

East Berlin Borough, Adams County, Pennsylvania

ORDINANCE NO.2021-02

AN ORDINANCE OF THE BOROUGH OF EAST BERLIN, REGULATING THE
KEEPING OF CHICKENS WITHIN THE BOROUGH OF EAST BERLIN.

BE IT ORDAINED AND ENACTED, and it is hereby ordained and enacted by the
Council of East Berlin Borough, Adams County, Pennsylvania as follows:

The East Berlin Borough Code of Ordinances is hereby amended by adding a
new chapter entitled "Chicken Ordinance" relating to the keeping of chickens within
Borough limits:

Article 1: Title, Legislative Findings and Authority:

Section 101: Short Title: This ordinance shall be called the "Chicken Ordinance".

Section 102: Findings

The Borough Council finds:

- A. There is a growing interest among Borough residents in local food systems, greater self sufficiency by households, and non commercial food production as an adjunct to residential dwellings,
- B. Small-scale chicken keeping can complement home vegetable gardening by providing insect control and composting and fertilizer.
- C. That evolving technologies and husbandry techniques can facilitate the limited regulated keeping of chickens within the Borough.
- D. A large number of communities, including State College, Pennsylvania have made provisions for urban chickens.
- E. Providing for limited non commercial chicken keeping meets the community development objective of keeping young families interested in buying property and remaining within Borough limits.
- F. Unregulated chicken keeping in a Borough setting could result in proliferation of nuisances. Carefully regulated chicken keeping is an alternative to prohibition.

Section 103: Statutory Authority: The Borough is authorized to prohibit or regulate the keeping of fowl and other livestock under the Corporate Powers granted by Title 8 (Boroughs and Incorporated Towns) of the Pennsylvania Consolidated Statutes, Article XII, Section 1202 (10).

Section 104: Severability: Each section, paragraph, sentence, clause, and provision of this Ordinance is separable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance nor any part thereof other than that affected by such decision.

Article 2: Definitions

Chicken - Shall mean a member of the subspecies *Gallus gallus domesticus*, a domesticated fowl. This definition shall not be construed to include any species of turkey, duck, guinea fowl, goose or other fowl.

Chicken shall mean a chicken kept on a permitted tract of land, pursuant to a permit issued under this Chapter.

Chicken Tractor- Shall mean a portable enclosure for chickens, intended to be frequently moved as a means to build soil or control garden weeds, which may not be attached to a henhouse.

Henhouse- Shall mean a building with four opaque walls and a roof, intended for the shelter and protection of chickens.

Permitting Officer - Shall mean the Borough Zoning Officer or his agent.

Rooster - A male member of the species *Gallus gallus domesticus*.

Tract of land - Shall mean a property or zoned lot that has one single family dwelling located on that property or zoned lot.

Single Family Dwelling - Shall mean any building that contains only one dwelling unit used or intended to be occupied for living purposes by one family consistent with the Borough of East Berlin Zoning Ordinance.

Permitted tract of land - Shall mean the tract of land as identified by the application upon which a permit is granted for keeping chickens pursuant to this Chapter.

Permittee - Shall mean an applicant who has been granted a permit to raise, harbor or keep chickens pursuant to this Chapter.

Adequate ventilation - Air flow through the coop such that the ceiling of the coop does not hold condensed moisture and does not subject the resident birds to a draft.

Adequate sun and shade - such that at all times of ambient temperatures over 65 degrees Fahrenheit, the birds will have access to a fully shaded area to escape the sun. Coop and run will have enough sun exposure to allow ground to dry and allow birds access to sun to warm themselves when they choose.

Article 3: Permitting Requirements

Section 301: Permit Required. No person shall raise, harbor or keep chickens within the Borough of East Berlin without a valid permit obtained from the Permitting Officer under the provisions of this Ordinance.

Section 302: Application. In order to obtain a permit, an applicant must submit a completed application on forms provided by the Permitting Officer and pay all fees required by this Ordinance and as set forth in the annual borough fee schedules.

