

## **TEXT AMENDMENT**

**09-011**

**Text Amendment to allow for the keeping of companion animals and poultry in the backyard of single-family residential areas.**

Brad Townsend stated that this is a proposed ordinance dealing with the keeping of poultry within the city limits of Roswell. This ordinance was started in a code enforcement effort in which the judge determined that the ordinance was unenforceable. It had to be re-drafted. The ordinance has gone through the Community Development/Transportation Committee at least four times. There have been...it went before a meeting with the representatives of the existing community in dealing with the draft ordinance. Staff probably has looked at 25 or 30 different communities that might have an ordinance or are dealing with an ordinance.

The draft that the Commission has in front of them has a definition of livestock and has a definition of poultry. It then creates a specific section, chapter 10.41 talking about poultry as a maximum number of 25 birds allowed for a single family lot. It requires them to be maintained on the property. Their use is to be of a non-commercial use. It requires that their accessory structure fence be in compliance with section 10.4 of the Roswell code and specifically calls out the nuisance section of the code. They have to be in compliance with that. It adds that poultry is permitted then in the residential single family districts where single family homes would be allowed.

Townsend stated that he would like to point out the non-conforming number. This is an effort by the Committee, when this ordinance was initiated to include an additional 15 birds to be allowed by anyone who had those at this time and then that number would be subsequently reduced as those birds were no longer alive down to the maximum number of 25.

In the discussions with the members of the chicken community there were members that represented that they had more than 25 birds at the time. So this was the compromise effort in allowing them to keep those birds. Townsend pointed out that the keeping of poultry does allow for roosters. Roosters are not exempt. They are under the allowable. It one looks at the definition it includes roosters and it is specifically called out as language.

This ordinance was drafted and initiated by mayor and city council to start the public process. The Commission is here for the commission's recommendations and it will go to mayor and city council. The first reading is November 9, 2009

Susan Baur asked if there were any questions for staff.



**DRAFT**



Brad Townsend stated that he will fix one mistake. On page 1, it should be section 3.2, which is the definition section, not 3.1 under no. 1.

Sarah Winner questioned item D under section 10.41, Poultry. Personal use only, non-commercial. What if someone wants to take their eggs down to the farmer's market at the river? Townsend stated that he would say that would be a commercial use. Winner stated that she has a problem with that. She understands that the city does not want trucks pulling in and out and egg cartons going in and out. She understands that but is there some way that it can be regulated other than saying non-commercial use? If they have this whole organic farmer thing going for Roswell down at the river Winner can't think of anything nicer than some little kid coming up and saying, "My chicken laid these eggs and I am selling these eggs" or "I'm selling this basket of raspberries" or "I am selling these green beans I grew in my back yard." Brad Townsend agreed that that probably needs some clarification. Winner stated that was just her personal beef with it.

The second thing Winner was concerned about was poultry enclosure in Item E. When one talks about the fences, if somebody has a two-acre residential lot and they want to put a fence around their lot they would have to a dividing so that the chickens had to stay in the side or the rear yard, but it could be the entire yard in the back? There are no setbacks required any more, that has all been deleted. Townsend stated that was correct. Winner clarified that they were just saying no chickens in the front yard. Townsend stated that was correct and the accessory structure, if they have a coop, needs to be in the rear yard, too. Winner stated that she understands that but people can let their dogs and their cats run around in their front yard. And they can put fences, if it is some house on two acres they could have their whole yard fenced in and let their dogs and cats, but the chickens have to stay in the side yards and the back yard.

The other concern Winner had was Item D, Nuisance Prohibited. Only motion activated lighting shall be used to light any fenced area. Winner asked Brad Townsend to clarify what that means. Townsend stated that the city did not want them to be putting spot lights. Winner stated that motion activated lighting could be a flood light. Townsend stated that it is turned on by something moving. If there is nothing moving, the light is out. It is not on all the time. Winner stated that she was still having a hard time understanding this. She went back to her example where she has someone on a two-acre residential lot and they have fenced in the area from the side perimeters of their house and their back yard so they have a big fenced in area. But they have motion flood lights on the back of their houses. Townsend is saying that they can't have nightlights or anything in that area, too? What if they have lights that they keep on all night long around their pool, which also happens to be in the fenced in area that their chickens run around in? She is just looking for the things where a neighbor is going to say, "You've violated this rule, so get rid of your chickens." It is common sense that if one has a big yard and he has lights that he leaves on in his back yard or even



exterior lighting where he is illuminating his trees and they are not motion activated lights, they are just illuminating his oak trees. But it is within the fenced in enclosure where his chickens also play. How does that work? Brad Townsend stated that there is a conflict.

