Passed 5-4 (Wisler, Diekhoff, Mayer, Sabbagh) BML

ORDINANCE 06-21

TO AMEND TITLE 7 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED "ANIMALS"
Re: To Permit Small Flocks of Chickens by Waiver

WHEREAS, the City of Bloomington prohibits the harboring of chickens in most residential districts in the interest of protecting property owners from a potential offensive use of neighboring property; and

WHEREAS, the City of Bloomington recognizes that the keeping of urban chickens is a growing phenomenon that has avocational, educational and sustainable value and is welcomed in some City neighborhoods; and

WHEREAS, when urban chickens have such value to a neighborhood, neighbors adjacent to the chicken harborer should be able to waive the general prohibition; and

WHEREAS, locating an urban chicken provision in Title 7 – *Animals*, affords both chickens and neighbors the care and control protections of that Title;

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 adding the following definitions in alphabetical order:

"Chicken" means *Gallus gallus domesticus*, a domestic bird typically kept on a farm. This definition does not include other fowl, such as, but not limited to, peacocks, turkeys or waterfowl.

"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

(d) is not otherwise permitted by 20.07.16.01, Table 7-2 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 20.07 of the Bloomington Municipal Code, as the same may be hereafter amended or replaced.

"Chicken Coop" means an enclosed structure for housing chickens that provides shelter from the elements.

"Chicken Run" means an enclosed outside yard for keeping chickens.

SECTION 2. Section 7.21.010 of the Bloomington Municipal Code entitled "Kennel permits required" shall be amended by deleting subsection (a) and replacing it with the following:

7.21.010 Kennel permits required.

(a) No person shall operate a commercial or noncommercial kennel, feral cat colony, or chicken flock without first obtaining a permit from the City of Bloomington Animal Care and Control department in accordance with this chapter.

SECTION 3. New Section. Section 7.21.028 entitled "Obtaining a waiver and a permit for chicken flocks" shall be inserted into the table of contents and the body of Chapter 7.21 "Kennel Permits" and shall read as follows:

7.21.028 Obtaining a waiver and a permit for chicken flocks

Except as provided in this Title and by Title 20, as the same may be hereafter amended or replaced, it shall be unlawful for any person to harbor chickens. Persons wishing to harbor a chicken flock shall obtain both a waiver and a permit.

(a) Waiver. All persons wishing to harbor a chicken flock shall obtain written waivers by all owners of adjacent lots indicating that said owner does not oppose the harboring of chicken flocks at the applicant's address and therefore waives the prohibition of this Chapter. An adjacent lot is one whose boundary line touches the boundary line of applicant's lot, or is separated from the applicant's lot only by an intervening alley or other right-of-way, but does not include lots with an intervening right-of-way classified as a neighborhood street or higher on the City's Master Thoroughfare Plan. All waivers shall be in a form provided by the City.

(1) Where the applicant receives waivers from all owners of all adjacent lots and complies with all other requirements of this Title for chicken flocks, the applicant shall be permitted to replenish the chicken flock upon the death or loss of any chicken; but

(2) An applicant who harbored chickens on March 31, 2006 may obtain a permit pursuant to subsection (b)(5) of this Section without obtaining waivers hereunder, and the applicant will thereby be permitted to retain a chicken flock but shall not replace any chicken upon its death or loss. Should such applicant subsequently obtain waivers from all owners of all adjacent lots, then this class of harborers shall be allowed to replenish his/her flock pursuant to subsection (a)(1) above.

(3) The written waiver as provided in 7.21.028(a) is effective when it is filed with the City of Bloomington Animal Care and Control Department and shall expire five (5) years from its effective date.

(b) 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, except where the applicant harbored chickens on March 31, 2006 in which case the harborer shall submit an application for a permit no later than ninety (90) days after the effective date of this ordinance. Where the applicant harbored chickens on March 31, 2006, the applicant must reduce his/her flock to no more than five hens and no roosters, and comply with all other requirements of this Title pertaining to chicken flocks within ninety (90) days from the effective date of this ordinance. A person who harbored chickens on March 31, 2006 but fails to apply for a permit within this timeline shall have no entitlement to continue to harbor any chicken unless and until such person meets all requirements of this ordinance for chicken flocks and obtains a permit for same.

