

BOROUGH OF LEMOYNE
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 780

AN ORDINANCE OF THE COUNCIL FOR THE BOROUGH OF LEMOYNE, CUMBERLAND COUNTY, PENNSYLVANIA, AMENDING CHAPTER 146 OF THE CODE OF ORDINANCES OF THE BOROUGH OF LEMOYNE BY (1) AMENDING §146-2; (2) AMENDING §146-3; AND (3) ADDING THERETO A NEW ARTICLE II ENTITLED "NON-COMMERCIAL KEEPING OF CHICKENS" REGULATING THE KEEPING OF CHICKENS ON PROPERTY IN THE BOROUGH.

Background:

WHEREAS, numerous residents of the Borough of Lemoyne have expressed interest in keeping domesticated chickens on their property for the purpose of producing fresh eggs for personal use and other purposes; and

WHEREAS, keeping domesticated chickens on property in a densely populated community like the Borough of Lemoyne under certain circumstances can have a deleterious effect on the health, safety and welfare of the community; and

WHEREAS, Council has concluded that when properly regulated it is feasible to maintain domesticated chickens on property in the Borough without causing a nuisance or creating a deleterious impact on the health, safety, and welfare of the community;

NOW THEREFORE BE IT ENACTED AND ORDAINED, by the Council of the Lemoyne Borough of Cumberland County by authority of the same as follows:

Section 1. **Amendment.** Chapter 146, §146-2 of the Code of Ordinances for the Borough of Lemoyne is amended in its entirety to read as follows:

§146-2 Kinds of animals permitted.

Any person is permitted to maintain, keep or possess within the Borough of Lemoyne, any of the following animals, which classification shall be strictly construed:

- A. Cage birds (the term includes parakeets, parrots, canaries, finches, love birds, myna birds and other birds ordinarily sold in pet stores and kept in cages in households; it excludes wild birds captured or rescued and kept in cages).
- B. Cats, domesticated.
- C. Chickens, subject to the terms and conditions of Article II of this Chapter.
- D. Dogs, domesticated.

- E. Ferrets.
- F. Frogs, nonpoisonous.
- G. Gerbils.
- H. Goldfish and carp.
- I. Guinea pigs.
- J. Hamsters.
- K. Lizards.
- L. Mice, white.
- M. Rabbits.
- N. Rats, white.
- O. Salamanders and other tailed amphibians.
- P. Snakes, nonpoisonous and nonconstricting.
- Q. Toads, nonpoisonous.
- R. Tropical fish, except piranha.
- S. Turtles.

Section 2. **Amendment.** Chapter 146, §146-3 of the Code of Ordinances for the Borough of Lemoyne is amended in its entirety to read as follows:

§146-3 Prohibited animals.

No person shall maintain, keep or possess within the Borough of Lemoyne any animal not specifically enumerated in §146-2.

Animals commonly kept only as farm animals, including but not limited to cows, goats, horses, poultry, sheep and swine are permitted only in Zoning Districts allowing agricultural uses.

Section 3. **Amendment.** Chapter 146 of the Code of Ordinances for the Borough of Lemoyne is amended by adding the following Article II:

Article II

Non-Commercial Keeping of Chickens

§ 146-9 Definitions.

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:

“Borough Council.” The Borough Council of Lemoyne.

“Chicken.” Female poultry of the gallus domesticus species, sometimes referred to as hens.

“Code Enforcement Officer.” An official designated to process permit applications, inspect locations to ensure compliance with this ordinance, issue citations to violators, and enforce penalties for violations of this ordinance on behalf of the Borough of Lemoyne.

“Coop.” An enclosed structure, either portable or permanent, to shelter Chickens.

“Pen.” A fenced area sometimes called a run, that is designed to contain animals to a restricted area and prevent animals from roaming at large.

“Permittee.” The person to whom a permit under this ordinance is issued.

“Property.” The premises for which a permit is being requested under this ordinance.

“Property Owner.” The person who owns the land where the keeping is being performed and for which the permit is being requested. This person bears responsibility for any legal action in this ordinance.

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

“Rooster.” Male poultry.

“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.

§ 146-10 Chickens.

- (a) General rule. – The restrictions on the keeping of animals set forth in Chapter 146, Article I, notwithstanding, the keeping of Chickens for personal use shall be permitted in suburban and urban residential zones when in compliance with the provisions of this Article.

