



# City of Bloomington Common Council

## Legislative Packet

Containing legislation and materials related to:

Wednesday, 16 August 2023

Regular Session at 6:30pm



# CITY OF BLOOMINGTON COMMON COUNCIL

AGENDA AND NOTICE:  
REGULAR SESSION  
WEDNESDAY | 6:30 PM  
16 AUGUST 2023

*Council Chambers (#115), Showers Building, 401 N. Morton Street  
The meeting may also be accessed at the following link:*

<https://bloomington.zoom.us/j/82948708070?pwd=bE5hVGdoVU5NSUJROTlloalJNSEtpdz09>

**I. ROLL CALL**

**II. AGENDA SUMMATION**

**III. APPROVAL OF MINUTES:**

A. November 16, 2022 – Regular Session

**IV. REPORTS** *(A maximum of twenty minutes is set aside for each part of this section.)*

A. Councilmembers

B. The Mayor and City Offices  
i. Innovation Report

C. Council Committees

D. Public\*

**V. APPOINTMENTS TO BOARDS AND COMMISSIONS**

**LEGISLATION FOR SECOND READINGS AND RESOLUTIONS**

A. Resolution 23-15 – To Review an Expenditure of \$100,000 or More within a Covered Fund Under Ordinance 18-10 (Additional Fiscal Oversight by the Common Council) – Re: Expending in Excess of \$100,000 in Street Department Capital Funds for the Procurement of a New Milling Machine

B. 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

**VI. LEGISLATION FOR FIRST READINGS**

None

*(over)*

\*Members of the public may speak on matters of community concern not listed on the agenda at one of the two public comment opportunities. Individuals may speak at one of these periods, but not both. Speakers are allowed five minutes; this time allotment may be reduced by the presiding officer if numerous people wish to speak.

Auxiliary aids are available upon request with adequate notice. To request an accommodation or for inquiries about accessibility, please call (812) 349-3409 or e-mail [council@bloomington.in.gov](mailto:council@bloomington.in.gov).

Posted: 11 August 2023

**VII. ADDITIONAL PUBLIC COMMENT \***

*(A maximum of twenty-five minutes is set aside for this section.)*

**VIII. COUNCIL SCHEDULE**

**IX. ADJOURNMENT**

\*Members of the public may speak on matters of community concern not listed on the agenda at one of the two public comment opportunities. Individuals may speak at one of these periods, but not both. Speakers are allowed five minutes; this time allotment may be reduced by the presiding officer if numerous people wish to speak.

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**Posted: 11 August 2023**



**City of Bloomington  
Office of the Common Council**

Minutes for Approval

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16 November 2022

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, November 16, 2022 at 6:30pm, Council President Susan Sandberg presided over a Regular Session of the Common Council.

COMMON COUNCIL  
REGULAR SESSION  
November 16, 2022

Councilmembers present: Matt Flaherty, Isabel Piedmont-Smith, Dave Rollo, Kate Rosenbarger, Susan Sandberg, Sue Sgambelluri, Jim Sims, Ron Smith, Stephen Volan (arrived at 6:31pm)  
Councilmembers present via Zoom: none  
Councilmembers absent: none

ROLL CALL [6:31pm]

Council President Susan Sandberg summarized the agenda.

AGENDA SUMMATION [6:32pm]

Rollo moved and it was seconded to approve the minutes from June 16, July 21, and August 18 of 2021. The motion was approved by a voice vote.

APPROVAL OF MINUTES [6:34pm]

June 16, 2021 (Regular Session)  
July 21, 2021 (Regular Session)  
August 18, 2021 (Regular Session)

Smith reported on the petitions considered at the recent Plan Commission. He provided brief details on each petition.

REPORTS

- COUNCIL MEMBERS [6:35pm]

Volan thanked Smith for his report, and discussed possibly including more things like restaurants in the area where the new detention center might. He discussed boards and commissions, alternate and advisory members, and the Parking Commission.

Piedmont-Smith reported on the Monroe County Solid Waste Management District (MCSWMD) board including the budget, two new positions, the expiration of an agreement with Republic Services and the funding it provided to MCSWMD, a new Rumpke facility on the south side, and a possible name change to Monroe County Waste Reduction.

Flaherty noted his upcoming constituent meeting.

Rollo mentioned his and Sandberg's upcoming joint constituent meeting.

John Zody, Director of the Housing and Neighborhood Development (HAND) department, reported on the Housing Development Fund (HDF). He thanked HAND department staff and its partners for their work on affordable housing efforts. He discussed total housing units, affordable units, Country View apartments, and recently approved projects. He also discussed funding including the American Rescue Plan Act (ARPA) and the Economic Development Local Income Tax (EDLIT). He provided details on the affordable units across the city such as incomes in the units, and focus areas like housing security, rental housing, and home ownership. He described federal and state funding, allocation of funds, rental safety and inspection cycle, B-Town Neighboring Project, Bloomington Housing Authority (BHA) Landlord Risk Mitigation Fund (LRMF), Fair Housing Resources, and monitoring for affordability compliance. He described efforts to preserve and create housing ownership, as well as expanding programming and development. Zody provided details on the HDF and its revenue sources including updates for 2023. He also provided an update on the Hopewell and Arlington Park Drive projects. He concluded with guides and tools that HAND used.

- The MAYOR AND CITY OFFICES [6:50pm]

Volan asked how the percent of rental occupancy was calculated.

Council questions:

Zody explained that HAND received an annual market report from local property owners like the apartment association.

- The MAYOR AND CITY OFFICES (*cont'd*)

Piedmont-Smith asked about the EDLIT funds, and what the anticipated revenue was for 2023.

Zody confirmed that the funds would be split between rentals and ownership.

Piedmont-Smith asked for further clarification on the funding.

Zody clarified that the EDLIT funded the HDF as well as paid for the new program manager and other items.

Sims asked about the revolving loan fund, and for clarification on funding, and the Community Development Financial Institution (CDFI) Friendly Bloomington.

Zody stated that the revolving loan fund did not exist yet. He explained that it had been suggested by a developer, and would consist of the city loaning money to build housing, and once it sold, the money would be returned to the city for additional loans.

Sims asked if it was primarily intended for home ownership.

Zody confirmed that it was, but was not limited to ownership. He noted that the city had worked with CDFI Friendly Bloomington and provided some examples.

Sgambelluri commented on the range of tools available to the city and asked which worked best and provided better returns.

Zody said that federal funding had a lot of restrictions and regulations. Local incentives were more flexible. There were lots of federal dollars for 80% of the Area Median Income (AMI), but there was also a lack of workforce housing or for those with 40% or 50% of the AMI. He explained that the city's incentives worked very well. He said that the current AMI was \$91,400 for a family of four.

Sgambelluri asked for more information on the LRMF.

Zody stated that it had not formally started and staff would be hired as soon as possible. There was a current applicant to manage the LRMF. He provided examples of requests to the BHA.

Rollo asked about the Board of Realtors' self-reported annual report on rental occupancy and if staff verified the report.

Zody clarified that it was from the Apartment Association. He said that the reported occupancy appeared to be accurate, but that staff did not validate the exact numbers. He noted that staff had a close partnership with the Apartment Association regarding tenants. There was very little housing vacancy in the city. He provided additional information.

Rollo asked if staff tracked if there was a tenant in a rental when conducting inspections.

Zody confirmed that they did and said that Heading Home South Central Indiana had a housing tool to assist community members to find housing.

Smith thanked Zody and HAND staff. He asked how the number of affordable housing units compared with like-cities.

Zody said that there was not a good comparison at the time. Bloomington was in the top five cities regarding the cost of renting. He would research that information and commented on the great opportunity the city had with the Hopewell project.

Flaherty noted that council had exceeded the time allotted for reports.

Flaherty moved and it was seconded to extend time for reports from the mayor and city offices by ten minutes. The motion was approved by a voice vote.

Vote to extend time for reports [7:33pm]

Volan asked if HAND staff tracked that there were residents in a rental during the time of an inspection, and if so, if that information could be searchable for unoccupied rentals. Volan stated that it would be good to know that information.

Council questions:

Zody confirmed staff tracked that there were residents. HAND was transitioning to a new system and that could be done.

City Clerk Nicole Bolden reported on the Accelerate Indiana Municipalities (AIM) Ideas Summit. She currently served on the Board of Directors, as Chair of the Administration Policy Committee, and as a member of the Amicus Review Committee. She said the Ideas Summit included over one hundred exhibitors, organizations, and state agencies that specialized in municipal government. Some topics discussed at workshops included broadband, building stronger housing markets, strengthening community through arts and creativity, knowing the roles and responsibilities of the Plan Commission, Board of Zoning Appeals, and the legislative body, and long term capital planning. She read a statement from William Ellis regarding the benefit of attending the Ideas Summit. She provided additional details. There was brief council discussion.

There were no council committee reports.

- COUNCIL COMMITTEES [7:44pm]

Christopher Emge, Greater Bloomington Chamber of Commerce, spoke about the Convention Center expansion and the Capital Improvement Board (CIB) commission, and the beautification of the city.

- PUBLIC [7:44pm]

Jim Shelton mentioned the upcoming training for the Court Appointed Special Advocates (CASA) and provided information on the role of CASAs.

Greg Alexander commented on the widening of the intersection at 17<sup>th</sup> Street and Kinser and the sidepath on 17<sup>th</sup> Street and expressed disdain for the plans. He commented on the need for stop signs in his neighborhood and asked council if he and his neighbors would receive the same treatment as a recent resident of Elm Heights.

Daryl Rubel thanked the Streets Division for their work plowing snow and Joe VanDeventer especially. He also thanked the staff at Utilities for their work, and noted the positive interaction with two police officers, especially Anthony Fosnaugh. He also took a moment for the aborted babies in the United States.

There were no appointments to boards and commissions.

APPOINTMENTS TO BOARDS AND COMMISSIONS [7:58pm]

LEGISLATION FOR SECOND  
READING AND RESOLUTIONS  
[7:58pm]

Rollo moved and it was seconded to take Ordinance 22-15 from the table. The motion was approved by voice vote.

Ordinance 22-15 – To Vacate a Public Parcel – Re: A 12-Foot Wide Alley Segment Running East/West between the B-Line Trail and the First Alley to the West, North of 7th Street and the South of 8th Street (Peerless Development, Petitioner) [7:58pm]

Michael Cordaro, Peerless Development, provided an update on the petition and the new right of way to be presented to the Board of Public Works.

Andrew Cibor, City Engineer, confirmed that there was a new alley right-of-way on the agenda for the Board of Public Works, and staff recommended not approving it.

Flaherty asked why staff would recommend not approving the proposed new alley right-of-way.

Council questions:

Cibor explained the new alley right-of-way and said that there would be a large storm water drain under it, which would have to be maintained by the private company. It was not ideal, and was a large encroachment. Another reason to not approve was because the new alley was adjacent to the private property and did not connect to other facilities and did not contribute to public good.

Flaherty asked if the reasons Cibor listed were applicable to the existing alley.

Cibor said there were no existing utilities under existing alley but acknowledged that there were similarities.

Volan said that the smokestack was in the current alley and asked if the alley could be connected to the B-Line.

Cibor confirmed that was correct and that the city cared about the right of way in addition to the historic feature that was the smokestack. He did not believe the alley could be connected to the B-Line due to the smokestack.

Cordaro said that Peerless owned the land around the existing right of way.

Piedmont-Smith asked about the significance of a private utility under a public right-of-way, and if the property owner would need to get permission from the city for repairs.

