



City of Bloomington
Common Council

Legislative Packet

Regular Session

18 October 2006

Office of the Common Council
P.O. Box 100
401 North Morton Street
Bloomington, Indiana 47402

812.349.3409

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<http://www.bloomington.in.gov>



Packet-Related Material

Memo

Agenda

Calendar

Notices and Agendas:

Council Sidewalk Committee on Monday, October 16, 2006, McCloskey Room

Legislation for Final Action:

Ord 06-11 To Approve the Interlocal Agreement Between Monroe County and the City of Bloomington for Animal Shelter Operation for the Year 2007

(Please see the 11 October 2006 Council Legislative Packet for the Summary, Legislation and Background Material.)

Contact: Laurie Ringquist at 349-3870 or ringquil@bloomington.in.gov

Ord 06-19 To Amend the Bloomington Zoning Maps from Residential Estate (RE2.5) and Planned Unit Development (PUD) to PUD and to Adopt the Preliminary Plan for the Meadowood/ Jill's House PUD - Re: 2520 North Dunn Street (Meadowood Retirement Community/Jill's House, Petitioner)

(Please see the 04 October 2006 Council Legislative Packet for the Summary, Legislation and Background Material.)

Contact: Pat Shay at 349-3524 or shayp@bloomington.in.gov

Ord 06-20 To Amend the Bloomington Zoning Maps from Q to PUD and to Adopt the Preliminary Plan for the Southern Indiana Health Sciences Park Planned Unit Development - Re: 2401 West Tapp Road (Southern Indiana Medical Park II, LLC, Petitioner)

(Please see the 04 October 2006 Council Legislative Packet for the Summary, Legislation and Background Material.)

Contact: James Roach at 349-3527 or roachj@bloomington.in.gov

Legislation and Background Material for First Reading:

Ord 06-21 To Amend the Title 7 of the Bloomington Municipal Code Entitled "Animals" - Re: To Permit Small Flocks of Chickens by Waiver

- Memo from Councilmember Sturbaum; Excerpts of Title 7 of the BMC entitled "Animals" annotated with changes; *Raising Fowl and Small Animals in Urban Areas*, Virginia Cooperative Extension

Contact: Chris Sturbaum at 349-3409 or sturbauc@bloomington.in.gov

Stacy Jane Rhoads at 349-3565 or rhoadss@bloomington.in.gov

Minutes from Regular Session: None

Memo

Three Items Ready for Final Action and One Item Ready for Introduction at the Regular Session on Wednesday, October 18th

A resolution and two ordinances are coming forward from the Committee of the Whole and will be ready for final action by the Council next week. They can be found in the Legislative Packets dated 04 October and 11 October 2006. There is also an ordinance ready to be introduced next week which can be found in this packet.

First Readings:

Ord 06-21

To Permit Small Flock of Chickens by Waiver

Scheduled for first reading on Wednesday, October 18, 2006, is Ord 06-21 To Permit Small Flock of Chickens by Waiver. This ordinance is sponsored by Councilmember Sturbaum who worked closely with community stakeholders, Laurie Ringquist and the Animal Care and Control Commission to draft the requirements of the ordinance.

Located in Title 7, *Animals*, this ordinance places multiple restraints on someone wishing to harbor chickens. First, the ordinance retains the general prohibition against harboring chickens in residential districts. Chickens are generally prohibited in the current zoning ordinance, except in Residential Estate zones in pasturage contexts. For chickens, this pasturage context is defined as at least two acres (BMC § 20.07.16.01, Table 7-2) in which residents are allowed to keep 5 chickens/acre. This means that most people residing in Residential Estate zones and all people residing in Single-Family residential zones are not permitted to keep chickens on their property. (The zoning ordinance's re-enactment, the Unified Development Ordinance, is not anticipated to change this requirement.) Ord 06-21 allows neighbors in RE and RS zones to waive this general prohibition to allow a neighbor to keep a flock. A flock is defined as no more than five hens of the subspecies *Gallus gallus domesticus*, the type of chicken usually kept on a farm. It does not include other fowl, such as waterfowl, wildfowl, turkeys, peacocks, etc. Secondly, the ordinance outlines detailed care and control measures. Lastly, it calls for annual permitting and inspection of flocks.

I. Waiver and Permit Requirements

Ord 06-21 requires both a waiver and a permit.

As many of you know, for the last few years, a number of residents have asked the Council to re-visit the chicken ban to lift the prohibition against chickens in residential districts. This proposal does not do that. Instead, the ordinance retains the general residential chicken ban, acknowledging that some residents certainly consider chickens meddlesome and do not want to live next door to a flock of chickens. However, some neighborhoods, such as Bryan Park Neighborhood Association, consider urban chickens an important part of neighborhood character and culture and clearly welcome the practice. (The Association passed a resolution endorsing a local harborer). This proposal allows such neighbors, as primary beneficiaries of the chicken ban, to waive its benefits if they do not object to their neighbor harboring chickens.

To be eligible to harbor a chicken flock, all owners of adjacent lots to the prospective lot on which the birds will be harbored, must agree to waive the chicken ban. An adjacent lot is defined as one whose boundary line touches that of the prospective harborer's lot or is separated from the prospective harborer's lot only by an intervening alley or other right-of-way (excluding lots with an intervening right-of-way classified as a neighborhood street or higher on the City's Master Thoroughfare Plan). Since urban chickens are considered by some neighbors to be an offensive use, the waiver provision is intended to protect neighbors by allowing only those who do not find chickens objectionable to waive the general prohibition. To help mitigate the awkwardness of one neighbor denying another waiver, and to encourage neighborly relations, the Animal Care and Control (ACC) department has volunteered to send a waiver form to all the adjacent neighbors of an applicant.

Waivers are good for five years. At the end of the five year period, should a neighbor decide s/he does not care to live next to chickens, then s/he can decline to re-waive. Additionally, in the event a property owner who grants a waiver subsequently sells his/her property, the new owner can decline to grant a waiver when the 5-year waiver expires should s/he find the use objectionable. Notably, only property owners can grant waivers, renters cannot.

Provided that all adjacent neighbors waive the general prohibition, a person wishing to harbor a flock must also apply for a permit with ACC. Only a property owner can apply for a permit. Should a tenant wish to harbor chickens, the landlord would have to apply for the permit and would be answerable to all care and control requirements. An applicant is not allowed to harbor more than one flock in the City and the permit is not transferable to another person or another location. For the few residents who had chickens of March 31, 2006, but who are unable to obtain unanimous waiver from all of their neighbors, the harborer is allowed to keep a flock, but will have to obtain a permit and bring the birds into compliance with the ordinance within 90 days. In these cases, the harborer may not

replace any bird upon the death or loss of the bird, but must allow their flock to be reduced by attrition.

