



MEMORANDUM

TO: Metropolitan Planning Commission

FROM: Mark Donaldson, Executive Director

DATE: August 11, 2011

SUBJECT: Request of MPC by Knox County Commission to study and make recommendations regarding amendments to the Knox County zoning ordinance to provide for the raising and maintenance of domesticated chickens in certain parts of unincorporated Knox County
8-B-11-OA

REQUEST

MPC has been requested by Knox County Commission to study and make recommendations regarding amendments to the Knox County zoning ordinance to provide for the raising and maintenance of domesticated chickens in residential areas of unincorporated Knox County.

BACKGROUND

This request comes to MPC following a recent rezoning request by a Knox County family to change their zoning from RA (Low Density Residential) to A (Agriculture) in order to keep domestic chickens on their property. The rezoning request has been postponed by County Commission until MPC can make a recommendation regarding regulations to allow the keeping of domestic chickens in residential areas of the county.

The City of Knoxville recently amended its code of ordinances to allow the keeping of domestic chickens on residential property in the city. In order to accommodate the addition to the code of ordinances, the city had to amend its zoning ordinance in several places to eliminate an existing prohibition on the keeping of poultry in some residential districts. The 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. 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)]. Attached is Section 5-107 (Domesticated Chickens) of Chapter V (Animals), Article IV (Livestock) of the city's code of ordinances.

ANALYSIS

The primary purpose of the Knox County zoning ordinance is to provide for the orderly distribution of land uses and regulate the placement, height, and bulk of buildings on land. The keeping of poultry in residential zone districts is not mentioned in the zoning ordinance. The zoning ordinance permits the raising of chickens and other poultry for commercial purposes in several zone districts: OS (Open Space), A (Agriculture), CA (General Business) and CB (Business and Manufacturing). The slaughtering of animals, other than poultry, is permitted in the I (Industrial) zone district.

The vast majority of Knox County remains zoned as A (Agriculture), even though a substantial portion has been developed with residential subdivisions. This sets up a dichotomy that residences in the A (Agriculture) zone district may keep chickens, while residences in the RA (Low Density Residential) zone district may not, even though the residential character of subdivisions in these two districts is similar.

There is no regulation of domestic animals in the Knox County zoning ordinance. There appears to be no reason to make the modifications to the zoning ordinance to accommodate the keeping of domestic chickens that were necessary for the City of Knoxville zoning ordinance. The Knox County code of ordinances at Chapter 6 (Animals) provides a place to codify the regulation of domestic chickens in a manner similar to the City of Knoxville.

The City's domesticated chicken ordinance provides a model for the County and includes the following sections:

- Purpose
- Permit required
 - Permit for keeping of domesticated chickens
 - Permit for construction of hen house and enclosure
- Fees
- Number and type of chickens allowed
- Noncommercial use only
- Fenced enclosures and henhouses
- Food storage and removal
- Waste storage and removal
- Applicability of other regulations

RECOMMENDATION

Staff recommends that the planning commission recommend to Knox County Commission that regulations comparable to those of the City of Knoxville for the keeping of domesticated chickens be provided at Chapter 6 (animals) of the Code of Knox County and that no amendments to the Knox County zoning ordinance appear to be necessary at this time.

ATTACHMENTS

- Section 5-107 (Domesticated Chickens) of the Code of the City of Knoxville
- Current provisions for poultry and chickens in the Knox County zoning ordinance

ter at intervals of not less than once a year. A health certificate should be signed at the stable premises at which such horse is located and shall contain the identification number, age and condition of the horse, as well as the maximum number of hours a day that, in the opinion of the veterinarian, the horse should be worked. A copy of such certificate shall be provided to the board.

(b) The board shall assign each licensed horse an identification number which must be tattooed on the inside of the lip or ear of the horse. If the horse has an existing tattoo number or symbol, such may be used for identification purposes. The assigned identification number shall also be inscribed on a metal tag which is to be securely attached to the right cheek strap of the horse at all times when the horse is at work.

(c) A license shall be issued for a term of one (1) year and must be renewed prior to its expiration. The annual license fee shall be twenty-five dollars (\$25.00). The certificate of license issued to the owner of the horse shall at all times remain at the stable where the horse is kept and shall be made available for inspection by the administrator or any animal control or police officer.