Cibor said yes, and that it would be managed through the right-of-way use. There would need to be an encroachment agreement and provided additional information.

Piedmont-Smith asked if there were private utilities under public right-of-ways.

Cibor said that there were, but that the proposed new alley right-of-way was significantly larger, unlike others in the city.

Piedmont-Smith asked if engineering staff would support a public street over a retention basin. She asked if there were city owned retention basins over a city street and if it was safe to do.

Cibor responded that there were underground storm water features with various culverts, and Utilities had made major efforts to upgrade those. The retention of storm water was less common than conveying it. He was not aware of any areas where the city retained storm water from a private building.

Piedmont-Smith asked if there was a safety concern.

Cibor stated that staff would ensure it was safe.

Sgambelluri asked for clarification on the process for approving the vacation of the current alley along with the proposed new alley.



Ordinance 22-15 (cont'd)

Stephen Lucas, Council Attorney, noted that the petitioner had been pursuing relocating the alley and the dedication of right-of-way. He provided additional details on the process, intentions, and possible outcomes.

Robinson clarified that the private utility was part of the voluntary sustainability incentive the petitioners used in order to have an additional floor on the building.

Joseph Patrick, Peerless Development, had researched other private utilities under public rights-of-way which were typically under sidewalks, and consisted of a metal or concrete box under the public property. He noted other existing utilities under the current alley, like electrical and telecommunication cables, that most likely did not have agreements. He stated that Peerless would be relocating those utilities with the new development.

Flaherty asked if it was correct that the proposed design used incentives from the Unified Development Ordinance (UDO).

Robinsons confirmed that was correct and Peerless had voluntarily chosen to leverage the sustainability incentives. He noted the process with presenting the site plan to the Plan Commission.

Flaherty asked Cibor what the value of the current right-of-way was based on its historic, current, and possible future uses.

Cibor said that if the proposed alley was improved, then it would be up to the city to maintain it, and would be an additional burden. There were parallels with that for the existing alley, too. He referenced the Planning and Transportation department memo and staff's recommendation stating that the location was not concerning but that the space had value, and council should consider that.

Flaherty stated that it was important to consider the inherent value of public rights-of-way because it was not always known how it would be used in the future. He was concerned with the lack of meaningful difference between the current and proposed alleys.

Cibor stated that there were additional risks and burdens of having a dedicated right-of-way that only served one property and did not have significant public utility or transportation benefit.

Flaherty asked if it was preferred to vacate the existing alley since it did not have significant public use.

Cibor said he did not have significant concern with vacating the current alley due to the lack of connectivity.

Volan commented on the underground river that went through downtown Bloomington under many properties. He did not understand what utility the city would be obligated to maintain, in the proposed new alley, if the major utility was a culvert that Peerless would be required to maintain. He asked for clarification.

Cibor stated that while he had not been involved in all of the alley vacation discussions, he did not believe that there were concerns with it.

Cordaro commented that the city's cost of maintaining the right-of-way included paving, lighting, and perhaps other things. He noted that the alley would serve two properties; the proposed new building and the Johnson Creamery parking lot.

Sandberg said that if the city vacated the current alley, then there might be a public benefit, or harm, to have the proposed new alley.

Cibor explained that from an engineering perspective, there was limited benefit for vacating the current alley and having the new alley. He said that the harm was mainly the long-term maintenance of the alley which primarily served a private property.

Volan said that the city was required to maintain the current alley and asked what the difference would be with the new alley.

Ordinance 22-15 (cont'd)

Cibor stated that he was neutral on the alley vacation request and noted that the city most likely had not been maintaining the current alley because no one knew it had not been vacated in the past.

Volan said that now that the city knew of the alley, it would have to be maintained regardless of it being in the current location or the proposed new location, and that council needed to consider the alley vacation.

Cibor said that spending prioritization of maintenance in the city would then come into play.

Robinson said that vacating public rights-of-way was complex. He referenced his memo indicating that the current alley had unique characteristics like having no connectivity. Either location of the alley benefitted the private property and did not have a large public benefit. He provided additional information.

Piedmont-Smith asked about the historical marker to commemorate the smoke stack. She mentioned the administration's proposal to have a significant amount of money in exchange for public art, which she did not agree with. But she did want to see the smoke stack commemorated.

Cordaro stated that Peerless would agree to that.

Lucas said council could amend Ordinance 22-15 to indicate the petitioner's intent to fund a historical marker. He commented that it might be difficult to proceed that way that evening.

Vic Kelson, Director of City of Bloomington Utilities (CBU), said there were miles of unimproved alleys in the city. From the CBU's perspective, those areas might be needed for pipes, et cetera. Pipes in that area were on 8<sup>th</sup> Street so did not need the current alley, but might in the future which would require an easement.

Public comment:

Volan was pleased that Kelson was thinking about a one hundred year plan for utilities in the city. He commented on railroad history, rails to trails, connectivity, and rights-of-way vacations.

Council comment:

Smith asked if it was okay for council to amend Ordinance 22-15 to vacate the alley and to be contingent upon the approval of the Board of Zoning Appeal's (BZA) approval of the new alley.

Lucas stated that was not correct, that the decision for council was to vacate the existing alley or not. It would be improper for council to vacate based on the BZA's approval of a new alley. He further commented on process.

Cordaro commented on housing needs, tax revenue from the project, and utilities. He said that Peerless had not yet discussed utilities with Public Works, or other departments, and noted that the location of the storm water drain could be placed that was most appropriate for the city and was the best solution.

There was brief council discussion on a possible amendment.

Piedmont-Smith moved and it was seconded to introduce Amendment 01 to Ordinance 22-15.

Amendment 01 to Ordinance 22-15

Amendment 01 Synopsis: This vacation is made with the understanding that the Petitioner shall either install or provide funding and necessary access for the city to install an appropriate, durable, historical marker on the site to commemorate the historic Johnson's Creamery and related smoke stack.

There was brief council discussion on adding a dollar amount to Amendment 01.

Amendment 01 to Ordinance 22-15 (*cont'd*)

There was unanimous consent to amend Amendment 01 to incorporate a maximum amount.

There was no public comment.

Public comment:

There were no council comments.

Council comments:

The motion to adopt Amendment 01 to Ordinance 22-15 was approved by a voice vote.

Vote to adopt Amendment 01 as amended to Ordinance 22-15 [8:59pm]

Flaherty supported the alley vacation and said there was not a significant difference between the existing alley and proposed new alley. He would defer to staff on the new alley. He commented on the sustainability features in the Peerless project, like providing housing in a walkable area.

Council comments:

Volan referenced the criteria listed in staff's memo for guiding the review of an alley right-of-way vacation. He said that the project complied with the conditions.

Piedmont-Smith appreciated everyone's patience with the petition's long process. She was not opposed to vacating the alley and would vote to do so. The alley did not have connectivity nor the potential to have it in the future. The disadvantages outweighed the advantages of keeping the right-of-way. She was pleased that there was a commitment to a historic marker.

Sims asked for clarification on the size of the storm water basin proposed by Peerless.

Patrick said the basin was pre-fabricated and consisted of three, thirty six to forty two inch tubes by each other and would be about thirty to forty feet long. There would be a valve in one of the tubes that led into the existing city storm water infrastructure.

Cordaro clarified that there was no existing basin and Peerless would put it in as part of the sustainability incentives.

The motion to adopt Ordinance 22-15 as amended received a roll call vote of Ayes: 8, Nays: 1 (Rollo), Abstain: 0.

Vote to adopt Ordinance 22-15 as amended [9:10pm]

Rollo moved and it was seconded that Ordinance 22-33 be introduced and read by title and synopsis only. The motion was approved by voice vote. Bolden read the legislation by title and synopsis. There was no committee recommendation.

Ordinance 22-33 – To Amend Title 10 of the Bloomington Municipal Code Entitled "Wastewater" (Rate Adjustment) [9:10pm]

Rollo moved and it was seconded that Ordinance 22-33 be adopted.

Vic Kelson, Director of CBU, presented the legislation and introduced guests that would be contributing to the discussion. He reviewed CBU's purpose of providing safe and sustainable water, waste water, and storm water services. He explained the rate increase, which would have two phases, and its goals for the 2023-2026 rate cycle including covering increases in operations and maintenance costs, expansion of Dillman Road plant capacity, preparation of Sewer Works for anticipated growth in the Blucher Poole basin, expansion of clear water program to reduce infiltration and inflow, and to complete design work for major future interceptor projects. He provided extensive details on the many

improvements that were done with the rate increase in the 2018-2022 rate cycle.

Ordinance 22-33 (cont'd)

Jennifer Wilson, Crowe, LLP, provided a summary on the rate and financing report for the sewage works. She reported on the report methodology, key considerations like increasing operating expenses and capital improvement plan, sewage works income statement highlights, operating revenues and expenses, proposed 2023 bonds, 2025 bonds, and service center financing.

Rollo asked what percent of the total cost would be for expansion, not considering maintenance and improvements.

Council questions:

Kelson believed it was close to 50/50 for expansion, and maintenance and improvements, but did not have the percentages.

Rollo asked what policies were in place for expansion where the cost was internalized to new users, and why should existing users subsidize new users for waste water utility.

Kelson stated that council implemented the change a few years back. He said the connection fee had substantially increased and there was a system development charge added to the connection fee which covered the cost of future increases to capacity of the plants.

Rollo stated that it was more or less playing catch up.

Kelson confirmed that was correct.

Rollo stated that there were policies in place to prevent the subsidy, but the state was currently requiring the city to address the capacity issue.

Kelson said yes and that the state claimed that the city was over capacity. If the city did not address the issue, then the state could deny new requests for developers to connect to the system.

Piedmont-Smith asked how much revenue was expected from rate payers after the Phase One increase.

Wilson explained that it would be \$4.4 million, broken up in two phases.

Piedmont-Smith asked if that would be annually.

Wilson clarified that it would be an increase to cover the deficiency.

Piedmont-Smith asked what the increase in income would be after the two phases.

Kelson stated that it would be \$4.4 million, annually. The cost to the average customer would be an increase of \$3-4 per month.

Sims applauded the goal of being the finest utility in the state, and asked what it would cost to implement immediate improvements.

Kelson said that it was an ongoing goal and that a lot of progress had already been made.

Sims asked about the likelihood of obtaining federal funding.

Kelson stated that the projects would have to occur at some point, regardless of federal, or state dollars. He said that when federal dollars became available, projects that were ready to begin were prioritized.

Rollo noted a chronic issue of sewage backups in Hyde Park and asked about lift stations.

Kelson confirmed that several aging lift stations were to be updated and that the area Rollo referenced recently had a check valve installed to prevent the backups.

Sgambelluri commented on the impact on residents from local taxes such as the EDLIT and asked what could be shared with them regarding the need for the improvements.

Ordinance 22-33 (cont'd)

Kelson explained there were sewer backups, and infrastructure improvements were needed to mitigate those problems and protect public safety. He commented on the cost of improvements for multiple projects and the process in obtaining grant funding. The goal was to be ready to address future issues like capacity, growth, and efficient and sustainable operations. Much of the infrastructure was at end of life and needed to be replaced to avoid sewer backups and leakage into Clear Creek, for example.

Piedmont-Smith asked how customers could request help with their bills.

Kelson referenced the Customer Assistance program which was administered through the South Central Community Action Program (SCCAP) and helped with payments for water and sewer. He noted that staff reached out to customers regarding their options prior to disconnection. The total budget for that program was \$50,000.

Piedmont-Smith also noted that townships could assist, too.

Kelson said that was correct, and they could help with heat, too.

