

*Passed 7-0
Rolls, Wislor absent*

ORDINANCE 09-19

**TO AMEND TITLE 7 OF THE BLOOMINGTON MUNICIPAL CODE
ENTITLED "ANIMALS" -**

**Re: Numerous Changes Resulting from a Periodic Review of Title 7 and
Also Responding to HEA 1468 which Regulates "Puppy Mills"**

WHEREAS, Title 7 of the Bloomington Municipal Code sets forth provisions regarding the care and control of animals through the Animal Care and Control Department for the City of Bloomington; and

WHEREAS, the State of Indiana recently passed a bill regulating commercial breeding organizations that imposes a December 31, 2009 deadline for local governments to amend their ordinances related to breeders; and

WHEREAS, Title 7 of the Bloomington Municipal Code does not currently include consumer protection standards for consumers who purchase dogs and cats from breeders or pet stores; and

WHEREAS, it is in the best interest of the community as a whole and of the animals who reside here for the City of Bloomington to set standards for the humane treatment of animals, reduce pet overpopulation and public burden, and clarify codes as needed;

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL
OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. Section 7.01.010 of the Bloomington Municipal Code "Definition of Terms" shall be amended by adding the following definitions in alphabetical order:

"Intact animal permit" means the permit required by any person engaged in owning or harboring more than four (4) dogs over the age of twelve months, any one of which is unaltered, and/or more than six (6) cats over the age of twelve months, any one of which is unaltered.

"Litter permit" means the permit required by any person who intentionally or unintentionally causes or allows the breeding of a litter of dogs or cats in a twelve-month period. Exception: if the parent animal(s) are altered within fourteen weeks after giving birth or the parent animal(s) and the litter are relinquished to the City of Bloomington Animal Care and Control Department within fourteen weeks after birth of the litter, all permit requirements shall be waived.

SECTION 2. Section 7.01.010 "Definition of Terms" shall be amended by deleting the definitions for "Major Breeder" and "Minor Breeder".

SECTION 3. Section 7.01.010 "Definition of Terms" shall be amended by deleting the definition of "Commercial kennel" and replacing it with the following:

"Commercial kennel" means any person engaged in the business of boarding, training for a fee and/or grooming animals.

SECTION 4. Section 7.16.040 "Standards for commercial animal establishments" shall be amended by deleting existing subsections (d) and (e) and replacing them with the following:

(d) With respect to all animals kept on the premises, comply with all of the provisions of Chapter 7.36, Animal Care of this title providing for the general care of animals;

(e) Not sell dogs and/or cats which are unweaned, less than eight (8) weeks of age, or obviously diseased;

SECTION 5. Section 7.16.040 "Standards for commercial animal establishments" shall be amended by adding the following subsections (f), (g) and (h) and renumbering all subsequent subsections accordingly.

(f) If it is a major pet shop, post the name of the breeder of all dogs and cats for sale on the animal's kennel;

(g) If it is a major or minor pet shop, keep records of the name, address and telephone number of the breeder and seller of each animal for a period of two (2) years after the date the animal is sold and make those records available for inspection by the City of Bloomington Animal Care and Control Department.

(h) Recommend that any animal sold, transferred or given away be examined by a licensed veterinarian within one (1) week of the date of transfer and notify the new owner/guardian of state requirements for rabies vaccinations.

SECTION 6. New Section. Section 7.16.045 entitled "Consumer protection requirements" shall be inserted into the table of contents and body of Chapter 7.16 "Commercial Animal Establishment Permits" and shall read as follows:

7.16.045 Consumer protection requirements

(a) This section applies to the sale of dogs and cats by major pet shop permit holders.

(b) Major pet shop permit holders shall provide a purchaser of a dog or cat with a health record for the animal at the time of sale. The health record shall include the following:

(1) The animal's breed. If the breed is unknown or mixed, the health record shall so indicate. If the animal is advertised or represented as registerable, the following information shall be provided: the breeder's name and address; the name and registration number of the dam and sire of the purchased dog's litter; and the name and address of the pedigree registry organization where the dam and sire are registered. Providing registration papers, if available, shall meet this requirement;

(2) The date of the animal's birth;

(3) The animal's sex, color and markings;

(4) A list of all vaccinations administered, if known; the date and type of vaccinations and the name of the person, business, or entity who administered them, if known, up to the date of sale; a record of any known disease, illness or condition with which the dog is or has been afflicted at the time of the sale; and record of any veterinary treatment or medication received by the animal;

(5) The date, dosage and type of any anti-parasitic medicine, if known, that was administered; and

(6) The name, address, and signature of the major pet shop permit holder's representative.

