

ORDINANCE 408 OF 2017

AN ORDINANCE OF DUNCANNON BOROUGH, PERRY COUNTY, COMMONWEALTH OF PENNSYLVANIA, ALLOWING, AND REGULATING, THE KEEPING OF CHICKENS IN THE BOROUGH.

BE IT ENACTED AND ORDAINED by the Borough Council of Duncannon:

SECTION I: Chapter 84 of the Code of the Borough of Duncannon is amended to add a new Article II as follows:

ARTICLE II

§ 84-9. Notwithstanding the provisions of Article I of this Chapter 84, the following provisions shall govern the keeping of chickens.

§ 84-10. **Definitions.**

Word usage. Words and phrases shall be presumed to be in their ordinary context unless such word or phrase is defined differently within this section.

Terms defined. As used in this article, the following terms shall have the meanings indicated:

APPLICANT - A person who has applied for a residential chicken permit.

CHICKEN - Poultry or fowl of the species *Gallus gallus domesticus*/*G.gallus domesticus*. The species includes many different breeds of chicken.

CHICKEN COOP (or COOP) - A structure for sheltering of female (pullets or hens) chickens. An existing shed or garage may be used for this purpose, provided that it meets the standards for chicken coops set forth in this article. A chicken coop shall be considered an accessory structure, which may require separate permit(s).

CHICKEN PEN (or PEN) - An enclosure that is connected to/or surrounding a chicken coop for the purpose of allowing the chickens to leave the coop while remaining in an enclosed predator-safe environment.

CHICKEN TRACTOR - A portable enclosure for chickens, intended to be frequently moved as a means to build soil or control garden weeds, which may or may not be attached to a chicken coop. Chicken tractors are subject to the same requirements as a chicken pen.

CO-PERMITTEE - A lessee or tenant of a residential dwelling who has received a residential chicken permit in conjunction with the property owner for the keeping of chickens.

DWELLING - A house, apartment building or other building, including a mobile home, designed or used primarily for human habitation. The word "dwelling" shall not include boarding houses or rooming houses, hotels, motels, tents, trailers, or any structure designed or used for transient business.

DWELLING, MULTIFAMILY - A building used by three (3) or more families living independently of each other and doing their own cooking, including apartment houses.

DWELLING, SINGLE-FAMILY ATTACHED (ROW) - A building used for one (1) family, having one (1) side yard and one (1) party wall in common with another building.

DWELLING, SINGLE-FAMILY DETACHED - A building used by one (1) family, having only one (1) dwelling unit and having two (2) side yards.

DWELLING, TWO-FAMILY SEMIDETACHED - A building used by two families, with one (1) dwelling unit arranged over the other having one (1) side yard and one (1) party wall in common with another building.

PERMITTEE - A residential property owner who has received a residential chicken permit for the keeping of chickens.

RESIDENTIAL CHICKEN PERMIT - A permit issued under the provisions of this article for the keeping of chickens as accessory to the primary residential use on a property.

§ 84-11. Number and type of chickens allowed.

- A. The maximum number of chickens allowed on a property on which a dwelling is located is six (6).
- B. Only female (pullets or hens) chickens are permitted.
- C. There is no restriction on the breed of chicken which may be kept.

§ 84-12. Keeping of chickens as accessory to residential dwellings.

- A. The keeping of chickens, in accordance with the standards of this article, shall only be permitted at a property on which a residential single-family attached, or detached dwelling, or a two-family semi-detached dwelling is the primary use. The keeping of chickens shall be considered a use accessory to the residential use. The keeping of chickens is expressly prohibited at a property on which a multifamily dwelling is the primary use.
- B. The following items generated by or kept in accordance with this article shall not be offered for sale or sold:
 - (1) Eggs, chicks, or chickens:

- (2) Chicken manure and compost containing chicken manure.
- (3) Produce which has been grown in an accessory garden fertilized with chicken manure or compost.