Winner stated that her dad was a vet and she thinks everyone should have pets. Pets are not a problem unless they are a problem. She does not care if someone has 25 chickens next door to her and where they are. She cares if they are noisy and if they smell the same way she cares if a dog is noisy or it smells. She thinks there are probably more people complaining about dogs right now than anyone in Roswell complaining about chickens. If chickens are going to be treated as pets or hobbies or whatever, then it is going to be within where people's lifestyles are and Winner does not want their lifestyle things to cause problems that their neighbors can pick on them for. That is her two cents on this. There are a couple of things on here that she does not know what the answers are but she does not like what they have right now.

Brad Townsend stated that staff knows it is not perfect, but they are trying.

Karen Geiger stated that her concern is on the other end. She does not understand how one could have a rooster that doesn't crow at 5 a.m. Sara Winner stated that one can't. Geiger asked how they can have roosters because people are always going to complain about nuisance. Winner stated that it was a way of saying one cannot have roosters. Geiger asked why are they including roosters and just creating a problem. Why don't they say no roosters?

Brad Townsend stated that one of the original draft ordinances that went to Committee did include excluding roosters. The Committee requested that they put roosters back in, at least some members of the Committee not all of them. Sara Winner stated that was just in a rooster's nature.

Susan Baur stated that maybe that allows people to bring in roosters to play in the daytime and then take them some place else at night or something. That's the only thing she can figure out.

Sarah Winner stated that if anyone wants to do a one day rooster visit doubts that anyone could actually get...the chicken whisperer says that hens can lay better if there is no rooster around to disturb their routine.

Susan Baur asked where the number 25 come from. Brad Townsend stated that it was taken from the Fulton County or the city of Atlanta to be consistent with that. Baur stated that it is all over the board of what other people allow and what they don't.

Laura Light stated that she would disagree with Baur that it is all over the Board.



Susan Baur stated that it ranges from like three, six, four, 25 on page 17.

Laura Light stated that if she is looking at these numbers and she is doing the mean it is significantly lower than 25. With all due respect to the major city that is just south of Roswell, they don't always want to be just like the city of Atlanta for many reasons. Most of which they cherish.

Laura Light stated that the city of Roswell has other pet ordinances and it seems to her like part of the reason why this has come forward is because it is more like a pet ordinance. How many dogs does the city allow a household to have? Brad Townsend stated three. Light asked how many cats does the city allow a household to have? Townsend stated that the city does not control cats. They have county regulations. Light clarified that this proposal is saying that someone can have 25 chickens outside and she can't have four dogs that may be small dogs that live inside her house. Cheryl Greenway stated what right. Light stated that she is not so sure that she understands the numbers when put in that perspective.

Light stated that Brad Townsend's memo to the Commission indicates that it is going to allow for roosters and states that poultry is only allowed to reside in single family detached residences and indicates an accessory structure, which is required to house the poultry. If she goes and looks at that ordinance then, as it is written, part E under section 2, says that each keeper of poultry is required to have an accessory structure and/or fenced area.

Brad Townsend stated that was correct. Laura Light asked if they were requiring an accessory structure. Townsend stated that was up to the keeper. When they were discussing it at Committee the discussion was does one need to have a coop. Some don't need to have a coop so there is no reason to force them to have the accessory structure. But they need to be able to confine with a fence. Light stated that and/or then, is fine. Townsend stated that the other scenario is, in his research there are such things as chicken tractors, which is a mobile coop. In essence it moves from spot to spot to spot. Sarah Winner stated that it was still a fenced enclosure though. Brad Townsend agreed that it was still enclosed in a fence but moves from location to location. It is not a fixed spot. Light clarified that within someone's yard they would go and move it. Townsend stated that was correct. Light clarified that they are not going to be required though as implied by the memo. It is one or the other. Light clarified that when one does have an accessory structure it has to meet the requirements for accessory structures. Townsend stated that is 10 foot setbacks for the building, for the coop. Light asked if the staff has addressed the movable accessory structure. Townsend stated not really. Light stated that defacto that would be outlawed. Townsend stated that was correct. Light added or not permissible. Townsend stated that they might need to clarify how that works.



**DRAFT**



Laura Light stated that going back to the numbers, if they look at the 25 ordinances analyzed across the United States there is only one, which is the city of San Diego, that allows 25. The next highest number is 15 and then they get down to even less than half of 15. And the next highest number is six and the numbers are consistently six, four, three, etc. When one is doing statistical analysis he typically throws out the high number and he typically throws out the low number, which could either be three or unclear depending on which low number they will look at. She doesn't like the number of 25 especially when she thinks that she can't have more than three dogs.

