



AGENDA ITEM#: 5

MEMORANDUM

TO: Metropolitan Planning Commission

FROM: Mark Donaldson, Executive Director

DATE: October 14, 2010

SUBJECT: Amendments to the City of Knoxville Zoning Ordinance at Article II (Definitions), Article IV, Sections 2.1.1 (R-1 zone district) and 2.14 (R-1E zone district) and Article V, Section 4 (Accessory Uses, Buildings and Structures), to accommodate the keeping of domesticated chickens on a noncommercial basis in these districts according to the provision of City of Knoxville Ordinance O-116-2010.
10-A-10-OA

REQUEST

MPC has been requested by City Council to consider making a recommendation on amendments to the City of Knoxville zoning ordinance to accommodate the ordinance recently adopted by Council, Ordinance O-116-2010, authorizing residents to keep limited numbers of domesticated chickens on a noncommercial basis.

BACKGROUND

The recently adopted ordinance, O-116-2010, authorizes residents who own their property or demonstrate permission of the property owner to apply for a permit to keep domesticated chickens in accordance with the requirements of Chapter V, Section 5.107 of the Code of the City of Knoxville [see section 5.107 (b)(1)]. The provisions of the code apply to all residential lots regardless of how many dwelling units are on the lot, including multifamily residential complexes without individually owned back yards [see section 5.107 (d)(1)].

The current City of Knoxville zoning ordinance prohibits the raising of poultry in most of its residential zone districts, specifically stated in the R-1 and R-1E zone districts, and by references to R-1 permitted uses in the R-1A, R-2, R-3, O-1 and O-2 districts.

The current City of Knoxville zoning ordinance also has a specific list at Article V, Section 4, of permitted accessory uses, buildings and structures for each type of residential dwelling.

There are also many residences throughout the City that are not located within residential zone districts. Most common are the many neighborhoods that were rezoned in the past to industrial zone districts. Residences in these areas would have legal nonconforming status as dwellings.

ANALYSIS

To accommodate the recently adopted ordinance authorizing residents of Knoxville to keep domesticated chickens, three types of amendments are necessary:

- A definition of domesticated chickens must be added;
- The prohibition against raising of poultry in residential zones must be modified; and
- The buildings and structures allowed for the keeping of domesticated chickens must be added to the specific list of accessory uses, buildings and structures for the residential types listed in the zoning ordinance: houses, attached houses, duplexes and multi-dwelling structures or developments.

The proposed amendment to Article II (Definitions) adds a definition for domesticated chickens.

The proposed amendments to Article IV, Sections 2.1.1 (R-1) and 2.1.4 (R-1E) modify the prohibition against raising poultry in these residential zone districts (and the other zone districts that make reference to the permitted uses of the R-1 zone district) by making an exception from the prohibition for the keeping of domesticated chickens subject to the provisions of Chapter V, Section 5.107 of the Code of the City of Knoxville.

The proposed amendments to Article V, Section 4, add fenced enclosures and henhouses for the keeping of domesticated chickens to the list of permitted accessory uses, buildings and structures for each of the residential types listed in the zoning ordinance. This provision will allow residents with legal, nonconforming dwellings in zone districts other than residential to also keep chickens in accordance with Section 5.107.

STAFF RECOMMENDATION

Staff recommends that the planning commission recommend approval of the proposed amendments to the City of Knoxville Zoning Ordinance at Article II; Article IV, Sections 2.1.1 and 2.1.4; and Article V, Section 4, as proposed in Exhibit A.

EXHIBITS

- Exhibit A - Proposed amendments
- Exhibit B – Ordinance O-116-2010

Domesticated Chickens
Proposed CoK Zoning Ordinance Amendments
10/14/10

Bold text is proposed

Article II (Definitions):

CHICKENS, DOMESTICATED – Those chickens that qualify for keeping in accordance with Chapter V, Section 5.107 of the Code of the City of Knoxville.

Article V, Section 4

B. Permitted Accessory Structures.

- 1. For houses, attached houses and duplexes:

- k. Fenced enclosures and henhouses for the keeping of domesticated chickens, subject to the provisions of Chapter V, Section 5.107 of the Code of the City of Knoxville.**

- 2. For multi-dwelling structures or developments:

- d. Fenced enclosures and henhouses for the keeping of domesticated chickens, subject to the provisions of Chapter V, Section 5.107 of the Code of the City of Knoxville.**

Article IV, Section 2.1.1 R-1 Low Density Residential District

B. Permitted Principal and Accessory Uses and Structures

- 6. Agricultural crops, but not the raising of farm animals or poultry **other than the keeping of domesticated chickens subject to the provisions of Chapter V, Section 5.107 of the Code of the City of Knoxville.**

Article IV, Section 2.1.3 R-1E Low Density Exclusive Residential District

B. Permitted Principal and Accessory Uses and Structures

- 6. Agricultural crops, but not the raising of farm animals or poultry **other than the keeping of domesticated chickens subject to the provisions of Chapter V, Section 5.107 of the Code of the City of Knoxville.**

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ORDINANCE

ORDINANCE NO: 0-116-2010

1 AN ORDINANCE OF THE COUNCIL
2 OF THE CITY OF KNOXVILLE TO
3 AMEND CHAPTER 5 OF THE CITY
4 CODE SO AS TO AUTHORIZE
5 RESIDENTS TO KEEP LIMITED
6 NUMBERS OF DOMESTICATED
7 CHICKENS ON A
8 NONCOMMERCIAL BASIS.

