

SUBSTITUTE ORDINANCE NO. BL2011-47

An ordinance to amend Title 8 and Title 17 of the Metropolitan Code to modify the regulations and standards pertaining to the keeping of chickens (Proposal No. 2011Z-020TX-001).

BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. Section 8.12.020 of the Metropolitan Code is hereby deleted and replaced with the following new Section 8.12.020:

8.12.020 Keeping of chickens.

A. No person shall keep chickens within the metropolitan government area in such a manner that a nuisance is created.

B. The keeping of chickens shall be in compliance with all applicable zoning laws pursuant to Title 17 of the Metropolitan Code.

C. An annual permit issued by the department of health shall be required for the keeping of domesticated hens on residential property where allowed by Title 17 of the Metropolitan Code, provided that no permit shall be required for property that is zoned for agricultural uses.

1. The annual permit to keep domesticated hens may not be assigned to another person. 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 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.

2. Only one (1) permit is allowed per permittee. In the event the permittee is absent from the property for longer than sixty (60) 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.

3. The first permit year shall extend from the date of issuance through December 31, 2012. Thereafter the permit year shall be January 1 through December 31.

4. Fees. The fee for an annual permit to keep domesticated hens is twenty-five dollars (\$25.00).

D. Food storage and removal. All stored food for the domesticated hens must be kept either indoors or in a weather-resistant container designed to prevent access by animals. Uneaten food shall be removed daily.

E. Enclosure.

1. All domesticated hens shall be kept outside of a habitable structure in a predator-proof enclosure, a portion of which must be a covered henhouse, and a portion of which must be a fenced area complying with the provisions of Chapter 16.24 of the Metropolitan Code applicable to the construction of fences.

2. In addition to the fenced enclosure, hens shall be provided with a covered, predator-resistant henhouse. A minimum of two (2) square feet per hen shall be provided for henhouses and six (6) square feet per bird for fenced enclosures.

3. 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.

4. The henhouse and fenced enclosure must provide adequate ventilation, adequate sun and shade, and must be constructed in a manner to resist access by rodents, wild birds, and predators, including dogs and cats.

5. 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.

F. Sanitation, Nuisance, and Humane Treatment

1. 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.

2. No perceptible odor from the hens or the hen enclosure shall be present at any property line.

3. All feed shall be stored in a rodent and predator-proof container having a metal lid.

4. No slaughtering of domesticated hens may occur on the property.

5. No breeding of chickens shall occur on the property.

6. No domesticated hens shall be used or trained for the purpose of fighting for amusement, sport, or financial gain.

G. 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 department of health.

2. Deposit the prescribed permit fee with the department of health at the time the application is filed. Any material misstatement or omission shall be grounds for denial, suspension or revocation of the permit.

H. Approval of permit. The department of health shall issue a permit if the applicant submits an affidavit attesting that he/she is in compliance with the criteria and standards in this section.

I. Denial, suspension or revocation of permit. The department of health shall deny a permit if the applicant fails to submit an affidavit demonstrating compliance with all provisions of this section. A permit to keep domesticated hens may be suspended or revoked by the department of health 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, provided that a permit to keep domesticated hens shall be revoked in the event a court of competent jurisdiction finds three (3) or more separate violations of the provisions of this Section and/or of Section 17.16.250.B of the Metropolitan Code within a twenty-four (24) month period. Any denial, revocation, or suspension of a permit shall be in writing and shall include notification of the right to and procedure for appeal. In the event a permit to keep domesticated hens at a particular address is revoked pursuant to the provisions of this subsection, no new permit shall be issued by the department of health for the same address unless the property changes ownership or a new tenant is residing at the address.

J. Penalty. In addition to any other enforcement action which the Metropolitan Government may take, violation of any provision of this section shall be subject to a fine of fifty dollars (\$50.00). Each day that a violation continues shall be treated as a separate offense.

K. The department of health shall have the authority to adopt and implement rules and regulations necessary to further the provisions of this Section, provided they are not in conflict with the requirements of this Section.

L. Where used in this Section, the designation of "department of health" shall also include the division of Metropolitan animal control services.