Sandy Washburn wondered about impact fees, and not just connection fees, charged to developers.

Public comment:

Rollo asked staff if the connection fees were sufficient.

Council comments:

Kelson clarified that the city used to require that developers pay for an expansion. That was not ideal because it was inequitable and as a result, agreements were made with the stakeholders and the cost was divided. He provided examples like the project on North Dunn Street and at the former K-Mart site off of East 3<sup>rd</sup> Street. He also commented on illegal connections or not ideal connections to the sewer and on working with developers.

Rollo asked if it would be ideal to study the different components as described by Kelson.

Kelson responded that it was part of what CBU was already doing and would have data to present in the future.

The motion to adopt Ordinance 22-33 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 22-33  
[9:58pm]

Rollo moved and it was seconded that Ordinance 22-34 be introduced and read by title and synopsis only. The motion was approved by voice vote. Bolden read Ordinance 22-34 by title and synopsis. There was no committee recommendation.

Ordinance 22-34 – To Amend Title 10 of the Bloomington Municipal Code Entitled “Wastewater” (Stormwater Rate Adjustment)  
[9:59pm]

Rollo moved and it was seconded that Ordinance 22-34 be adopted.

Kelson, summarized the 2022 Stormwater Utility Rate Review including the proposed rate increase and the projects it would fund. He reviewed accomplishments completed between 2018-2022 such as the detention basin in the Somax neighborhood, revenue bond projects, and Extensions and Replacements projects. He delineated the 2023-2026 goals like completing tunnels to reduce and prevent flooding, improve residential grant program for lower-income neighborhoods, green infrastructure efforts, and adopting and improving the city’s street sweeping program. He provided additional details.

Wilson reviewed the financial analysis for the city’s stormwater budget including income, operating expenses, capital improvement plan, and total revenue requirements.

Rollo asked if the bond rate was going to be problematic.

Council questions:

Kelson clarified that Rollo was asking about the interest rate, and said that it would be a problem the following year. He explained that the engineering studies were required for certain funding types.

Ordinance 22-34 (cont'd)

Rollo asked if it had any impact on the financial analysis.

Wilson said it did, and some modifications were likely to occur at the time of financing depending on the market.

Rollo asked about a specific issue on Manor Drive.

Kelson said staff was aware of it and would follow up.

Sims asked what percentage of street sweeping was done by staff versus a third party.

Kelson believed it was primarily staff and street sweeping would be retained by the Street Department.

Sims asked if the street sweepers were gas or diesel.

Kelson said he was not sure but that staff wanted a regenerative street sweeper because it was more effective.

Sims asked for clarification on some net revenue in order to make payments in lieu of taxes.

Kelson stated that it was money paid to the city because CBU was not taxed per the agreement, and was not funded by General Fund dollars, so the civil city lost out on property taxes where CBU had facilities.

Piedmont-Smith was pleased that some revenue would go to the neighborhood storm water improvement plan, especially in low-income neighborhoods, and asked how much would go to that.

Kelson said as much as possible and that about \$70,000-100,000 was budgeted. The first step was to identify problems, and then decide what could be done. There would be outreach to problematic areas in low-income neighborhoods to embrace equity.

Piedmont-Smith asked if the funding continued the program and did not increase the dollar amount.

Kelson confirmed that was correct and that it was part of the green infrastructure project.

Piedmont-Smith said that the Utilities Service Board resolution had referenced an 18% rate increase and should be 26%.

Kelson said that was a typographical error that did not have an impact.

Smith asked about the impact on CBU from the leaves that did not get swept by the city.

Kelson said that there would always be leaves in the streets, and the new goal was for residents to bag or mulch their leaves. And the street leaves would have to be swept.

Smith asked if residents would be able to request assistance from CBU about areas where leaves accumulated.

Kelson described different options, like the adopting an inlet program, and other ways of working with residents. It was very common for street sweeping to be done as part of the Municipal Separate Storm Sewer System (MS4). Staff would also be collecting data on all the new efforts.

Rollo asked about the Hidden River project and if it would mitigate flooding on Kirkwood Avenue or if more efforts would be required perhaps in conjunction with Indiana University (IU).

Kelson described the Hidden River project and said that there was one inlet to be completed which would help with flooding. The underground portion was completed, but the inlet still needed to be finished. He provided additional information. He noted that IU had been involved in the project and would be with the design of the inlet.

Sandy Washburn discussed the flooding in her neighborhood in Prospect Hill and stated that the city had not done anything to mitigate it. She frequently cleaned the stormwater drains/inlets.

Public comment:

Volan asked what could be done about Washburn’s concerns.

Council comments:

Kelson explained that it was very complicated. If, for example, the sewer was full of water, it did not matter how clean the inlets were. That location used to be a pond before the neighborhood was developed, so every area around there was higher in elevation and there was no real way to move stormwater. He stated that there were real discussions about the flooding and listed several things that could be done, like capturing the water before it moved down the hill.

Volan asked if there was ever street sweeping of inlets.

Kelson stated that there was none currently done, and inlets were cleaned with rakes.

Volan asked if Kelson was proposing permanent, ongoing street sweeping.

Kelson said that the city swept the streets, but that certain areas needed to be swept more often.

Volan asked what the increase on street sweeping would be.

Kelson responded that it depended on the results of a study to design the most effective program with available funding. It would be around three to four times as what was currently done.

Volan asked if certain areas would be targeted.

Kelson said yes and that staff would provide that information to council.

Rollo said that CBU’s street sweeping was ideal because it would focus on the inlets.

Kelson clarified that CBU’s street sweeping would focus on areas that were problematic and contributed debris to the MS4.

Rollo asked if the infrastructure in Prospect Hill was inadequate.

Kelson said that he would research that and respond to council.

The motion to adopt Ordinance 22-34 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 22-34 [10:40pm]

LEGISLATION FOR FIRST READING [10:40pm]

Rollo moved and it was seconded that Appropriation Ordinance 22-05 be read by title and synopsis only. The motion was approved by voice vote. Bolden read the legislation by title and synopsis.

Appropriation Ordinance 22-05 – To Specifically Appropriate From the General Fund, Public Safety LIT Fund, ARPA Local Fiscal Recovery Fund, Parks and Recreation General Fund, CC Jack Hopkins Fund, the Rental Inspection Program Fund, Local Road and Street Fund, Parking Facilities Fund, Solid Waste Fund, Fleet Maintenance Fund, and Housing Development Fund Expenditures Not Otherwise Appropriated (Appropriating Various Transfers of Funds within the General Fund, Public Safety LIT Fund, ARPA Local Fiscal Recovery Fund, Parks & Recreation General Fund, Local Road and Street Fund, Parking

Sandberg referred Appropriation Ordinance 22-05 to the Committee of the Whole (COW) to meet on November 30, 2022.

Flaherty moved and it was seconded that the council discharge the COW from considering Appropriation Ordinance 22-05.

Sandberg said that she preferred to hear the legislation at the COW due to the number of items council needed to consider by the end of the year.

Flaherty stated that it was ideal to have a Special Session as opposed to a COW, because it allowed for more flexibility as well as council actions.

Volan agreed that it was ideal to have a Special Session and he would support that.

The motion received a roll call vote of Ayes: 4 (Rosenbarger, Volan, Flaherty, Piedmont-Smith), Nays: 5 (Sims, Sgambelluri, Sandberg, Rollo, Smith), Abstain: 0. FAILED

Rollo moved and it was seconded that Ordinance 22-30 be introduced and read by title and synopsis only. The motion was approved by voice vote. Bolden read the legislation by title and synopsis.

Sandberg referred Ordinance 22-30 to the COW to meet on November 30, 2022.

Flaherty moved and it was seconded that the council discharge the COW from considering Ordinance 22-30.

Flaherty appealed to council to have a Special Session because there were substantive problems with the COW. He noted that a narrow majority of council disagreed with the concerns and refused to engage with Flaherty's concerns. There was no downside to a Special Session because it guaranteed that all councilmembers would be able to participate. He urged councilmembers to work together and cancel the COW and have a Special Session.

Sandberg reiterated the abundance of items to consider before the end of the year. She noted that there would not be complete information on Ordinance 22-30 until the end of the month which warranted council's full consideration in two meetings.

Volan pointed out that he supported accelerating the schedule to include Special Sessions following a Regular Session which would allow for the passing of legislation that was not complicated. It was more expeditious and advantageous to have Special Sessions.

Rollo favored the utility of the COW because a majority of council could adopt legislation.

Facilities Fund, Solid Waste Fund, Fleet Maintenance Fund, and Appropriating Additional Funds from the CC Jack Hopkins Fund, Rental Inspection Program Fund, and the Housing Development Fund) [10:40pm]

Council discussion:

Vote to discharge Appropriation Ordinance 22-05 [10:45pm]

Ordinance 22-30 – An Ordinance Authorizing the Issuance of the City of Bloomington, Indiana, General Revenue Annual Appropriation Bonds, Series 2022, to Provide Funds to Finance the Costs of Certain Capital Improvements for Public Safety Facilities, Including Costs Incurred in Connection with and on Account of the Issuance of the Bonds, and Appropriating the Proceeds Derived from the Sale of Such Bonds, and Addressing Other Matters Connected Therewith [10:46pm]

Council discussion:



The motion received a roll call vote of Ayes: 4 (Rosenbarger, Volan, Flaherty, Piedmont-Smith), Nays: 5 (Sims, Sgambelluri, Sandberg, Rollo, Smith), Abstain: 0. FAILED

Vote to discharge Ordinance 22-30 [10:53pm]

Rollo moved and it was seconded that Ordinance 22-35 be introduced and read by title and synopsis only. The motion received a roll call vote of Ayes: 5 (Sims, Sgambelluri, Sandberg, Rollo, Smith), Nays: 4 (Rosenbarger, Volan, Flaherty, Piedmont-Smith), Abstain: 0.

Ordinance 22-35 -To Amend the Traffic Calming and Greenways Program Incorporated By Reference Into Title 15 (“Vehicles and Traffic”) of the Bloomington Municipal Code - Re: Amending the Traffic Calming and Greenways Program Incorporated by Reference into Bloomington Municipal Code Section 15.26.020 [10:55pm]

Sandberg referred Ordinance 22-35 to the COW to meet on November 30, 2022.

ADDITIONAL PUBLIC COMMENT [10:55pm]

There was no additional public comment.

Lucas reviewed the upcoming council schedule and legislation.

COUNCIL SCHEDULE [10:56pm]

Rollo moved and it was seconded to hold a Special Session in lieu of the COW on December 14, 2022.

Piedmont-Smith asked how having a Special Session on December 14, 2022 and not on November 30, 2022 was justified.

Council discussion:

Sandberg stated that many of the legislation for consideration were resolutions and could be considered in one meeting.

Lucas confirmed that was correct and included interlocal agreements.

The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to schedule Special Session [11:02pm]

Rollo moved and it was seconded to adjourn. The motion was approved by voice vote.

ADJOURNMENT [11:03pm]

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this \_\_\_\_ day of \_\_\_\_\_, 2023.

APPROVE:

ATTEST:

\_\_\_\_\_  
Sue Sgambelluri, PRESIDENT  
Bloomington Common Council

\_\_\_\_\_  
Nicole Bolden, CLERK  
City of Bloomington



## MEMO FROM COUNCIL OFFICE ON:

### **Resolution 23-15 -To Review an Expenditure of \$100,000 or More within a Covered Fund under Ordinance 18-10 (Additional Fiscal Oversight by the Common Council) - Re: Expending in Excess of \$100,000 in Street Department Capital Funds for the Procurement of a new Milling Machine**

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#### **Synopsis**

This resolution is submitted in accordance with Ordinance 18-10 (Additional Fiscal Oversight by the Common Council) and requests the Council authorize the net expenditure of \$300,000 by the Street Department to replace the Department's current milling machine, which is no longer functional. Said \$300,000 was not previously identified for the Council, as the procurement was only determined to be necessary during the last few weeks.

