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MEMORANDUM

DATE: September 29, 2020

TO: Honorable Board of County Commissioners
Planning and Zoning Board

FROM: Shaun Cullinan, Planning and Zoning Official

RE: Petition No. TLDR-20-01; Amendments to Chapter 3-9, Zoning; by adding Accessory Chicken Keeping as a conditional use to Article II: District Regulations, Section 3-9-26.3: Use Table - Residential Zoning Districts; by creating new item (7) Accessory chicken keeping under Article II: District Regulations, Section 3-9-33: Residential single-family (RSF), subsection (d) Conditional uses and structures (C); by creating new item (14) Accessory Chicken Keeping under Article III: Special Regulation, Section 3-9-69: Conditional uses and structures, subsection (g) Residential uses to provide standard conditions

Staff Recommendation:

"Consider the revisions to the Land Development Regulations referencing Accessory Chicken Keeping as a Conditional Use, based on the findings and analysis in the Planning Division staff report dated September 29, 2020, and the evidence presented at the public hearing," in accordance with Section 125.66, Florida Statutes.

Planning and Zoning Board Recommendation:

"Motion to forward the Revisions to the Land Development Regulations referencing Accessory Chicken Keeping to the Board of County Commissioners for their consideration, based on the findings and analysis in the Planning Division staff report dated July 27, 2020, and the evidence presented at the public hearing."

History:

The Charlotte County Code of Laws and Ordinances specifically calls out the raising of poultry on agriculturally zoned properties as stated below:

Sec. 3-9-30. Agriculture (AG).

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(b) Permitted principal uses and structures. The following uses and structures are permitted in this district.

(21) Raising of poultry.

As such, the raising of poultry, of which chickens fall under the common definition of poultry, is a contemplated use only to be allowed in the zoning districts in which it is called out.

Properties which were previously zoned Agricultural Estates (AE) inside the Urban Service Area, were rezoned in 2014 to Residential Estates (RE), but retained the allowed AE/AG uses.

Further, the Residential Single Family (RSF) zoning states the following:

Sec. 3-9-32. Residential, single-family (RSF).

(e) Prohibited uses and structures. Any use or structure not expressly or by reasonable implication permitted herein or permitted by special exception, including but not limited to mobile homes, commercial parking lots and private clubs not otherwise permitted, or permitted by special exception, shall be unlawful in this district.

In 2014, a Conditional Use section, (d) was added which states:

Conditional uses and structures (C): (For rules and regulations for any use designated as conditional use or structure, see section 3-9-69, conditional uses and structures.)

(6) 4H, FFA and similar uses and activities.

The conditions as stated therein state:

Sec. 3-9-69. - Conditional uses and structures.

(a) Purpose and intent. The purpose of this section is to provide rules and regulations for any uses and structures designated as a "conditional use and structure (C)" on the use table and listed in all zoning districts found in chapter 3-9. These conditions supplement, modify, or further explain rules and regulations found elsewhere in this chapter, and unless specifically stated to the contrary, apply to all zoning districts.

Regulations over and above those imposed by other articles/sections of this chapter are necessary for certain uses which, because of their uniqueness or potential for substantial impact on surrounding land uses, warrant minimum standards that cannot be properly addressed in the development regulations set forth in specific districts. The purpose of this section is to set forth the detailed regulations, including but not limited to the bulk, layout, yard size, and lot area that apply to these uses.

(g) Residential uses.

(1) 4H, FFA and similar uses and activities (RSF, RMF, RMF-T, MHP, MHC).

a. Official documentation showing proof of participation in 4H, FFA or similar programs must be submitted to the county.

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b. The uses and activities must cease at the completion of the 4H, FFA or similar programs.

c. Three (3) chickens (no roosters) shall be allowed. The pen shall not be located within ten (10) feet from the side and rear property lines and behind the leading edge of the living area of the residential structure.

Therefore, based on the above, it has been my determination that that the keeping of chickens (raising of poultry) is allowed only in the AG and AE zoning districts.