Permits are effective only for one year, are conditioned upon inspection by an ACC officer and may be revoked for a number of reasons. A permit may be revoked if an applicant falsifies or withholds any information on his/her application. Similarly, a ACC may refuse to grant or renew a permit or may revoke a permit if an the applicant is unable to maintain his/her flock so as to not create a nuisance as evidenced by three violations of Title 7 within twelve consecutive months. The fee for a chicken flock permit is \$25, the same amount charged for dog and cat non-commercial kennel permits.

II. Care and Control Requirements

Provided all adjacent neighbors waive the prohibition, anyone wanting to harbor a flock of chickens must adhere to rather strict care and control requirements. To comply with the ordinance, harborers must:

- operate so as to not create a nuisance nor disturb neighbors due to noise or odor; and
- comply with all general care and control requirements of Title 7; and
- not slaughter birds on their property; and
- keep all birds completely and securely enclosed and under the harborer's control; and
- provide a coop and attached run that afford a combined twelve square feet per chicken and that afford adequate ventilation, access to sun and shade and are impermeable to rodents, wild birds, and predator; and
- provide chickens with access to feed and clean water at all times; and
- provide adequate safeguards to prevent unauthorized access to the birds by members of the public; and
- provide a coop that provides shelter from the elements; and
- keep coop and run free from trash and accumulated droppings; and
- comply with the requirements for accessory structures outlined in the zoning ordinance.

A harborer who violates this or other care and control provisions is subject to a fine of double the applicable permit fee for the first offense, with the fine for each subsequent offense increasing by an increment of double the permit fee. As the permit fee for a chicken flock is \$25, a harborer would pay \$50 for the first offense, \$100 for the second, etc.

III. Chickens in the City

As Councilmember Sturbaum points out in his memo, urban chicken ordinances are not unusual. As the local foods movement grows and communities strive for sustainability, the number of municipalities allowing backyard chickens has grown. Cities such as Chicago, Cincinnati, Cleveland, St Paul, Olympia, Oakland, Louisville, Detroit, Pittsburgh, Portland, Seattle, Houston, Los Angeles, San Francisco, Miami, Minneapolis and Madison. Many of these municipalities attach limits to the number of birds, some outline care and control requirements, and some allow the birds passively, and do not establish a limit nor do they require a permit. Compared with many other municipalities which permit chickens, Ord 06-21 is among the strictest. Advocates of urban chickens point out that the chickens provide a source of eggs and reduce reliance on pesticides since chickens are voracious consumers of insects. Advocates also point out that the chickens are pets and bring enjoyment and educational value to both the chicken harbinger and oftentimes, his/her neighbors. Indeed a USDA study of backyard poultry owners indicates that hobby, tradition and lifestyle are the top reasons people keep small flocks of chickens. *Poultry 2004 Part I: Reference of Health and Management of Backyard/Small Production Flocks in the United States, 2004* (USDA report, 91 p, 8/05).

Many of these municipalities have endorsed the practice of backyard chickens only after determining that small flocks do not pose a threat of carrying avian influenza. The U.S Department of Health and Human Services Centers for Disease Control Prevention advises that it is safe to keep a small flock of chickens and that there is no need to remove such flocks due concerns regarding avian influenza. To date, no human cases of avian influenza have been identified in the United States and, to date, no U.S. residents have been found to have been infected abroad. The CDC states that the current risk to U.S. residents from the avian influenza outbreak in Asia, Europe, and Africa is low. Avian influenza is not currently found in the United States. *See* <http://www.cdc.gov/flu/avian/gen-info/qa.htm>; <http://www.pandemicflu.gov/>

Avian flu is carried primarily via migratory waterfowl and the role of migratory birds in the transfer of the flu (Asian H5N1 strain) is not clear. www.AvianFlu.gov Nevertheless, this ordinance still requires that any coop and run be impermeable to rodents, predators and migratory birds. The ordinance also requires a harbinger to keep his/her flock so as to not pose a threat to public health and allows the Director of ACC to require animals be kept in a secure enclosure when necessary for the protection of public health. This provision is subordinate to any State or federal pandemic emergency protocol.

A brief fact sheet on urban poultry published Virginia Cooperative Extension and recommended by our local Purdue Extension Office is attached.

More on backyard chicken flocks can be found at:

- USDA, *Poultry 2004 Part I: Reference of Health and Management of Backyard/Small Production Flocks in the United States, 2004* (USDA report, 91 p, 8/05 (A demographic study of backyard chicken-keepers and their birds.)

http://www.aphis.usda.gov/vs/ceah/ncahs/nahms/poultry/poultry04/poultry04_part1_report_backyard.pdf

- University of Minnesota's *Urban Poultry Production*

http://www.ansci.umn.edu/poultry/resources/urban_production.htm

**NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL REGULAR SESSION
7:30 P.M., WEDNESDAY, OCTOBER 18, 2006
COUNCIL CHAMBERS
SHOWERS BUILDING, 401 N. MORTON ST.**

I. ROLL CALL

II. AGENDA SUMMATION

III. APPROVAL OF MINUTES FOR: None

IV. REPORTS FROM:

- 1. Councilmembers**
- 2. The Mayor and City Offices**
- 3. Council Committees**
- 4. Public**

V. APPOINTMENTS TO BOARDS AND COMMISSIONS

VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS

1. Resolution 06-11 To Approve the Interlocal Agreement between Monroe County and the City of Bloomington for Animal Shelter Operation for the Year 2007

Committee Recommendation: Do Pass 9- 0 -0

2. Ordinance 06-19 To Amend the Bloomington Zoning Maps from Residential Estate (RE 2.5) and Planned Unit Development (PUD) to PUD and to Adopt the Preliminary Plan for the Meadowood/Jill's House PUD - Re: 2520 North Dunn Street (Meadowood Retirement Community/Jill's House, Petitioner)

Committee Recommendation: Do Pass 9- 0 -0

3. Ordinance 06-20 To Amend the Bloomington Zoning Maps from Q to PUD and to Adopt the Preliminary Plan for the Southern Indiana Health Sciences Park Planned Unit Development - Re: 2401 West Tapp Road (Southern Indiana Medical Park II, LLC, Petitioner)

Committee Recommendation: Do Pass 0- 3 -6

VII. LEGISLATION FOR FIRST READING

1. Ordinance 06-21 To Amend the Title 7 of the Bloomington Municipal Code Entitled "Animals" - Re: To Permit Small Flocks of Chickens by Waiver