M. Sunset provision. The provisions of this section pertaining to the keeping of chickens shall expire and be null and void on March 1, 2014, unless extended by resolution of the council of the Metropolitan Government of Nashville and Davidson County. This provision, commonly known as a "sunset provision," is included to ensure that the effectiveness and necessity of this section is reviewed by the metropolitan council after its adoption.

Section 2. Section 17.040.060 of the Metropolitan Code (Definitions of General Terms) is hereby amended by adding the following definition:

“Domesticated hens” means female chickens that may, where permitted, be kept and maintained for the non-commercial production of eggs, education, companionship, or recreation. Other types of fowl and poultry shall not be considered domesticated hens.

Section 3. Section 17.08.030 of the Metropolitan Code (Zoning Land Use Table: Residential Uses) is hereby amended by adding “Domesticated hens” as a use permitted by right (P) in the AG and AR2a districts, and as an accessory use (A) in all R and RS districts.

Section 4. Section 17.16.250 of the Metropolitan Code (Land Use Development Standards: Accessory Uses – Residential Accessory Uses) is hereby amended by adding the following new subsection B., and re-lettering the remaining subsections accordingly:

B. Domesticated hens.

1. Type and number. Except upon property zoned for agricultural use or for properties in the R and RS districts of five (5) acres or more in size, a parcel of land shall contain the maximum number of domesticated hens identified below. Only hens are allowed; roosters are expressly prohibited. There is no restriction on domestic hen breeds.

Max. # Poultry	Parcel Area (sq. ft.)	Acreage
2	0 to 5,009	0.0 to .11
4	5,010 to 10,236	.12 to .23
6	10,237 or more	.24 or more

3. Location. All domesticated hens shall be kept in the side and/or rear yards of a residential property subject to the setback standards contained in this subsection. No domesticated hens shall be kept in the front yard. If domesticated hens are to be kept in the side yard, neither the hens nor the covered henhouse required by section 8.12.020 of the Metropolitan Code shall be visible from any public right-of-way. Rather, the hens and henhouse shall be entirely screened from view of the public right-of-way using opaque fencing and/or landscaping.

4. Setbacks. An enclosure shall be located twenty-five (25) feet away from any residential structure (other than the permit holder’s residence) located in a residential zone district and ten (10) feet from any property line.

5. Permit required. A valid permit issued by the department of health pursuant to Section 8.12.020 of the Metropolitan Code shall be obtained and maintained at all times.

Section 5. In the event that any portion of this Ordinance 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 Ordinance.

Section 6. That this Ordinance shall take effect immediately after its passage and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Sponsored by: Karen Bennett, Burkley Allen, Peter Westerholm, Anthony Davis

**AMENDMENT NO. 1
TO
SUBSTITUTE ORDINANCE NO. BL2011-47**

Madam President:

I move to amend Substitute Ordinance No. BL2011-47 by amending Section 4 by adding the following new subsection B.1. and renumbering the remaining subsections accordingly:

1. Prohibited locations. No hens shall be kept within the boundaries of Council Districts 12, 20, 28, 29, 30, 31, 32, and 33 as they existed on January 1, 2012, which boundaries are described in detail as part of Attachment A to Ordinance No. BL2011-901, as amended, unless:

- a. The hens are kept on property located within the general services district (GSD); and
- b. The hens are kept on a lot within the AG or AR2a zoning districts, or on a lot of five (5) acres or more in size within the RS80, RS40, RS30, RS20 and R80, R40, R30 and R20 residential zone districts.

Sponsored by: Robert Duvall, Jason Potts, Jacobia Dowell, Duane Dominy, Steve Glover, Buddy Baker, Karen Johnson, Fabian Bedne

LEGISLATIVE HISTORY	
Introduced:	November 1, 2011
Passed First Reading:	November 1, 2011
Referred to:	Planning Commission Health, Hospitals and Social Services Committee Planning & Zoning Committee
Passed Second Reading:	January 3, 2012
Substitute Introduced:	January 17, 2012
Amended:	January 17, 2012 - Roll Call Vote
Passed Third Reading:	January 17, 2012 - Roll Call Vote
Approved:	January 18, 2012

By:

Kel E. Deen

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