Section 303: Requirements. The requirements to the receipt of a permit include;

- A. All performance standards requirements of this ordinance are met:
- B. All fees, as may be provided for from time to time by Borough Council resolution for the permit, are paid in full.
- C. The tract of land to be permitted shall contain only one Single Family Dwelling and accessory buildings or uses, as defined under the Borough Zoning Ordinance;
- D. The applicant has provided notice to the residents of all immediately adjacent dwellings of the applicant's intent to obtain a permit.

Section 304: Issuance of permit: If the Permitting Officer concludes, as a result of the information contained in the application, that the requirements for a permit have been met then the Officer shall issue the permit within thirty (30) days of receipt of a complete application and fees.

Section 305: Denial, suspension, revocation, non renewal. The Permitting Officer may deny, suspend, revoke, or decline to renew any permit issued for any of the following grounds:

- A. False statements on any application or other information or report required by this section to be given by the applicant;
- B. Failure to pay any application, penalty, reinspection or reinstatement fee required by this section;
- C. Failure to correct deficiencies noted in notices of violation in the time specified in the notice;
- D. Failure to comply with the provisions of an approved mitigation/remediation plan by the Permitting Officer, or designee.
- E. Failure to comply with any provision of this ordinance.
- F. Notification of Suspension or Revocation;: A decision to revoke, suspend, deny or not renew a permit shall be in writing, delivered by ordinary mail or in person to the address indicated on the application. The notification shall specify reasons for the action.
- G. Effect of revocation: When an application for a permit is denied, or when a permit is revoked, the applicant may not re-apply for a new permit for a period of one (1) year from the date of the denial or revocation. Upon the expiration of the appeal period under Section 305H, all chickens shall be removed from the premises. Any premise not complying shall be subject to violations and penalties under the Code of the Borough of East Berlin.
- H. Appeals. No permit may be denied, suspended, revoked, or not renewed without written notice. In any instance where the Permitting Officer has denied, revoked, suspended, or not renewed a license, the applicant or holder of the permit may appeal the decision within thirty (30) business days of receipt by the East Berlin Zoning Hearing Board of the notice of the decision. The applicant or holder of

the permit will be given an opportunity for a hearing within sixty (60) days following notification.

Section 306: Duration of Permit: The initial permit shall be valid for one (1) year from the date of issue.

Section 307: Renewal of Permit: If no performance standards under Article 4 have been violated by any permit holder, the permit shall be renewed each year upon the written request of the permit holder consistent with Section 304. If any performance standard has been violated, the Permit Officer shall visit the property and confer with the applicant to ensure that any corrective or mitigation measures under Section 305D have been implemented.

Article 4: Performance Standards

Section 401: Number and type of chickens allowed.

- A. The maximum number of chickens allowed is six (6) per tract of land regardless.
- B. Only female chickens (hens) are allowed. Roosters are prohibited within borough limits.

Section 402: Non-commercial use only.

- A. A permit shall not allow the permittee to engage in chicken breeding, sales or fertilizer production for commercial purposes.

Section 403: Enclosures.

- A. Chickens must be kept in a secure enclosure or fenced area at all times. Chickens shall be secured within a henhouse during non-daylight hours. A henhouse may be attached to a chicken tractor, provided it meets all design and construction standards.
- B. Enclosures must be kept in a clean, dry, odor free, neat and sanitary condition at all times.
- C. Henhouses, chicken tractors must provide adequate ventilation and adequate sun and shade and must be impermeable to rodents, wild birds and predators, including dogs and cats.
- D. Henhouses and chicken tractors design and construction.
 - 1. Henhouses shall be designed to provide safe and healthy living conditions for the chickens with a minimum of four (4) square feet per bird while minimizing adverse impacts to other residents in the neighborhood.
 - 2. A henhouse or chicken tractor 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 proof wire of less than one inch (1") openings.
 - 3. The materials used in making the henhouse or chicken tractor 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 use of scrap, waste board,

sheet metal, or similar materials is prohibited. Henhouses and chicken tractors shall be well maintained.

4. Henhouses, chicken tractors and chicken pens shall only be located to the rear of a dwelling.

5. Henhouses, chicken tractors and chicken pens must be located at least ten (10) feet from the property line and at least twenty-five (25) feet from any adjacent building in separate ownership from the permittee.