Karen Geiger asked if there was any discussion about tying the number of chickens to the size of the lot. Brad Townsend stated that there were discussions at Committee in dealing with how to arrive at a number. There was discussion of having 5000 square foot parcels to 10000 squares but Townsend thinks the Committee as per the direction they were given by staff was they rather not have to be determining lot size. They would rather code enforcement be able to say that one is in compliance or not in compliance.

Geiger stated that it seems like the Commission could try to address that by saying E-1 such and such number, E-2 such and such number. Then all the compliance officer needs to know is what zoning district they are in. That would be pretty easy to ascertain. To piggy back on Laura Light's comments, it seems to Geiger not appropriate to have someone who is in R-3 have the same number of chickens on that space as someone who is in E-1. Townsend stated that was correct.

Sarah Winner asked Brad Townsend if there was any thought as far as with the number of chickens in here. Maybe in San Diego they allow people to sell eggs. But is there any logic, or maybe some of the people who raise chickens know, at what point is it not really a hobby but it is not even fair to the animals because one has so many in a tight space. The same way one would tell someone that he should not have 47 cats in his house. How did they come up with 47? Do they believe that is too many for one person to be able to care for and give a quality of life? In looking at these numbers as far as number of birds, is there any logic to what is considered a hobby size that is commonly acceptable versus...

Brad Townsend stated that from staff's perspective when they were looking at it, they started out with the understanding that the purpose of the backyard chicken was for the production of the eggs for the family. So, if a family size is such, how many eggs do they consume in a week and how many eggs are produced by a chicken in a week. The ordinance staff actually had put forth had four. They thought in looking at the ordinances around the country and saying, okay four is the standard number if the consumption of the eggs is for the family. If one has 25 chickens and 15 of them are producing eggs at a standard rate, he is going to get a lot of eggs quickly.



Sarah Winner stated that was beyond what one would even want to sell if he just wanted to go to a farmer's market or something. Townsend stated that one is producing them for consumers, to give to all of his neighbors, to every family member that he knows. He has a lot of eggs because he has a lot of feed and he is dealing with a lot of chicken stuff. But the Committee had the direction given to Townsend to change it to 25. Winner asked who was the Committee. Townsend stated that it was mayor and city council.

Laura Light went back to Part 1 of the zoning ordinance, in Section 1 of the zoning ordinance where they have a definition of poultry. It states that chickens is specifically said to include roosters. They talk about quail and the members of this Commission all know what quail are because it is part of their job replenish them. So they know that they are little, itty-bitty details. But they have geese and turkeys. And 25 turkeys, Light acknowledges the sole who is raising turkeys for pleasure are not going to be the size of the Butterballs that one gets. They probably would not be that size but who knows, maybe they would tend to be. But if she lives on a quarter of acre lot and she has 25 turkeys. Brad Townsend stated that she was creating a nuisance. Light asked if they are creating a disaster. Right now code enforcement already has enough to do and she is wondering for the intent of this ordinance...they are defining what is going on but would they need to allow animals as large as geese and animals as large as turkeys.

Brad Townsend stated that he believes the discussion, at least over the period of months that he has been dealing with this started with dealing with chickens then they moved the definition to poultry, which includes all of those feathered birds. When the legal department gets their hands on a definition it is pretty much what Townsend has to deal with in saying where it goes and how is poultry defined.

Laura Light stated that she did not have a problem with a definition of terms. She thinks where she has a problem is taking step one is define it; step two is to day okay, now I accept everything that is within the definition. That sort of...step one is getting to the edge of the cliff. Step two is going over the edge of the cliff as opposed to saying maybe one ought to be scaling down the cliff and do something that is more safe. Light just thinks that geese and turkeys ought not to be allowed in the city of Roswell and she is not convinced that a rooster ought to be allowed in the city of Roswell.

Sara Winner stated that if they go back to one of Laura Light's original comments which she thinks was kind of key to all of this...if they are going to restrict the number of dogs, then what is a reasonable number of pet chickens that one can care for, give them a good quality of life, and not have so many eggs that he is doing a black market selling eggs on the side.



Brad Townsend stated that he thinks that is where council is looking for the Commission's, not expertise but at least....Laura Light stated their flushing of these quail...and perhaps recommending to them.

Susan Baur stated that perhaps they ought to listen to some members of the public right now who have been patiently waiting to speak so they will go from there. Is there anybody from the public who would like to speak in favor of this ordinance allowing poultry? The ordinance as it stands right now.

