Passed 7-0-2 (Mayer, Sturbaum)

ORDINANCE 11-20

TO AMEND TITLE 7 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED "ANIMALS"
Re: To Amend Provisions Regarding the Permitting of Small Flocks of Chickens in Certain Residential Districts

WHEREAS, the City of Bloomington (City) recognizes that the keeping of urban chickens is a growing phenomenon that has avocational, educational and sustainable value; and

WHEREAS, in December 2009, the Common Council adopted the report *Redefining Prosperity*, issued by the Bloomington Peak Oil Task Force, which emphasizes the importance of urban agriculture in increasing local resilience and sustainability; and

WHEREAS, for the past five years, the City has imposed a general prohibition against the harboring of chickens in most residential districts out of concern for protecting property owners from a potential offensive use of neighboring property, but has allowed small flocks of chickens when neighbors adjacent to the chicken owner waive that prohibition; and

WHEREAS, along with requiring a waiver of the general prohibition, the City also established an annual permitting program that requires owners to comply with standards for maintaining chicken flocks, to allow inspections and be subject to fines in the event of violations and revocation of the permit if the violations are repeated; and

WHEREAS, over the last five years there have been an average of three complaints a year regarding chickens, the most common of which involves chickens that stray from the property; and

WHEREAS, the City finds that the minor problems associated with harboring small flocks of chickens in certain residential districts are outweighed by the potential benefits and proposes to remove the general prohibition against small flocks of chickens and allow them by permit; and

WHEREAS, the City also finds that the value of harboring small flocks of chickens as a source of sustenance justifies the waiver of the annual fees; and

WHEREAS, citations in the provisions regarding chicken flocks to Title 20 of the Bloomington Municipal Code should be changed to reflect the repeal and re-enactment of that title, which is now known as the "Unified Development Ordinance";

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, INDIANA:

SECTION 1. Section 7.01.010 of the Bloomington Municipal Code entitled "Definition of Terms" shall be amended by updating the citations referencing Title 20 in the definition of "chicken flock" such that the definition reads as follows:

"Chicken Flock" means one chicken or a group of two or more chickens which:

(a) contains no more than five hens and no roosters; and

(b) is issued a permit by the City of Bloomington Animal Care and Control; and

(c) is not otherwise permitted by 20.05.093 - SC-07 (Special conditions—Crops and pasturage, and accessory chicken flocks) of the Bloomington Municipal Code as the same may be hereafter amended or replaced; and

(e) reside in an area zoned Estate Residential (RE) or Single-Dwelling Residential (RS) or those Estate Residential or Single-Dwelling Residential portions of a Planned Unit Development (PUD) as defined in Chapter 20.02 of the Bloomington Municipal Code, as the same may be hereafter amended or replaced.

SECTION 2. Section 7.21.028 shall be given a new title, which shall be reflected in the table of contents for this chapter, and shall be amended to remove the harboring prohibition and the waiver provision. The section shall read as follows:

7.21.028 Obtaining a permit for chicken flocks

Persons wishing to harbor a chicken flock shall obtain a permit.

(a) Permit.

(1) Applications for a permit to harbor a chicken flock shall be made by the owner of the property to the City of Bloomington Animal Care and Control Department and shall include:

(A) The name, address, and telephone number of the applicant;

(B) The description (breed, sex, age and coloration) of each chicken in the chicken flock;

(C) The address where the chicken flock is to be harbored, and the zoning district in which such address is located (which must be a district listed in part (e) of the definition of "Chicken Flock" in this Title);

(D) A statement indicating whether the applicant has ever been convicted of the offense of cruelty to animals.

