

ORDINANCE NO. 1767

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA PROVIDING THAT TITLE 6 OF THE BOZEMAN MUNICIPAL CODE BE AMENDED BY ADDING SECTION 6.04.070 REGULATING THE KEEPING OF DOMESTIC CHICKENS WITHIN THE CORPORATE LIMITS OF THE CITY OF BOZEMAN, MONTANA; AND AMENDING 18.80.080 DEFINING AGRICULTURAL USE.

WHEREAS, it is the intent of the Bozeman City Commission to provide for and protect the health, safety and welfare of the citizens of Bozeman, promote residential harmony and ensure the well-being of properly maintained domestic chickens through effective regulation; and

WHEREAS, the Bozeman City Commission acknowledges that having chickens within an urban environment has the potential to affect the interests of others; and

WHEREAS, certain minimum standards for keeping chickens is necessary to protect the health, welfare and quality of life of both the animals and citizens of Bozeman; and

WHEREAS, it is the intent of the Bozeman City Commission to provide and maintain, for the citizens of Bozeman, opportunities for the healthy consumption of locally produced foods and products; and

WHEREAS, the Bozeman City Commission acknowledges that the act of food production on one's own property may improve the quality of life of its residents; and

WHEREAS, the Bozeman City Commission acknowledges that the husbandry of an appropriate number domestic female chickens may provide a sustainable and cost-effective food source.

NOW, THEREFORE BE IT ORDAINED by the City Commission of the City of Bozeman, Montana;

Section 1

That the table of contents of chapter 4 of Title 6 of the Bozeman Municipal Code be amended so that such section shall read as follows:

6.04.070 Keeping of Chickens (Gallus Gallus Domesticus)

Section 2

That the following shall be added to Section 6.04.070 so that said section shall read as follows:

A. Keeping of Chickens Lawful. Subject to the standards in this Chapter, it shall be lawful to keep of up to fifteen (15) female domestic chickens (hens) per permit holder. Except as provided in 6.04.010.N.4, chickens kept in accordance with the provisions of this section are not nuisance animals pursuant to 6.04.120.

B. Location and Number.

1. Chickens may be kept in the following locations, subject to all other standards in this Chapter:
 - i. on a single-household parcel(s);
 - ii. on a parcel(s) under unitary ownership with more than one dwelling on site; and
 - iii. on residential parcels under common ownership.
2. The number of chickens authorized per permit shall comply with the following, subject to all other standards in this Chapter:
 - i. for the first 3,000 square feet of any residential parcel, up to four (4) chickens;
 - ii. for each additional 1,000 square feet of any residential parcel one additional hen up to a maximum of fifteen (15); and
 - iii. for parcels with multiple households the physical area used for determining the maximum number of allowed hens is exclusive to each permit and may not overlap. This may restrict the number of permits issued on a given parcel.

C. Specific Standards for Chickens.

1. No male chickens (roosters) over the age of three months are permitted.
2. No chickens may run at large within the corporate limits of the City of Bozeman. All chickens must be contained with the permittee's property boundary.
3. The permittee shall provide the chickens with a covered, predator-proof chicken house that is thoroughly ventilated, of sufficient size to admit free movement of the chickens. The chicken house must be adjacent to and provide free access to the chicken enclosure. Any heat source or electrical facilities installed in a chicken house must comply with all adopted building and electrical codes of the City of Bozeman.

4. The permittee shall provide the chickens with a predator-proof enclosure of sufficient size to admit free movement of the chickens. Chicken enclosures may be movable.
5. Chickens shall be secured within the enclosure from sunset to sunrise.
6. Chicken enclosures and houses must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors.
7. Chickens shall have continuous access to adequate food and water.
8. Stored feed must be kept in a rodent- and predator-proof container.
9. Chickens shall be maintained in a healthy condition. Ill chickens shall either receive appropriate medical care or be culled.
10. No chicken house shall be located closer than 20 feet to any structure inhabited by someone other than the chicken owner, custodian, or keeper, and not closer than 5 feet to any property line. Chicken houses may be movable but must comply with all standards of this section.
11. No chicken shall be kept in a manner so as to create noxious odors or noise of a loud, persistent and habitual nature.
12. No chickens shall be slaughtered within the public view.

