

BOROUGH OF MOUNT POCONO

MONROE COUNTY, PENNSYLVANIA

ORDINANCE NO. 5 OF 2022

AN ORDINANCE AMENDING THE CODE OF THE BOROUGH OF MOUNT POCONO TO ADD A NEW CHAPTER 118 TO BE ENTITLED "KEEPING OF CHICKENS (NON-COMMERCIAL)".

THE INTENT OF THIS ORDINANCE IS TO PERMIT THE KEEPING OF BACKYARD CHICKENS IN RESIDENTIALLY ZONED AREAS BY THE RESIDENTS OF MOUNT POCONO BOROUGH WHILE PROTECTING THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE RESIDENTS AND VISITORS OF THE BOROUGH.

Chapter 118

Article I

KEEPING OF CHICKENS (NON-COMMERCIAL)

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Part I

General Provisions

§118-1 Findings and Intent.

The Borough Council finds that there is an increase in this Commonwealth among families desiring to be more self-sufficient in the production of food, including the non-commercial keeping of chickens; that the non-commercial keeping of chickens provides social, economic, educational, and environmental benefits; that many people are unfamiliar with chicken keeping, and as a result do not want these activities in their neighborhoods. By adopting this ordinance, Mount Pocono Borough intends to ensure that the interests of all residents are reasonably protected. In adopting this ordinance, this Borough intends to address the growing interest of keeping food producing animals in residential areas in a manner which endeavors to ensure public health, safety and welfare. This Article shall be construed to secure its expressed intent.

§118-2 Responsibility.

The owner and any long-term tenant in possession under the terms of a lease of the property shall be responsible for compliance with the provisions of this Article and the failure of an owner, tenant, agent, managing agency, or occupants to comply with this Article shall be deemed noncompliance by the owner and any tenant.

§118-3 Definitions. For the purpose of this Article II, certain terms, phrases and words are defined as follows:

A. Tense, Gender and Number. Words used in the present tense include the future; words in the masculine gender include the feminine and the neuter; the singular number includes the plural and the plural singular.

B. General Terms. The words “shall,” “will” or “must” are always mandatory; the words “should” or “may” are permissive. The words “used for” includes “designed for,” “arranged for,” “intended for,” “maintained for” or “occupied for.” The word “building” includes “structure” and shall be construed as if followed by the phrase “or part thereof.” The word “person” includes “individual,” “profit or nonprofit organization,” “partnership,” “company,” “incorporated association” or other similar entities.

C. Terms, Phrases and Words Not Defined. When terms, phrases or words are not defined, they shall have their ordinarily accepted meaning or such as the context may imply.

D. Specific Terms. The following words and phrases when used in this Article shall have the meanings given to them in this section unless the context clearly indicates otherwise

“Chicken.” Female poultry or fowl of the species gallus domesticus.

“Coop.” A structure, either portable or permanent, to shelter chickens.

“Long Term Tenant” – a tenant with a written lease for one (1) year or longer.

“Owner.” The owner of the land where the keeping is being performed. The owner bears responsibility for any legal action in this ordinance.

“Pen.” A fenced area designed to contain the animal to a restricted area, and prevent animals roaming at large.

“Permit officer.” Official designated to process permit applications and inspect locations to ensure compliance with this ordinance. The Borough Council may appoint one (1) or more persons as Permit Officer(s), who may be the Borough Zoning Officer or Code Enforcement Officer, a Pocono Mountain Regional Police officer, or a contracted individual, firm or agency, to administer this Article.

“Permittee.” The person to whom the permit is issued a permit for keeping.

“Receipt of notice.” The typical time for a letter to arrive by mail. For this ordinance the typical time is three business days from the day the letter was mailed. Notice in person is receipt of notice.

“Rooster.” Male poultry or fowl.

“Veterinarian.” A veterinarian who cares for the specific animal type.

“Waste material.” The natural waste produced by keeping activity, which may include feces, soiled hay or bedding. It does not include the carcass of any animal.

§118-4 Fees.

Fees for the administration of this Article shall be charged in accord with the fee schedule adopted by Resolution of the Borough Council.

§118-5 Forms and Procedures.

Registration and application forms and procedures shall be as required by this Article or as otherwise amended or adopted by Resolution of the Borough Council.

Part II Non-Commercial Backyard Chicken Keeping

§118-6 Permits Required.

A. General rule.--Permits for keeping chickens in the Borough shall be issued in accordance with this section. The keeping of

any chickens in the Borough without a permit is a violation under this Article.