VIII. PRIVILEGE OF THE FLOOR (This section of the agenda will be limited to 25 minutes maximum, with each speaker limited to 5 minutes)

IX. ADJOURNMENT

City of
Bloomington
Indiana

City Hall
401 N. Morton St.
Post Office Box 100
Bloomington, Indiana 47402



Office of the Common Council
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To: Council Members
From: Council Office
Re: Calendar for the Week of October 15-21, 2006
Date: October 13, 2006

Sunday, October 15, 2006

2:00 pm Diversity Day, Third Street Park, 331 S. Washington Street

Monday, October 16, 2006

12:00 pm Council Sidewalk Committee, McCloskey
4:00 pm Council for Community Accessibility, McCloskey
5:00 pm Farmers' Market Advisory Council, Showers Building, Room 250
5:00 pm Utilities Service Board, IU Research Park, 501 N. Morton, Room 100B
5:30 pm Bicycle and Pedestrian Safety Commission, Hooker Room
5:30 pm Unified Development Ordinance (UDO) Public Hearing, Council Chambers
6:30 pm Council for Community Accessibility Annual Awards Ceremony, Hilton Garden Inn, 245 N College Ave

Tuesday, October 17, 2006

12:00 pm Bloomington Industrial Development Advisory Council, Hooker Room
3:30 pm Community and Family Resources Commission, Hooker Room
3:00 pm Board of Public Safety, McCloskey
5:30 pm Animal Control Commission, McCloskey
5:30 pm Bloomington Public Transportation Corporation, Transit, 130 W. Grimes Lane
5:30 pm Board of Public Works, Council Chambers

Wednesday, October 18, 2006

9:30 am Tree Commission, Rosehill Cemetery Office, 930 W. Fourth Street
11:00 am Bloomington Transit Open House, Showers Atrium
4:00 pm Martin Luther King Jr. Birthday Commission, McCloskey
7:00 pm Council of Neighborhood Associations, Hooker Room
7:30 pm Common Council Regular Session, Council Chambers

Thursday, October 19, 2006

8:00 am Bloomington Housing Authority, 1007 N. Summit
6:00 pm Bloomington Transit Open House, Showers Atrium
7:00 pm Environmental Commission, McCloskey

Friday, October 20, 2006

12:00 pm Economic Development Commission, McCloskey
12:00 pm Domestic Violence Taskforce, Hooker Room
7:30 pm Simply Bioneers 2006- Keynote, Buskirk-Chumley Theater, 114 E. Kirkwood Ave.
(Continues through October 22-for more information see www.simplycsl.org/fair)

Saturday, October 21, 2006

8:30 am Farmers' Market, Showers Common



City of Bloomington
Office of the Common Council

MEETING NOTICE

Common Council Sidewalk Committee

The Common Council Sidewalk Committee will meet at 12:00 p.m. on Monday, October 16, 2006. The meeting will be held in the McCloskey Room at City Hall (401 N. Morton Street). The purpose of the meeting is to discuss sidewalk projects and procedures for 2006. Because a quorum of the Council may be present, this meeting would constitute a meeting of the Council as well as of this committee under the Indiana Open Door Law. For that reason, this statement is providing notice that this meeting will occur and is open for the public to attend, observe, and record what transpires.

Posted: Friday, October 6, 2006

ORDINANCE 06-21

**TO AMEND TITLE 7 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED
“ANIMALS”**

Re: To Permit Small Flocks of Chickens by Waiver

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

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

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

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

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

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

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

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

- (a) contains no more than five hens and no roosters; and
- (b) is issued a permit by the City of Bloomington Animal Care and Control; and
- (d) is not otherwise permitted by 20.07.16.01, Table 7-2 of the Bloomington Municipal Code as the same may be hereafter amended or replaced; and
- (e) reside in an area zoned Estate Residential (RE) or Single-Dwelling Residential (RS) or those Estate Residential or Single-Dwelling Residential portions of a Planned Unit Development (PUD) as defined in Chapter 20.07 of the Bloomington Municipal Code, as the same may be hereafter amended or replaced.

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

“Chicken Run” means an enclosed outside yard for keeping chickens.

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

7.21.010 Kennel permits required.

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

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

7.21.028 Obtaining a waiver and a permit for chicken flocks

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

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

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

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

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

(b) Permit.

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

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

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

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

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

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

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

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

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

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

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

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

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

7.21.030 Inspection.

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

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

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

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

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

SECTION 5. New Section. Section 7.21.057 entitled “Standards for maintaining chicken flocks” shall be inserted into the table of contents and the body of chapter 7.21 “Kennel permits” and shall read as follows:

7.21.057 Standards for maintaining chicken flocks

(a) All harborers of chicken flocks shall:

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

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

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

(4) Not slaughter chickens on harborer’s property; and

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

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

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

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

(9) Provide a chicken coop and attached chicken run that, combined, provide adequate ventilation and adequate sun and shade and that are both impermeable to rodents, wild birds and predators, including dogs; and

(10) Provide chickens with access to feed and clean water at all times; such feed and water shall be unavailable to rodents, wild birds and predators; and

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

(12) Keep the chicken coop, chicken run and surrounding area free from trash and accumulated droppings. The harborer shall dispose of chicken waste and uneaten feed in a timely manner and in accordance with the Bloomington Municipal Code.

(b) The chicken coop and chicken run shall:

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

- (2) Be located at least twenty (20) feet from any building not owned or occupied by the harborer, that is used or capable of being used for human habitation; and
- (3) Be located at least twelve (12) feet from the property line of any neighboring lot.

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

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

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

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

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

SECTION 8. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 9. This ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

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

CHRIS STURBAUM, President
Bloomington Common Council

Attest:

REGINA MOORE, Clerk
City of Bloomington

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

REGINA MOORE, Clerk
City of Bloomington

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

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

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



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

To: Fellow Councilmembers
From: Chris Sturbaum, Council President & Councilmember, District I
Re: Ordinance 06-21 – The Chicken Ordinance
Date: October 12, 2006

Attached find the long-awaited “Chicken Ordinance,” otherwise known as Ordinance 06-21 – *To Permit Small Flocks of Chickens by Waiver*. I’ve worked with both advocates and opponents of urban chickens, consulted other cities with chicken laws and worked with the Animal Care and Control Commission in drafting the requirements of this ordinance.

This ordinance is a conservative one that retains the general ban on chickens in the City, except where all adjacent neighbors of a prospective chicken harborer waive the ban. In that case, a harbinger may keep no more than five hens and must comply with strict care and control measures. For the few residents who had chickens of March 31, 2006, but who are unable to obtain unanimous waiver from all of their neighbors, the harbinger will have 90 days to obtain a permit and to bring their flocks into compliance with the ordinance, but must allow the flock to attrit upon the death or loss of any bird.