Subsequent to this, a group was formed, Citizens Lobbying for Urban Chicken Keeping (CLUCK), to request that the Board of County Commissioners (BCC) reconsider this policy. The BCC then requested staff to re-look into the issue and bring forward discussion items.

Being a purely policy decision staff workshopped this issue with the Board of County Commissioners (BCC) on December 17, 2019, and March 17, 2019, at which time the BCC expressed a desire to have staff draft language to allow the keeping chickens in residentially zoned districts.

Staff then presented proposed changes before the BCC on June 23, 2020, the BCC at that time decided that this was better suited to be a by-right Conditional Use. The proposed revisions as presented at that hearing were a compilation of what our neighboring jurisdictions have enacted (those that allow them). I have attached a compilation of those neighboring jurisdictions.

Staff has made the changes in order to make this a Conditional Use as requested, with the various sections being updated. The major changes between the SE standards and the Conditional Use standards were to remove the SE requirements as well as the fees, transferability, and sunseting provisions. Staff has included a requirement for registration with the County.

Staff therefore is bringing forward the proposed changes for discussion and consideration as requested by the Board of County Commissioners.

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Residential Zoning Districts																				
P = Permitted Use and Structure C = Permitted With Conditions S = Special Exception																				
Specific Uses	RE	Specific Regulations	Specific Uses	RSF	Specific Regulations	Specific Uses	RMF	Specific Regulations	Specific Uses	RMF-T	Specific Regulations	Specific Uses	MHP	Specific Regulations	Specific Uses	MHC	Specific Regulations	Specific Uses	RVP	Specific Regulations
4H, FFA, and similar uses and activities	C	Sec. 3-9-69	Accessory chicken keeping	C	Section 3-9-69	Assisted living facility or day care center, adult, seven or more	C	Sec. 3-9-62 / Sec. 3-9-69	Assisted living facility or day care center, adult, six or less	P	Sec. 3-9-62	Manufactured home (HUD)	P		Assisted living facility or day care center, adult, seven or more	S	Sec. 3-9-62	Emergency services	S	
Animal sanctuary, zoo	S		Assisted living facility or day care center, adult, seven or more	S	Sec. 3-9-62	Assisted living facility or day care center, adult, six or less	P	Sec. 3-9-62	Assisted living facility or day care center, adult, seven or more	C	Sec. 3-9-62 / Sec. 3-9-69	Assisted living facility or day care center, adult, seven or more	S	Sec. 3-9-62	Assisted living facility or day care center, adult, six or less	P	Sec. 3-9-62	Essential services	S	Sec. 3-9-71
Assisted living facility or day care center, adult, seven or more	S	Sec. 3-9-62	Assisted living facility or day care center, adult, six or less	P	Sec. 3-9-62	Bed and breakfast, 1 or 2 bedrooms	C	Sec. 3-9-69	Bar, cocktail lounge, nightclub, tavern	S		Assisted living facility or day care center, adult, six or less	S	Sec. 3-9-62	Bed and breakfast, 1 or 2 bedrooms	C	Sec. 3-9-69	Management offices and maintenance facilities	P	