6. Any enclosed henhouse shall consist of sturdy wire fencing. The pen must be covered with wire, aviary netting, poultry netting or solid roofing. The wire must have openings of one-half inch ($\frac{1}{2}$ ") or less.

Section 404: Odor and noise impacts.

Odors from chickens, chicken manure or other chicken related substances shall not be perceptible beyond the boundaries of the permitted tract of land. Noise from chickens shall not be loud enough beyond the boundaries of the permitted tract of land at the property boundaries to disturb persons of reasonable sensitivity.

Section 405: Predators, rodents, insects and parasites.

The permittee shall take necessary action to reduce the attraction of predators and rodents and the potential infestation of insects or parasites. Chickens found to be infested with insects or parasites, that may result in unhealthy conditions to human habitation, shall result in revocation of a permit.

Section 406: Feed and water.

Chickens shall be provided with access to feed and clean water at all times. The feed and water shall be unavailable to rodents, wild birds and predators.

Section 407: Waste storage and removal.

All stored manure shall be covered by a fully enclosed structure with a roof or lid over the entire structure, or garbage cans with tight fitting lids. No more than three (3) cubic feet of manure shall be stored on the permitted tract of land. All other manure not used for composting or fertilizing shall be removed from the site or incorporated into a garden area. The henhouse, chicken tractor, chicken pen and surrounding area must be kept free from trash and accumulated droppings. Uneaten feed shall be removed in a timely manner.

Section 408: Chickens at large prohibited.

A. No owner shall allow chickens to roam off the permitted tract of land.

B. No dog, cat or other domesticated animal, which kills a chicken off the permitted tract of land, will for that reason alone, be considered a dangerous or aggressive animal or the Borough's responsibility to enforce any animal control provisions.

Section 409: Unlawful acts.

- A. It shall be unlawful for any person to keep chickens in violation of any provision of this Ordinance.
- B. It shall be unlawful for any owner of rental property, renter or leaseholder of property to allow chickens to be kept on any property, except where the owner of the chickens is also the resident and owner of the property upon which the chickens are kept.
- C. No person shall slaughter any chickens within Borough limits except as said activity may be provided for under industrial uses and districts within the zoning ordinance.
- D. No person shall keep a rooster.
- E. No person shall keep chickens on a vacant or uninhabited tract of land.
- F. No chickens shall be kept within Borough limits except as provided under this ordinance, unless for purposes of education or exhibition at a public school, college or, fair, or chickens kept temporarily for sale as an accessory to an agricultural retail business.

Section 410: Nuisances.

- A. Any violation of the terms of this Ordinance, that constitutes a health hazard or that interferes with the use or enjoyment of neighboring property, is a nuisance and may be abated under the general nuisance abatement provisions of the Pennsylvania Borough Code and all applicable Borough nuisance or zoning ordinances, with fines and penalties consistent with said ordinances.
- B. This Ordinance shall be in full force and effect from and after its passage and publication as provided by law.
- C. Repealer: All ordinances or parts of ordinances in conflict with any provision of this Ordinance are hereby repealed.

Section 411: Enforcement and Fines.

Any person, property owner or permittee found in violation of this ordinance shall be subjected to a minimal fine of \$200.00 and a maximum fine of \$1,000.00. Each day of a violation shall be considered a separate offense.

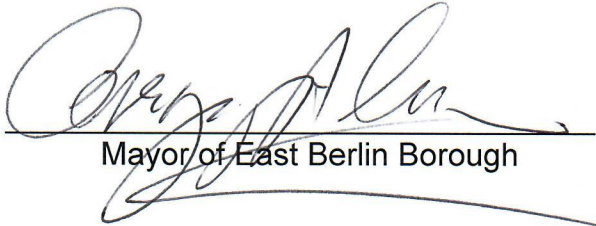
ORDAINED AND ENACTED THIS 11 day of August, 2021.
ATTEST:

East Berlin Borough, Adams County, Pennsylvania

BY: Cordy Smith
Secretary

BY: Roberta J. Teal

Approved this 11th day of August, 2021


Mayor of East Berlin Borough