As we have heard from some residents over the last few years, chickens in the City are kept as pets and keeping a flock of chickens can be an enjoyable and sustainable hobby. Indeed, the Bryan Park Neighborhood so appreciates the flock of chickens one neighbor keeps, that they have passed a resolution supporting the practice. However, as we also know, not all residents want to live next to a flock of chickens. This simple waiver rule guarantees that no one will have to live next a flock of chickens if they do not wish to do so.

The ordinance also guarantees that where neighbors waive the ban, both the neighbors and the chickens are cared for properly. First, the ordinance requires that the coop be screened, comply with all zoning requirements regarding accessory structures and be located at least 20 feet from a neighbor’s house and at least 12 feet from the neighbor’s property line. Secondly, it outlines basic care requirements for the birds to guarantee that the birds get the care they require. Animal Care and Control officers will inspect each flock once a year to guarantee that all obligations to both neighbors and birds are being met.

Urban chickens is not a new idea. At least 60 other municipalities permit chicken harboring. These municipalities include: Chicago, Louisville, Detroit, Pittsburgh, Portland, Seattle, Houston, Los Angeles, San Francisco, Miami, Minneapolis and Madison. Backyard chicken-keeping has grown in popularity as more and more urban dwellers wish to live in a city so they can walk to work, grocery and entertainment while, at the same time, raising their own chickens for both hobby and eggs. As the boundaries between city and country become less distinct and the City works toward sustainability, this ordinance is a small, conservative and pragmatic step toward that end.

I respectfully request your support.

~~strike~~ – proposed deletion
bold – proposed addition
▶ -- relevant section

**TITLE 7 OF THE BLOOMINGTON MUNICIPAL CODE
ENTITLED “ANIMALS”**

AS AMENDED BY ORDINANCE 06-21

...

**Title 7
ANIMALS**

Chapters:

7.01	Definitions
7.16	Commercial Animal Establishment Permits
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Chapter 7.01

DEFINITIONS

Sections:

7.01.010 Definition of terms.

7.01.010 Definition of terms.

As used in this title, the following terms mean, unless otherwise designated:

“Abandoned animal” 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 animal” 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.

“At large animal” 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.

“Auctions” mean 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 Flock” means one chicken or a group of two or more chickens which:**
(a) **contains no more than five hens and no roosters; and**
(b) **is issued a permit by the City of Bloomington Animal Care and Control; and**
(d) **is not otherwise permitted by 20.07.16.01, Table 7-2 of the Bloomington Municipal Code as the same may be hereafter amended or replaced; and**

(e) **reside in an area zoned Estate Residential (RE) or Single-Dwelling Residential (RS) or those Estate Residential or Single-Dwelling Residential portions of a Planned Unit Development (PUD) as defined in Chapter 20.07 of the Bloomington Municipal Code, as the same may be hereafter amended or replaced.**

▶ **“Chicken Coop” means an enclosed structure for housing chickens that provides shelter from the elements.**

▶ **“Chicken Run” means an enclosed outside yard for keeping chickens.**

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

“Commercial animal establishment” means any major and/or minor petshop, nonmunicipal animal shelter/sanctuary, auction, riding school or stable, zoological park, circus or animal exhibition.

“Commercial kennel” means any person engaged in owning or harboring more than four dogs and cats over the age of six months, any one of which is unaltered; or engaged in the business of boarding, training for a fee and/or grooming animals.

“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*).

“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 and has reverted to a wild state.

“Feral cat colony” means a group of more than six altered feral cats owned or harbored by a person who provides adequate food, water and shelter.

“Harboring” means the actions of any person that permit any animal habitually to remain or lodge or to be fed within his 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.

“Major breeder” means any person who intentionally or unintentionally causes or allows the breeding of more than one litter of dogs or cats in a twelve-month period, or makes more than one cat or dog available for breeding purposes in a twelve-month period; or any person who offers for sale, sells, trades, receives any compensation or gives away more than one litter of dogs or cats in a twelve-month period, with the exception of a litter of dogs or cats taken to the animal shelter.

“Major pet shop” means any retail establishment engaging in the purchase and/or sale of cats and/or dogs, either solely or in addition to the purchase and/or sale of other species of animal.

“Minor breeder” means any person who intentionally or unintentionally causes or allows the breeding of one litter of dogs or cats per twelve-month period, or makes one dog or cat available for breeding purposes per twelve-month period; or any person who offers for sale, sells, trades, receives any compensation for or gives away one litter of dogs or cats within a twelve-month period, with the exception of a litter of dogs or cats taken to the animal shelter or animals that are altered prior to being rehomed; or any person who owns one or more unaltered dogs and/or cats that are found to be in violation of Section 7.24 of this title.

“Minor pet shop” means any retail establishment engaging in the purchase and sale of any species of animal, with the exception of cats and dogs.

“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, 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.

“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, or corporation.

“Potentially dangerous” means any of the following:

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

(2) Any animal which, when unprovoked, bites a person causing an injury that is not a severe injury, as defined below.

(3) Any animal which, when unprovoked and off of property owned, lawfully occupied or controlled by the owner/guardian or keeper of the animal, on two separate occasions within the prior thirty-six month period, has bitten or otherwise caused injury to a domestic animal that is not a severe injury, as defined below.

“Public nuisance” means any animal or animals that:

- (1) Molest passersby or passing vehicles;
- (2) Attack 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 property, unless the waste is immediately removed and disposed of in a sanitary manner by the animal’s owner/guardian/harbinger; 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, with the exception of:

- (1) Any reptile on the federal endangered or threatened species list or on the convention or international trade in endangered species list;
- (2) Any venomous reptile, including front- or rear-fanged reptiles;

- (3) Any python of a species which naturally exceeds twelve feet in length;
- (4) All crocodylians, including alligators, caimans, and crocodiles;
- (5) Monitor lizards;
- (6) Anacondas;
- (7) Any reptile of a species native to Indiana; or
- (8) Any reptile protected by state or federal law.

“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.

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

“Service dogs” mean 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, vaccinated, sterilized and eartipped 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 of the following:

- (1) Any animal which, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being or domestic pet.
- (2) Any animal previously determined to be and currently listed as a potentially dangerous animal which, after its owner/guardian or keeper has been notified of this determination, continues the potentially dangerous behavior, as defined herein or is maintained in violation of Chapter 7.24 of this title.

“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. 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).