Assisted living facility or day care center, adult, six or less	P	Sec. 3-9-62	Bed and breakfast, 1 or 2 bedrooms	C	Sec. 3-9-69	Bed and breakfast, 3 or more bedrooms	S		Bed and breakfast, 1 or 2 bedrooms	P		Clubhouse	C	Sec. 3-9-69	Bed and breakfast, 3 or more bedrooms	S		Manager's residence	P	
Bed and breakfast, 1 or 2 bedrooms	C	Sec. 3-9-69	Bed and breakfast, 3 or more bedrooms.	S		Boarding, rooming house	C	Sec. 3-9-69	Bed and breakfast, 3 or more bedrooms	P		Community garden	S		Clubhouse	C	Sec. 3-9-69	Park recreational facilities	P	
Bed and breakfast, 3 or more bedrooms	S		Cemetery, mausoleum	S		Clubhouse	C	Sec. 3-9-69	Boarding, rooming house	C	Sec. 3-9-69	Emergency services	S		Day care center, child	S		Recreational Vehicles, travel trailers, motor homes, camping tents and trailers	P	
Cemetery, mausoleum	S		Clubhouse	C	Sec. 3-9-69	Cluster housing	P	Sec. 3-9-67	Campground	S		Essential services	S	Sec. 3-9-71	Elementary, middle, or high school	S		Telecommunications facility, 50 feet or less in height	P	Sec. 3-9-68
Clubhouse	C	Sec. 3-9-69	Cluster housing	C	Sec. 3-9-67 / Sec. 3-9-69	Duplex or triplex	P		Clubhouse	S		Major Home Occupation	S	Sec. 3-9-74	Emergency services.	P				
Cluster housing	C	Sec. 3-9-67 / Sec. 3-9-69	Community garden	S		Elementary, middle, or high school	S		Duplex or triplex.	P		Manufactured home (DCA)	S		Essential services	S	Sec. 3-9-71			
Community garden	P		Day care center, child	S		Emergency services	P		Emergency services	P		Minor Home Occupation	P	Sec. 3-9-74	Government uses and facilities	S				
Day care center, child	S		Elementary, middle, or high school	S		Essential services	S	Sec. 3-9-71	Essential services	S	Sec. 3-9-71	Park offices and maintenance facilities	P		Guest home	C	Sec. 3-9-69			
Domestic animal breeding, boarding, and training	C	Sec. 3-9-69	Emergency services	P		Government uses and facilities	S		General retail sales and services	S		Park recreational facilities	P		Major Home Occupation	S	Sec. 3-9-74			
Elementary, middle, or high school	S		Essential services	S	Sec. 3-9-71	Major Home Occupation	S	Sec. 3-9-74	Government uses and facilities	S		Park, public or not-for-profit	P		Manufactured home (DCA)	P				
Emergency services	P		Government uses and facilities	S		Manufactured home (DCA)	P		Hotel, motel, inn	P		Place of Worship	S	Sec. 3-9-82	Manufactured home (HUD)	P				
Essential services	S	Sec. 3-9-71	Guest home	C	Sec. 3-9-69	Minor Home Occupation	P	Sec. 3-9-74	Leisure vehicle rental	S		Private clubs	S		Minor Home Occupation	P	Sec. 3-9-74			
Fish and wildlife management area, nature preserve	S		Major Home Occupation	S	Sec. 3-9-74	Model home	P	Sec. 3-9-78	Liquor, package store	S		Recreational Vehicle use	C	Sec. 3-9-69	Model home	P	Sec. 3-9-78			
Government uses and facilities	S		Manufactured home (DCA)	P		Multifamily	P		Major Home Occupation	S	Sec. 3-9-74	Telecommunications facility, 50 feet or less in height	P	Sec. 3-9-68	Noncommercial boat docks	P				
Guest home	C	Sec. 3-9-69	Minor Home Occupation	P	Sec. 3-9-74	Noncommercial boat docks	P		Manufactured home (DCA)	P					Park, public or not-for-profit	P				
Horse stable	C	Sec. 3-9-69	Model home	P	Sec. 3-9-78	Nursing home	C	Sec. 3-9-69	Marina	C	Sec. 3-9-69				Place of Worship	S	Sec. 3-9-82			
Livestock breeding, boarding, training, and grazing	S		Noncommercial boat docks	P		Park, public or not-for-profit	P		Minor Home Occupation	P	Sec. 3-9-74				Private clubs	S				