Brad Townsend clarified that the Commission is not going to find someone who is completely in favor of everything. They just need to hear from them as to how they feel.

**Tamara Bauhar**  
**445 Longleaf Drive**

Tamara Bauhar brought a little friend with her. She has eight or nine chickens in her flock. She has a small flock of Bantis, they are Bantam chickens. They are family pets. Bauhar would never consider eating them. They are lovely to hold. They have come inside since she was a child; they play with the neighbor's kids. The one presented is full grown. She lays eggs. Bauhar would love for the members of the Planning Commission to get to know or to come and visit one of them and see their little chickens as pets and how they live with them. None of them have a lot of turkeys or none of them are into commercial breeding for food or for eggs. They just enjoy the hobby. They enjoy the country lifestyle. When Bauhar thinks of Roswell, she thinks about how Roswell used to be mostly agrarian. Where she lives they are close to Coleman Farms about a half of a mile away. Coleman Farms used to be 150+ acres. Now it is mostly residential. Mr. Coleman retains five acres. Bauhar believes Roswell would appeal to many young people who are interested in the green movement, the environmental movement, decreasing the carbon footprints, living more close to the Earth and for that reason it would behoove Roswell to be progressive and attract these types of people. They tend to be young, urban. As the Commission may know, chickens as pets is a movement that is popular in Europe, in New York, it is big in Atlanta and it is a modern trend that is all over the world.

There are many misconceptions about roosters. The reason we have roosters is they are beautiful. They are the most beautiful of all chickens, they are colorful and majestic. One needs them to protect his flocks. They keep the hens quiet. Without a rooster the hens will quarrel among themselves. One has heard of the pecking order, roosters keep everybody calmed down. They are also protective of the flock. They have the instincts to preserve their flock and themselves from hawks. Bauhar stated that she has lost quite a few chickens due to hawk attacks.

Bauhar would like Roswell to allow citizens to maintain a lifestyle, a country lifestyle without having laws that make neighbors turn against neighbors. It is



very easy to have so many laws in place that if there is a neighbor who doesn't like one; they can easily find ways to call and make complaints to code enforcement. Bauhar stated that she is in that position. It has been very unpleasant. Code enforcement becomes like an association of tyrants. They become....they are constantly called because a neighbor doesn't like the idea of her having chickens. Some people are not open to the idea. She respects that. Some people like to live on a country club and have a country club lifestyle. Bauhar likes to have a country lifestyle. She does not know what they can't all live together peacefully. In her neighborhood there are many immigrants from different parts of the world. Bauhar stated that she comes from Chile, her husband is from Puerto Rico so they are used to the country lifestyle. Her neighbor is from Kenya, he is used to the country lifestyle. They have Arabs, they have Mexicans living on their street and they all have a different lifestyle than some of the people who have been there for awhile. They live on a golf course compared to them; they have these perfectly manicured lawns. They spend a lot of money having people come and keep the lawn maintained and it is very noisy and all of that. So, Bauhar thinks there is a way for them all to peacefully coexist. She is against having too many laws restricting how one lives in his own backyard. She believes everybody has the right to peaceful living and enjoyment of their backyard without government intrusion. The town of Roswell having so many laws that it makes it difficult.

Sara Winner stated that something Bauhar said, she has know problem with what she does in her backyard as long as it doesn't disturb her in her backyard. What does Bauhar say to that person who says he doesn't like roosters crowing early in the morning? Can she give the Commission any kind of a solution for that as far as the person...Winner does not care if they are country club or they are country? It could be a country person right next door that says he doesn't want to be woken up. Bauhar stated that she fully understands that. She has had that situation herself. Her rooster was crowing early in the morning so she started bringing him indoors at night on the advice of Andrew. They are all in a group together, which is a backyard chicken group and they help each other find solutions for these issues. Winner asked Bauhar if that was a solution. She doesn't think anybody is opposed to roosters. Her assumption is that people are concerned about the crowing in the wee hours of the morning. That is a noise issue that is not a chicken issue. That is a noise issue the same way one would not want a dog barking at 4 a.m. Winner clarified that what Bauhar was saying by bringing roosters indoors one can eliminate them crowing when they think the sun is ready to come up. Bauhar stated that was correct. Her rooster came indoors every night in a sound insulated pen. Some of her other friends they have coops they go inside. The level of the ceiling is low. In order for a rooster to crow he has to be able to lift his neck. So if one has a low ceiling in the coop the rooster cannot lift his neck to crow. And Asam, again who has his roosters at night in a shed and that blocks out any noise.