Chapter 7.16

COMMERCIAL ANIMAL ESTABLISHMENT PERMITS

Sections:

- 7.16.010 Permits—General.
- 7.16.020 Inspection of animals and premises authorized.
- 7.16.030 Obtaining a permit.
- 7.16.040 Standards for commercial animal establishments.
- 7.16.050 Commercial animal establishment permit period.
- 7.16.060 Fees.
- 7.16.070 Reclassification.
- 7.16.080 Violations.

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Chapter 7.21

KENNEL PERMITS

Sections:

- 7.21.010 Kennel permits required.
 - 7.21.020 Obtaining noncommercial kennel permits.
 - 7.21.025 Obtaining commercial kennel permits.
 - 7.21.026 Obtaining feral cat colony permits.
 - ▶ **7.21.028 Obtaining a waiver and a permit for chicken flocks**
 - 7.21.030 Inspection.
 - 7.21.040 Standards for noncommercial kennels.
 - 7.21.050 Standards for commercial kennels.
 - 7.21.055 Standards for feral cat colonies.
 - ▶ **7.21.057 Standards for maintaining chicken flocks**
 - 7.21.060 Kennel permit periods.
 - 7.21.070 Fees.
 - 7.21.080 Reclassification.
 - 7.21.090 Violations.
- 7.21.010 Kennel permits required.
- ▶ (a) No person shall operate a commercial or noncommercial kennel, ~~or~~ feral cat colony **or chicken flock** without first obtaining a permit from the city of Bloomington animal care and control department in accordance with this chapter.
 - (b) No permit shall be issued unless the proposed operation is in compliance with all zoning laws. (Ord. 05-33 § 5 (part), 2005; Ord. 99-39 §§ 26 (part), 27, 1999).

7.21.020 Obtaining noncommercial kennel permits.

Applications for noncommercial kennel permits shall be made to the city of Bloomington animal care and control department.

(a) The application for a noncommercial kennel permit shall include:

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

(2) The description (species, breed, sex, age and coloration) of and proof of rabies vaccination for each animal to be housed in the kennel; and

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

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

(c) No person previously convicted of cruelty to animals shall be issued a kennel permit without prior review by the animal control commission. (Ord. 05-33 § 5 (part), 2005; Ord. 99-39 §§ 26 (part), 28, 1999).

7.21.025 Obtaining commercial kennel permits.

Applications for commercial kennel permits shall be made to the city of Bloomington animal care and control department.

(a) The application for a commercial kennel permit shall include:

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

(2) A statement as to whether the applicant has ever been convicted of the offense of cruelty to animals; and

(3) A statement of the total capacity of the kennels used for the purposes of Class B, Class C and Class D commercial kennel permits.

(b) Applications for Class A commercial kennel permits must include the description (species, breed, sex, age and coloration) of each animal to be housed in the kennel.

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

(d) No person previously convicted of cruelty to animals shall be issued a kennel permit without prior review by the animal control commission. (Ord. 05-33 § 5 (part), 2005; Ord. 99-39 §§ 26 (part), 29, 1999).

7.21.026 Obtaining feral cat colony permits.

Applications for feral cat colony permits shall be made to the city of Bloomington animal care and control department.

(a) The application for a feral cat colony permit shall include:

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

(2) The description (breed, sex, age and coloration) of and proof of rabies vaccination for each cat to be housed in the colony; and

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

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

(c) No person previously convicted of cruelty to animals shall be issued a feral cat colony permit without prior review by the animal control commission. (Ord. 05-33 § 5 (part), 2005).

► **7.21.028 Obtaining a waiver and a permit for chicken flocks**

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

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

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

(2) An applicant who harbored chickens on March 31, 2006 may obtain a permit pursuant to subsection (b)(5) of this Section (07.21.028(b)(5)) without obtaining waivers hereunder, and the applicant will thereby be permitted to retain a chicken flock but shall not replace any chicken upon its death or loss. Should such applicant subsequently obtain waivers from all owners of all adjacent lots, then this class of harborers shall be allowed to replenish his/her flock pursuant to subsection (a)(1) above.

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

(b) **Permit.**

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

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

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

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

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

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

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

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

(5) An application for a permit shall be made prior to the harboring of any chickens or the creation of any chicken flock, except where applicant harbored chickens on March 31,

2006 in which case the harborer shall submit an application for a permit no later than ninety (90) days after the effective date of this ordinance. Where applicant harbored chickens on March 31, 2006, applicant must reduce his/her flock to no more than five hens and no roosters, and comply with all other requirements of this Title pertaining to chicken flocks within ninety (90) days from the effective date of this ordinance.

A person who harbored chickens on March 31, 2006 but fails to apply for a permit within this timeline shall have no entitlement to continue to harbor any chicken unless and until such person meets all requirements of this ordinance for chicken flocks and obtains a permit for same.

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

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

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

7.21.030 Inspection.

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

- ▶ (a) The senior and staff animal control officers of the city and/or their designees shall be permitted to inspect the structure and/or premises wherein a kennel, ~~or~~ colony **or chick flock** is maintained (or believed to be maintained) and all animals located thereon where such animals are harbored.
- (b) All reports of such inspections shall be in writing and maintained by the senior animal control officer.
- ▶ (c) The senior animal control officer, staff animal control officers, and/or their designees are authorized to enter the structure or premises wherein a kennel, ~~or~~ colony, **or chicken flock** is maintained (or believed to be maintained) at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures.
- ▶ (d) If the owner or those in possession of a structure or premises wherein a kennel, ~~or~~ colony **or chicken flock** is maintained (or believed to be maintained) refuse inspection of said kennel, ~~or~~ colony **or chicken flock**, the senior animal control officer, staff animal control officers, and/or their designees may obtain an inspection warrant from any court of record in the county in which the kennel, ~~or~~ colony **or chicken flock** is located in order to determine if the kennel or colony is maintained in accordance with this title. (Ord. 05-33 § 5 (part), 2005; Ord. 99-39 §§ 26 (part), 30, 1999).

7.21.040 Standards for noncommercial kennels.

All noncommercial kennels shall:

- (a) Operate in such a manner as to not constitute a public nuisance; and
- (b) Comply with all of the provisions of Chapter 7.36, Animal Care, of this title which provides standards for the general care of animals. (Ord. 05-33 § 5 (part), 2005; Ord. 99-39 §§ 26 (part), 31, 1999).