ORDINANCE NO.: 0-116-2010

REQUESTED BY: Councilmember Woodhull

PREPARED BY: Council

APPROVED AS TO FORM AND
CORRECTNESS : _____

Director of Law

FINANCIAL IMPACT STATEMENT:

APPROVED ON 1ST _____

READING: 7-27-2010

APPROVED ON 2ND _____

READING: 8-24-2010

APPROVED AS AN

EMERGENCY

MEASURE: _____

MINUTE BOOK 74 PAGE _____

16 **WHEREAS**, under the currently existing Ordinances of the City of Knoxville, it is unlawful
17 for any person to keep, harbor or confine any poultry within the corporate limits of the City of
18 Knoxville except under very limited circumstances; and,

19 **WHEREAS**, City Council is of the opinion that allowing the citizens and residents of the
20 City to obtain a permit to keep a limited number of female chickens pursuant to certain restrictions
21 and limitations calculated to reduce or minimize the potential adverse impact resulting from this
22 practice would be beneficial to the City; and,

24 **WHEREAS**, City Council is of the opinion that the benefits to be derived from authorizing
25 the keeping of a limited number of domesticated female chickens under carefully limited conditions

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2 pursuant to a permit to be issued for this purpose would significantly out weigh any deleterious or
3 otherwise adverse impacts associated with maintaining these chickens within the corporate limits of
4 the City of Knoxville.

5 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
6 **KNOXVILLE:**

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8 **SECTION 1:** Chapter V, Section 5-102(a) of the Code of the City of Knoxville shall be, and
9 hereby is, amended by adding an additional subsection, numbered 5-102(a)(6) which shall provide
10 as follows:

- 11 (a) It shall be unlawful for any person to keep, harbor, or confine any
12 animal of the swine species or type or poultry in any building,
13 structure, shed, corral, pen or enclosure within the corporate limits of
the City except:

14 *****

- 15 (6) Where a limited number of domesticated
16 female chickens (hens) are kept pursuant to a
17 permit as set forth below in this Chapter.

18 **SECTION 2:** Chapter V of the Code of the City of Knoxville shall be, and hereby is, further
19 amended by adding an additional section, denominated as Section 5-107, which shall provide as
20 follows:

21 **Sec. 5-107. - Domesticated Chickens**

- 22 (a) **Purpose:** The purpose of this section is to provide standards for the
23 keeping of domesticated chickens. It is intended to enable residents to
24 keep a small number of female chickens on a non-commercial basis
25 while limiting the potential adverse impacts on the surrounding
26 neighborhood. The City recognizes that adverse neighborhood
impacts may result from the keeping of domesticated chickens as
a result of noise, odor, unsanitary animal living conditions, unsanitary

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2 waste storage and removal, the attraction of predators, rodents,
3 insects, or parasites, and non-confined animals leaving the owner's
4 property. This section is intended to create licensing standards and
5 requirements that ensure that domesticated chickens do not adversely
6 impact the neighborhood surrounding the property on which the
7 chickens are kept.

8 (b) **Permit Required.** An annual permit is required for the keeping of
9 any domesticated chickens. Additionally, a building permit is
10 required for the construction of a henhouse and chicken pen

11 (1) The annual permit to keep chickens is personal to the permittee
12 and may not be assigned. In addition, the permit authorizes the
13 keeping of chickens only upon the property described in the
14 permit. The permittee must occupy the residence on the property
15 where the chickens are kept as the permittee's personal, primary
16 residence. An applicant for a permit must either own the property
17 or have permission from the property owner to be eligible for a
18 permit. Only one permit is allowed per permittee. In the event the
19 permittee is absent from the property for longer than thirty (30)
20 days, the permit automatically shall terminate and become void.
21 The issuance of a permit does not create a vested right to renewal
22 of the permit beyond the stated term thereof.

