accordance with Section 4-13 of the Code of Ordinances.
- b. A temporary urban chicken permit shall only be issued for a lot with an existing single-family detached residence that is owner-occupied outside of the boundaries of the Community Redevelopment Area.
- c. Ducks, geese, turkeys, peafowl, pigeons, roosters or any other poultry or fowl are not permitted under the provisions of this section.
- d. Chickens and associated activities shall be kept for personal use only. Selling chickens, eggs, feathers, or chicken manure, or the breeding of chickens is prohibited.
- e. Chickens shall not be slaughtered on premises.
- f. The coop, pen and enclosure shall be located behind the single-family residence in the rear yard and shall be screened from all adjacent properties and rights-of-way with a six-foot-tall opaque fence. Chicken tractors shall not be permitted.
- g. The coop, pen, and enclosure shall comply with the standard setbacks for a shed set forth in Article 5, Section 5.6 of the Land Development Code.
- h. Chicken coops shall provide a minimum of four square feet per chicken to permit free movement of the chickens, shall not exceed 50 square feet, and may have an attached run. The coop shall be tied down for wind resistance. The coop and enclosure shall not be taller than six feet, measured from the natural grade, shall be at least six inches lower than the fence to provide full screening, and shall be easily accessible for cleaning and maintenance.
- i. The coop, pen and enclosure shall 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.
- j. All feed and other items associated with the keeping of chickens that can attract or to become infested with rodents or other pests shall be kept in a rodent and pest-proof container. Clean water must be provided.
- k. Chickens shall be secured within a covered chicken coop or fenced pen/run area at all times and shall not be permitted to run at large.

1. Chicken coops, pens, and enclosures shall be kept clean from garbage and any substance which attracts rodents. The coop and surrounding area must be cleaned frequently enough to control odor. The floors and walls of a coop, pen or enclosure shall be kept in a clean, sanitary, and healthy condition. Manure shall not be allowed to accumulate in a way that causes an unsanitary condition or causes odors to be detected on another property. Failure to comply with these conditions may result in removal of chickens from the premises or revocation of a chicken permit. Chickens shall not be permitted to create a nuisance consisting of odor, noise or pests, or contribute to any other nuisance condition, as defined in the Code or State Law.

(5) *Procedures for the granting of temporary urban chicken permits.* Application for temporary urban chicken permit shall be submitted to the Police Department's Animal Control Division. Such submittal shall include the application form as provided by the city, together with all documents required under this section.

- a. Temporary chicken permits shall be permitted for no more than ten (10) households citywide. No more than one (1) temporary chicken permit shall be active on any given street. Permits shall be issued on a first-come, first-served basis. Once the city has issued the initial temporary chicken permits for a maximum of ten (10) households, approved applicants shall be placed on a waiting list. If a participant chooses to leave the program, he/she shall provide notice to the city. The city is then authorized to issue a permit to the next qualified applicant on the waiting list. If a participant is removed from the program due to one or more violations of this section, the city shall be authorized to issue a permit to the next qualified applicant on the waiting list.
- b. A temporary urban chicken permit shall not be issued for a property with an outstanding code enforcement case or any city imposed liens on said property.
- c. The temporary chicken permit is personal to the permittee and shall not be assigned.
- d. An applicant for a permit shall demonstrate compliance with the criteria in this section in order to obtain a permit. Applicants shall submit photos of the proposed site of the coop/run areas, a survey of the subject property showing the location, and proof of successful completion of a University of Florida Agricultural Extension Service class regarding the keeping of chickens or an equivalent class approved by the administrative official.

- e. The temporary chicken permit applicant shall sign a statement acknowledging that the temporary chicken permit may be revoked for any violation of this section, and may be revoked if this section is amended in the future, and the city shall not be held responsible or liable for any losses, including the costs of improvements constructed for the keeping of chickens, to the applicant if such chicken permit is revoked.
- f. If any condition or restriction of the temporary chicken permit has been violated, the city may revoke the permit upon seven days' written notice. If the violation is cured within the seven-day notice period, the permit shall not be revoked; however, a repeat offense may result in the city's immediate revocation of the permit. The city is responsible for the determination of compliance with the requirements of this section. In matters of interpretation, the administrative official has the authority to determine compliance with this section.
- g. The City may conduct site inspections of the subject property to make compliance determinations under this article prior to the issuance of a permit and upon any code enforcement complaint received by the City of South Daytona pertaining to the subject property.