7.21.050 Standards for commercial kennels.

All commercial kennels shall:

- (a) Operate in such a manner as to not constitute a public nuisance;
- (b) Comply with all of the provisions of Chapter 7.36, Animal Care, of this title which provides for the general care of animals;
- (c) Provide an isolation area for animals which are sick or diseased to be sufficiently removed so as to not endanger the health and well-being of other animals;
- (d) Keep all animals caged within a secure enclosure or under the control of the owner/guardian or representative of the kennel at all times;
- (e) Provide each animal sufficient space to stand up, lie down and turn around in a natural position without touching the sides or top of the enclosure;
- (f) Provide individual kennels for each animal being harbored for any portion of a twenty-four hour period, with the exception of yard or other play areas used for the purpose of dog day care. Kennels intended for single occupancy shall not house more than one animal, with the exception of animals that are normally housed together in a home environment. (Ord. 05-33 § 5 (part), 2005; Ord. 99-39 §§ 26 (part), 32, 1999).

7.21.055 Standards for feral cat colonies.

All feral cat colonies shall:

- (a) Operate in such a manner as to not constitute a public nuisance; and
- (b) Comply with all of the provisions of Chapter 7.36, Animal Care, of this title which provides standards for the general care of animals. (Ord. 05-33 § 5 (part), 2005).

► **7.21.057 Standards for maintaining chicken flocks**

(a) All harborers of chicken flocks shall:

- (1) Operate in such a manner so as to not constitute a public nuisance or disturb neighboring residents due to noise, odor or damage; and**
- (2) Operate in a manner so as to not pose a threat to public health. Harborers shall isolate chickens which are sick or diseased so as to not endanger the health and well-being of other animals and humans. When necessary for the protection of the public health and safety, the Director of Animal Care and Control may require the specified animal be kept or confined in a secured enclosure. This provision is subordinate to any local, State or federal code governing the treatment of chickens in the event of a threat to human health; and**
- (3) Comply with all of the provisions of Chapter 7.36 of this title regarding general animal care; and**
- (4) Not slaughter chickens on harborer's property; and**
- (5) Keep all chickens completely and securely enclosed and under the control of the harborer on the harborer's property at all times; and**
- (6) Provide both a chicken coop and attached chicken run that afford a combined twelve (12) square feet per chicken; and**
- (7) Provide a chicken coop and attached chicken run that are clean, dry and odor-free; and**
- (8) Provide a chicken coop that affords shelter from the elements; and**
- (9) Provide a chicken coop and attached chicken run that, combined, provide adequate ventilation and adequate sun and shade and that are both impermeable to rodents, wild birds and predators, including dogs; and**
- (10) Provide chickens with access to feed and clean water at all times; such feed and water shall be unavailable to rodents, wild birds and predators; and**

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

(12) Keep the chicken coop, chicken run and surrounding area free from trash and accumulated droppings. The harbinger shall dispose of chicken waste and uneaten feed in a timely manner and in accordance with the Bloomington Municipal Code.

(b) The chicken coop and chicken run shall:

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

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

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

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

7.21.060 Kennel permit periods.

(a) Noncommercial kennel permits shall be valid for a period of one year from the date of issuance. An application must be made within ten days of the creation of a kennel.

(b) Commercial kennel permits shall be valid for one year beginning January 1st of each year. Applicants requiring a commercial kennel permit during the year shall pay a prorated fee for the remaining portion of the current year. An application must be made prior to the creation of a kennel.

(c) Feral cat colony permits shall be valid for a period of one year from the date of issuance. An application must be made prior to the creation of a colony.

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

7.21.070 Fees.

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

(1) More than 4 altered dogs	\$25.00
(2) More than 6 altered cats	\$25.00
(3) More than a total of 10 altered dogs and cats combined	\$25.00
(4) More than a total of 14 altered dogs and cats combined	\$50.00
(5) Additional altered dogs and cats combined in increments of 4	\$50.00, plus \$25.00 per additional increment

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

(1) Class A, owning:	
(A) 5-8 animals	\$100.00
(B) 9-12 animals	\$150.00

(C) Additional animals in increments of 4	\$150.00, plus \$50.00 per additional increment
(2) Class B, boarding:	
(A) 1-25 kennels	\$100.00
(B) 26-50 kennels	\$250.00
(C) Additional kennels in increments of 25	\$250.00, plus \$200.00 per additional increment
(3) Class C, training	\$75.00
(4) Class D, grooming	\$50.00
(c) The fee for feral cat colonies	\$0.00

- ▶ (d) **The fee for a permit for a chicken flock shall be: \$25.00**
- ~~(d)~~(e) No fee shall be required of any veterinary hospital or municipal animal shelter, research laboratory or government-operated zoological park.
- ~~(e)~~(f) Persons whose establishments operate under more than one class, as defined by this chapter, shall be required to apply for a permit for each applicable class. (Ord. 05-33 § 5 (part), 2005; Ord. 99-39 §§ 26 (part), 34, 1999).

7.21.080 Reclassification.

Any person or business who has a change in class under which the commercial and/or noncommercial kennel permit was issued shall report the change to the city of Bloomington animal care and control department and apply for a new permit within thirty days of any such change. (Ord. 05-33 § 5 (part), 2005; Ord. 99-39 §§ 26 (part), 35, 1999).

7.21.090 Violations.

(a) Any animal control officer may issue any person or business in violation of this chapter a notice of ordinance violation. The penalty established in subsection (b) of this section shall be paid to the city of Bloomington animal care and control department within seventy-two hours of the notice of ordinance violation. In the event that such payment is not made within seventy-two hours, the city may file a proceeding in the county court of competent jurisdiction to collect the applicable penalty.

(b) Persons or businesses who violate any provision of this chapter shall be subject to a fine of double the applicable permit fee for the first offense, with the fine for each subsequent offense of this chapter increasing by an increment of double the permit fee. In the event that the kennel permit does not require a fee, the fine for a first offense shall be twenty-five dollars, with the fine for each subsequent offense of this chapter increasing by an increment of fifty dollars.

(c) In the event that the person or business has no additional violations of this chapter for a period of twelve consecutive months, the fine for any violation of this chapter after that period shall be double the applicable permit fee for the first offense, with the fine for each subsequent offense increasing by an increment of double the applicable permit fee. In the event that the kennel permit does not require a fee, the fine for a first offense shall be twenty-five dollars, with the fine for each subsequent offense of this chapter increasing by an increment of fifty dollars. (Ord. 05-33 § 5 (part), 2005; Ord. 99-39 §§ 26 (part), 36, 1999).

Chapter 7.36

ANIMAL CARE

Sections:

- 7.36.010 Giving animals as prizes.
- 7.36.020 Poisoning animals.
- 7.36.025 Cruelty, abuse and neglect of animals.
- 7.36.030 Motor vehicle accidents involving animals.
- 7.36.040 Use of devices to induce performance.
- 7.36.050 General animal care.
- 7.36.060 Specific animal care provisions for animals used for drawing vehicles.
- 7.36.070 Abandonment.

