

TITLE

AN ORDINANCE TO AMEND TITLE 10, TITLED "ANIMAL CONTROL," OF THE CODE OF ORDINANCES, CITY OF OAK RIDGE, TENNESSEE, BY ADDING A NEW CHAPTER 4, TITLED "KEEPING OF HENS," FOR THE PURPOSE OF SETTING FORTH REGULATIONS FOR THE KEEPING AND POSSESSING OF FEMALE DOMESTICATED CHICKENS (HENS) IN RESIDENTIAL AREAS EXCEPT FOR RG-1.

WHEREAS, City Code §10-114 currently prohibits the keeping and possession of livestock within the city limits unless the property is zoned for livestock and the property owner complies with the conditions set forth in the City's Zoning Ordinance; and

WHEREAS, "livestock" is defined in City Code §10-101(13) to include fowl, and "fowl" is defined in City Code §10-101(10) as any wild or domesticated bird; and

WHEREAS, currently livestock is only permitted in residential areas if the property is zoned RG-1, Residential, Open Space, and Reserved Districts; and

WHEREAS, the City desires to amend the City Code to adopt a new chapter to set forth regulations for the keeping and possessing of female domesticated chickens (hens) in residential areas where livestock is currently prohibited; however, the City does not intend for these regulations to alter the requirements imposed by the Zoning Ordinance on properties zoned RG-1 and, therefore, RG-1 zones will be specifically excluded from this new chapter.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

Section 1. Title 10, titled "Animal Control," of the Code of Ordinances, City of Oak Ridge, Tennessee, is hereby amended by adding a new Chapter 4, titled "Keeping of Hens," which new chapter shall read as follows:

CHAPTER 4
KEEPING OF HENS

Section 10-401. Domesticated Female Chickens (Hens); Generally.

Notwithstanding the provisions of City Code §10-114, Keeping or Possessing of Livestock, the keeping or possessing of female domesticated chickens (hereinafter referred to as "hens") in residential areas (except for RG-1) is governed by this chapter.

The purpose of this chapter is to provide standards for the keeping of hens on residentially zoned property. It is intended to enable residents to keep or possess a small number of hens while limiting the potential adverse impacts on the surrounding property owners and neighborhood. The City recognizes that adverse neighborhood impacts may result from the keeping of hens as a result of noise; odor; unsanitary animal living conditions; unsanitary waste storage and removal; the attraction of predators, rodents, or parasites; and non-confined animals leaving the owner's property. This chapter is intended to create permitting standards and requirements that ensure that hens do not adversely impact the neighborhood surrounding the property on which the hens are kept. The provisions of this chapter are not applicable to property zoned as RG-1, Residential, Open Space and Reserved Districts, under the City's Zoning Ordinance.

Section 10-402. Permit Required.

An annual permit is required for the keeping of hens. Additionally, a building permit is required for the construction of a henhouse and pen.

- (a) The annual permit fee to keep hens is personal to the permittee and may not be assigned. In addition, the permit authorizes the keeping of hens only upon the property described in the permit. The permittee must occupy the residence on the property where the hens are to be kept as the permittee's personal, primary residence. An applicant for a permit must either own the property or have written permission from the property owner to be eligible for a permit. If the property is governed by a homeowner's association, the applicant must also provide written permission of the homeowner's association to be eligible for a permit. Only one (1) permit is allowed per permittee and only one (1) permit is allowed per property. 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.
- (b) The first permit year shall extend from the date of issuance through December 31, 2017. Thereafter the permit year shall be January 1 through December 31.

Section 10-403. Fees.

The fee for an annual permit to keep hens 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.

Section 10-404. Number and Type Allowed.

- (a) Up to six (6) hens may be allowed. No roosters shall be allowed. The provisions of this chapter apply regardless of how many dwelling units are located on the property. In the case of multifamily residential complexes without individually owned backyards, the maximum number of hens allowed is six (6) per complex.
- (b) Only hens are allowed. There is no restriction on domestic chicken breeds; however, fowl and poultry other than hens are not allowed.

Section 10-405. Slaughter prohibited.

The slaughtering of hens is prohibited.

Section 10-406. Fenced Enclosures and Henhouses.

- (a) Hens must be kept in a fenced enclosure at all times. The fenced enclosure must be either (1) covered, or (2) at least forty-two inches (42") high. In the event the fenced enclosure is not covered, all hens must be wing-clipped to prevent escape. Hens shall be secured within the henhouse during non-daylight hours.
- (b) In addition to the fenced enclosure, hens shall be provided with a covered, predator-resistant henhouse.
- (c) A minimum of two (2) square feet per hen shall be provided for henhouses and a minimum of six (6) square feet per hen for fenced enclosures.
- (d) Fenced enclosures and henhouses must be properly ventilated, clean, dry, and odor-free, and 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.
- (e) The henhouse and fenced enclosure must provide adequate ventilation and adequate sun and shade, and must be constructed in a manner to resist access by rodents, wild birds, and predators, including dogs and cats.