#### **Relevant Materials**

- Resolution 23-15
- Staff Memo from Public Works Director Adam Wason

#### **Summary**

Resolution 23-15 proposes an expenditure from the Street Department's capital line (#601-02-020000-54450) within the Local Road and Street Fund (#450) in the net amount of \$300,000 for a new milling machine.

In 2018, the Council adopted Ordinance 18-10, which provided for additional Council oversight of certain fiscal actions by the City (now codified in BMC [2.26.200](#), [2.26.205](#), and [2.26.210](#)). Resolution 23-15 is being proposed pursuant to these requirements for Council review and approval of capital expenditures of at least \$100,000 within covered funds not previously identified in an approved capital plan. As part of this request, the Clerk's Office will "post the request in a manner that is best suited to alert the public of this proposal" as called for by local code.

Under local code (BMC 2.26.200(c)), the resolution should include information sufficient for the Council to make an informed decision regarding the request. Information should include:

- a description of the transfer or expenditure which shall include, but not be limited to the: fund, department/division, amount of money, and change line items involved in the request;
- the purpose and circumstances surrounding the request; including the reasons for the change and the effect of the change on existing operations; and
- timeframe requested for action and the reasons for it.



**City of Bloomington Indiana**

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The memo from Public Works Director Adam Wason that accompanies the resolution states that this expenditure comes after staff learned that repair of an existing milling machine is not feasible. The Council President has agreed to put this resolution on the agenda for action next week so that the purchase, if approved, can proceed in the coming weeks.

**Contact**

Adam Wason, Director of Public Works, [wasona@bloomington.in.gov](mailto:wasona@bloomington.in.gov), 812-349-3410

Jeff Underwood, Controller, [underwoj@bloomington.in.gov](mailto:underwoj@bloomington.in.gov), 812-349-3416

**RESOLUTION 23-15**

**TO REVIEW AN EXPENDITURE OF \$100,000 OR MORE WITHIN A COVERED FUND  
UNDER ORDINANCE 18-10**

**(ADDITIONAL FISCAL OVERSIGHT BY THE COMMON COUNCIL)**

**- Re: Expending in Excess of \$100,000 in Street Department Capital Funds for the Procurement  
of a new Milling Machine**

WHEREAS, on December 20, 2018, the City adopted Ordinance 18-10, which amended Bloomington Municipal Code 2.26 (Controller's Department) by adding Sections 2.26.200, 2.26.205, and 2.26.210, which call for Council review and approval of certain fiscal actions by the City Executive; and

WHEREAS, these fiscal actions include, in brief: the intra-category transfer of \$100,000 or more (Threshold) within certain funds (Funds) (BMC 2.26.200); the submittal and approval of capital plans associated with those Funds and the approval of capital expenditures meeting the Threshold not identified in those capital plans (BMC 2.26.205); and, lastly, other expenditures within those Funds that meet the Threshold and were not previously identified and approved by the Council (BMC 2.26.210); and

WHEREAS, this Resolution is has been submitted by the Administration in accordance with Ordinance 18-10 along with a Memorandum, which describes and explains a proposed expenditure that was not previously identified and approved by the Council and describes and explains said expenditure in sufficient detail for the Council to make an informed decision on the matter; and

WHEREAS, the Office of City Clerk has received and posted the request in accordance with Ordinance 18-10; and

WHEREAS, the proposed expenditure is from the Street Department's capital line (#601-02-020000-54450) in the net amount of \$300,000 for a new milling machine;

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

Section 1. The Common Council has reviewed the proposed expenditure as described and explained in the attached Memorandum and approves the expenditure subject to all the applicable laws and regulations.

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

\_\_\_\_\_  
SUE SGAMBELLURI, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
NICOLE BOLDEN, Clerk

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

\_\_\_\_\_  
NICOLE BOLDEN, Clerk

SIGNED AND APPROVED by me this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
JOHN HAMILTON, Mayor  
City of Bloomington

#### SYNOPSIS

This resolution is submitted in accordance with Ordinance 18-10 (Additional Fiscal Oversight by the Common Council) and requests the Council authorize the net expenditure of \$300,000 by the Street Department to replace the Department's current milling machine, which is no longer functional. Said \$300,000 was not previously identified for the Council, as the procurement was only determined to be necessary during the last few weeks.

# MEMO

<b>TO:</b>	Members of the Common Council
<b>FROM:</b>	Adam Wason, Public Works Director Joe VanDeventer, Director of Street Operations
<b>DATE:</b>	08/11/23
<b>RE:</b>	Milling Machine Lease - Purchase

Following our 2022 paving season, and during our routine and preventative maintenance work on our 2013 Bomag milling machine, it was discovered that a major component of the machine was needing replaced, and that it may be time to retire the machine. After many delays, and setbacks in delivery of the parts from the manufacturer in Germany, it was discovered that the repair necessary was not able to be completed with in-house equipment and staff. Outside vendors were months out from being able to do the work, and we entered into an emergency lease agreement for a Caterpillar milling machine so that we did not lose time or progress on our paving season.

The lease agreement stipulates that we have the option to purchase the machine, with a trade-in credit for our current machine. Our plan is to reallocate capital dollars intended for the purchase of other capital equipment (tri-axle dump trucks), and purchase the milling machine with those dollars. During the end of year appropriation ordinance, we plan to request moving funds from our supplies (300) lines, to our capital (400) lines to recapture funds to execute the purchase of the other capital equipment we're forgoing at this time.

We find this to be a necessary and important purchase to continue maintaining our transportation network and request your approval of the resolution.



## MEMO FROM COUNCIL OFFICE ON:

### **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**

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#### **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.

#### **Relevant Materials**

- Ordinance 23-16
- Staff Memo from Virgil Sauder, Director of Animal Care and Control
- Strikethrough version of Title 7 showing proposed changes in context
- Pages from 2012 Report of the Joint City-County Deer Task Force recommending a deer feeding ban

#### **Summary**

Ordinance 23-16 is the result of a review of Bloomington Municipal Code (BMC) Title 7, entitled "Animals", which is accessible online [here](#). The ordinance is a product of both staff in the Animal Care and Control Division of Public Works and the Animal Care and Control Commission (ACC), who have determined that changes and updates to the title are necessary. The ACC approved the proposed changes contained in the ordinance and recommended them to the Common Council by a vote of 6-0 on June 12, 2023.

First, the ordinance would make changes to defined terms within the chapter to reflect different classifications for animals posing some threat. The terms "Potentially dangerous, Level 1", "Potentially dangerous, Level 2", and "Potentially dangerous, Level 3" would be deleted. The new terms "Potentially Dangerous" and "Dangerous" would be added, and the term "Vicious" would be revised. These newly-defined designations could be applied to an animal depending on injuries caused by the animal, the severity of the injuries, and whether the situation or injuries were particularly egregious.

Next, the ordinance adds a microchipping requirement for potentially dangerous animals, which would mirror the same requirement for dangerous and vicious animals.

Next, the ordinance would add requirements related to animals classified as "Dangerous" by both (1) requiring that such animals be muzzled when off of the owner/guardian's property and (2) requiring warning signs to be displayed at the property where the animal is located.



Next, the ordinance would provide the ACC with the ability to require an evaluation by an approved Veterinary Behaviorist for animals classified as “Vicious”.

Next, the ordinance adds a new section to the municipal code to prohibit deer feeding within the city. The ordinance provides that a person commits an offense by intentionally feeding deer or making food available for consumption by deer within the city. For purposes of this regulation, food would include corn, fruit, oats, hay, nuts, wheat, alfalfa, salt blocks, grain, vegetables, and commercially sold wildlife feed and livestock feed. The ordinance excludes certain individuals and officials acting within the scope of their authority. It also excludes certain edible materials from the prohibition, including standing crops, plant materials growing in gardens, naturally growing matter, fruits or nuts fallen from trees, stored crops, livestock feed, lawns or gardens, and bird feed.

For some historical context, councilmembers and members of the public may wish to review a [2012 report and recommendations](#) issued by a [Joint City of Bloomington-Monroe County Deer Task Force](#), a group that was formed to study deer in urban and suburban areas and charged with developing recommendations to mitigate issues of human-deer interaction and the ecological impact of deer.

One resulting recommendation from this report was to prohibit the feeding of deer within city limits. Relevant pages from the report are included in this packet. [Ordinance 23-16](#) proposes adding a new section (07.40.030) to city code that largely mirrors suggested language from the 2012 recommendations. The Deer Task Force acknowledged that anti-feeding regulations would be difficult to enforce but believed that regulations would have deterrent and educational value. The Task Force recommended that such a ban be accompanied by public awareness efforts.

The ordinance would also add accompanying fines for deer feeding violations, starting at \$50 and doubling for each subsequent offense within twelve months of the first offense.

Next, the ordinance increases surrender fees (for non-Monroe County residents) and adoption fees. It also adds a monitoring fee of \$50 for vicious animals. The staff memo provided by Virgil Sauder indicates that these increases are meant to better reflect the costs to the city for providing services and care to the animals.

Next, the ordinance would provide the ACC with the added ability to require individuals declared “habitual offenders” to attend a responsible pet owner course approved by the commission. Local code currently allows the ACC to declare a pet owner/guardian a habitual offender if:





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(1) the owner/guardian is found to have violated any provision(s) of Bloomington Municipal Code Title 7 on at least three (3) separate occasions within the same twenty-four (24) month period of time; or

(2) the owner/guardian of an animal which has been declared potentially dangerous or vicious fails to comply with the terms and conditions required by Title 7 and the animal control commission for maintaining such an animal.

Finally, the ordinance would clarify that an individual appealing a decision of the ACC has 60 days (rather than 10 days) to file the appeal with the Monroe County Circuit Court after the ACC's written decision, order, or findings.

**Contact**

Virgil Sauder, [sauderv@bloomington.in.gov](mailto:sauderv@bloomington.in.gov), (812) 349-3492

**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 his or her legal counsel, by certified mail, return receipt requested, addressed to the owner/guardian's address, or his or her 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. 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 23. 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 \_\_\_\_\_ day of \_\_\_\_\_, 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 \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
NICOLE BOLDEN, Clerk,  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 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.

# MEMO

**To:** Bloomington Common Council  
**From:** Virgil Sauder, Director of Animal Care and Control  
**Date:** 7/28/23  
**Re:** Animal Control Commission's Recommended Updates to Title 7 of the Municipal Code

The City of Bloomington Animal Control Commission (ACC) is recommending changes to the Municipal Code. The changes update the dangerous animal ordinance, add a deer feeding ban, increase the amount of some fees, and update the appeals section. The updates to the dangerous animal ordinance are intended to make regulations easier to understand and reflect current understanding of canine behavior. The added feeding ban adds language recommended by the Deer Task Force in 2012 and supported by Council and the ACC as a first step in addressing deer conflicts. The increased fees for adoptions and surrender fees are intended to offset the increase in costs. The update to the appeals sections conforms to state law.