SECTION 7. Section 7.16.080 "Violations" shall be amended by deleting the entire section and replacing it with the following:

(a) Any animal control officer may issue to any person in violation of this chapter a notice of ordinance violation. The penalty established in subsection (b) and (c) of this section may, at the discretion of the animal owner/guardian, be paid to the city of Bloomington animal care and control department within seventy-two hours in full satisfaction of the assessed penalty. In the event that such payment is not made within the period prescribed, proceedings shall be filed in the county court of competent jurisdiction.

(b) Permit holders who have been found to have falsified records or who have been found to be in violation of the animal care standards referenced in 7.16.040(d) shall be subject to a fine of triple the permit fee for the first offense, with the fine for each subsequent offense within a twelve month period increasing by an increment of triple the permit fee. In the event that the animal establishment permit does not require a fee, the fine for a first offense shall be equal to three times the fee of a major pet shop permit holder, with the fine for each subsequent offense of this chapter increasing by an increment of triple the permit fee of a major pet shop permit holder.

(c) Permit holders who violate any other provision of this chapter shall be subject to a fine of double the permit fee for the first offense, with the fine for each subsequent offense of this chapter within a twelve month period increasing by an increment of double the permit fee. In the event that the animal establishment permit does not require a fee, the fine for a

first offense shall be equal to two times the fee of a major pet shop permit holder, with the fine for each subsequent offense of this chapter increasing by an increment of double the permit fee of a major pet shop permit holder.

(d) Permit holders cited for violations of this chapter more than three (3) times in a twelve month period may have their permit revoked for a period of three (3) months. The permit may be reinstated by the animal care and control department following an inspection that reveals no further violations. Further violations following reinstatement of the permit may result in the permit being revoked permanently.

SECTION 8. New Section. Section 7.21.005 entitled "General requirements" shall be inserted into the table of contents and body of Chapter 7.21 "Kennel Permits" and shall read as follows:

7.21.005 General requirements

(a) No person shall own or harbor more than a total of nineteen (19) cats and/or dogs over the age of twelve months. This provision does not apply to commercial kennels. A person owning or harboring more than a total of nineteen (19) cats and/or dogs over the age of twelve months at the time that this ordinance becomes effective shall:

(1) Be permitted to retain those animals, but shall not replace any animal upon its death or loss until such time as the total number of animals is nineteen (19) or less; and

(2) Complete the appropriate kennel permit application within sixty (60) days of the ordinance's effective date.

SECTION 9. Section 7.21.025 "Obtaining commercial-kennel permits" shall be amended by deleting subsection (b) and re-lettering all subsequent subsections accordingly.

SECTION 10. Section 7.21.070 "Fees" shall be amended by deleting the entire section and replacing it with the following:

(a) The fee for noncommercial kennel permits shall be:

(1) 5-8 altered dogs	\$25.00
(2) 9-12 altered dogs	\$50.00
(3) 13-16 altered dogs	\$75.00
(4) 17-19 altered dogs	\$100.00
(5) 7-11 altered cats	\$25.00
(6) 12-16 altered cats	\$50.00
(7) 17-19 altered cats	\$75.00

(a) The fee for commercial kennel permits shall be:

(1) Class B, boarding:	
(A) 1-25 kennels	\$100.00
(B) 26-50 kennels	\$250.00
(C) Additional kennels in increments of 25	\$200.00 per increment of 25
(2) Class C, training	\$75.00
(3) Class D, grooming	\$50.00

(c) The fee for a permit for a chicken flock shall be: twenty-five dollars.

(d) No fee shall be required of any veterinary hospital or municipal animal shelter, research laboratory or government-operated zoological park.

(e) Persons whose establishments operate under more than one class, as defined by this chapter, shall be required to apply for a permit for each applicable class.

SECTION 11. New Section. Section 7.22.005 entitled "General requirements" shall be inserted into the table of contents and body of Chapter 7.22 "Breeders" and shall read as follows:

7.22.005 General requirements

(a) No person shall own or harbor more than a total of nineteen (19) cats and/or dogs over the age of twelve months. This provision does not apply to commercial kennels. A person owning or harboring more than a total of nineteen (19) cats and/or

dogs over the age of twelve months at the time that this ordinance becomes effective shall:

(1) Be permitted to retain those animals, but shall not replace any animal upon its death or loss until such time as the total number of animals is nineteen or less; and

(2) Complete the appropriate kennel permit application within sixty days of the ordinance's effective date.