Residential Zoning Districts																				
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Specific Uses	RE	Specific Regulations	Specific Uses	RSF	Specific Regulations	Specific Uses	RMF	Specific Regulations	Specific Uses	RMF-T	Specific Regulations	Specific Uses	MHP	Specific Regulations	Specific Uses	MHC	Specific Regulations	Specific Uses	RVP	Specific Regulations
Major Home Occupation	S	Sec. 3-9-74	Park, public or not-for-profit	P		Place of Worship	S	Sec. 3-9-82	Multifamily	P					Single-family detached	P				
Manufactured home (DCA)	P		Place of Worship	S	Sec. 3-9-82	Private clubs	S		Nursing home	C	Sec. 3-9-69				Subdivided lots with 50 foot wide frontage and 5,000 square foot lot	C	Sec. 3-9-69			
Minor Home Occupation	P	Sec. 3-9-74	Private clubs	S		Single-family detached or attached	P		Paid or public parking lot, garage, structure	S					Telecommunications facility, 50 feet or less in height	P	Sec. 3-9-62			
Model home	P	Sec. 3-9-78	Single-family detached	P		Telecommunications facility, 50 feet or less in height	P	Sec. 3-9-68	Personal services	P										
Noncommercial boat docks	P		Subdivided lots with 50 foot wide frontage and 5,000 square foot	C	Sec. 3-9-69	Telecommunications facility, greater than 50 feet in height	S	Sec. 3-9-68	Place of Worship	S	Sec. 3-9-82									
Park, public or not-for-profit	P		Telecommunications facility, 50 feet or less in height	P	Sec. 3-9-68	Transitional / halfway housing	C	Sec. 3-9-69	Private clubs.	S										
Place of Worship	S	Sec. 3-9-82	Telecommunications facility, greater than 50 feet in height	S	Sec. 3-9-68	University or college	S		Recreation, indoor	S										
Plant nursery	S		University or college	S		Yacht clubs, country clubs, and other recreational amenities	S		Recreational Vehicle use	S										
Private clubs	S		Yacht clubs, country clubs, and other recreational amenities	S						Restaurant	S									
Private landing field	S									Single-family attached or detached	P									
Single-family detached	P									Specialty shops	P									
Telecommunications facility, 50 feet or less in height	P	Sec. 3-9-68								Telecommunications facility, 50 feet or less in height	P	Sec. 3-9-68								
Telecommunications facility, greater than 50 feet in height	S	Sec. 3-9-68								Yacht clubs, country clubs, and other recreational amenities	S									
University or college	S																			
Yacht clubs, country clubs, and other recreational amenities	S																			

Land Development Regulations
Chapter 3-9. Zoning
Article II. Districts Regulations

Sec. 3-9-33. RSF

Sec. 3-9-33. Residential Single-family (RSF)

- (d) Conditional uses and structures (C): (For rules and regulations for any use designated as conditional use or structure, see section 3-9-69, conditional uses and structures.)

7) Accessory Chicken Keeping

Land Development Regulations
Chapter 3-9. Zoning
Article III. Special Regulations

Sec. 3-9-69

Sec. 3-9-69. - Conditional uses and structures.

(g) Residential uses.

(14) Accessory Chicken Keeping (RSF)

- (a) This use must be accessory to a properly permitted residential use and structure.
- (b) No more than four hens (Gallus Gallus Domesticus) on a lot no smaller than 10,000 sq. ft. (or any lot legally created prior to October 22, 1992), or six hens on lots 20,000 sq. ft. or greater, may be kept in the rear yard. The rear yard of the lot must be fully fenced or otherwise enclosed.
- (c) Roosters are prohibited.
- (d) The killing and dressing of chickens is prohibited.
- (e) The hens shall be provided with a covered enclosure (i.e. "hen house/coop") and must always be kept in the covered enclosure or within a fenced enclosure if outside for exercise. If the enclosure is not readily movable for a storm event, it must be properly permitted and secured. Hens must be secured within the henhouse/coop during non-daylight hours. All areas including the coop must be shielded on all sides by a fully opaque fence or wall six feet in height.
- (f) The space per hen in the henhouse/coop shall not be less than four square feet per hen.
- (g) No covered enclosure or fenced enclosure shall be located in the front yard, nor shall the henhouse/coop be closer than the required accessory structure yard setbacks to any property line of an adjacent property. Odors from hens, hen manure, or other hen related substances shall not be detectable at the property boundaries.
- (h) All enclosures for the keeping of hens shall be so constructed and maintained as to prevent rodents or other pests from being harbored underneath, within, or within the walls of, the enclosure. The henhouse/coop must contain a barrier or barriers to prevent entry of rodents, wild birds, and predators, including coyotes, bobcats, dogs and cats. Enclosures shall be kept in neat condition, including provision of clean, dry bedding materials and regular removal of waste materials. All manure not used for composting or fertilizing shall be removed promptly.
- (i) All feed and other items associated with the keeping of hens that are likely to attract, or to become infested with, or infected by rodents or other pests shall be kept in a secure location, container, or otherwise protected to prevent rodents and other pests from gaining access to or coming into contact with them.
- (j) The sale of eggs or any other hen products generated in a residential single-family district must be sold in a zoning district which permits the retail sale of such items.
- (k) No animal that kills a hen will, for that reason alone, be considered a dangerous or aggressive animal.
- (l) Chickens that are no longer wanted by their owners shall not be taken to Animal Control, nor shall they be released.