## **Summary of Major Changes by Section**

### **7.01.010 Definitions:**

Change from "Potentially Dangerous Levels 1,2,3" and "Vicious" to "Potentially dangerous", "Dangerous", and "Vicious" - this streamlines the process to make it more accessible to individuals. Also, it gives the Animal Control Commission some flexibility between adjacent levels based on the situation, such as in the case of a dog severely injuring another large dog being a higher level than a dog severely injuring or killing a chicken.

### **7.26 Potentially Dangerous, Dangerous, and Vicious**

Changing requirements for Potentially Dangerous Levels 1, 2, 3 and Vicious to Potentially Dangerous, Dangerous, and Vicious. Requiring a microchip for any declaration to assist in future identification of an offending dog. Requiring muzzling in public for Dangerous and Vicious Dogs.

### **7.40.030 Deer Feeding ban**

Added language to prohibit the feeding of deer.



#### **7.54.010 Surrender Fees**

Increasing fees to surrender animals from outside of Monroe County due to increased cost of care.

#### **7.54.080 Adoption Fees**

Changing set fees to a “not to exceed amount” for cats, dogs and rabbits to allow for increases based on rising medical costs needed to prepare animals for spay/neuter. Fee changes will continue to be reviewed by the Animal Control Commission. These fees were originally set to cover the following: cost of spay/neuter, microchip, intake vaccines and wormer. At that time the services cost \$75. The current shelter cost for these services is \$95 per cat and \$130 per dog.

#### **7.56.060 Habitual Offender**

Providing the Animal Control Commission the added ability to require individuals declared Habitual Offenders to take a responsible pet owner course.

#### **7.56.070 Appeals**

Changes the timeframe for an appeal of a decision by the Animal Control Commission to the Monroe County Circuit Court.

Amendments proposed via Ordinance 23-16 to  
Bloomington Municipal Code Title 7 (“Animals”) shown in context  
(proposed additions are shown in **bold**, proposed deletions are shown in ~~strikeout~~)

7.01.010 Definition of terms.

"Abandoned" means any animal whose owner/guardian has knowingly, intentionally or recklessly left it unattended, without proper food, water or shelter, for twenty-four hours or more.

"Altered" means any animal which has been spayed or neutered.

"Animal" means any live, nonhuman vertebrate creature, domestic or wild.

"Animal exhibition, permanent" means any spectacle, display, act or event other than circuses, in which animals perform or are displayed, with the exception of education programs presented by persons or organizations with proper state and federal education permits, as required, and which are perpetual in nature and in a stationary location.

"Animal exhibition, transient" means any spectacle, display, act or event other than circuses, in which animals perform or are displayed, with the exception of education programs presented by persons or organizations with proper state and federal education permits, as required, and which are traveling shows of a temporary duration.

"Animal rescue organization" means a not-for-profit organization having tax exempt status under Section 501(c)(3) of the United States Internal Revenue Code and a mission and practice of rescuing animals and placing them into permanent homes. Animal rescue organization does not include any person who:

- (1) Breeds dogs or cats;
- (2) In exchange for compensation of any kind, obtains dogs or cats from a person who breeds dogs or cats; or
- (3) Facilitates the sale of dogs or cats obtained from a person who breeds dogs or cats.

"At large" means a stray animal or any animal whose owner/guardian knowingly, intentionally, or recklessly allows the animal to stray beyond premises owned, lawfully occupied or controlled by the owner/guardian unless under restraint. This section does not apply to dogs engaged in lawful hunting accompanied by the owner/guardian or custodian or to feral cats which belong to a managed colony.

"Auction" means any place or facility where domestic livestock are regularly bought, sold, or traded, except for those facilities otherwise defined in this chapter.

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

"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 Department; and
- (c) Is not otherwise permitted by Section 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

- (d) Reside in an area zoned estate residential (RE), single-dwelling residential (RS), residential core (RC), 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.

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

"Circus" means a commercial variety show featuring animal acts for public entertainment.

"Colony" means one or more feral cats, whether unmanaged or managed.

"Colony caretaker" means a person who provides food, water and/or shelter for feral cats in a managed colony. Colony caretakers shall not be deemed to own or harbor said cats.

"Commercial animal establishment" means any pet shop, nonmunicipal animal shelter/sanctuary, auction, riding school or stable, zoological park, circus or animal exhibition.

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

**"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.**

"Designee" means an organization or individual recognized by the city of Bloomington animal care and control department that uses the trap-neuter-return method for stabilizing and reducing the feral cat population.

"Domestic livestock" means any animal, other than a domestic pet, that is a member of one of the following species:

- (1) Bison;
- (2) Elk;
- (3) Poultry;
- (4) Cattle;
- (5) Donkey;
- (6) Horse;
- (7) Goat;
- (8) Llama;
- (9) Mule;
- (10) Ostrich;
- (11) Pig; or
- (12) Sheep.

"Domestic pet" means any animal that is a member of one of the following species:

- (1) Dog (*Canis familiaris*);
- (2) Cat (*Felis catus* or *Felis domesticus*);

- (3) Rabbit (*Oryctolagus cuniculus*);
- (4) Mouse (*Mus musculus*);
- (5) Rat (*Rattus rattus*);
- (6) Reptile (*Reptilis*), as defined herein;
- (7) Guinea pig (*Cavia porcellus*);
- (8) Chinchilla (*Chinchilla laniger*);
- (9) Hamster (*Mesocricetus auratus*);
- (10) Gerbil (*Gerbillus gerbillus*);
- (11) Ferret (*Mustela putorius furo*);
- (12) Sugar glider (*Petaurus breviceps*);
- (13) African Pygmy Hedgehogs (*Erinaceus europaeus*); or
- (14) Degu (*Octodon Degus*).

"Exotic animal" means an animal belonging to a species that is not native to the United States, or an animal that is a hybrid or cross between a domestic animal and an animal that is not native to the United States.

"Feral cat" means a cat that has lived its life with little or no human contact, is not socialized or is ear-tipped or tattooed.

"Harboring" means the actions of any person that permit any animal habitually to remain or lodge or to be fed within his or her home, store, enclosure, yard or place of business or any premises on which such person resides or controls. An animal shall be presumed harbored if it is fed or sheltered for three consecutive days.

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

"Managed colony" means a colony of feral cats that is registered with the city of Bloomington animal care and control department or its designee and is maintained by a colony caretaker using the trap-neuter-return method to stabilize and reduce the feral cat population.

"Municipal animal shelter" means any facility operated by a municipal agency, or its authorized agents for the purpose of impounding or caring for animals held under the authority of this title or of state law.

"Noncommercial kennel" means any person engaged in owning or harboring, with the exception of dogs and/or cats fostered for the city of Bloomington animal care and control department or feral cats belonging to a managed colony, more than four altered dogs; more than six altered cats; or more than a total of ten altered dogs and cats combined.

"Nonmunicipal animal shelter/sanctuary" means any facility operated by a person or organization other than a municipality for the purpose of harboring and/or rehoming animals.

"Offer for sale" means to proffer, advertise, or display for the sale, trade, barter, lease, giving away, or any other transfer.

"Owner/guardian" means a person owning or harboring one or more animals for a period of longer than twenty-one days.

"Person" means any individual, firm, association, joint stock company, syndicate, partnership, corporation, or any other legal entity.

"Pet shop" means any retail establishment engaging in the purchase and sale of any species of animal.

"Potentially dangerous, ~~Level 1~~" means any **animal while off of the property owned, lawfully occupied or controlled by the owner/guardian or keeper of the animal that:**

- (1) ~~Animal which, when unprovoked, on two separate occasions within the prior thirty-six month period, engages in or displays any behavior that requires a defensive action by any person to prevent bodily injury to the person or the person's own animal, when the person or the animal are off of property owned, lawfully occupied or controlled by the owner/guardian or keeper of the animal~~

**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) ~~Animal which, when unprovoked, and when off of property owned, lawfully occupied or controlled by the owner/guardian or keeper of the animal, causes injury to a domestic pet, domestic livestock or to a person that results in any of the following injuries: injury which results in bruising or abrasions; or injury that results in less than four punctures wounds~~

**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.**

~~"Potentially dangerous, Level 2" means any an animal which has been declared a Level 1 potentially dangerous animal and within thirty-six months of said declaration, when off of property owned, lawfully occupied or controlled by the owner/guardian or keeper of the animal, causes injury to a domestic pet, domestic livestock or to a person that results in any of the following injuries: injury which results in bruising or abrasions; or injury that results in less than four punctures wounds. A Level 2 potentially dangerous animal is also an animal which causes severe injury or death to a domestic pet or to domestic livestock.~~

~~"Potentially dangerous, Level 3" means any animal which has been declared a Level 1, or Level 2 potentially dangerous animal and continues, when off of property owned, lawfully occupied or controlled by the owner/guardian or keeper of the animal, and when unprovoked, to cause injuries to persons, domestic pets or domestic livestock within thirty-six months of the original declaration. A Level 3 potentially dangerous animal is also an animal which, when off of property owned, lawfully occupied or controlled by the owner/guardian or keeper of the animal, and when unprovoked, causes a severe injury to a person or injures a person in that the injury results in four or more puncture wounds.~~

"Public nuisance" means any animal that:

- (1) Molest passersby or passing vehicles;
- (2) Attack persons or other animals;
- (3) Damage public property or private property;
- (4) Bark, whine or howl in an excessive or continuous fashion;
- (5) Defecate on public or private property, other than the owner/guardian's/harbinger's/colony caretaker's property, unless the waste is immediately removed and disposed of in a sanitary manner by the animal's owner/guardian/harbinger/colony caretaker; or
- (6) Otherwise interferes with the free use and comfortable enjoyment of life or property.

"Reptile" means any air-breathing vertebrate of the class Reptilia.

"Research laboratory" means any animal research facility registered with the United States Department of Agriculture under authority of the Federal Laboratory Animal Welfare Act, 71 United States Code Section 2132 et seq.

"Restraint" means the securing of an animal by a leash or lead or confining it within the real property limits of property owned, lawfully occupied or controlled by its owner/guardian or keeper.

"Riding school or stable" means any place that has available for hire, boarding, and/or riding instruction, any horse, pony, donkey, mule or burro.

"Sell" means to exchange for consideration, adopt out, barter, auction, trade, lease, or otherwise transfer animals.

"Service dogs" means any dog engaged in working or training to work for the assistance of hearing or sight impaired, or physically handicapped or disabled persons.

"Severe injury" means any physical injury to a human being or domestic pet or domestic livestock that results in multiple bites, broken bones, muscle tears or disfiguring lacerations or requires multiple sutures or corrective or cosmetic surgery.

"Stray" means any animal that does not appear, upon reasonable inquiry, to have an owner/guardian.

"Tether" means attaching a domestic pet to a stationary object or pulley run by means of a chain, rope, tether, cable, or similar restraint. "Tether" does not include the use of a leash to walk a domestic pet.

"Trap-neuter-return" means a full management plan in which feral cats already living outdoors are humanely trapped, then evaluated, sterilized and ear-tipped or tattooed by veterinarians. Kittens under ten weeks old are adopted into good homes if they become socialized. Healthy adult cats too wild to be adopted are returned to their familiar habitat under the lifelong care of volunteers.

"Veterinary hospital" means any establishment maintained and operated by a veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals.

"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** ~~when unprovoked, in an aggressive manner has bitten or attacked a person, domestic pet or domestic livestock at least three times in the prior thirty-six month period. A vicious animal is also an 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.

"Wild animals" means any animal not a domestic animal, with the exception of small, nonpoisonous aquatic or amphibious animals and birds of the order Psittaciformes, canaries, and finches.