- (f) 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-resistant and bird-resistant wire of less than one inch (1") openings.
- (g) 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.
- (h) Henhouses shall be located and constructed in compliance with the City's Zoning Ordinance pertaining to accessory buildings or structures.
- (i) Neither the henhouse nor the fenced enclosure may be located less than ten (10) feet from any abutting property line. This distance requirement is not appealable to the Board of Zoning Appeals (BZA) for a variance.
- (j) Henhouses and the fenced enclosures shall not be permitted in front yards.

Section 10-407. 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. Un-eaten food shall be removed daily.

Section 10-408. Application for Permit.

Every applicant for a permit to keep hens shall:

- (a) Complete and file an application on a form prescribed by the Animal Control Division of the Police Department.
- (b) Deposit the prescribed permit fee with the Animal Control Division of the Police Department at the time the application is filed. Any material misstatement or omission shall be grounds for denial, suspension, or revocation of the permit.

Section 10-409. Approval of Permit.

The Animal Control Division of the Police Department shall issue a permit if the applicant has demonstrated compliance with the criteria and standards of this chapter.

Section 10-410. Denial, Suspension, or Revocation of Permit.

The Animal Control Division of the Police Department shall deny a permit if the applicant has not demonstrated compliance with all provisions of this chapter. A permit to keep hens may be suspended or revoked by the Animal Control Division of the Police Department 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 chapter or with the provisions of any other applicable ordinance or law. Any denial, suspension, or revocation of a permit shall be in writing and shall include notification of the right and procedure for appeal to the City Manager.

Section 10-411. Other Provisions.

- (a) In addition to the standards set forth in this chapter, the permittee must follow all other applicable rules for the keeping of animals included in the City Code.
- (b) The provisions of this chapter do not supersede any deed restrictions.

Section 10-412. Penalty.

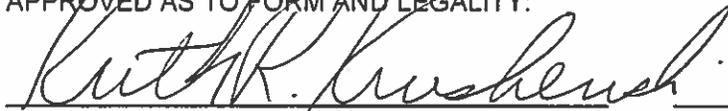
In addition to any other enforcement action which the City may take, violation of any provision of this chapter shall be a civil violation and a fine not to exceed fifty dollars (\$50.00) may be imposed. Each day that a violation continues will be treated as a separate offense.

Section 10-413. Severability.

In the event that any portion of this chapter 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 2. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it.

APPROVED AS TO FORM AND LEGALITY:



Kenneth R. Krushenski, City Attorney

Warren L. Gooch, Mayor

Mary Beth Hickman, City Clerk

First Reading: _____
Publication Date: _____
Second Reading: _____
Publication Date: _____
Effective Date: _____

LIST OF DIFFERENCES BETWEEN KNOXVILLE'S ADOPTED CHICKEN ORDINANCE AND OAK RIDGE'S PROPOSED CHICKEN ORDINANCE

Aside from formatting changes (which are not listed), below is a list of the difference between Knoxville's adopted chicken ordinance and Oak Ridge's proposed chicken ordinance as proposed for first reading on May 9, 2016:

Generally

1. New introductory language added in City Code §10-401 (Knoxville §5-107(a)) to address the current prohibition on hens in residential areas not zoned for livestock as found in City Code §10-114. This language, as well as language at the conclusion of this section, specifically exempts RG-1 zones from this new chapter. Livestock is currently allowed in RG-1 zones and this ordinance, as proposed, is not intended to change any of the zoning regulations concerning RG-1 properties.
2. References to non-commercial uses have been deleted (Knoxville §5-107(a) and (e)), which appeared to a consensus of City Council from the April 19, 2016 Work Session.
3. Reference to "licensing" standards (Knoxville §5-107(a)) has been changed to "permitting" standards (City Code §10-401).
4. The initial term for the permit is listed as through December 31, 2016 (see City Code §10-402(b) (Knoxville §5-107(b)(2))).
5. References to zoning regulations (Knoxville §5-107(f)(8)) have been changed to reference the City's Zoning Ordinance.
6. References to the animal control board (Knoxville §5-107(k) and (l)) have been changed to reference the City's Animal Control Division of the Police Department, with the appeal of any permit denial, suspension, or revocation going to the City Manager.
7. References to "chicken," "domesticated chicken," "female chicken," or "bird" have been changed to "hen" for consistency within the ordinance unless the term was clearly used to not mean "hen."

Clarification

1. Language added in City Code §10-401 (Knoxville §5-107(a)) to clarify that the ordinance applies only to residential property (but not RG-1).
2. Language added in City Code §10-401 (Knoxville §5-107(a)) to recognize the potential adverse impacts are not only on the surrounding neighborhood but to the surrounding property owners as well.
3. Language added in City Code §10-402(a) (Knoxville §5-107(b)(1)) to state it is only one permit per property. While this is inferred and there is reference later on to the number of hens per dwelling unit, adding specific language here makes it clear that only one permit is allowed per property.
4. Language added in City Code §10-404(a) to state roosters are not allowed. While this should be clear in the ordinance since it only pertains to keeping of hens, adding this language addressing any question concerning roosters.

