

ORDINANCE 23-16

TO AMEND TITLE 7 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED "ANIMALS"- Re: Updating and Harmonizing Chapters 01, 26, 40, 54 and 56 of Title 7 of the Bloomington Municipal Code

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

WHEREAS, staff for the Animal Care and Control Division, in conjunction with the Animal Care and Control Commission have reviewed the current Title 7 regulations and determined that there are several sections that require maintenance and should be updated and amended; 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 update Title 7 to reflect current and best practices, to prohibit deer feeding, and to increase certain fees to reflect increased operational costs; and

WHEREAS, the Animal Care and Control Commission unanimously supported this ordinance at its meeting on June 12, 2023;

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, entitled "Definition of terms," shall be amended by adding a new defined term, "Dangerous", in its respective alphabetical position, which shall read as follows:

"Dangerous" means any animal while off of the property owned, lawfully occupied or controlled by the owner/guardian or keeper of the animal that:

- (1) Causes an unjustified single bite with at least one deep puncture to a person; or
- (2) Causes an unjustified severe injury or injuries leading to the death of a domestic pet or domestic livestock, where the situation or injuries are particularly egregious.

SECTION 2. Section 7.01.010, entitled "Definition of terms," shall be amended by deleting the terms and respective definitions for "Potentially dangerous, Level 1"; "Potentially dangerous, Level 2"; and "Potentially dangerous, Level 3".

SECTION 3. Section 7.01.010, entitled "Definition of terms," shall be amended by adding a new defined term, "Potentially dangerous", in its respective alphabetical position, which shall read as follows:

"Potentially dangerous" means any animal while off of the property owned, lawfully occupied or controlled by the owner/guardian or keeper of the animal that:

- (1) Causes injury to a person from a single unjustified bite with no punctures deeper than ½ the canine tooth and with little to no bruising or abrasions; or
- (2) Causes an unjustified severe injury, or causes injuries leading to the death of a domestic pet or domestic livestock.

If the circumstances or injuries are egregious, the commission may determine that this animal is dangerous."

SECTION 4. Section 7.01.010, entitled "Definition of terms," shall be amended by deleting the definition for the term "Vicious animal" in its entirety and replacing it with the following:

"Vicious animal" means any animal which has bitten a person causing severe injury or causing wounds that are potentially dangerous to the person's health or life or that result in permanent scarring or disfiguring to a person.

SECTION 5. Chapter 7.26, entitled “Potentially Dangerous and Vicious Animals,” shall have its title amended by adding the word “dangerous” set off by commas after the term “potentially dangerous” so that the title for the Chapter reads: “Potentially Dangerous, Dangerous, and Vicious Animals”, which shall be listed as such in the Table of Contents for Title 7.

SECTION 6. Section 07.26.010, entitled “Request for declaration,” shall be amended by adding the word “dangerous” set off by commas after each instance of the words “potentially dangerous” in both Subsection (a) and Subsection (b) so that the subsections read:

(a) If an animal control officer or a law enforcement officer has investigated and determined that there exists probable cause to believe that an animal is potentially dangerous, dangerous, or vicious, the animal control officer shall request a hearing by the animal control commission for the purpose of determining whether or not the animal in question should be declared potentially dangerous, dangerous, or vicious.

(b) The director of the animal care and control department can base probable cause to believe that an animal is potentially dangerous, dangerous, or vicious off of a complaint received from a member of the public, provided the complaint is sworn to and verified by the complainant; off of a bite report; or off of a police report.

SECTION 7. Section 7.26.020, entitled “Hearing on declaration,” shall be amended by adding the word “dangerous” set off by commas in the last sentence after the words “potentially dangerous” in Subsection (f) so that the subsection reads:

The findings of fact shall be given to the owner/guardian, or their legal counsel, by certified mail, return receipt requested, addressed to the owner/guardian's address, or their legal counsel's address. Immediately upon the mailing of the commission's findings of fact, the animal shall be classified as potentially dangerous, dangerous, or vicious. Concurrently, the director shall notify the owner/guardian of the declaration in person or by phone.

SECTION 8. Section 7.26.030, entitled “Potentially dangerous, Level 1,” shall be amended as follows:

The title shall be amended to delete the comma and the words “Level 1” so that it reads: “Potentially dangerous”, and the table of contents for the Chapter shall be updated accordingly.

Subsection (b) shall be deleted in its entirety and replaced with the following: “The animal must be implanted with a microchip.”