Land Development Regulations
Chapter 3-9. Zoning
Article III. Special Regulations

Sec. 3-9-69


- (m) The owners of the chicken(s) must register their location with the department responsible with enforcement of the Land Development Regulations.
- (n) The owners of the chicken(s) and any person living in the household who will be responsible for caring for the chicken(s) must take the "Chickens In Your Backyard" course provided by the UF IFAS Extension Office.
- (o) County staff shall have the right to conduct an inspection to ensure compliance with these regulations.



MEMORANDUM

Date: 9-26-2019

To: Claire Jubb, AICP, Community Development Director

From: Shaun Cullinan, Planning and Zoning Official 

Subject: Chickens in Residential Zoning Districts, Neighboring Jurisdictions

This is intended to summarize how our neighboring jurisdictions to the north and south address the issue of "Urban Chicken Keeping." As the jurisdictions to the east are more agricultural in nature, I did not research them. The table below lays out those jurisdictions' regulations. For this, the following assumptions were made and are constant amongst those jurisdictions which allow this accessory use.

- Must have a primary structure/use
- Residential Single-Family zoning
- Sentinel chickens have a statutory exemption for mosquito control purposes
- All jurisdictions which allow them require coops which must be kept clean and sanitary
- No roosters, hens only

In general, the standards were very closely mirrored between the jurisdictions, though some required specific sizes of coops per bird i.e. four sq. ft. per bird, as well as some offering no repercussions to domesticated or wild animals which may get in and kill the birds.

Jurisdiction	Allowed	Number allowed	Setbacks	Allowed as	Other
City of North Port	Yes	Four on quarter acre lot, six on two lots or more	Not in front yard, 10 ft. from all other property lines	By-right	No repercussions for other animals that may kill the chickens. https://library.municode.com/fl/north_port/codes/unified_land_development_code?nodeId=CH53ZORE_ARTIXRS_RESIMIDI_S53-121PEPRUSST



City of Fort Myers	Yes	One per 800 sq. ft lot size, max four	Not in front yard, 20 ft. from any dwelling, all other setbacks must be met	Permit	https://library.municode.com/fl/fort_myers/codes/code_of_ordinances?nodeId=SPAADCO_CH54NU_ARTIINGE_S54-5KECEANFOALREDI
Sarasota County	yes	Four	Not in front or side yard, 10 ft. from any property line, 25 ft from any dwelling	By-right	https://library.municode.com/fl/sarasota_county/codes/code_of_ordinance_s?nodeId=APXAZORE_ART5USRE_5.3LISPEXUSST
City of Sarasota	Yes	Four	Not in front yard, 10 ft. from any property line, 25 ft from any dwelling	By-right	No repercussions for other animals that may kill the chickens. https://library.municode.com/fl/sarasota/codes/code_of_ordinances?nodeId=PTIITHCO_CH8AN_ARTIINGE_S8-2KELICEANPR
Manatee County	Yes	Four	Not in front yard, 10 ft. from any property line, 25 ft from any dwelling	By-right	Protections for other animals that may kill the chickens. https://library.municode.com/fl/manatee_county/codes/code_of_ordinance_s?nodeId=PTIIMACOCOOR_CH2-4AN_ARTIANOR_S2-4-28CHREPR



Bradenton	No				
City of Venice	No				
City of Longboat Key	No				
Lee County	No				
City of Punta Gorda	No				
City of Cape Coral	No				
Collier County	No				
Naples	No				