(6) Those property owners wishing to apply for a permit to own chickens shall complete the application form and submit it to the Police Department's Animal Control Division for consideration. The property owner shall include with the application the following:

- a. An applicant for a permit whose property is less than two acres shall submit written consent from each residential property owner directly abutting the outer boundaries of the premises for which the permit is being requested stating that they have no objection to the applicant's ownership and maintenance of chickens. If the applicant's property consists of two or more acres, written consent must be obtained from each residential property owner within 150-feet of the proposed chicken coop's location.
- c. If the property is governed by a Home Owner's Association, then written approval from the Home Owner's Association will be required.
- c. The required fee for an application to cover the City expense of reviewing the application for completeness and issuance of permit shall be \$20.00.

(7) Owner of chickens shall be responsible for correcting or abating any nuisance that may arise from keeping thereof.

(8) Violation of these regulations shall be remedied through the code enforcement process whereby the special master may levy fines to force compliance or revoke the permit.

(9) Rescuing, fostering, sitting or any other form of temporary ownership of chickens in the City of South Daytona is expressly forbidden.

(10) Appeal. A person aggrieved by a decision of the administrative official in the issuance, denial or revocation of a temporary chicken permit may appeal to the city manager in writing within five business days of the administrative official's written decision by filing an appeal with the city clerk. Said appeal shall state fully the grounds for the appeal and all facts relied upon by the appellant. A person aggrieved by a decision of the city manager may appeal to the city council within five business days of the city manager's written decision by filing an appeal with the city clerk. Said appeal shall state fully the grounds for the appeal and all facts relied upon by the appellant. The decision of city council shall be final.

Section 3. The City Council of the City of South Daytona hereby amends Section 4-13 of the South Daytona Code of Ordinances to read as follows:

Sec. 4-13. - Number of dogs, cats, pot belly pigs, chickens and rabbits that may be kept at residence.#

It is hereby found and declared that the keeping or maintaining of an inordinate number (~~herein found to be more than four~~ (4) of mature dogs, cats, pot belly pigs, chickens and rabbits in a city residential environment creates a health and sanitation menace due to the unabated excretion of fecal matter and urine of such animals which produces offensive odors and insanitary conditions, consequently:

(1) It shall be unlawful and prohibited for any person to keep or maintain a total combination of more than four (4) cats and/or dogs that have reached licensing age, and/or pot belly pigs, and/or rabbits of more than six (6) months of age at any one residence within the city. In addition, a maximum number of four (4) chickens shall be allowed at any one residence within the city (pursuant to the Temporary Urban Chicken Pilot Program).

Section 4. Administrative Actions. The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the adoption of administrative forms, policies, procedures, processes and rules.

Section 5. Codification. The provisions of this Ordinance amending or adding to the City of South Daytona Code of Ordinances and/or Land Development Code shall be codified and shall become and be made a part of the City of South Daytona Code of Ordinances and/or Land Development Code, as applicable. The codified portions of this Ordinance may be re-numbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be

changed to "Section," "Article", or other appropriate words. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

Section 6. Conflicts. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 7. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 8. Effective Date. This Ordinance shall take effect immediately upon enactment.

Passed upon first reading at a regular meeting of the City Council of the City of South Daytona, Florida on the 27th day of July, 2021.

Passed and adopted upon second and final reading at a regular meeting of the City Council of the City of South Daytona, held in South Daytona, Florida on the 10th day of August, 2021.

SIGNED:

William C. Hall
Mayor

ATTEST:

James L. Gillis, Jr.
City Manager

CERTIFIED AS TO FORM:

Wade C. Vose, City Attorney