Application. --

- (1) An applicant must complete and submit an application provided by the permit officer and pay all fees required hereunder.
- (2) A complete application shall include:
 - (i) proof that the applicant is the owner of the land, or that the applicant is a lawful resident of the land and has express written permission from the owner where the activity will take place;
 - (ii) a statement that the location is in compliance with the section 118-7 requirements;
 - (iii) all fees paid in full;
 - (iv) a statement that the land contains at least one residential dwelling;
 - (v) a statement that contiguous neighbors have been notified of applicant's intent to keep chickens;
 - (vi) a statement that, upon the issuance of a permit hereunder, the proposed permittee and owner irrevocably consent to inspections by the permit officer, with or without notice, conducted in a reasonable manner and at a reasonable time, of the coop, the pen, the permittee's chicken keeping operation, and for compliance with this Article;
 - (vii) a statement that, upon the issuance of a permit hereunder, the proposed permittee and owner, agree to rely on the reasonable, good faith judgment of the permit officer as to the existence of noise or odor in violation of this Article;
 - (viii) a statement that, upon the issuance of a permit hereunder, the proposed permittee and owner, agree that the permit officer, or the permit officer's designee, shall be empowered to undertake, and permitted to enter the subject property for the purposes thereof, any corrective, abatement, or compliance action which the permittee has been directed to but has failed to undertake under this Article, and that all of the costs and the expenses of the same shall be the liability of the permittee and owner;
 - (ix) identify the permittee's intended Veterinarian.

B. Issuance of permit:

- (1) A permit application will not be approved unless the applicant affirmatively demonstrates that the following conditions are met:
 - (i) the information contained in the application is correct;
 - (ii) the requirements for a permit have been met; and
 - (iii) the proposed location is consistent with section 118-7.
- (2) If all conditions are met, the officer shall issue the permit within ten (10) business days.

C. Suspension and revocation of permit. --

- (1) The permit officer may suspend or revoke any permit issued for any of the following reasons:
 - (i) false statements made on the application or other misinformation provided to the permit officer by the applicant;
 - (ii) failure to pay any penalty, inspection, re-inspection, or reinstatement fee required by this section;
 - (iii) failure to correct deficiencies noted during inspections in the time specified by the permit officer;
 - (iv) failure to comply with the provisions of an approved mitigation/remediation plan by the permit officer; or
 - (v) failure to comply with any provision of this ordinance.
- (2) Notification:
 - (i) revocation, suspension, or denial of a permit shall be in writing, and delivered (A) by certified mail; (B) in person to the address indicated on the application; or (C) presented by hand delivery to the person.
 - (ii) The notification shall state the reasons for the action.

D. Effect of revocation. --

- (1) When a permit is revoked, the applicant may not re-apply for a new permit for a period of twelve (12) months from the date of revocation; when a permittee has a permit revoked a second time, the permittee shall not be eligible to re-apply and no permittee on the subject property may receive a permit if the revoked permittee remains a resident of that land.
- (2) Within fourteen (14) days, all chickens shall be removed from the premises.
- (3) Any premises not in compliance shall be subject to the violations and penalties specified herein.
- (4) The Owner and Permittee shall be jointly and severally liable to the Borough for all costs incurred to remove, place, and/or dispose of animals, and for the costs of all fees, violations, and penalties hereunder.

E. Duration of permit. -- A permit shall be valid for one (1) year from the date the permit was issued.

F. Renewal of permit -- Permits must be renewed annually.

- (1) Permits are renewable if:
 - (i) There are no existing unresolved violations on record for the permittee at the time of renewal;

- (ii) There are no unpaid fees or costs under this Chapter at the time of renewal; and
 - (iii) The permit is not suspended or revoked at the time of renewal,
- The permit shall be renewed when the renewal fee is paid and the renewal application is submitted.

- (2) Renewal applications shall contain all of the statements and provide same proof required by the original application and shall be submitted no later than ten (10) business days prior to existing permit expiration date.

§118-7 Standards and Conditions.

- A. General rule. --Chickens shall be permitted on residential property when in compliance with the provisions of this Article. The maximum number of chickens per property is five (5), regardless of lot size. No keeping of chickens is permitted on properties utilized as Short-term rental operations.
- B. Non-commercial use. --The keeping of chickens under this ordinance shall not be for commercial purposes. A permittee may not engage in commercial:
 - (1) chicken breeding;
 - (2) sale of chickens;
 - (3) egg producing; or
 - (4) fertilizer production.
 - (5) slaughtering
 - (6) bartering
- C. Type. --
 - (1) Chickens must be hens.
 - (2) Roosters may not be kept in the Borough.
- D. Coops. -- Chicken coops are required.
 - (1) Chicken coops shall:
 - (i) Have a solid roof.
 - (ii) Be solid on all sides.
 - (iii) Have adequate ventilation.
 - (iv) Provide protection from predators.
 - (v) Be designed to secure the chickens.
 - (vi) Be readily accessible for cleaning.
 - (vii) Be climate-controlled to accommodate for both summer and winter conditions.
 - (2) Coops may be either:
 - (i) commercially built/designed; or
 - (ii) built by the owner or permittee.
 - (3) Coops must provide four (4) square feet of floor space and ten (10) cubic feet of total enclosed space per chicken.
 - (4) The exterior of coops must be clean and made of wood or similar material; the coop material shall be painted or stained and maintained in good condition.
- E. Pens. -- Pens are required.
 - (1) Pens shall permit at least ten (10) square feet of area per chicken.
 - (2) The pen must be constructed in a way to prevent chickens from roaming free and keep predators from getting into the pen.
 - (3) The pen must be accessible by the hens from their coop when they are not secured in the coop.
 - (4) The pen must have a top sufficient to prevent predators from getting into the pen.
- F. Location. --
 - (1) Pens and coops shall be located in the rear only and at least 25 feet from any street.
 - (2) No part of a pen or coop shall be closer than 25 feet from a property line or neighboring residence.
 - (3) The Pen and Coop must not be within or connected to the residence.
 - (4) Where reasonably practicable, Pens and Coops shall be situated on a property to provide maximum screening from adjacent properties and roadways.
- G. Appeal of permit denial or revocation--
 - (1) Denial, non-renewal or revocation of a permit shall be subject to permittees right to appeal such decision to Borough Council.
 - (2) An appeal shall be in writing filed with the Borough within five (5) days of such denial, non-renewal or revocation.
 - (3) Such appeal will be heard by Borough Council or a Committee of Council under the local agency law.