23 (2) The first permit year shall extend from the date of issuance through
24 December 31, 2010. Thereafter the permit year shall be January 1
25 through December 31

26 (c) **Fees.** The fee for an annual permit to keep chickens is twenty-five
27 dollars (\$25.00). In addition, a fifty dollar (\$50.00) fee shall be
28 required for the building permit for the construction of a henhouse and
fenced enclosure

(d) **Number and Type of Chickens Allowed.**

(1) Up to six (6) chickens may be allowed. The provisions of this section apply to all lots regardless of how many dwelling units are on the lot. In the case of

1 multifamily residential complexes without
2 individually owned back yards, the maximum number
of chickens allowed is six (6) per complex.

3 (2) Only female chickens (hereinafter "hens") are
4 allowed. There is no restriction on domestic chicken
5 breeds. However, fowl and poultry other than
chickens are not allowed.

6 (e) **Non-Commercial Use Only** Hens shall be kept for personal use
7 only; no person shall sell eggs or engage in chicken breeding or
8 fertilizer production for commercial purposes. The slaughtering of
chickens is prohibited.

9 (f) **Fenced Enclosures and Henhouses.**

10 (1) Hens must be kept in a fenced enclosure at all times.
11 The fenced enclosure must be either: (i) covered, or
12 (ii) at least forty-two (42) inches high, in which case,
13 all hens must be wing-clipped to prevent escape.
Hens shall be secured within the henhouse during
non-daylight hours.

14 (2) In addition to the fenced enclosure, hens shall be
15 provided with a covered, predator-resistant henhouse.

16 (3) A minimum of two (2) square feet per hen shall be
17 provided for henhouses and six (6) square feet per
bird for fenced enclosures.

18 (4) Fenced enclosures and henhouses must be properly
19 ventilated, clean, dry, and odor-free, kept in a neat and
20 sanitary condition at all times, in a manner that will
not disturb the use or enjoyment of neighboring lots
21 due to noise, odor or other adverse impact.

22 (5) The henhouse and fenced enclosure must provide
23 adequate ventilation and adequate sun, shade and
24 must be constructed in a manner to resist access by
rodents, wild birds, and predators, including dogs and
25 cats.

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(6) Henhouses shall be enclosed on all sides and shall have a roof and doors. Access doors must be able to be shut and locked at night. Opening windows and vents must be covered with predator- and bird-resistant wire of less than one (1) inch openings.

(7) The materials used in making the henhouse and fence shall be uniform for each element of the structure such that the walls are made of the same material, the roof has the same shingles or other covering, and any windows or openings are constructed using the same materials. The henhouse shall be well-maintained.

(8) Henhouses shall be located in compliance with the City of Knoxville Code of Ordinances, Appendix B, "Zoning Regulations".

(9) Neither the henhouse nor the fenced enclosure may be located less than ten (10) feet from any abutting property line.

(10) Henhouses and enclosures shall not be permitted in front yards.

(g) **Food Storage and Removal.** All stored food for the hens must be kept either indoors or in a weather-resistant container designed to prevent access by animals. Uneaten food shall be removed daily.

(h) **Waste Storage and Removal.** Provision must be made for the storage and removal of chicken manure. All manure for composting or fertilizing shall be contained in a well-aerated garden compost pile. All other manure not used for composting or fertilizing shall be removed. In addition, the henhouse and surrounding area must be kept free from trash and accumulated droppings.

(i) In addition to the standards set forth in this ordinance, the permittee must follow all other applicable rules for the keeping of animals included in this code.

(j) **Application for permit.** Every applicant for a permit to keep domesticated hens shall:

(1) Complete and file an application on a form prescribed by the Animal Control Unit;

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(2) Deposit the prescribed permit fee with the Animal Control office at the time the application is filed. Any material misstatement or omission shall be grounds for denial, suspension or revocation of the permit.

(k) **Approval of permit.** The Animal Control Board shall issue a permit if the applicant has demonstrated compliance with the criteria and standards in this section.

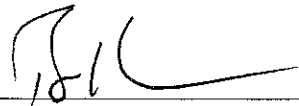
(l) **Denial, suspension or revocation of permit** The Animal Control Board shall deny a permit if the applicant has not demonstrated compliance with all provisions of this section.

A permit to keep domesticated hens may be suspended or revoked by the Animal Control Board where there is a risk to public health or safety or for any violation of or failure to comply with any of the provisions of this section or with the provisions of any other applicable ordinance or law. Any denial, revocation or suspension of a permit shall be in writing and shall include notification of the right to and procedure for appeal.

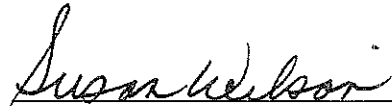
(m) **Penalty.** In addition to any other enforcement action which the city may take, violation of any provision of this section shall be a civil violation and a fine not exceeding fifty dollars (\$50.00) may be imposed. Each day that a violation continues will be treated as a separate offense.

(n) **Separability.** In the event that any portion of this section shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other portion of this section.

SECTION 3: This Ordinance shall take effect seventeen (17) days from and after its passage, the public welfare requiring it.



Presiding Officer of the Council



City Recorder