(b) A breeder who houses dogs or cats in a cage shall provide every dog or cat with a reasonable opportunity for exercise outside of a cage at least one (1) time per day in accordance with section 3.8 of the federal Animal Welfare Act. However, a breeder who permits a dog or cat access to a run that meets the requirements of section 3.8 of the Animal Welfare Act at least one (1) time per day has satisfied the exercise requirement. Further, a breeder is not required to provide the opportunity for exercise if exercise would endanger the dog or cat's life or health.

SECTION 12. Section 7.22.010 entitled "Minor Breeder permit required" shall be amended to read "Intact animal permit required" and the new title shall be reflected in the table of contents for this chapter. In addition, the body for the provision shall be deleted and replaced with the following:

7.22.010 Intact animal permit required

(a) No person or business shall own or harbor more than four (4) dogs and/or more than six (6) cats twelve months or older any one of which is unaltered without obtaining a permit in compliance with this chapter.

(b) Permit holders that produce one or more litters in twelve month period shall comply with section 7.22.020 of this title.

SECTION 13. Section 7.22.020 entitled "Major Breeder permit required" shall be amended to read "Litter permit required" and the new title shall be reflected in the table of contents for this chapter. In addition, the body for the provision shall be deleted and replaced with the following:

7.22.020 Litter permit required

No person shall intentionally or unintentionally cause or allow the breeding of a litter of dogs or cats in a twelve-month period without obtaining a permit in compliance with this chapter.

(a) Permit holders shall:

(1) Not allow the birthing of more than one (1) litter per female dog or cat in a twelve-month period;

(2) Not breed a female dog or cat that is less than eighteen months of age or older than eight years of age.

(3) Keep records for a period of two (2) years from the date of birth as to the birth of each litter of dogs or cats, as may be required by the city of Bloomington animal care and control department;

(4) Keep records for a period of two (2) years from the date of sale of the name, address and telephone number of each buyer or new owner/guardian of any dog or cat sold or transferred;

(5) Furnish to each buyer or new owner/guardian of an animal the litter permit number in order that the new owner/guardian has proof and assurance that the animal was legally bred;

(6) Furnish to each buyer or new owner/guardian of an animal the animal's vaccination, medication and treatment records;

(7) Not sell, trade or give away puppies or kittens which are unweaned, less than eight weeks of age, with the exception of animals taken to the animal shelter;

(8) Not offer for sale an animal with obvious signs of infection, disease or illness;

(9) Recommend that any animal sold, transferred or given away be examined by a licensed veterinarian within one week of the date of transfer and notify the new owner/guardian of state requirements for rabies vaccinations;

(10) List the litter permit number on all public notices advertising the sale or free giveaway of litters of or individual puppies or kittens; and

(11) Comply with all provisions of Chapter 7.36, Animal Care, of this title.

(b) Any owner/guardian or person having custody of a dog or cat which has been altered within fourteen weeks after giving birth to a litter or who relinquishes the adult dog or cat and the litter to the city of Bloomington animal care and control department within fourteen weeks of the birth date of the litter shall have all permit requirements waived.

SECTION 14. Section 7.22.030 entitled "Obtaining breeder permits" shall be amended to read "Obtaining permits" and the new title shall be reflected in the table of contents for this chapter. In addition the first sentence shall be amended to strike the phrase "minor and major breeder" so that it shall now read:

Applications for permits shall be made to the City of Bloomington Animal Care and Control Department

SECTION 15. Section 7.22.030 "Obtaining permits" shall be deleted and replaced with the following:

(d) An owner/guardian must apply for a litter permit within twenty-one days of the birthing of a litter.

SECTION 16. New Section. Section 7.22.035 entitled "Consumer protection requirements" shall be inserted into the table of contents and body of Chapter 7.22 "Breeders" and shall read as follows:

7.22.035 Consumer protection requirements

(a) This section applies to the sale of dogs and cats by litter permit holders.

(b) Sellers shall provide a purchaser of a dog or cat with a health record for the animal at the time of sale. The health record shall include the following:

(1) The animal's breed. If the breed is unknown or mixed, the health record shall so indicate. If the animal is advertised or represented as registerable, the following information shall be provided: the breeder's name and address; the name and registration number of the dam and sire of the purchased dog's litter; and the name and address of the pedigree registry organization where the dam and sire are registered. Providing registration papers, if available, shall meet this requirement;

(2) The date of the animal's birth;

(3) The animal's sex, color and markings;

(4) A list of all vaccinations administered, if known; the date and type of vaccinations and the name of the person who administered them, if known, up to the date of sale; a record of any known disease, illness or condition with which the animal is or has been afflicted at the time of the sale; and a record of any veterinary treatment or medication received by the animal;

(5) The date, dosage and type of any anti-parasitic medicine, if known, that was administered; and

(6) The name, address and signature of the seller.