- (b) Commercial Uses Prohibited. – The keeping of Chickens for commercial purposes is not permitted. A Permittee may not engage in commercial:
- (1) Chicken breeding;
 - (2) Sale of Chickens;
 - (3) Egg producing;
 - (4) Fertilizer production; or
 - (5) Any other Chicken product or byproduct sale.
- (c) Number. – The maximum number of Chickens allowed is 4 per residential lot.
- (d) Type.
- (1) Chickens must be hens.
 - (2) Roosters are not permitted in the Borough.
- (e) Coops.
- (1) Coops shall at all times:
 - (i) Provide at least 2 square feet of area of horizontal footprint space per Chicken.
 - (ii) Be well-maintained and made of weather-resistant material.
 - (iii) Not be made of fabric, junk, or deteriorated material.
 - (iv) Have a solid waterproof roof.
 - (v) Be solid on all sides.
 - (vi) Have adequate ventilation.
 - (vii) Provide the Chickens protection from predators.
 - (viii) Be designed to secure the Chickens.
 - (ix) Be readily accessible for cleaning.
 - (x) Not be greater than 8 feet in height.
 - (2) Coops may be either:
 - (i) Commercially built/designed; or
 - (ii) Custom built.
- (f) Pens.
- (1) Pens shall at all times:
 - (i) Provide at least 8 square feet of area per Chicken.
 - (ii) Be well-maintained and made of weather-resistant material.
 - (iii) Not be made of fabric, junk, or deteriorated material.
 - (iv) Be constructed in a way to prevent Chickens from roaming free and keep predators from getting into the Pen.
 - (v) Be accessible by the hens from their Coop when they are not secured in the Coop.
 - (vi) Not be greater than 8 feet in height.

- (g) Location.
 - (1) Coops and Pens shall at all times:
 - (i) Be located in the backyard of the Property only.
 - (ii) Be located at least 25 feet from any street.
 - (iii) Be further than 5 feet from any property line.
 - (iv) Provide screening using closed fencing or solid hedge if any side of the Coop or Pen is within 10 feet of a property line.
 - (v) Be further than 15 feet from any dwelling. This does not include sheds, garages, or any other detached structure which is not intended for occupied living purposes.

- (h) Living conditions.
 - (1) Chickens shall have access to feed and clean water.
 - (2) Feed shall be secured to prevent rodents or other pests from accessing the feed.
 - (3) Chickens shall have adequate bedding.
 - (4) Coops shall be cleaned, and bedding added in adequate intervals to avoid unsanitary conditions or noxious odors.
 - (5) Pens shall be cleaned at regular intervals to avoid unsanitary conditions or noxious odors.
 - (6) A veterinarian shall be identified and used for any necessary medical care.

- (i) Deceased Chickens. Chicken carcasses shall be disposed of in strict compliance with Pennsylvania law, 3 Pa.C.S. § 2352, and no person shall slaughter a Chicken in a residential zone.
 - (1) Persons owning or possessing Chickens they know or have reason to believe to have died of dangerous transmissible disease shall report the occurrence of the disease to the Pennsylvania Department of Agriculture and dispose of the Chicken under the supervision and instruction of the Pennsylvania Department of Agriculture and shall follow all applicable related statutes.

§ 146-11 Permits.

- (a) General rule. – Permits for keeping animals in suburban or urban residential zones under § 146-10 shall be issued in accordance with this section. The keeping of any

Chickens in a suburban or urban residential area without a valid permit is a violation under § 146-14 (Violation) of this Article.

(b) Application.

- (1) An applicant must complete and submit an application provided by the Code Enforcement Officer and pay all associated fees, as listed in the then-current Lemoyne Borough fee schedule.
- (2) A complete application shall include:
 - (i) proof that the applicant is the Property Owner or has express written permission from the Property Owner to file the application on the Property Owner's behalf;
 - (ii) verification by the Codes Enforcement Officer that the activity complies with the requirements of § 146-10of this Article.
 - (iii) proof that all fees associated with the application are paid in full;
 - (iv) affirmation that the land contains at least one residential dwelling;
 - (v) signed affirmation by the applicant that they understand and will abide by the requirements of this Article.
 - (vi) access to educational resources related to non-commercial keeping of Chickens.
 - (vii) contact information for the Pennsylvania Department of Agriculture (PDA) emergency number, with the extension for the veterinarian on call.
 - (viii) Contact information for the applicant, Property Owner, and their chosen veterinarian.

(c) 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 § 146-10upon inspection by the Code Enforcement Officer.
- (2) If all conditions are met, the Code Enforcement Officer shall issue the permit within 14 days from the date of receipt by the Borough Office.
- (3) If any one or more conditions are not met, the permit will be denied by the Code Enforcement Officer in writing within 14 days from the date of receipt by the Borough Office.

(d) Suspension and revocation and non- transferability of permit.

- (1) The Code Enforcement 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 Code Enforcement Officer by the applicant;
 - (ii) failure to pay any penalty, reinspection or reinstatement fee required by this section;
 - (iii) failure to correct deficiencies noted during inspections in the time specified by the Code Enforcement Officer;
 - (iv) failure to comply with the provisions of an approved mitigation/remediation plan issued by the Code Enforcement 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 first-class mail;
 - (B) In person to the address indicated on the application; or
 - (C) Presented by hand delivery to the Property Owner.