"Wildlife rehabilitator" means any person or persons that acquire the necessary state and federal permits to allow the rehabilitation of wildlife in their homes, on their property or in a professional facility, with the intent of releasing such animals according to state and federal guidelines.

"Zoological park" means any facility, other than a pet shop or kennel, displaying or exhibiting, without the predominant purpose of selling, one or more species of nondomesticated animals. The facility must be accredited by the American Zoological Association (AZA) or The Association of Sanctuaries (TAOS).

(Ord. 07-01 §§ 1—7, 2007; Ord. 06-21 § 1, 2006; Ord. 05-33 § 2, 2005; Ord. 99-39 §§ 1—14, 1999; Ord. 98-27 §§ 1, 2, 3, 1998; Ord. 85-23 § 1, 1985; Ord. 78-20 § 1, 1978; Ord. 76-14 § 1 (part), 1976).

(Ord. No. 09-19, §§ 1—3, 12-21-2009; Ord. No. 11-20, § 1, 12-21-2011; Ord. 15-04, §§ 1—14, 4-8-2015; Ord. No. 21-45, §§ 1—8, 12-3-2021)

## Chapter 7.26 POTENTIALLY DANGEROUS, **DANGEROUS**, AND VICIOUS ANIMALS

### 7.26.010 Request for declaration.

- (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.

(Ord. 15-04, § 43, 4-8-2015)

### 7.26.020 Hearing on declaration.

- (a) The hearing will be held at the next regularly scheduled meeting of the animal control commission and shall be open to the public, provided the owner/guardian of the animal can be provided at least fourteen (14) days advance notice of the hearing.
- (b) The owner/guardian of the animal shall be served with written notice of the hearing and a copy of any complaints received by certified mail or in person. The notice shall include the following:
  - (1) The date, time and location of the hearing;
  - (2) A statement that the owner/guardian, or his or her legal counsel, may present evidence and testimony as to why the animal should not be declared potentially dangerous or vicious.
- (c) The animal control commission may consider all relevant evidence, including incident reports, affidavits of witnesses, and whether the incident reasonably indicates whether or not the animal in question is potentially dangerous and/or vicious in ordinary circumstances where the average person could not reasonably be expected to foresee and take measures to prevent injury.
- (d) The animal control commission may decide all issues for or against the owner/guardian of the animal even if the owner/guardian of the animal fails to appear at the hearing.
- (e) The commission shall issue findings of fact to support its ruling.
- (f) The findings of fact shall be given to the owner/guardian, or his or her legal counsel, by certified mail, return receipt requested, addressed to the owner/guardian's address, or his or her 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.
- (g) The commission, in rendering its decision and in issuing its findings of fact, has the authority to attach any and all reasonable conditions to its decision. To that end, the commission may impose conditions on owners/guardians regarding the types of enclosures to be used, the types of restraint systems to be used, and other such things in order to ensure that the both the animal and the public are safe.

(Ord. 15-04, § 43, 4-8-2015)

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7.26.030 Potentially dangerous, ~~Level 1.~~

- (a) The animal, while on the owner/guardian's property, shall, at all times, be kept indoors, or in a secured enclosure from which the animal cannot escape, and into which children cannot trespass.
- (b) ~~Invisible fences are not permitted enclosures.~~ **The animal must be implanted with a microchip.**
- (c) 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 under the control of an adult.

(Ord. 15-04, § 43, 4-8-2015)

~~7.26.040 Potentially dangerous, Level 2.~~

- ~~(a) The animal, while on the owner/guardian's property, shall, at all times, be kept indoors, or in a secured enclosure from which the animal cannot escape, and into which children cannot trespass.~~
- ~~(b) Invisible fences are not permitted enclosures.~~
- ~~(c) 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 under the control of an adult.~~
- ~~(d) The animal must be altered by a licensed veterinarian within thirty (30) days of such designation unless:~~
  - ~~(1) A licensed veterinarian certifies in writing that the animal is incapable of reproduction; or~~
  - ~~(2) A licensed veterinarian certifies in writing that altering the animal would be injurious to the animal's health; provided, however, that if the health condition of the animal is of a temporary nature, then the animal shall be altered immediately after the health condition has been corrected;~~
  - ~~(3) The commission renders a specific finding of fact that alteration of the animal is not required.~~
- ~~(e) The animal must be implanted with a microchip.~~

(Ord. 15-04, § 43, 4-8-2015)

7.26.050 ~~Potentially d~~Dangerous, ~~Level 3.~~

- (a) The animal, while on the owner/guardian's property, shall, at all times, be kept indoors, or in a secured enclosure from which the animal cannot escape, and into which children cannot trespass. No secured enclosure may be used unless and until the City of Bloomington Animal Care and Control Department approves the enclosure.
- ~~(b) Invisible fences are not permitted enclosures.~~
- ~~(b)(c)~~ 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.**
- ~~(c)(d)~~ The animal must be altered by a licensed veterinarian within thirty (30) days of such designation unless:
  - (1) A licensed veterinarian certifies in writing that the animal is incapable of reproduction; or
  - (2) A licensed veterinarian certifies in writing that altering the animal would be injurious to the animal's health; provided, however, that if the health condition of the animal is of a temporary nature, then the animal shall be altered immediately after the health condition has been corrected.
- ~~(d)(e)~~ The animal must be implanted with a microchip.



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

- (1) At least one (1) of the signs shall be posted on the enclosure in which the animal is maintained.
- (2) Signs must inform both children and adults of the presence of a ~~potentially~~ dangerous animal on the property.

(Ord. 15-04, § 43, 4-8-2015)

#### 7.26.060 Vicious.

(a) The animal, while on the owner/guardian's property, shall, at all times, be kept indoors, or in a secured enclosure from which the animal cannot escape, and into which children cannot trespass. No secured enclosure may be used unless and until the City of Bloomington Animal Care and Control Department approves the enclosure.

~~(b) Invisible fences are not permitted enclosures.~~

~~(b)~~(c) The animal may only be off the owner/guardian's premises if it is restrained by a substantial leash, of appropriate length, is muzzled, and if it under the control of an adult.

~~(c)~~(d) The animal must be altered by a licensed veterinarian within thirty (30) days of such designation unless:

- (1) A licensed veterinarian certifies in writing that the animal is incapable of reproduction; or
- (2) A licensed veterinarian certifies in writing that altering the animal would be injurious to the animal's health; provided, however, that if the health condition of the animal is of a temporary nature, then the animal shall be altered immediately after the health condition has been corrected.

~~(d)~~(e) The animal must be implanted with a microchip.

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

- (1) At least one (1) of the signs shall be posted on the enclosure in which the animal is maintained.
- (2) Signs must inform both children and adults of the presence of a ~~potentially dangerous~~ **vicious** animal on the property.

**(f) The commission may require evaluation by an approved Veterinary Behaviorist.**

(Ord. 15-04, § 43, 4-8-2015)

#### 7.26.070 Immediate threat.

If it is determined by an animal control officer or a law enforcement officer that probable cause exists to believe an animal poses an immediate threat to public safety, then an animal control officer or law enforcement officer may seize and impound the animal pending the hearing described in this chapter.

- (a) Any animal so seized shall be held until the animal control commission renders a decision in accordance with this chapter.
- (b) The owner/guardian of the animal shall be liable to the City of Bloomington for the costs and expenses of keeping the animal, if the animal is later declared by the commission to be potentially dangerous or vicious.

(Ord. 15-04, § 43, 4-8-2015)

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### 7.26.080 Euthanization.

If an animal is declared vicious in accordance with this chapter, the animal control commission may order the animal humanely euthanized if the commission finds that releasing the animal may create a significant threat to the public health, safety or welfare.

(Ord. 15-04, § 43, 4-8-2015)

### 7.26.090 Status change.

If an animal designated under this chapter dies, sold, transferred or moved to a different location, the owner/guardian shall notify the City of Bloomington Animal Care and Control Department of the changed status and new location of the animal.

- (1) The notice of status change must be done in writing; and
- (2) Must be provided to the department within two (2) business days of the change.

(Ord. 15-04, § 43, 4-8-2015)

### 7.26.100 Reconsideration.

An owner/guardian may submit a request for reconsideration to the animal control commission to have the designation of potentially dangerous removed from his or her animal.

- (a) Owners/guardians of level 1 or 2 potentially dangerous dogs may submit one request for reconsideration upon the expiration of one (1) year from the date of designation, provided no further violations of this title have occurred.
- (b) Owners/guardians of a level 3 potentially dangerous dogs or a vicious dog may submit one (1) request for reconsideration upon the expiration of three (3) years from the date of designation, provided no further violations of this title have occurred.

(Ord. 15-04, § 43, 4-8-2015)

## Chapter 7.40 WILD ANIMALS, EXOTIC ANIMALS, ~~AND~~ PROHIBITED REPTILES AND DEER FEEDING<sup>1</sup>

### 7.40.010 Keeping wild or exotic animals.

No person shall keep or permit to be kept on his or her premises any wild or exotic animal for any purpose. This section shall not be construed to apply to zoological parks, circuses, animal exhibitions, research laboratories,

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<sup>1</sup>Editor's note(s)—Ord. 15-04, § 59, adopted April 8, 2015, amended Ch. 7.40 in its entirety to read as herein set out. Former Ch. 7.40, §§ 7.40.010—7.40.030, pertained to Wild animals. See the Code Comparative Table for complete derivation.

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licensed wildlife rehabilitators, or a wildlife educator who is in possession of all necessary federal or state licenses, permits, and/or approvals.

(Ord. 15-04, § 59, 4-8-2015)

#### 7.40.020 Keeping prohibited reptiles.

No person shall keep or permit to be kept on his or her premises any reptile herein listed for any purpose. This section shall not be construed to apply to zoological parks, circuses, animal exhibitions, research laboratories, licensed wildlife rehabilitators, or licensed educations.

- (a) Any reptile on the federal endangered or threatened species list or on the convention or international trade in endangered species list;
- (b) Any venomous reptile, including front- or rear-fanged reptiles;
- € Any python of a species which naturally exceeds twelve (12) feet in length;
- (d) All crocodylians, including alligators, caimans, and crocodiles;
- € Monitor lizards;
- (f) Anacondas;
- (g) Any reptile of a species native to Indiana; or
- (h) Any reptile protected by state or federal law.

(Ord. 15-04, § 59, 4-8-2015)

#### 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.

## Chapter 7.54 FEES<sup>2</sup>

### 7.54.010 Surrender fees.

- (a) The fee charged to a resident of any county other than Monroe County who surrenders an animal(s) to the City of Bloomington Animal Shelter shall be as listed in the table below.

Dogs <del>and</del> or cats over six months of age	<del>\$230.00</del>
Litters of puppies or kittens with five or fewer animals, all of which are younger than six months of age	<del>\$235.00</del>
Litters of puppies or kittens with more than five animals, all of which are younger than six months of age	<del>\$345.00</del>
Animals other than dogs and cats	\$10.00

- (b) If an animal over six months of age is surrendered with a litter, both the ~~twenty~~**thirty**-dollar (~~\$230.00~~) adult fee and the litter fee shall be charged.
- (c) Surrender fees may be waived at the discretion of the director of the animal care and control department, or his/her designee(s), provided the director believes waiver of the surrender fee is in the best interests of the animal(s) being surrendered.

(Ord. 15-04, § 67, 4-8-2015)

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<sup>2</sup>Editor's note(s)—Ord. 15-04, § 67, April 8, 2015, repealed the former Ch. 7.54, §§ 7.54.010, 7.54.020, and enacted a new Ch. 7.54 as set out herein. The former Ch. 7.54 pertained to Miscellaneous fees and derived from Ord. 10-16, §§ III, IV, 12-1-2010.