(d) The board shall be notified of the transfer of ownership or other disposition of a licensed horse within ten (10) days thereafter. Such notice shall include the date of disposition and, if sold to a city resident, the name and address of the buyer or other transferee and a notarized bill of sale. In case of death, the notice will include the date of death. Any horse licensed under this section may only be disposed of in a humane manner. If a horse dies while at work or under suspicious circumstances, the unit shall be notified within twelve (12) hours of death and, except under emergency conditions, remains shall not be disposed of for a minimum of twenty-four (24) hours of such notice unless prior approval is given by the unit. The unit may order the delivery of the remains to the animal shelter or veterinarian for the purpose of necropsy.
(Ord. No. O-484-93, § 1, 8-31-93)

Sec. 5-107. Domesticated chickens.

(a) *Purpose.* The purpose of this section is to provide standards for the keeping of domesticated chickens. It is intended to enable residents to

keep a small number of female chickens on a noncommercial basis while limiting the potential adverse impacts on the surrounding 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 waste storage and removal, the attraction of predators, rodents, insects, or parasites, and non-confined animals leaving the owner's property. This section is intended to create licensing standards and requirements that ensure that domesticated chickens do not adversely impact the neighborhood surrounding the property on which the chickens are kept.

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

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

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

(c) *Fees.* The fee for an annual permit to keep chickens is twenty-five dollars (\$25.00). In addition, a fifty dollar (\$50.00) fee shall be 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 multifamily residential complexes without individually owned back yards, the maximum number of chickens allowed is six (6) per complex
- (2) Only female chickens (hereinafter "hens") are allowed. There is no restriction on domestic chicken breeds. However, fowl and poultry other than chickens are not allowed.

(e) *Noncommercial use only.* Hens shall be kept for personal use only; no person shall sell eggs or engage in chicken breeding or fertilizer production for commercial purposes. The slaughtering of chickens is prohibited.

(f) *Fenced enclosures and henhouses.*

- (1) Hens must be kept in a fenced enclosure at all times. The fenced enclosure must be either: (i) covered, or (ii) at least forty-two (42) inches high, in which case, all hens must be wing-clipped to prevent escape. Hens shall be secured within the henhouse during non-daylight hours.
- (2) In addition to the fenced enclosure, hens shall be provided with a covered, predator-resistant henhouse.
- (3) A minimum of two (2) square feet per hen shall be provided for henhouses and six (6) square feet per bird for fenced enclosures.
- (4) Fenced enclosures and henhouses must be properly ventilated, clean, dry, and odor-free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact
- (5) The henhouse and fenced enclosure must provide adequate ventilation and adequate sun, shade and must be constructed

in a manner to resist access by rodents, wild birds, and predators, including dogs and cats.

- (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) *[All other rules of this code apply.]* 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;
- (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.
(Ord. No. O-116-2010, § 2, 8-24-10)

Secs. 5-108—5-125. Reserved.

ARTICLE V. RABIES CONTROL

Sec. 5-126. Confinement of animals biting humans or showing symptoms of rabies.

(a) Except as stated in subsection (c) of this section, any animal which shows symptoms of rabies, or which has bitten anyone, shall be penned up immediately by its owners, by the person having charge of the animal, or by the person sheltering, feeding, harboring or taking care of the animal, and the unit and county department of health shall be notified immediately. The animal shall be confined by the animal shelter, a veterinarian or in a place approved by the administrator or authorized unit representative for not less than ten (10) days. If the animal which has bitten a person is not running at large and is current on rabies vaccination at the time the bite occurs, the owner has the option to take the animal to a licensed boarding facility or to quarantine the animal at home if adequate facilities are available. The animal shall be subject to observation by the unit or a person designated by the administrator at all times during such period.

(b) If rabies does not develop within this period, then the animal shall be released to his owner upon the payment of all applicable fees, but if rabies does develop, the animal shall be destroyed by the unit in a humane manner and the head submitted for rabies testing.

(c) A dog used by a law enforcement agency in the performance of functions or duties of the agency, which has bitten anyone, and has received vaccinations against rabies prior to the biting, and does not show the symptoms of rabies, may continue to be utilized by the law enforcement agency; however, the dog shall be subject to observation by the unit.

(Ord. No. O-484-93, § 1, 8-31-93)

ARTICLE VI. DANGEROUS DOGS

Sec. 5-127. Definitions.