**DRAFT**



Winner stated that the second thing the Commission is battling with is the number. At one point is there...if someone lives on an eighth of an acre and they have a really small back yard. How should the Commission be making sure that it is a safe environment for...the same way they wouldn't want someone to have 27 dogs in an acre lot. It is too many pets in one area. How does the Commission make sure it is good quality of life for the chickens and that they are not being used commercially but they are being used for residential purposes?

Bauhar stated that the reason why they need at least 25 chickens is because when they order chickens they come in a batch of 50 and many of those, maybe 10 to 15 percent of those will die. Also, when one's hen lays eggs, they usually get four to six babies. It is easy to go over the limit. If the limit is three or four and one's hen has four babies, now they are at seven. What is he going to do with those babies? Are they going to have to kill them in order to meet the laws of Roswell?

Sara Winner asked how that happens. Like one keeps having babies? At what point does it become 25, 50, 100, 200. At what point is it too many chickens on a lot where it is not good for the chickens.

Bauhar stated that they are lovers of poultry and none of them are extreme. They all have large lots. They enjoy the country so they all live on nice big lots. Winner asked Bauhar how she culls her own. Let's say she lives on 100 acres but she suddenly has 17,000 chickens. At what point does one start saying this is too many chickens. Bauhar stated that is not a pet chicken lover. Winner asked where does it become pet versus commercial. Bauhar stated that none of them are in it for commercial. They are all in it for the love of the animals. Winner asked what is a reasonable number that Bauhar would say if this person has this many chickens it is beyond being just a pet collection or a family/residential? Bauhar stated probably 100. Some of the chickens are so small, the quails are tiny. Winner asked how many eggs would a chicken produce. Do they produce about one a day? Bauhar stated that she has eight chickens so she would maybe get about two a day. That is not enough to feed anybody. Winner clarified that eight chickens produce two eggs a day. Bauhar stated that some of them are younger than others. They have to be mature to lay the eggs. It depends on the age of the chicken, the sex of the chicken, the time of the year. Winner asked Bauhar if she were sitting on the Commission would she recommend or would she be encouraging the Commission to limit the number of chickens based on lot size. Thinking of protecting the chickens and making sure that the chickens have a good quality of life too. Winner stated that if someone has a tiny little house, let's say in Roswell they are on an eighth or a sixteenth of an acre and the Commission says one can have 100 chickens. Those chickens could be in a space where they could only move in a circle because there are so many chickens crammed...how do they protect those chickens?



Bauhar stated that they are talking about property owners and most of the properties are pretty big in Roswell. She does not know of anyone who has less than an acre. Most of them have much more than an acre. There is no one in her group that sounds like the person Winner is talking about that she knows about that owns chickens.

Susan Baur suggested at this time that they let someone else from the public speak.

Bauhar stated that there was a young lady here with four children. They came to support her cause. They had to leave because 8:30 p.m. is their bedtime. They have lived here for 20 years at the same location and they live right next to Andrew for 14 years. And Andrew can give the Commission their names.

**ANDREW WORDES**  
**335 Alpine Drive**

Andrew Wordes stated that first he wanted to apologize for all of you for causing this problem. He is the one that has the chickens in Roswell that has caused the city to spend \$50,000 trying to come up with a solution for a problem that does not exist. There has been one complaint against his chickens by a former employee of his who is not a citizen of Roswell. They have had more UFO sightings in the city of Roswell than they have had complaints over his chickens. He apologized to all of them for even having to waste their time on the subject.

The first thing Wordes wants to address is the amendment has no grandfather clause whatsoever. What they have made is an exception for people that have more than what they have determined is an adequate number. His children have grown up with chickens. He has had chickens since he was 10 years old. His grandchildren have chickens. The first thing he would like is a grandfather clause that will protect his property so that his ancestors can have chickens just like Mr. Coleman has had chickens on his property. That is something that has not been addressed. They call allowing one to have 15 more chickens than the 25 limit until they die a grandfather clause but that is an exception. That is not a grandfather clause. The legal definition of a grandfather clause says they are going to allow one to keep doing what he was legally doing before they made it illegal or regulated. Wordes would like to say that everyone who has chickens in Roswell should have a grandfather clause written into the agreement that allows them to continue doing what they are doing.

Sarah Winner asked Andrew Wordes how many chickens does he have now. Wordes stated that he currently has 40 because his property flooded and 20 of them were killed when the water raised and he couldn't get to them quick enough because the water was six feet deep in his yard. He had 60. He originally had 12 chickens when this started and he only had two or three neighbors that wanted eggs. But now with all of the media attention he has 12 or 13 neighbors that