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7.54.020 Incinerator fee.

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.

(Ord. 15-04, § 67, 4-8-2015)

7.54.030 Commercial animal establishment permit fees.

(a) Fees for commercial animal establishment permits shall be as follows:

(1) For each riding school or stable	\$100.00
(2) For each auction	\$500.00
(3) For each zoological park	\$500.00
(4) For each circus or animal exhibition—transient	\$1,000.00 per day
(5) For each animal exhibition—permanent	\$500.00 per year
(6) For each pet shop	\$250.00
(7) For each nonmunicipal animal shelter/sanctuary	\$0.00 private/\$0.00 nonprofit

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

(Ord. 15-04, § 67, 4-8-2015; Ord. No. 21-45, §§ 12, 13, 12-3-2021)

7.54.040 Kennel permit fees.

(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; and
- (7) 17—19 altered cats: \$75.00.

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

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

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(Supp. No. 42)

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

(Ord. 15-04, § 67, 4-8-2015)

**7.54.050 Intact animal and litter permit fees.**

- (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; and
  - (5) 15—19 unaltered animals: \$250.00.
- (b) Fees for litter permits shall be:
  - (1) First litter in a twelve-month period: \$100.00; and
  - (2) Additional litters: \$150.00/litter.

(Ord. 15-04, § 67, 4-8-2015)

**7.54.060 Impounded animal fees.**

An owner/guardian reclaiming an impounded animal shall pay a board fee as follows, in addition to a fee of seven dollars (\$7.00) for vaccinations of reclaimed cats and dogs:

(1) Dog, impounded for 1-5 days	\$10.00 per day
(2) Dog, impounded for 6 or more days	\$20.00 per day
(3) Cat or ferret, impounded for 1-5 days	\$5.00 per day
(4) Cat or ferret, impounded for 6 or more days	\$10.00 per day
(5) Horses, goats, pigs, poultry	\$10.00 per day
(6) Other animals	\$5.00 per day

(Ord. 15-04, § 67, 4-8-2015)

**7.54.070 Rabies boarding fees.**

An owner/guardian reclaiming an impounded bite case animal, having been boarded at the City of Bloomington Animal Shelter, shall pay a board fee as follows:

(1) Dog	\$10.00 per day
(2) Cat or ferret	\$5.00 per day

(Ord. 15-04, § 67, 4-8-2015)

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#### 7.54.080 Adoption fees.

The fee to adopt any animal shall be as listed in the table found in this section. The adoption fee must be paid prior to the animal being taken to his or her new home.

Domestic Animals	
Dogs and cats under 5 years of age	<b>Fee not to exceed \$75</b> <del>120.00</del>
<del>Dogs and cats over 5 years of age</del>	<del>\$55.00</del>
Rabbits and ferrets	<b>Fee not to exceed \$475.00</b>
Goats, pigs, horses, etc.	\$20.00
Birds	
Parakeets/Finches	\$10.00
Lovebirds/Cockatiels	\$20.00
Reptiles	\$20.00
Small Animals	
Guinea pigs	\$5.00
Mice	\$2.00
Rats	\$2.00
Hamster/Gerbils	\$2.00

(Ord. 15-04, § 67, 4-8-2015)

#### 7.54.090 ~~Potentially d~~Dangerous and vicious animal monitoring fee.

The fee for monitoring any ~~Level 3 potentially dangerous dog animal or vicious dog~~ 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.**

(Ord. 15-04, § 67, 4-8-2015)

#### 7.54.100 Prorating fees.

Applicants requiring any of the permits described in this chapter during the year shall pay a prorated fee for the remaining portion of the year.

(Ord. 15-04, § 67, 4-8-2015)

#### 7.54.110 Fee waiver.

(a) In order to help more companion animals find suitable homes, the director of the City of Bloomington Animal Care and Control Department has the discretion to raise, lower or waive the adoption fees described in Section 7.54.080 under the following circumstances:

- (1) Adoptions of animals which have incurred extraordinary expenses while under the shelter's care;
- (2) Adoptions of hard-to-adopt animals or of foster animals by foster parents;
- (3) Adoptions by breed rescue organizations or transfers to humane associations; or

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- (4) Adoptions through special promotions or when the kennel is full.
  - (b) The Director of the City of Bloomington Animal Care and Control Department has the discretion to raise, lower or waive any of the permit fees described in this chapter ~~shall~~ **should** he or she deem such an action to be in the best interests of the city or its citizens.
  - (c) The director shall inform the animal control commission of any such adjustments at their monthly meeting.
- (Ord. 15-04, § 67, 4-8-2015)

#### 7.54.120 Disposition of funds.

All fees or moneys shall be paid to the City of Bloomington Controller, the City of Bloomington Legal Department, the City of Bloomington Animal Care and Control Department or agents designated by the either of the three (3) departments. Money so paid shall be transmitted to the City of Bloomington Controller and shall be used in carrying out the provisions of this title.

(Ord. 15-04, § 67, 4-8-2015)

## Chapter 7.56 ENFORCEMENT, PENALTIES AND APPEALS

#### 7.56.010 Authority.

The director of the animal care and control department, or his or her designees, are the designated enforcement officials with full authority to investigate, conduct inspections, issue notices of violation, and secure remedies, including but not limited to fines and injunctive relief for any violation of this title.

(Ord. 15-04, § 68, 4-8-2015)

#### 7.56.020 Violations.

- (a) For purposes of this title, a violation shall be defined as a violation or failure to comply with:
  - (1) Any provision or requirement of this title; or
  - (2) Any condition or requirement established or issued by the animal control commission.
- (b) Any violation, as defined in Section 7.56.020(a) above, shall be subject to the penalties provided in Chapter 7.56, and the city shall have recourse to any remedy available in law or equity.
- (c) Each day that a violation continues shall be considered a separate violation for purposes of the penalties specified in Chapter 7.56. A violation continues to exist until corrected and verified by the director of the animal care and control department, or his or her designees. Correction includes, but is not limited to:
  - (1) Cessation of an unlawful practice;
  - (2) Remediation of a violation;
  - (3) Payment of fees or fines; or
  - (4) Other remedy acceptable to the city.
- (d) For purposes of issuing penalties and fines in accordance with this chapter, the following persons shall be considered responsible parties, with liability for fines and responsibility for the remediation of the violation:



- (1) Owner of animal;
  - (2) Guardian of animal: or
  - (3) Keeper of animal.
- (e) Colony caretakers shall not be subject to penalties and fines under this chapter.
- (f) The city legal department may institute appropriate action to impose and collect fines, fees and/or other penalties; to enforce or defend any action taken pursuant to this Title; and to prevent, enjoin, abate, remove or correct any violation of or noncompliance of this Title.
- (Ord. 15-04, § 68, 4-8-2015)

**7.56.030 Penalties.**

- (a) Any first offense violation that is subject to Chapter 7.56 shall be subject to a civil penalty of not more than two thousand five hundred dollars (\$2,500.00) for each such violation for a first violation, and any second or subsequent violation that is subject to Chapter 7.56 shall be subject to a civil penalty of not more than seven thousand five hundred dollars (\$7,500.00) for each such second or subsequent violation. These financial penalties are in addition to any and all other remedies available to the city, except where a lesser fine is specified herein.
- (b) The following violations of this title shall be subject to the fines listed in the below table.

Falsification of Application for a Commercial Animal Establishment Permit	Triple the applicable permit fee for first offense. Second and subsequent offenses within twelve consecutive months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.
Commercial Animal Establishment's Violation of Animal Care Standards in Section 7.16.040	Triple the applicable permit fee for first offense. Second and subsequent offenses within twelve consecutive months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.
Commercial Animal Establishment's Violation of Chapter 7.16	Double the applicable permit fee for first offense. Second and subsequent offenses within twelve months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.
Operation of a Commercial Animal Establishment without a Permit	\$2,500.00 for the first offense. \$5,000.00 for a second offense in a two year period. \$7,500.00 for a third and all subsequent offenses in a two year period.
Falsification of Application for a Kennel Permit	Triple the applicable permit fee for first offense. Second and subsequent offenses within twelve consecutive months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.
Kennel Permittee's Violation of Animal Care Standards in Section 7.21.040; 7.21.050; or 7.21.057.	Triple the applicable permit fee for first offense. Second and subsequent offenses within twelve consecutive months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.

Kennel Permittee's Violation of Chapter 7.21	Double the applicable permit fee for first offense. Second and subsequent offenses within twelve months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.
Operation of a Kennel without a Permit	\$2,500.00 for the first offense. \$5,000.00 for a second offense in a two year period. \$7,500.00 for a third and all subsequent offenses in a two year period.
Falsification of Application for a Breeder Permit	Triple the applicable permit fee for first offense. Second and subsequent offenses shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.
Breeder Permittee's Violation of Consumer Protection Requirements in Section 7.22.035	Double the applicable permit fee for first offense. Second and subsequent offenses within twelve months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.
Breeder Permittee's Violation of Chapter 7.22	Double the applicable permit fee for first offense. Second and subsequent offenses within twelve months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.
Breeding without a Permit	Double the applicable permit fee for first offense. Second and subsequent offenses within twelve months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.
Failure to Restrain an Altered Animal	\$20.00 for the first offense. Second and subsequent offenses within twelve months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.
Failure to Restrain an Unaltered Animal	\$100.00 for the first offense. Second and subsequent offenses within twelve months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense, unless the owner has the animal altered, in which case the fine shall be that which is associated with restraint on an altered animal.
Allowing an animal to be a public nuisance	\$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 <del>prior</del> <b>recent</b> offense.
Giving animals as prizes	\$100.00 for the first offense. Second and subsequent offenses within twelve months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.
Poisoning animals	\$2,500.00 for the first offense. \$5,000.00 for a second offense in a two year period. \$7,500.00 for a third and all subsequent offenses in a two year period.
Cruelty, abuse or neglect of an animal resulting in serious injury or death to the animal	\$2,500.00 for the first offense. \$5,000.00 for a second offense in a two year period. \$7,500.00 for a third and all subsequent offenses in a two year period.
Torturing, beating, mutilating or neglecting an animal which result in injury or pain to the animal	\$1,500.00 for the first offense. \$3,000.00 for a second offense in a two year period. \$6,000.00 for a third

	offense in a two year period. \$7,500.00 for a fourth and all subsequent offenses in a two year period.
Failure to report hitting a dog or cat with a motor vehicle	\$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 <del>prior</del> <b>recent</b> offense.
Using a device to induce an animal to perform	\$2,500.00 for the first offense. \$5,000.00 for a second offense in a two year period. \$7,500.00 for a third and all subsequent offenses in a two year period.
Violations of General Animal Care Standards in Section 7.36.050	\$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 <del>prior</del> <b>recent</b> offense.
Violations of Provisions for Animals Used to Draw Vehicles in Section 7.36.060	\$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 <del>prior</del> <b>recent</b> offense.
Abandonment of Animal	\$2,500.00 for the first offense. \$5,000.00 for a second offense in a two year period. \$7,500.00 for a third and all subsequent offenses in a two year period.
Wild Animal Violations in Chapter 7.40	\$500.00 for the first offense. Second and subsequent offenses within twelve months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.
Reptile Violations in Chapter 7.- <b>240</b>	\$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 <del>prior</del> <b>recent</b> offense.
<b>Deer Feeding Violations in Chapter 7.40</b>	<b>\$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.</b>
Failure to Vaccinate an Animal Against Rabies	\$200.00 for the first offense. Second and subsequent offenses within twelve months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.
Failure to Quarantine an Animal in Accordance with Section 7.44.020	\$200.00 for the first offense. Second and subsequent offenses within twelve months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.
Failure to restrain a female in heat	\$100.00 for the first offense. Second and subsequent offenses within twelve months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.
Failure to restrain a potentially dangerous or vicious animal.	\$100.00 for the first offense. Second and subsequent offenses within twelve months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.