7.36.010 Giving animals as prizes.

(a) No person shall give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter any contract, game, or other competition, or as an inducement to enter a place of amusement; or offer such vertebrate as an incentive to enter into any business agreement in which the offer was for the purpose of attracting trade.

(b) No person shall auction any live animal, except domestic livestock.

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

(d) Persons who violate any provision of this section shall be subject to a fine of one hundred dollars for each offense. (Ord. 05-33 § 10 (part), 2005; Ord. 99-39 § 52, 1999; Ord. 81-101 § 11, 1981; Ord. 77-74 § 6 (part), 1977).

7.36.020 Poisoning animals.

No person shall expose any known poisonous substance, whether mixed with food or not, so that it shall be likely to be eaten by any animal; provided, that it shall not be unlawful for a person to expose on his own property common rat or mouse poison, unmixed or mixed only with vegetable substances. Persons who violate this section shall be subject to a fine of up to two thousand five hundred dollars for each offense. (Ord. 05-33 § 10 (part), 2005; Ord. 99-39 § 53, 1999; Ord. 77-74 § 6 (part), 1977).

7.36.025 Cruelty, abuse and neglect of animals.

No person shall torture, beat, mutilate or neglect an animal resulting in serious injury or death to the animal. Persons who violate this section shall be subject to a fine of two thousand five hundred dollars for each offense. (Ord. 05-33 § 10 (part), 2005; Ord. 99-39 § 54, 1999).

7.36.030 Motor vehicle accidents involving animals.

Any person, who, as the operator of a motor vehicle, strikes a dog or cat, shall at once report the accident to the appropriate law enforcement agency or the city of Bloomington animal care and control department.

Persons who violate this section shall be subject to a fine of fifty dollars for each offense. (Ord. 05-33 § 10 (part), 2005; Ord. 99-39 § 55, 1999; Ord. 77-74 § 6 (part), 1977).

7.36.040 Use of devices to induce performance.

No animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner that is likely to cause physical injury or suffering. Persons who violate this section shall be subject to a fine of two thousand five hundred dollars for each offense. (Ord. 05-33 § 10 (part), 2005; Ord. 99-39 § 56, 1999; Ord. 77-74 § 6 (part), 1977).

7.36.050 General animal care.

(a) Every owner/guardian of an animal within the city shall see that his animal:

(1) Is kept in a clean, sanitary, and healthy manner and is not confined so as to be forced to stand, sit, or lie in its own excrement;

(2) Has proper and adequate food, water, shelter, and protection from the weather;

(3) If diseased or injured, receives care as necessary to prevent suffering and, if diseased, is segregated from other animals so as to prevent the transmittal of the disease to other animals.

(b) Any domestic pet or feral cat that is owned or harbored and habitually kept outside or repeatedly left outside unattended by an adult person for such periods of time as may cause suffering or endanger the health or well-being of the animal shall be provided with a structurally sound, moistureproof and windproof shelter large enough to keep the animal reasonably clean and dry and provide adequate protection from the cold and heat. Shelter must be placed in a dry area free of debris, feces and standing water.

(c) If multiple animals are present in one location, each animal must have access to shelter and the owner/guardian must meet all standards for each animal, as detailed in this section.

(d) The shelter must have bedding to provide insulation and protection against cold and dampness and promote the retention of body heat.

(e) Appropriate medical care and grooming of animals must be provided.

(f) No chain or tether shall weigh more than one-eighth of the animal's body weight.

(g) Any chain or tether shall be at least ten feet in length and have swivels on both ends.

(h) Any chain or tether must be attached to a properly fitting buckle-type collar or harness worn by the animal. Choke collars and pinch collars are prohibited for purposes of tethering an animal to a stationary object or cable run. A person may not wrap a chain or tether around an animal's neck. A chain or tether used to restrain an animal must, by design and placement, be unlikely to become entangled.

(i) It shall be unlawful for the owner/guardian of any animal to keep or maintain the animal on a tether for a period of more than ten continuous hours and no more than twelve hours in any twenty-four hour period, or for any duration under conditions, which threaten the health, or well-being of the animal.

(j) A muzzle may not be worn continuously as a means for controlling barking.

(k) A person may not restrain an animal in a manner that does not allow the animal to have access to necessary shelter, water and food.

(l) A person may not restrain an animal in a manner that allows the animal to move outside property owned, lawfully occupied or controlled by the person.

(m) Any person who owns or harbors any intact female dog or cat shall, during the period that such animal is in heat or in estrus, shall keep such dog or cat in a secured area that prevents a male dog or cat from having access to such female, except for controlled breeding permitted by the owner/guardian of the

female. Additionally, the female dog or cat shall not be chained or tethered in a manner that prevents her from defending herself or from avoiding a mate.

(n) It shall be unlawful for any person to place or confine or allow any animal to be confined in such a manner that it must remain in a motor vehicle, trailer or pet carrier under such conditions for such periods of time as may cause suffering or endanger the health or well-being of the animal due to extreme temperatures or lack of food or water.

(o) No person shall intentionally or unintentionally cause or allow the breeding of more than one litter per female cat or dog in a twelve-month period.

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

(q) Persons who violate any provision of this section shall be subject to a fine of fifty dollars for each offense. (Ord. 05-33 § 10 (part), 2005; Ord. 99-39 § 57, 1999; Ord. 81-101 § 12, 1981; Ord. 77-74 § 6 (part), 1977).

7.36.070 Abandonment.

No owner/guardian of an animal shall abandon such animal. Persons who violate this section shall be subject to a fine of up to five hundred dollars for each offense. (Ord. 05-33 § 10 (part), 2005; Ord. 99-39 § 59, 1999; Ord. 83-53 § 3, 1983; Ord. 77-74 § 6 (part), 1977).

Chapter 7.40

WILD ANIMALS

Sections:

- 7.40.010 Keeping wild animals.
- 7.40.020 Exceptions.
- 7.40.030 Violations.

7.40.010 Keeping wild animals.

No person shall keep or permit to be kept on his premises any wild animal for any purpose, except as provided in Section 7.40.020 of this chapter. This section shall not be construed to apply to zoological parks, circuses, animal exhibitions, research laboratories, licensed wildlife rehabilitators, or licensed educators. (Ord. 05-33 § 11 (part), 2005; Ord. 99-39 § 60, 1999; Ord. 76-25 § 4, 1976; Ord. 76-14 § 1 (part), 1976).