SECTION 9. Section 7.26.040, entitled “Potentially dangerous, Level 2,” shall be deleted in its entirety, and the table of contents for the Chapter shall be updated accordingly.

SECTION 10. Section 7.26.050, entitled “Potentially dangerous, Level 3,” shall be amended as follows:

The title for the section shall be deleted in its entirety and replaced with “Dangerous”, and the table of contents for the Chapter shall be updated accordingly.

Subsection (b) shall be deleted in its entirety with all remaining subsections being re-lettered accordingly.

Subsection (c) shall be re-lettered as subsection (b) and shall be amended by adding the words “and wearing a muzzle” at the end of the sentence so that it reads:

The animal may only be off the owner/guardian's premises if it is restrained by a substantial leash, no more than six (6) feet in length, and if it is under the control of an adult and wearing a muzzle.”

Subsection (f) shall be re-lettered as subsection (e) and shall be amended by removing the word “potentially” so that it reads:

Clearly visible warning signs shall be displayed on all entry points to the premises on which the animal is maintained warning that a dangerous animal is being harbored on such property.

The new subsection (e)(2) shall be amended by removing the word “potentially” so that it reads:

Signs must inform both children and adults of the presence of a dangerous animal on the property.

SECTION 11. Section 7.26.060, entitled “Vicious,” shall be amended as follows:

Subsection (b) shall be deleted in its entirety with all remaining subsections being re-lettered accordingly.

The new subsection (e)(2) shall be amended by replacing the words “potentially dangerous” with “vicious” so that it reads:

Signs must inform both children and adults of the presence of a vicious animal on the property.

A new subsection (f) shall be added that reads:

The commission may require evaluation by an approved Veterinary Behaviorist.

SECTION 12. Chapter 7.40, entitled “Wild Animals, Exotic Animals, and Prohibited Reptiles,” shall have its title amended by removing the word “and” that occurs before “prohibited” and by adding the words “and Deer Feeding” at the end of the title so that the title reads: “Wild Animals, Exotic Animals, Prohibited Reptiles and Deer Feeding”, which shall be listed as such in the Table of Contents for Title 7.

SECTION 13. A new section, 7.40.030, entitled “Deer feeding,” shall be added to Chapter 7.40, which shall be listed as such in the Table of Contents for the chapter and shall read as follows:

Section 7.40.030 Deer Feeding

- (a) Deer feeding prohibited. Except as provided subsection (d) below, a person commits an offense if the person intentionally feeds deer or makes food available for consumption by deer on private or public property within the corporate boundaries of the City of Bloomington.
- (b) A person shall be presumed to have intentionally fed deer, or made food available for consumption by deer, if the person places food, or causes food to be placed, on the ground outdoors or on any outdoor platform that stands fewer than five feet above the ground.
- (c) For the purpose of this section, the following shall constitute food: corn, fruit, oats, hay, nuts, wheat, alfalfa, salt blocks, grain, vegetables, and commercially sold wildlife feed and livestock feed.
- (d) Exceptions. This section does not apply to an animal control officer, veterinarian, peace officer, City employee, federal or state wildlife official, or property owner who is authorized by the Indiana Department of Natural Resources to treat, manage, capture, trap, hunt, or remove deer and who is acting within the scope of the person’s authority.

- (e) The following are excluded from prohibition in this section:
- (1) Planted material growing in gardens or standing crops;
 - (2) Naturally growing matter, including but not limited to fruit and vegetables;
 - (3) Fruit or nuts that have fallen on the ground from trees;
 - (4) Stored crops, provided the stored crop is not intentionally made available to deer;
 - (5) Feed for livestock and/or the practice of raising crops and crop aftermath, including hay, alfalfa and grains, which is produced, harvested, stored or fed to domestic livestock in accordance with normal agricultural practices;
 - (6) A lawn or garden;
 - (7) Bird feed.
- (f) Violations.
- (1) Any animal control officer may issue to any person in violation of this section a notice of ordinance violation.
 - (2) Upon notice, it shall be the duty of each property owner to remove any and all food placed on the property in violation of this section. Failure to remove such food within 24 hours after written notice from the city, or otherwise continuing to feed deer after receiving notice from the city, shall constitute violation of this chapter.

SECTION 14. Section 7.54.010, entitled "Surrender fees," shall be amended as follows:

Subsection (a) shall be amended to replace the word "and" with "or" in the phrase "Dogs and cats over six months of age," to replace "\$20.00" with "\$30.00," to replace "\$25.00" with "\$35.00," and to replace "\$35.00" with "\$45.00."