D. Permits Required/Inspections.

1. Prior to the keeping of any chicken(s), a party seeking to keep chickens shall obtain a permit from the City of Bozeman. A permit fee may be established by resolution of the City Commissions and may be revised from time to time. Only one permit shall be issued per household. Issuance of a permit is a discretionary act.
2. The owner of the chickens shall keep a copy of all signed City approval documents for inspection upon request by an Animal Control Officer.
3. A permit for chickens under this section does not relieve any party from any requirement to obtain any other permit or other necessary approvals for any structure, fence, lighting, heat source, etc. as required by the Bozeman Municipal Code.
4. A party wishing to keep chickens shall submit an application to keep chickens to the City of Bozeman Treasurer's Office. The application shall contain the following:

- a. A sketch identifying the property boundaries, the location of all structures on the property and distances between said structures and between the property boundaries. The sketch must also indicate the location(s) of the chicken enclosure and chicken house.
 - b. The name, address, and signed statement of the property owner, if different from the applicant, consenting to the keeping of the applied for number of chickens on the property.
 - c. Whether the number of chickens kept will be between one (1) and six (6), or between seven (7) and fifteen (15).
 - d. A description of the enclosure and chicken house, including materials used and cubic footage(s).
 - e. A sworn statement that all statements contained in the application are true and that the permit holder shall keep the chickens in compliance with the terms of the permit, application and this section.
 - f. The applicant shall provide each residence adjacent, including those adjacent across a public right-of-way, an Acknowledgement of Notification and Request for Hearing form and indicate on said form that the applicant intends to keep chickens in the manner described in the application. The applicant shall submit the signed forms and a listing of all adjacent residents with the application. If a neighbor refuses to sign, the applicant shall so state on the application. For the keeping of seven or more chickens, if two or more adjacent residences request a hearing, the City shall schedule and notice a hearing before the City Commission pursuant to 6.04.070.E.
 - g. Where the party seeking to keep chickens is not the fee owner of the property upon which chickens will be kept, the applicant shall obtain the property owner's consent in writing to keep chickens on the property. The owner's consent shall be submitted with the permit application or renewal. For the purposes of this section, when a party seeks to keep chickens on a property owned as condominium, the consent of the property owner's association must be obtained. An officer of the association may sign as the land owner.
5. For any party wishing to keep seven (7) or more chickens, up to the maximum number allowed, the party shall have the location inspected by a City of Bozeman Animal Control Officer prior to the keeping of seven or more chickens. The Animal Control Officer shall review the enclosure, chicken house, and all matters related to the keeping of chickens.

6. If, during any inspection, the Animal Control Officer determines changes are to be made to the enclosure, chicken house, or to the number of chickens to be kept, or require mitigation for the impact to adjacent properties, such as fencing or other screening, the applicant/permit holder shall comply with the order of the Animal Control officer. A person aggrieved by a decision of the Animal Control officer may appeal to the City Manager who shall review all applicable information and issue a decision on the appeal. Appeals from the City Manager's decision on an application, permit or order of an Animal Control Officer's decision may be made to the City Commission. At the time of final approval by Animal Control, the officer shall indicate final approval on the permit and keep a record of final approval.
7. A permit to keep chickens is specific to the permit holder and the location of the permit. A person wishing to move chickens to a different property shall obtain a new permit. A new resident of a property who intends to keep chickens shall obtain a new permit regardless of whether chickens were kept on the property or continue to be kept on the property.
8. Approval of a permit to keep chickens authorizes the permit holder to keep the number of chickens in the manner described on the application and permit. Any increase to the number of chickens to seven (7) or more up to the maximum number allowed, or a significant change to the manner of keeping said chickens shall require a new permit.
9. Nothing in this section shall prevent an Animal Control Officer from requiring an inspection of a property prior to or after issuance of a permit for any number of chickens including six (6) or less.
10. Changes to the standards contained in this section shall require any permit holder to comply with any new standard, regulation, or condition and no notice to a permit holder is required prior to enforcement of any new standard beyond that required for adoption of a new or revised ordinance.