7.40.020 Exceptions.

Any person owning a wild animal prior to the enactment of this chapter shall be permitted to continue ownership of the animal; provided, that he registers the animal with the animal control commission within six weeks after enactment of this chapter. A copy of this registration must be kept by the owner/guardian for as long as the person owns the animal as evidence of possession of the animal prior to the enactment of this chapter. (Ord. 05-33 § 11 (part), 2005; Ord. 76-14 § 1 (part), 1976).

7.40.030 Violations.

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

(b) Persons who violate any provision of this section shall be subject to a fine of five hundred dollars for each offense. (Ord. 05-33 § 11 (part), 2005; Ord. 99-39 § 61, 1999; Ord. 81-101 § 3 (part), 1981; Ord. 76-14 § 1 (part), 1976).

...

7.42.050 Violations.

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

(b) Persons who violate any provision of this section shall be subject to a fine of fifty dollars for each offense. (Ord. 05-33 § 12 (part), 2005; Ord. 99-39 § 62, 1999; Ord. 85-23 § 2 (part), 1986).

Chapter 7.52

GENERAL PROVISIONS

Sections:

- 7.52.010 Disposition of funds.
- 7.52.020 Animals census.
- 7.52.030 Conflicting ordinances.
- 7.52.035 Maximum fines.
- 7.52.040 Severability clause.
- 7.52.050 Animal shelter.
- 7.52.060 Interference with animal control officer—Penalty.

7.52.010 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 animal control commission. 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. 05-33 § 15 (part), 2005; (Ord. 81-101 § 1 (part), 1981; Ord. 76-14 § 1 (part), 1976).

7.52.020 Animals census.

Upon enactment of the ordinance codified in this title, the city of Bloomington, at the direction of the mayor, with the approval of the common council, may instigate and carry out a city-wide census for the purpose of carrying out the provisions of this title. A census may be held once every two years thereafter at the request of the mayor and common council. The animal control commission shall administer the census. (Ord. 05-33 § 15 (part), 2005; Ord. 76-14 § 1 (part), 1976).

7.52.030 Conflicting ordinances.

All other ordinances of the city of Bloomington that are in conflict with this title are repealed to the extent of such conflict. (Ord. 05-33 § 15 (part), 2005; Ord. 76-14 § 1 (part), 1976).

7.52.035 Maximum fines.

No fine for a single violation of the provisions of this title shall exceed two thousand five hundred dollars pursuant to Indiana Code 36-1-3-8(10). (Ord. 05-33 § 15 (part), 2005).

7.52.040 Severability clause.

If any part of this title shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this title. (Ord. 05-33 § 15 (part), 2005; Ord. 76-14 § 1 (part), 1976).

7.52.050 Animal shelter.

The physical facility known as the city of Bloomington animal shelter shall be under the administrative control of the department of public works and shall constitute a division of the department. The senior animal control officer and animal control commission shall retain all powers and duties conferred by this title for the detailed supervision of matters relating to animal control. It is the intent of this title that the animal control commission be an advisory body to formulate, adopt and implement policies, principles and standards for humane treatment and control of all animals in the city. (Ord. 05-33 § 15 (part), 2005; Ord. 81-101 § 1 (part), 1981; Ord. 77-62 § 11, 1977).

7.52.060 Interference with animal control officer—Penalty.

Whoever forcibly assaults, resists, opposes, obstructs, prevents, impedes or interferes with any animal control officer while that officer is engaged in the execution of any duties required of animal control officers under this title shall be fined not more than one thousand dollars per occurrence. (Ord. 05-33 § 15 (part), 2005; Ord. 83-6 § 7, 1983; Ord. 81-101 § 1 (part), 1981; Ord. 81-5 § 3, 1981; Ord. 76-14 § 1 (part), 1976).



Raising Fowl And Small Animals In Urban Areas

Small Flock Factsheet, Number 4

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Raising hobby fowl like pigeons, cage birds, ornamental fowl and small laying flocks is an increasingly popular pastime for urban residents. While at the same time, city limits and subdivisions seem to advance further into the rural countryside.

Most of us can appreciate the pleasures and benefits of raising birds and small animals. It is a relaxing activity that offers an insight into other forms of life and basic life processes. People enjoy the companionship of their birds and the social activities which come from club activities and competitions.

The urban animal hobbyist must try not to infringe on his neighbor who may be sensitive to noise, odor, flies, rodents and unsightliness due to inadequately designed and maintained facilities. People differ in their tolerance to the same conditions. Just because you let your chickens run free for years doesn't mean the new neighbor will enjoy them in their yard or garden.

The following are some guidelines for owners of birds and small animals in urban areas. By following the guidelines you can avoid a good deal of conflict with others in your community and avoid the development of ordinances banning the raising of certain animals in your community.

1. Health and Safety: The important factors to consider are the location of animal enclosures in relation to residences, storage of feed to avoid rodent problems, fly control, sanitation, and disposal of animal waste in a safe manner. The health and well being of the animals should also be taken into account. The animals must be given adequate space, proper nutrition, sufficient attention and a place to seclude themselves. The enclosure should also provide protection from the environment and predators.

- Provide a minimum of 1 sq. foot per pound of body weight for permanent indoor confinement areas.
- Provide 3 cubic feet of air (total enclosed space) per pound of body weight for permanent indoor confinement quarters.

- DO NOT place outdoor enclosures within 150 feet of the property line of another property owner.
- DO NOT place any permanent detached structures within 100 feet of the residence of another property owner.
- Never allow animals or birds to roam free.
- Store feed in rodent proof containers.
- Clean litter and animal waste on a regular basis and dispose of promptly and properly.

2. Appearance and Property Values: The appearance of all types of equipment and housing, particularly external runs that are visible to the neighbor, should not detract from the overall appearance of the surroundings. Exteriors of sheds and other structures should be kept painted and well-maintained. Weeds and trash should be removed from around the facilities. Proper landscaping can provide screening and also help muffle sounds. Old, unkept structures surrounded by weeds and piles of trash are not acceptable. Provide a sight fence or shrub screening to a minimum height of 4 feet around any outdoor enclosure.

3. Noise and Odors: All animals and birds have characteristic noises and odors. Owners are obliged to house animals so the odors are not offensive and noises are no louder than the normal speaking voice of an adult human. Owners can do this by insulating quarters, providing adequate ventilation and using good sanitation practices.

Finally, diplomacy and cooperation can help avoid conflicts. If you are raising animals or birds in an urban environment, follow some of these suggestions and you can prevent yourself and others raising animals in your community from unnecessary conflict and ordinances.

(Some materials in this article were taken from "Raising Small Animals and Fowl in Urban Areas" by John Skinner, University of Wisconsin, Extension Division.)