Failure to post warning signs for a potentially dangerous or vicious animal.	\$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 <del>prior</del> <b>recent</b> offense.
Failure to notify City of Bloomington Animal Care and Control Department of a change in status for a potentially dangerous or vicious animal.	\$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 <del>prior</del> <b>recent</b> offense.
Failure to prevent potentially dangerous or vicious animal from breeding.	\$100.00 for the first offense. Second and subsequent offenses within twelve months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.
Failure to alter potentially dangerous or vicious animal in accordance with this Title.	\$100.00 for the first offense. Second and subsequent offenses within twelve months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.
Failure to comply with a provision of Chapter 7.26 not specifically addressed in this Table.	\$100.00 for the first offense. Second and subsequent offenses within twelve months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.
Failure to comply with an Order of the Animal Control Commission.	\$100.00 for the first offense. Second and subsequent offenses within twelve months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.
Habitual offender.	\$200.00 for the first offense. Second and subsequent offenses within twelve months of the first offense shall be double the fine associated with the most <del>prior</del> <b>recent</b> offense.
Sale of dog or cat by pet shop in violation of Section 7.16.070.	\$500.00

- (c) Any of the above-described fines can be waived at the discretion of the director of the animal care and control department, or his or her designees, or by the city's legal department.

(Ord. 15-04, § 68, 4-8-2015; Ord. No. 21-45, § 15, 12-3-2021)

#### 7.56.040 Enforcement procedure.

- (a) If the director of the city's animal care and control department, or his or her designees, finds that any violation of this title is occurring, or has occurred, notice shall be given to the responsible party. For purposes of issuing a notice, the following persons may be considered responsible parties, with liability for fines and responsibility for remediation of the violation:
- (1) The owner of the animal;
  - (2) The guardian of the animal; and/or
  - (3) The keeper of the animal.
- (b) The notice shall be in writing and shall be served on the responsible parties and shall be in accordance with all of the following:

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- (1) Include a description of the animal;
  - (2) Include a statement of the violation(s) and why the notice is being issued;
  - (3) Include any fines; and
  - (4) Inform the responsible party of his or her right to an appeal.
- (c) The notice shall be deemed properly served if a copy thereof is:
- (1) Delivered personally;
  - (2) Mailed via first-class mail, postage prepaid; or
  - (3) Posted on the responsible party's last known residence.
- (d) In addition to issuing a notice and fines, the director of the city's animal care and control department, or his or her designee, may ask the animal control commission to revoke any permits issued under this title.
- (e) In addition to issuing a notice and fines, any animal which is found to be a stray or at-large animal for a second time within the same twelve (12) month period is required to be:
- (1) 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
  - (2) Spayed or neutered by a licensed veterinarian at the owner/guardian's expense prior.
  - (3) If the animal has been impounded at the city animal shelter it shall be implanted with a microchip and spayed or neutered prior to being released to its owner/guardian.
  - (4) If the animal has not been impounded at the city animal shelter it shall be implanted with a microchip and spayed or neutered within thirty (30) days of its owner/guardian receiving notice that such actions are required. Proof of the implantation and spaying or neutering shall be provided to the city shelter within the same thirty (30) day period.

(Ord. 15-04, § 68, 4-8-2015)

#### 7.56.050 Revocation of permits.

- (a) The director of the city's animal care and control department may ask the animal control commission to revoke any permit issued under this title if the permit holder is found to have violated this title or any other applicable law or ordinance, or ceases to possess the qualifications required for permitting hereunder, or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a permit under this title.
- (b) The animal control commission shall schedule a hearing on the director's revocation request. The hearing shall not occur unless the permit holder has been given at least fourteen (14) days advance notice of the hearing.
- (c) The permit holder shall be entitled to appear at the hearing, with or without legal counsel, and shall be permitted to testify, present evidence, and present a defense.
- (d) The animal control commission shall consider all evidence and upon conclusion of hearing said evidence, the commission shall either revoke the permit or allow the permit to remain in place.
- (e) The commission shall issue findings of fact to support its ruling.
- (f) The findings of fact shall be given to the permit holder, or his or her legal counsel, by certified mail, return receipt requested, addressed to the permit holder's address, or his or her legal counsel's address.

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Immediately upon the mailing of the commission's findings of fact, the permit shall be come null and void. Concurrently, the director shall notify the permit holder of the revocation in person or by phone.

(Ord. 15-04, § 68, 4-8-2015)

#### 7.56.060 Habitual offender.

- (a) The director of the city's animal care and control department may ask the animal control commission to declare an owner/guardian a habitual offender in two (2) instances:
  - (1) If the owner/guardian is found to have violated any provision(s) of this title on at least three (3) separate occasions within the same twenty-four (24) month period of time; or
  - (2) 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.
- (b) The animal control commission shall schedule a hearing on the director's request. The hearing shall not occur unless the permit holder has been given at least fourteen (14) days advance notice of the hearing.
- (c) The owner/guardian shall be entitled to appear at the hearing, with or without legal counsel, and shall be permitted to testify, present evidence, and present a defense.
- (d) The animal control commission shall consider all evidence and upon conclusion of hearing said evidence, the commission shall either declare the owner/guardian a habitual offender or not make any such declaration.
- (e) The commission shall issue findings of fact to support its ruling.
- (f) The findings of fact shall be given to the owner/guardian, or his or her legal counsel, by certified mail, return receipt requested, addressed to the owner/guardian's address, or his or her legal counsel's address. Immediately upon the mailing of the commission's findings of fact, the owner/guardian shall be declared to be a habitual offender. Concurrently, the director shall notify the owner/guardian of the declaration in person or by phone.
- (g) In declaring an owner/guardian to be a habitual offender, the animal control commission has the authority to take any or all of the following actions and issue the following orders:
  - (1) Fine the owner/guardian in accordance with Section 7.56.030(b);
  - (2) Prohibit the owner/guardian from acquiring any new animals for a period of time, said time period not to exceed three (3) years.
  - (3) Void the owner/guardian's ownership of the relevant animal(s) and allow the city's animal care and control department to take possession and ownership of said animal(s), knowing the department may euthanize or adopt the animal(s) as appropriate.
  - (4) Require the owner/guardian to take steps to rectify whatever problem(s) has causes his or her declaration of habitual offender. Examples may include building a fence if the animal is constantly at-large or buying and using a bark collar if the animal is constantly a public nuisance.
  - (5) **Require the owner to attend a "responsible pet owner course" approved by the commission.**

(Ord. 15-04, § 68, 4-8-2015)

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### 7.56.070 Appeals.

- (a) Any person directly affected by a decision of the director of animal care and control, or his or her designees, or any animal control officer, or by a notice issued under this title shall have the right to appeal to the animal control commission.
  - (1) All appeals shall be filed in writing.
  - (2) All appeals shall be delivered to the city's animal shelter.
  - (3) All appeals shall be filed within ten (10) calendar days of the decision or notice being rendered.
- (b) Fines levied for violations of this Title may not be appealed to the animal control commission, they may only be challenged in the Monroe County Circuit Court, and that challenge must be filed within ten (10) days of the fine being levied.
- (c) Appeals of any decision rendered by the animal control commission may be appealed to the Monroe County Circuit Court, provided said appeal is filed with the circuit court within ~~ten (10)~~ **sixty (60)** days of receipt of the Commission's written decision, order or findings.

(Ord. 15-04, § 68, 4-8-2015)

Selected pages from 2012 Final  
Report of the Joint City of  
Bloomington-Monroe County  
Deer Task Force

Full report available at:

<https://bloomington.in.gov/boards/deertaskforce>



# RECOMMENDATIONS

Based on the Task Force's survey, we know that some areas of the community have reached social carrying capacity while others have not. The goal of the Task Force was to come up with an integrated, multi-pronged approach that addresses the social and geographic differences. Because resident concern is localized, because the urban deer herd is likely to grow in the absence any limiting factors, and because resident concerns are unlikely to be resolved using only non-lethal means, the Task Force recommends both non-lethal and site-specific lethal strategies for neighborhoods.

## 1. FEEDING BAN (CITY)

Many residents feed deer with the best of intentions. Some may be concerned that deer do not have enough to eat, especially in the winter. Others might enjoy seeing deer up close. However, supplemental feeding is actually *not* in the best interest of the deer.

Supplemental feeding may:

- Increase the reproductive capacity of a herd;
- Increase deer-vehicle collisions. Most deer feeding is conducted near homes, which places deer in close proximity to well-travelled roads;
- Concentrate deer and increase nose-to-nose contact, thereby possibly spreading disease;
- Cause increased landscape damage. Deer are browsers and will heavily graze areas surrounding feeding stations;
- Cause deer to lose their fear of humans. Deer using a feeding site can become acclimated to, and no longer fearful of, humans. A fear of humans is in the best interest of deer. Increased acclimation will create more conflict between humans and deer and between humans and other humans;
- When placing feed on the ground for deer, residents will likely attract other critters, such as raccoons and mice. White-footed mice are reservoirs of Lyme disease;
- In the winter, deer typically eat and move less to conserve energy. Feeding sites may cause deer to travel further to reach the site than they would for natural forage. Feeding sites situated in residential areas mean that deer are more likely to be chased by neighborhood dogs. Even if they are not injured, provoking deer to run through deep snow and frigid temperatures causes them to waste a lot of energy they cannot afford to lose.

The IDNR makes it clear that deer in Monroe County are not starving and that local winters are not severe enough to warrant supplemental feeding. If a resident sees a deer with its ribs showing, it is most likely a doe nursing her young in the spring and summer. Such weight loss is normal and temporary.

Because intentional feeding of the deer just exacerbates concerns with deer as "nuisance" animals and because it is not good for deer, the practice should be prohibited within the city limits. It is commonly acknowledged that anti-feeding ordinances are difficult to

enforce; enforcement occurs most usually upon complaint. However, such a ban does have deterrent and educational value. The ban should be accompanied by public awareness efforts (See “Education and Outreach” Chapter). Language for a City of Bloomington ban might look something like the following:

## **7.29 DEER FEEDING**

### **7.29.010 Deer Feeding Prohibited**

- (a) Except as provided in 7.29.020 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.

### **7.29.020 Exceptions**

- (a) This chapter 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.
- (b) The following material are excluded from the prohibitions of this chapter:
  - (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) The normal feeding of livestock and/or the practice of raising crops and crop aftermath, including hay, alfalfa and grains, produced, harvested, stored or fed to domestic livestock in accordance with normal agricultural practices;
  - (6) The cultivation of a lawn or garden; and
  - (7) The feeding of birds.

### **7.29.030 Violations**

- (a) Any animal control officer may issue to any person in violation of this chapter a notice of ordinance violation.
- (b) 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 ordinance. 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 a violation of this ordinance.
- (c) Persons who violate any provision of this chapter shall be subject to a fine of fifty dollars for the first offense, with the fine of each subsequent offense of this chapter increasing by an increment of fifty dollars.

## **Measurement**

Measuring the efficacy of a feeding ban will be difficult. However, complaints about deer feeding, reduced damage to vegetation and neighborhood complaints about deer in general might be indicators.