5. Language added in City Code §10-406(h) to clarify that henhouses are still accessory buildings/structures that must comply with zoning requirements.
6. Language added in City Code §10-406(i) to clarify that the 10-foot property line distance requirement is not appealable to the Board of Zoning Appeals (BZA) for a variance.

New Provisions

1. Language has been added in City Code §10-402(a) (Knoxville §5-107(b)(1)) to require the property owner's permission to be written when the applicant is a tenant.
2. Language has been added in City Code §10-402(a) to require the homeowner's association's written permission when the applicant's property is governed by a homeowner's association.
3. Language has been added in City Code §10-411(b) to clarify that this ordinance does not supersede any deed restrictions.

**ITEMS FOR CONSIDERATION
(PROVISIONS THAT ARE NOT CONTAINED IN KNOXVILLE'S ORDINANCE BUT DO APPEAR IN
OTHER CITIES' ORDINANCES)**

Below are some provisions from other cities that are in place to address potential adverse impacts on the surrounding property owners and the neighborhood. They are offered for consideration:

1. Odor. Nashville has a provision that states no perceptible odor from the hens or the hen enclosure shall be present at any property line. Adding this provision may place some adjacent property owners at ease by giving a simple way to determine if a permittee is in violation of the cleanliness requirements. It would also give Animal Control Officers a simple way of determining a violation.
2. Breeding. Since only hens are permitted (and not roosters), it should be clear that breeding is not permitted. However, with the elimination of the non-commercial uses for keeping of hens that may open the door to breeding chickens to sell chicks. Rather than having to argue whether a visiting rooster is being kept on the property, it may be simpler to specify breeding is not permitted. Nashville has a "no breeding" provision.
3. Height or Size Limit on Henhouse. As written, there is no height or size limit on the construction of the henhouse in the proposed ordinance. Not having a limit could mean henhouses would fall under accessory structure provisions in the Zoning Ordinance. Accessory structures allow size limits that may exceed what is intended by Council for a henhouse. This issue could be addressed, if desired, in the City Code or the Zoning Ordinance. As an example, Clarksville has a ten foot height limit on the henhouse.
4. Restrict Re-Application for Permit if Revoked. To address concerns of neighbors when a permittee has violated the rules of possessing a permit to the point of revocation, it may be beneficial to restrict that permittee from reapplying for a permit. Nashville has a provision that if a permit has been revoked, a new permit cannot be issued at that address unless the property changes ownership or there is a new tenant.
5. Screening. To address any concerns by neighbors about the visibility of hens and henhouses, or to address any concerns with visibility from the public right-of-way, some cities require screening. For example, Nashville requires hens/henhouses placed in the side yard to not be visible from the public right-of-way and requires hens and henhouses to be entirely screened from view of the public right-of-way using opaque fencing and/or landscaping. Clarksville requires all permittees to install a permanent a screening buffer located no closer than the minimum front yard setback of the applicant's property using fence, shrubbery, or other similar structure or plant.
6. Multi-Family Properties; Odd Lot Designs; Minimum Lot Size. Oak Ridge has a variety of housing options, which include multi-family dwellings (such as duplexes and quads) and some oddly designed lot lines where adjacent (side-by-side) neighbors have a backyard of one house that shares a property line with the front yard of their neighbor. These situations may lead to disputes among residents when all parties "sharing" yard space do not agree on keeping hens. For example, as proposed the ordinance limits hens to six (6) regardless of the number of dwelling units. This could mean that Tenant A in a duplex obtains a permit for hens and would be allowed to place the hens, henhouse, and fenced enclosure in the yard behind Tenant B's side of the duplex. There is nothing in the proposed ordinance to address that issue, which is an issue if Tenant B is not in favor of keeping hens. Some cities limit their ordinance to only single family residences. Another option may be for all tenants in the multi-family dwelling units to give their consent on the permit application both for the keeping of hens and the location of the henhouse and fenced enclosure. Other cities place a minimum lot size (example: Clarksville requires a minimum lot size of 12,000 square feet). Placing a minimum lot size may address the issue of the oddly designed lot lines that can be found in the center of the city.

7. Dogs. Title 10, Chapter 3, of the City Code regulates the keeping of vicious dogs as well as the process for declaring a dog vicious. When this ordinance was drafted, only customary pets (dogs and cats) were allowed in residential areas (except RG-1). When the term "vicious dog" was defined in City Code §10-301(2), it was drafted to include dogs that attack or bite a domesticated animal without provocation. Allowing the keeping of hens will now place hens under the phrase "domesticated animal." If a permittee does not properly keep the hens and a hen were to roam the property outside of the fenced enclosure or even leave the permittee's property, a dog may very likely bite or attack it. That act alone—when the hen was not properly confined by the terms of the proposed ordinance—should not label a dog as vicious. It was not this type of situation that was envisioned when the definition was drafted. For consideration, Title 10 Chapter 3 may need modification to address that issue and state that a dog which attacks or bites a hen that is not properly confined (as outlined in the proposed ordinance) will not, based upon that fact alone, be declared a vicious dog.