Subsection (b) shall be amended to replace "twenty-dollar" with "thirty-dollar" and to replace "\$20.00" with "\$30.00."

SECTION 15. Section 7.54.020, entitled "Incinerator fee," shall be amended to add "\$0.15" after the word cents so that the sentence reads as follows: "The fee to use the City of Bloomington Animal Shelter incinerator shall be fifteen cents (\$0.15) per pound. The Monroe County Highway Department is exempt from paying this fee."

SECTION 16. Section 7.54.080, entitled "Adoption fees," shall be amended to remove "under 5 years of age" from "Dogs and cats under 5 years of age," to add the words "Fee not to exceed" before "\$75.00," to replace the same "\$75.00" with "\$120.00", to remove the row "Dogs and cats over 5 years of age" and its respective fee listing, to add the words "Fee to not exceed" before "\$45.00," and to replace the same "\$45.00" with "\$75.00."

SECTION 17. Section 7.54.090, entitled "Potentially dangerous and vicious animal monitoring fee," shall be amended as follows:

The title shall be amended to replace "Potentially dangerous" with "Dangerous" so that it reads: "Dangerous and vicious animal monitoring fee", and the table of contents for the Chapter shall be updated accordingly.

The words "Level 3 potentially" shall be deleted, the words "dog or vicious dog" shall be replaced with "animal," and the sentence "The fee for monitoring any vicious animal shall be fifty (\$50.00) per calendar year." shall be added to the end so that the section reads as follows:

The fee for monitoring any dangerous animal shall be twenty-five dollars (\$25.00) per calendar year. The fee for monitoring any vicious animal shall be fifty (\$50.00) per calendar year.

SECTION 18. Section 7.54.110, entitled "Fee waiver," shall be amended by deleting the word "shall" and replacing it with the word "should" in subsection (b).

SECTION 19. Section 7.56.030, entitled "Penalties," shall be amended as follows:

Subsection (b) shall be amended to replace every instance of "most prior" with "most recent," to replace "7.20" with "7.40" in "Reptile Violations in Chapter 7.20," and to add the violation of "Deer Feeding Violations in Chapter 7.40" with the respective column fee reading: "\$50.00 for the first offense. Second and subsequent offenses within twelve months of the first offense shall be double the fine associated with the most recent offense."

SECTION 20. Section 7.56.060, entitled "Habitual offender," shall be amended as follows:

Subsection (a)(2) shall be amended by adding the word "dangerous" set off by commas after the words "potentially dangerous" so that the subsection reads:

If the owner/guardian of an animal which has been declared potentially dangerous, dangerous, or vicious fails to comply with the terms and conditions required by this title and the animal control commission for maintaining such an animal.

A new subsection (g)(5) shall be added, which shall read as follows:

- (5) Require the owner to attend a "responsible pet owner course" approved by the commission.

SECTION 21. Section 7.56.070, entitled "Appeals," shall be amended by replacing "ten (10)" with "sixty (60)" in subsection (c).

SECTION 22. All instances of "his or her" or "his/her" appearing in Title 7, Chapters 01, 26, 40, 54, and 56 shall be replaced in their entirety with the word "their." The words "he or she" in Section 7.54.110 shall be replaced with the word "they."

SECTION 23. If any section, sentence or provision of this ordinance, or application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions or application 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 effect after its passage by the Common Council and approval of the Mayor, any required publication, and, as necessary, other promulgation in accordance with the law. The changes in this ordinance shall take effect on September 1, 2023.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 16 day of August, 2023.



SUE SGAMBELLURI, President
Bloomington Common Council

ATTEST:



NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 18 day of August, 2023.



NICOLE BOLDEN, Clerk,
City of Bloomington

SIGNED and APPROVED by me upon this 21st day of August, 2023.



JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This ordinance makes several changes to Title 7 of the BMC to reflect current and best practices, update the dangerous animal definitions, add a deer feeding ban, increase the amount of certain fees, and add additional time to the appeals process.

Note: At the August 16, 2023 Regular Session, the Council adopted Amendment 01, which replaced instances of gendered pronouns with the gender neutral pronoun "they" or "their" in BMC Title 7, Chapters 01, 26, 40, 54, and 56.

Distributed to: Clerk, Council Attorney, Legal, Mayor, Planning and Transportation, and Public Works.