SECTION 17. Section 7.22.050 entitled "Breeder permit periods" shall be amended to read "Permit periods" and this new title shall be reflected in the table of contents for this chapter. In addition the body of this provision shall be deleted and replaced with the following:

(a) Permits shall be valid for a period of one year from the date of issuance.

SECTION 18. Section 7.22.060 "Fees" shall be amended by deleting the section and replacing it with the following:

(a) Fees for Intact Animal permits shall be:

(1) 1-2 unaltered animals	\$50.00
(2) 3-6 unaltered animals	\$100.00
(3) 7-10 unaltered animals	\$150.00
(4) 11-14 unaltered animals	\$200.00
(5) 15-19 unaltered animals	\$250.00

(b) Fees for Litter Permits shall be:

(1) First litter in a twelve month period	\$100.00
(2) Additional litters	\$150.00/litter

SECTION 19. Section 7.24.040 "Violations" shall be amended by deleting subsection (b)(2) and replacing it with the following:

(2) Failure to restrain, first offense, unaltered animal: \$100

However, an owner/guardian who agrees to have their dog or cat spayed or neutered at their expense prior to reclaiming the animal from the City of Bloomington Animal Care and Control Department, will be assessed the fine for Failure to Restrain, First Offense, Altered of \$20.

SECTION 20. Section 7.24.040 "Violations" shall be amended by adding the following subsection (b)(3) and renumbering all subsequent subsections accordingly.

(b) (3) An animal that has been previously impounded as a stray or at-large animal and is now being redeemed for the second or subsequent redemption within the last twelve months will be required to be:

(A) Implanted with a microchip by the City of Bloomington Animal Care and Control Department at the owner/guardian's expense for the purpose of future identification and recovery; and

(B) Spayed or neutered by a licensed veterinarian at the owner/guardian's expense prior to the City of Bloomington Animal Care and Control Department relinquishing the animal to the owner/guardian. Should cost be an issue, the City of Bloomington Animal Care and Control Department may enter into a payment agreement with the owner/guardian or the owner/guardian may sign over ownership rights of the animal to the City of Bloomington Animal Care and Control Department.

SECTION 21. Section 7.36.050 "General animal care" shall be amended by adding the following subsection (a) (3) and renumbering all subsequent subsections accordingly.

(a) (3) If kept in an enclosure, ensure that the enclosure is appropriate to their species and/or breed. Such enclosure is to be constructed in a manner to enable the animal to remain clean and dry, to prevent the animal's injury or escape, and to be able to be disinfected. However, no flooring may be used to house dogs or cats which would allow their feet or legs to fall through and all enclosures shall contain an area that allows the animal to be on a solid surface; and


SECTION 22. Section 7.22.070 "Reclassification" shall be amended by striking the words "minor or major breeder" from the first sentence so that it shall now read as follows:

Any person or business who has a change in the category under which the ~~minor or major breeder~~ permit was issued shall report the change to the city of Bloomington animal care and control department and apply for a new permit within thirty days of any such change.

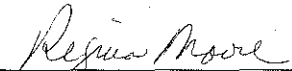
SECTION 23. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstance shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 24. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington, approval of the Mayor and publication according to law.


PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 21st day of OCTOBER, 2009.


ANDY RUFF, President
Bloomington Common Council


ATTEST:


REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 22nd day of OCTOBER, 2009.


REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 22nd day of OCTOBER, 2009.


MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance amends Title 7 of the Bloomington Municipal Code entitled "Animals" as a result of a periodic review of the Title by the Animal Care and Control Commission (and the Commission's counterpart in the County). It also responds to HEA 1468 ("Puppy Mill" Regulation), which allows localities to adopt more restrictive regulations, if they are adopted by ordinance before the end-of-the-year. In brief, the changes: impose a limit on the number of cats and dogs a person may own or harbor (19); eliminate the "major" and "minor" breeder permit in favor of an "intact animal" and "litter" permit; add provisions to protect the consumer; and add provisions to assure the better treatment of animals. These changes affect chapters 7.01 (Definitions), 7.16 (Commercial Animal Establishment Permits), 7.21 (Kennel Permits), 7.22 (Breeders), 7.24 (Restraint), and 7.36 (Animal Care).

Note: On October 21, 2009 the Council adopted Am 01 which affected Section 4, BMC 7.16.045 (b)(4) and (b)(6).

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Animal Control
HAND

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