- (4) A written decision on such appeal shall be issued promptly.
- H. Living conditions. --
- (1) Chickens shall have access to feed and clean water at all times.
 - (2) Feed shall be secured to prevent rodents or other pests from accessing the feed.
 - (3) Chickens shall have adequate bedding of at least a 3-inch base of dry litter such as pine shavings.
 - (4) Bedding shall be added weekly and removed and replaced at least monthly, and whenever wet.
 - (5) Pens and coops shall be cleaned at regular intervals and whenever odor can be detected 20 feet from any part of the pen or coop.
 - (6) A veterinarian shall be identified by the permittee and used for any necessary medical care.
- I. Disposition of deceased chickens. --Chicken carcasses shall be disposed of in compliance with PA Domestic Animal Act- 3 PA Cons Stat § 2352 (latest revision). Slaughtering is prohibited.

§118-8 Disposal of waste material.

- A. All waste shall be disposed of in a proper manner as follows:
- (1) Appropriate waste disposal may be any of the following:
 - (i) Waste is to be double bagged and placed into municipal waste;
 - (ii) Owner or Permittee may compost the waste; or
 - (iii) Permittee may give the waste to another person who composts.
 - (2) When waste is composted, the permittee shall notify any person given the waste that it contains chicken excrement, or notify any person given compost that the compost was made from chicken waste.
 - (3) Non-composted waste shall not be spread on lawns, in gardens, or on the ground.
- B. Waste may not be disposed of by any other manner, including dumping or washing away.

§118-9 Nuisances.

- A. General rule. --A nuisance may be either:
- (1) a health hazard; or
 - (2) activity that unreasonably interferes with the use or enjoyment of neighboring property.
 - (3) For the purposes of this Article, it shall be a nuisance if chicken keeping results in odors detectable on adjacent properties or roadways, or in any noise greater than, or with more frequency than, noises reasonably expected to be encountered in the subject permittee neighborhood.
 - (4) For the purposes of this Article, it shall be a nuisance if a chicken enters a neighboring property or roadway.
- B. It shall be a violation of this Article to fail to abate a nuisance within ten (10) days of the issuance of a notice from the permit officer.

Part III Violations, Penalties and Costs

§118-10 Compliance.

Failure to comply with any provision of this Article, and/or failure to comply with an order to abate an activity, use and/or condition, shall be a violation of this Article and subject to criminal prosecution and the revocation of a license.

§118-11 Fine.

Any person who has violated or permitted the violation of any provisions of this Article shall upon judgment thereof by any Magisterial District Judge be sentenced to pay a fine of not less than One Hundred Dollars (\$100) nor more than Six Hundred Dollars (\$600) per day of violation, together with the costs of suit including reasonable attorney fees. Each day of violation shall constitute a separate offense, for which a summary conviction may be sought. All judgments, administrative, enforcement, security firm or police response, and other costs, interest, and reasonable attorney fees collected for the violation of this Article, shall be paid over to the Borough.

§118-12 Other Remedies.

The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment. The Borough shall also have the right to seek injunctive relief for violations of this Article.

§118-13 Permit Revocation.

If permittee commits two (2) or more unresolved offenses within one year, the permit may be revoked.

**Part IV
Miscellaneous Provisions**

§118-14 Repealer.

All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed.

§118-15 Severability.

If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

§118-16 Interpretation.

The object of interpretation and construction of this Ordinance and/or the provisions thereof shall be, if possible, to give effect to all of its provisions. Whenever a provision in this Ordinance shall be in conflict with another provision in the same section or another part of this Ordinance or another Ordinance or part thereof, the two (2) shall be construed, if possible, so that the effect may be given to both.

§118-17 Effective Date.

This Ordinance shall become effective upon adoption.

ADOPTION


ORDINANCE ORDAINED AND ENACTED this 2nd day of August, 2022, by the Borough Council of the Borough of Mount Pocono, Monroe County, Pennsylvania.

By: 
Donald Struckle, Council President

ATTEST:


Joshua Walker, Borough Manager

APPROVED this 2nd day of August, 2022

By: 
Randy Altemose, Mayor