§ 84-13. **Housing of chickens.**

- A. Chickens shall be housed in a chicken coop which has access to a chicken pen or a chicken tractor. During non-daylight hours, chickens shall be secured in the chicken coop.
- B. Construction and design of chicken coop. The chicken coop shall comply with all applicable setback requirements for residential accessory uses and structures. The coop shall be stationary, enclosed with solid material on all sides and have a solid roof and door(s). The coop shall be at least 18 inches high and provide at least 2.5 square feet of floor area per chicken. The coop shall provide no less than one (1) square foot of window per coop, with at least one (1) square foot of window per 15 square feet of floor. In addition, the coop shall provide vents as necessary to ensure adequate ventilation. The materials for each element (walls, roof, windows and doors) shall be uniform and blend with the surrounding area. Doors shall be constructed so that they can close and lock. Windows shall be constructed so they can close. Windows and vents shall be covered with wire mesh with a maximum spacing of one-half inch by one-half inch. The coop shall be impermeable to rodents, wild birds, dogs, cats and other predators. The coop shall provide adequate shelter from moisture and extremes of temperatures. Existing accessory structures may be used as chicken coops, provided they meet standards set forth herein.
- C. Construction and design of chicken pen. The chicken pen shall be constructed of wood or metal posts with wire mesh fencing material (wire mesh with a maximum spacing of one (1) inch by one (1) inch). The pen shall contain at least 10 square feet of area per chicken. The fence shall rise at least four (4) feet above the ground and be buried at least two (2) feet below the ground. If using a chicken tractor, or portable pen, the fencing material must extend to form a skirt extending a minimum of two (2) feet in all directions from the enclosure. The pen shall be covered with wire mesh, aviary netting or solid roofing. Any openings in wire mesh or aviary netting shall be no larger than one-half inch by one-half inch. The pen shall serve as an area for the chickens to run, yet prevent the chickens from running loose or becoming a nuisance. Chickens that are permitted to run loose shall be considered a violation of this section.
- D. Maintenance of chicken coop, chicken pen, and surrounding area. The chicken coop, chicken pen, and surrounding area shall be kept clean, dry, and odor-free, and in a neat and sanitary condition at all times. All manure, uneaten feed, and other trash shall be removed in a timely manner and disposed of by using an approved sanitary method, including composting or double bagging manure and placing the manure in the trash for collection. Under no circumstance shall chicken manure be placed into the sanitary sewer system. The permittee and co-permittee shall take any and all necessary action(s) to reduce the attraction of predators and rodents and the potential infestation of insects and parasites.

- E. Living conditions. Chickens shall have access to feed and clean water at all times, and such feed and water shall be inaccessible to rodents, wild birds and predators. Chickens shall be provided adequate bedding in the coop, and perches are encouraged.
- F. Chicken pens, or chicken tractors, shall comply with all applicable setback requirements for residential accessory uses and structures.

§ 84-14. Residential chicken permit required.

- A. Any person who keeps chickens in the Borough of Duncannon as an accessory to a residential use shall obtain a residential chicken permit from the Borough prior to acquiring the chicken(s). The residential chicken permit application form shall be established by the Borough Manager and may be amended from time to time. If the Borough Manager or his designee determines that the residential chicken permit application is administratively complete, the Borough Manager will issue a conditional approval of the residential chicken permit application. After the applicant receives conditional approval, the applicant must notify the Borough Manager when the chicken coop and chicken pen have been placed on the subject property and are ready for inspection. If, upon inspection, the Borough Manager or his designee determines that the chickens will be kept in compliance with the requirements of this article, a final residential chicken permit shall be issued to the applicant.
- B. Residential chicken permits shall only be valid for one (1) year after the date of issuance. A permittee and/or co-permittee who wishes to continue keeping chickens shall apply for a new residential chicken permit on or before the expiration date of the previous residential chicken permit. Applications for a new residential chicken permit shall be reviewed in accordance with the procedures and requirements that are applicable at the time the person applies for a new residential chicken permit. An inspection by the Borough will be required prior to the residential chicken permit renewal, to ensure compliance with the provisions of this article, which inspection is a condition precedent to the issuance of a new residential chicken permit.
- C. Notwithstanding the issuance of a residential chicken permit by the Borough, private restrictions on the use of land/property shall remain enforceable as provided by law, and the Borough's issuance of a residential chicken permit does not remove or supersede private restrictions in effect. No person shall make application for a residential chicken permit who knows, or has reason to know, that private restrictions prohibit the keeping of chickens. Private restrictions include but are not limited to: rental contracts, deed restrictions, condominium master deed restrictions, neighborhood associations' bylaws, and covenant deeds. A residential chicken permit issues to a person whose property is subject to private restrictions that prohibit the keeping of chickens is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.

§ 84-15. Application Requirements.

- A. A residential chicken permit application shall be submitted on the form established by the Borough Manager, and at a minimum shall contain the following information:
- (1) A notarized signature of the landowner of the subject property;
 - (2) The notarized signature of any lessee or tenant who will be responsible for the keeping of chickens (co-permittee);
 - (3) The address of the subject property;
 - (4) A verification that, to the owner's knowledge, there is no private restriction against the keeping of chickens;
 - (5) A verification that the applicant is familiar with the requirements set forth in this article for the keeping of chickens.
- B. The Borough Council shall from time to time establish by resolution an application fee for the residential chicken permit application for the keeping of chickens under this article. The application shall be accompanied by the applicable fee.
- C. A zoning permit is required for all accessory structures associated with the keeping of chickens.

§ 84-16. Responsibilities of permittee/co-permittee.

A person engaged in the keeping of chickens on his/her property shall comply with all of the following:

- A. Have been issued the residential chicken permit required under this section.
- B. Keep no more than six (6) female chickens.
- C. The principal use of the property must remain as a residential dwelling.
- D. No person shall keep a rooster(s).
- E. Slaughtering, killing, or butchering of chickens is prohibited.
- F. The chickens shall at all times be provided a chicken coop and chicken pen or chicken tractor in accordance with this article.
- G. A person shall not keep chickens in any location on the property other than the rear yard. For the purpose of this ordinance, "rear yard" means that portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the single-family structure and extending to the side lot lines.