(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.

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

SECTION 4. Section 7.21.030 of the Bloomington Municipal Code entitled "Inspection" shall be amended by deleting the existing provision and replacing it with the following:

7.21.030 Inspection.

It shall be a condition to the issuance of any permit required by this chapter that:

(a) The senior and staff animal control officers of the city and/or their designees shall be permitted to inspect the structure and/or premises wherein a kennel, colony, or chicken flock is maintained (or believed to be maintained) and all animals located thereon where such animals are harbored.

(b) All reports of such inspections shall be in writing and maintained by the senior animal control officer.

(c) The senior animal control officer, staff animal control officers, and/or their designees are authorized to enter the structure or premises wherein a kennel, colony, or chicken flock is maintained (or believed to be maintained) at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures.

(d) If the owner or those in possession of a structure or premises wherein a kennel, colony, or chicken flock is maintained refuse inspection of said kennel, colony, or chicken flock, the senior animal control officer, staff animal control officers, and/or their designees may obtain an inspection warrant from any court of record in the county in which the kennel, colony, or chicken flock is located in order to determine if the kennel, colony, or chicken flock is maintained in accordance with this title.

SECTION 5. New Section. Section 7.21.057 entitled "Standards for maintaining chicken flocks" shall be inserted into the table of contents and the body of chapter 7.21 "Kennel permits" and 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) Not slaughter chickens on harborer's property; and

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

(6) Provide both a chicken coop and attached chicken run that afford a combined twelve (12) square feet per chicken; and

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

(8) Provide a chicken coop that affords shelter from the elements; and

(9) 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

(10) 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

(11) Provide adequate safeguards to prevent unauthorized access to the chickens by members of the public; and

(12) 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.

(b) The chicken coop and chicken run shall:

(1) Provide a sight fence or shrub screening of at least four (4) feet in height around both coop and run if visible to occupants of neighboring lots; and

(2) Be located at least twenty (20) feet from any building not owned or occupied by the harborer, that is used or capable of being used for human habitation; and

(3) Be located at least twelve (12) feet from the property line of any neighboring lot.

(c) All chicken coops and chicken runs shall comply with the requirements for accessory structures outlined in Title 20 of the Bloomington Municipal Code as the same may be hereafter amended or replaced.

SECTION 6. Section 7.21.060 of the Bloomington Municipal Code entitled "Kennel permit periods" shall be amended by adding subsection (d) which shall read as follows:

(d) Chicken flock permits shall be valid for a period of no more than one year from the date of issuance.

SECTION 7. Section 7.21.070 of the Bloomington Municipal Code entitled "Fees" shall be amended by inserting the following as subsection (d) and by renumbering the current subsections (d) and (e) accordingly:

(d) The fee for a permit for a chicken flock shall be: $25.00

SECTION 8. 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 9. Once passed by the Common Council, signed by the Mayor, and published in accordance with the law, this ordinance shall go into effect at the same time as Ordinance 06-24 which would, among other actions, repeal and reenact Title 20 (Zoning) of the Bloomington Municipal Code.

PASSED AND ADOPTED by the Common Council of the City of Bloomington on the 1 day of November, 2006.

CHRIS STURBAUM, President
Bloomington Common Council

Attest:

Cara Huddleston
~~REGINA MOORE, Clerk~~ Deputy City Clerk
City of Bloomington

Presented by me to the Mayor of the City of Bloomington, Indiana, this 2 day of November, 2006.

Cara Huddleston
~~REGINA MOORE, Clerk~~ Deputy City Clerk
City of Bloomington

Signed and approved by me, the Mayor of the City of Bloomington, Indiana, this 2nd day of November, 2006.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance is sponsored by Councilmember Sturbaum and allows residents in RE and RS zoning districts to harbor a flock of no more than 5 hens of *Gallus gallus domesticus* only when all adjacent neighbors of a prospective harborer waive the general prohibition against keeping chickens in residential districts. The ordinance spells out stringent care and control requirements, grounds for revocation of a permit, makes permits good for only one year and requires a $25 fee to keep a flock.

Note: The Common Council adopted Am 01 on November 1, 2006 which amended Section 9 to delay the effective to coincide with the effective date of the Unified Development Ordinance.