For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Attack means an unprovoked attack in an aggressive, terrorizing or threatening manner on

KNOX COUNTY ZONING ORDINANCE
CURRENT PROVISIONS
POULTRY AND CHICKENS

5.20 OPEN SPACE ZONE (OS)

5.20.01 General Description

This open space preservation zone is established to provide areas in which the principal use of land is devoted to open space and/or the preservation and protection of park and recreation lands, wilderness areas, beach and shoreline areas, scenic routes, wild and scenic rivers, historical and archeological sites, watersheds and water supply areas, hiking, cycling and equestrian trails and fish and wildlife and their habitats. Property classified under this zone shall meet the criteria set forth in the Open Space Plan approved by Knox County, and only property so zoned shall be considered as open space for the purposes of property assessment under the Agricultural, Forest and Open Space Land Act of 1976, provided the other conditions for inclusion under the Act are satisfied.

5.20.02 Uses Permitted

The following agricultural uses shall be permitted in the Open Space Preservation Zone:

- A. The following agricultural uses: horticulture, floriculture, forests and woods and home gardens, but not dairying, the commercial raising and maintaining of poultry and other livestock, feed lots, the raising of fur bearing animals, fish or minnow hatcheries, riding academies, livery or boarding stables or dog kennels.

5.22 AGRICULTURAL ZONE (A)

5.22.02 Uses Permitted

In any Agricultural Zone, no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this resolution, except for one or more of the following uses:

- C. Farming, including all types of agriculture and horticulture; commercial dairies; rabbit, goat and other animal or fish and minnow raising farms; egg-producing ranches and farms devoted to the hatching, raising, fattening and butchering of chickens, pigeons, turkeys and other poultry; and hog and other feeding for commercial purposes.

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5.31 GENERAL BUSINESS ZONE (CA)

5.31.01 General Description

This zone is for general retail business and services but not for manufacturing or for processing materials other than farm products, except that portable sawmills are allowed.

5.31.02 Uses Permitted

- P. **Retail poultry business**, provided that the enterprise is conducted in strict compliance with the regulations of the Health Department, and that adjacent premises or the occupants thereof are not injured by reason of the emission of dust, odors, or noise.

5.31.03 Uses Permitted On Review

- I. Commercial dairies; commercial kennels, rabbit, goat, and other animal or fish and minnow raising farms; **egg producing ranches and farms devoted to the hatching, raising, fattening, and butchering of chickens, pigeons, turkeys and other poultry**; and hog and other livestock feeding for commercial purposes, subject to the requirements of Article 4, Section 4.99

5.32 BUSINESS AND MANUFACTURING ZONE (CB)

5.32.01 General Description

This zone provides for a wide range of business and manufacturing uses. The nature of such businesses is to attract large volumes of automobile and truck traffic and to have adverse effects on surrounding properties. Hence, they are not properly associated with, nor compatible with residential or institutional uses or with other uses that require an environment free of noise, odors and congestion. Uses permitted in the Business and Manufacturing Zone are intensive users of roads, sewers and other public facilities.

5.32.02 Uses Permitted

- HH. **Retail poultry business**, provided that the enterprise is conducted in strict compliance with the regulations of the Health Department, and that adjacent premises or the occupants thereof are not injured by reason of the emission of dust, odors, or noise.

5.32.03 Uses Permitted On Review

- L. Commercial dairies; commercial kennels, rabbit, goat, and other animal or fish and minnow raising farms; **egg producing ranches and farms devoted to the hatching, raising, fattening, and butchering of chickens, pigeons, turkeys and other poultry**; and hog and other livestock feeding for commercial purposes, subject to the requirements of Article 4, Section 4.99.

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5.61 INDUSTRIAL ZONE (I)

5.61.01 General Description

This zone provides areas in which the principal use of land is for manufacturing, assembling, fabrication and for warehousing and other uses which have heavy impacts and adverse effects on surrounding property. These uses do not depend primarily on frequent personal visits of customers or clients, but usually require good accessibility to major rail, air, or street transportation routes. Such uses are not properly associated with, nor compatible with residential, institutional and retail commercial uses.

5.61.03 Uses Permitted On Review

- L. Slaughter houses or slaughtering of **animals other than poultry.**