E. Protest and Hearing.

For the keeping of seven (7) or more chickens, a request by the occupants, owners, or residents of two or more adjacent properties for the City Commission to conduct a hearing on the application shall subject the application to a hearing before the City Commission. Adjacent properties shall include those properties adjacent by a public right-of-way and include those connected by property corners. If a hearing is held the Commission may issue a permit if the Commission finds:

1. That the site for the proposed use is adequate in size to accommodate such the keeping of chickens, and all yards, spaces, fences, and enclosures are adequate to properly relate such use with the land and uses in the vicinity;
2. That the proposed use will have minimal adverse impact on adjacent properties or residents; and
3. That any conditions stated in the approval are in addition to those required in this Chapter and are deemed necessary, and shall apply and be followed by the applicant and the property owner as a condition of approval.

F. Enforcement.

Upon receiving a complaint of a possible violation the Animal Control Officer will investigate and determine if a violation of this section exists. If the Animal Control Officer determines a violation exists the officer may serve upon the permit holder or the owner or lessee of the property a written notice of violation and an order to take corrective action, may issue a warning, or may immediately issue a violation notice. The notice of violation may be served by leaving the notice in a conspicuous location at the place of the keeping of the chickens, or in accordance with Section 6.04.210 of this Chapter. The Animal Control Officer will revisit the owner's address 10 days or more after the notice of violation is issued. The provisions of 6.04.010, 6.04.120, 6.04.130, 6.04.140, 6.04.150, 6.04.170, 6.04.200 and 6.04.210 shall apply to the keeping of chickens.

Section 3

That Section 18.80.080 of the Bozeman Municipal Code be amended so that such section shall read as follows:

18.80.080 Agricultural activity

The cultivation or tilling of soil for the purpose of producing vegetative materials for sale or for use in a commercial operation and/or the raising or tending of animals for commercial sale or use. Agriculture does not include gardening for personal use, keeping of house pets or animals as authorized under Title 6, BMC, or landscaping for aesthetic purposes.

Section 4

Transition

Any person presently keeping chickens within the city of Bozeman shall, within 90 days of the effective date of the ordinance creating this section, comply with the standards contained in this section, including the requirement to obtain a permit.

Section 5

Repealer

All provisions of the ordinances of the City of Bozeman in conflict with the provisions of this ordinance are, and the same are hereby, repealed and all other provisions of the ordinances of the City of Bozeman not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 6

Savings Provision

This ordinance does not affect the rights and duties that matured, penalties that were incurred or proceedings that were begun before the effective date of this ordinance.

Section 7

Severability

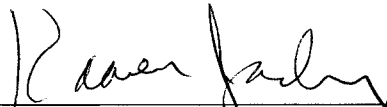
That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Bozeman Municipal Code as a whole.

Section 8


Effective Date

This ordinance shall be in full force and effect thirty (30) days after final adoption.

PROVISIONALLY PASSED by the City Commission of the City of Bozeman, Montana on first reading at a regular session thereof held on the 14th day of September, 2009.



KAAREN JACOBSON
Mayor

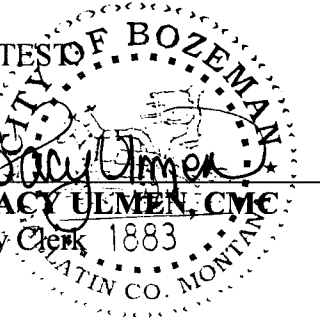
ATTEST:


STACY ULMEN, CMC
City Clerk


FINALLY PASSED, ADOPTED AND APPROVED by the City Commission of the City of Bozeman, Montana on second reading at a regular session thereof held on the 28th day of September, 2009. The effective date of this ordinance is October 29, 2009.



KAAREN JACOBSON
Mayor

ATTEST:


STACY ULMEN, CMC
City Clerk 1883

APPROVED AS TO FORM:


GREG SULLIVAN
City Attorney