- H. Notwithstanding the applicable residential accessory setbacks, the chicken coop and chicken pen shall be located no closer than thirty (30) feet to any residential structure on an adjacent property. (For the purposes of this section, adjacent property means all parcels of property that the applicant's property comes into contact with at one or more points, except for parcels that are legally adjacent to, but are in fact separated from the applicant's property by a public or private street).
- I. All feed and other items associated with the keeping of chickens that are likely to attract or to become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access to or coming in contact with them.
- J. Any dead chickens must be disposed of in a timely manner by either burying them a minimum of two (2) feet deep on the permittee's property or by enclosing them securely in a plastic bag and placing them in the municipal trash.
- K. If the above requirements or any other requirements of this article are not complied with, the Code Enforcement Officer may revoke any permit granted under this section and/or initiate appropriate actions at law or equity to abate or restrain the violation.
- L. A person who has been issued a residential chicken permit shall make such permit available for examination upon demand by any police officer, Code Enforcement Officer, or authorized Borough of Duncannon employee.
- M. Permittees and co-permittees shall be jointly and severally liable for compliance with the provisions of this Code.

§ 84-17. Automatic revocation of permit.

If the applicant obtained the residential chicken permit through misrepresentations, fraud, or forgery, the permit shall automatically become null and void.

§ 84-18. Permit revocation and removal of items.

- A. Compliance with the requirements of this article shall create a presumption that the permitted keeping of chickens does not create a public nuisance or threat to public health or safety under the nuisance provisions of this Code. The residential chicken permit shall, however, be revoked if the Code Enforcement Officer, in his/her sole discretion, determines that the permittee or co-permittee is in violation of this article.
- B. Violation of the provisions of this article shall result in permit revocation under this article and may result in the initiation of the enforcement proceedings as set forth in this article and in the assessment of the penalties set forth in this article.
- C. Misrepresentation by a permittee or co-permittee shall result in the subject permit being revoked, voided, or denied.

- D. If a violation of this article occurs, the Borough Manager or the Borough Code Enforcement Officer is authorized to order immediate removal of all disposal items associated with the keeping of chickens. Stationary structures associated with the keeping of chickens may remain, provided the structure is not creating a nuisance and is not in violation of any provision of the Code of the Borough of Duncannon.
- E. Any permittee or co-permittee who has a residential chicken permit revoked, removed, or voided will not be eligible for consideration for another residential chicken permit.

§ 84-19. Nuisance prohibited.

The permitted keeping of chickens shall be conducted in a manner that does not disturb the use or enjoyment of adjacent properties. Odor generated by the chickens shall not be perceptible at the property boundaries, and noise generated by the chickens shall not disturb people of reasonable sensitivity at the property boundaries. A permittee or co-permittee shall not, under any circumstance, keep chickens in a manner which constitutes a public nuisance or results in a violation of the Code of Ordinances of the Borough of Duncannon.

§ 84-20. Appeal.

If any applicant, permittee, co-permittee, or landowner adjacent to a permitted chicken coop or chicken pen is aggrieved by the determination of the Borough Manager or his/her designee or the Code Enforcement Officer, such aggrieved person may appeal the determination to the Duncannon Borough Council. The appeal shall be in writing and must be received at the Borough office no later than twenty (20) days from the date of the determination of which such person(s) are aggrieved. A timely appeal shall stay any order to remove chickens until the determination of the appeal, unless the order specifies that it was issued due to the keeping of chickens causing an immediate public health or safety hazard. The written appeal must describe in detail the reason for appeal. The Borough Council may make a determination after considering the written appeal or may notify the aggrieved person of when the matter will be considered by Council at a public meeting. Any decision of Council shall be final and binding.

§ 84-21. Violations and penalties.

- A. Any violation of this article may result in an action being brought before a magisterial district judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The fine for such violation shall not be less than \$100.00 nor more than \$1,000.00 for each violation. A separate offense shall arise for each day or portion of a day in which a violation is found to exist, or for each section of this article which is found to have been violated.
- B. This article may be enforced through an action in equity brought in the Court of Common Pleas in which the subject property is located.

- C. Any person found guilty of violating this article may be assessed court costs and reasonable attorney fees incurred by the Borough in the enforcement proceedings brought in accordance with this article.

SECTION II: Validity

The provisions of this ordinance are severable, and if any section, clause, sentence, part or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, clauses, sentences, parts or provisions of this ordinance. It is hereby declared to be the intent of the Council that this ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence, part or provision had not been included here.

SECTION III: Effective Date

This Ordinance shall become effective immediately upon enactment.

ENACTED AND ORDAINED this _____ day of _____, 20____, by the Borough of Duncannon, Perry County, Pennsylvania, in lawful session duly assembled.

ATTEST:

DUNCANNON BOROUGH COUNCIL

Secretary

President of Council

Examined and approved this _____ day of _____, 20____.

Mayor