 - (ii) The notification shall specify reasons for the action.

- (e) Effect of revocation.
 - (1) When a permit is revoked for a property, the Property Owner, or anybody on his behalf, may not re-apply for or renew a new permit for that property for a period of 12 months from the date of revocation.

 - (2) Upon expiration of the appeal period specified under subsection (f) (1), all animals related to the permit revocation shall be removed from the Property within 10 business days after the final day of the appeal period.

 - (3) Any Property not in compliance shall be subject to the violations and penalties specified in § 146-14 (Violations) of this ordinance.

 - (4) Any cost incurred to remove, place or dispose of animals by the borough shall be paid by the Property Owner.

- (f) Appeals.
 - (1) Where a permit has been denied, revoked, or suspended, the applicant or holder of the permit may appeal the decision in writing to the Borough Council within 10 business days of receipt of notice of the denial, revocation, or suspension.

- (2) The applicant or holder of the permit shall be given an opportunity for a hearing within 30 days, before the Borough Council.
 - (3) The decision of Borough Council hearing the appeal, or any decision by the Code Enforcement Officer which is not appealed in accordance with paragraph (1) shall be deemed final action.
- (g) Non-Transferability. – A permit shall not be transferable and is only valid to those named on the application as the applicant and owner of the property where the activity takes place.
- (h) Duration and Renewal of permit.
- (1) A Permit shall be valid for a 3-year period of time from the date of issuance.
 - (2) If there are no subsection (d) violations on record for the Permittee at the time of renewal, the permit shall be renewed when the applicable renewal fee is paid pursuant to § 146-15 (Permit fees) of this ordinance.
 - (3) If a violation under subsection (d) is found, the Code Enforcement Officer shall inspect the property to ensure continued compliance with the ordinance when the Permittee submits the applicable renewal fee under section 7 (Permit fees). Non-compliance shall result in action under subsection (e).

§ 146-12 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; or
 - (ii) Waste is to be placed into a designated container to be taken to a municipal compost facility.
 - (2) The Permittee may compost the waste themselves.
 - (3) The Permittee may give the waste to another person who composts.
 - (4) Where the waste is composted, the Permittee shall:
 - (i) Notify any person using the material to compost that the waste contains Chicken waste.
 - (ii) Notify any person given compost that the compost was made from Chicken waste.

- (5) Waste may not be disposed of by dumping in any location.
- (6) Waste may not be intentionally or unintentionally washed into any stormwater system, wastewater system, storm sewer system, sanitary sewer system, or similar waterways.

§ 146-13. Nuisances.

- (a) General rule. A nuisance may be either:
 - (1) A health hazard; or
 - (2) Activity that interferes with the use or enjoyment of neighboring property due to excessive noise, odor, insects, vermin or blight.
- (b) Duty of the Code Enforcement Officer. - The Code Enforcement Officer shall inspect the Property for the Alleged Nuisance and advise the Permittee on the property ways of abating the nuisance and the timeframe within which the nuisance must be abated.
- (c) Suspension of permit. – If the nuisance is not corrected within the timeframe provided by the Code Enforcement Officer, the Code Enforcement Officer shall suspend the permit in compliance with § 146-11 (d)(iii).

§ 146-14. Violation.

- (a) Amount of fine. Violation of this ordinance which results in a suspension or revocation of permit under § 146-11(d)(1) is a summary offense and the Property Owner shall be subject to a fine of not less than \$50 dollars nor more than \$250 dollars.
- (b) Costs. All costs incurred to abate the issue shall be assessed against the Property Owner separate from the fine specified in subsection (a).

§ 146-15. Permit fees.

- (a) Use. All permit fees collected in the permit process shall be used to pay for the salary of the Code Enforcement Officer and any other costs associated with inspection by the Code Enforcement Officer, or the Borough.
- (b) Amount. The initial and renewal fees for permits requested under this ordinance shall be listed in the Lemoyne Borough fee schedule.

Section 2. Severability.

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

Section 3. General repeal

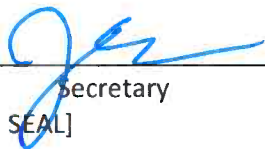
All other chapters and parts of chapters are repealed insofar as they are inconsistent with this chapter.

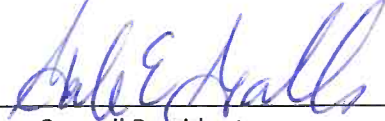
Section 4. Effective date.

This ordinance shall take effect in 60 days.

DULY ENACTED AND ORDAINED this 20th day of July 2023 by Borough Council of the Borough of Lemoyne, Cumberland County, Pennsylvania, in lawful session assembled.

BOROUGH OF LEMOYNE

ATTEST: 
Secretary
[BOROUGH SEAL]

BY: 
Council President

APPROVED this 20th day of July 2023.

BY: 
Mayor