(2) The permit to harbor a chicken flock shall not be transferable to another person or to another location; and

(3) No applicant shall harbor more than one chicken flock within the City; and

(4) If the applicant withholds or falsifies any information on the permit application, no permit shall be issued and any permit previously issued on false or withheld information shall be revoked; and

(5) An application for a permit shall be made prior to the harboring of any chickens or the creation of any chicken flock; and

(6) All permits shall be conditioned upon a passing inspection by senior and staff animal control officers of the City and/or their designees and compliance with this Chapter; and

(7) Senior and staff animal control officers may refuse to grant or renew a permit and may revoke a permit if applicant/harborer is unable to maintain his/her flock so as to not create a nuisance, as evidenced by three (3) admitted or judicially-determined violations of this Chapter within twelve (12) consecutive months.

(b) No person previously convicted of cruelty to animals shall be registered or issued a permit without prior review by the Animal Control Commission.

SECTION 3. Part (a) of Section 7.21.057 of the Bloomington Municipal Code entitled "Standards for maintaining chicken flocks" shall be amended by striking sub-part (4), which prohibits the slaughtering of chickens on the harborer's property, and renumbering the subsequent sub-parts, so that part (a) shall read as follows:

7.21.057 - Standards for maintaining chicken flocks.

(a) All harborers of chicken flocks shall:

(1) Operate in such a manner so as to not constitute a public nuisance or disturb neighboring residents due to noise, odor or damage; and

(2) Operate in a manner so as to not pose a threat to public health. Harborers shall isolate chickens which are sick or diseased so as to not endanger the health and well-being of other animals and humans. When necessary for the protection of the public health and safety, the director of animal care and control may require the specified animal be kept or confined in a secured enclosure. This provision is subordinate to any local, state or federal code governing the treatment of chickens in the event of a threat to human health; and

(3) Comply with all of the provisions of Chapter 7.36 of this title regarding general animal care; and

(4) Keep all chickens completely and securely enclosed and under the control of the harborer on the harborer's property at all times; and

(5) Provide both a chicken coop and attached chicken run that afford a combined twelve square feet per chicken; and

(6) Provide a chicken coop and attached chicken run that are clean, dry and odor-free; and

(7) Provide a chicken coop that affords shelter from the elements; and
(8) Provide a chicken coop and attached chicken run that, combined, provide adequate ventilation and adequate sun and shade and that are both impermeable to rodents, wild birds and predators, including dogs; and
(9) Provide chickens with access to feed and clean water at all times, such feed and water shall be unavailable to rodents, wild birds and predators; and
(10) Provide adequate safeguards to prevent unauthorized access to the chickens by members of the public; and
(11) Keep the chicken coop, chicken run and surrounding area free from trash and accumulated droppings. The harborer shall dispose of chicken waste and uneaten feed in a timely manner and in accordance with the Bloomington Municipal Code.

SECTION 4. Section 7.21.070 of the Bloomington Municipal Code entitled "Fees" shall be amended by deleting part (c) and relettering subsequent parts.

SECTION 5. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 6. This Ordinance shall be in full force and effect upon adoption and compliance with IC 36-4-6-14.

PASSED AND ADOPTED by the Common Council of the City of Bloomington on the 21st day of DECEMBER, 2011.

SUSAN SANDBERG, President
Bloomington Common Council

Attest:

REGINA MOORE, Clerk
City of Bloomington

Presented by me to the Mayor of the City of Bloomington, Indiana, this 22nd day of DECEMBER, 2011.

REGINA MOORE, Clerk
City of Bloomington

Signed and approved by me, the Mayor of the City of Bloomington, Indiana, this 28th day of December, 2011.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance is sponsored by Councilmembers Piedmont-Smith and Rollo. It follows an uneventful five-year history of a general prohibition against harboring small flocks of chickens in certain residential districts except through waiver by adjacent neighbors and would now allow this activity by permit and without a waiver. It also waives the $25 annual fee for the permit. Lastly, it brings relevant citations to Title 20 of the Bloomington Municipal Code up to date with the repeal and re-enactment of that title in 2006.

Note: On 21 December 2011, the Council adopted Am 01, which added Section 3, which removed the prohibition against slaughtering chickens.