

BILL NO. 16 – 2022

ORDINANCE NO. 2022-

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BETHLEHEM,
LEHIGH AND NORTHAMPTON COUNTIES, PENNSYLVANIA, AN
ORDINANCE PERMITTING THE KEEPING OF BACKYARD CHICKENS IN
RESIDENTIAL AREAS IN LIMITED QUANTITIES AND UNDER CERTAIN
CONDITIONS BY AMENDING ARTICLE 1159 OF THE BETHLEHEM CITY
CODE

That Section 1159.01 PURPOSE shall be amended as follows:

C. The City Council makes the following legislative findings, and finds that:

- (4) Limiting the number of **certain** animals to not more than six (6) and requiring the issuance of permits for additional animals exceeding six (6), will alleviate, or at a minimum help alleviate these conditions which are deemed to be public nuisances.

That Section 1159.02 DEFINITIONS shall be amended as follows:

The following definitions shall apply in the interpretation and enforcement of this chapter:

- A. ANIMAL – Construed in a broad sense to include not only all mammals, including but not limited to dogs, but also birds, fish, reptiles and insects.
- B. ANIMAL SHELTER – The premises, any portion of which is utilized for the temporary harboring of lost, strayed, ill or injured animals, subject to the numerical limitations of Section 1159.03. Temporary is defined to mean a period of time not exceed six (6) months.
- C. AT LARGE – Shall mean off the premises of the owner and not under the control of the owner or a member of his immediate family, either by leash, cord, chain or otherwise.
- D. DOG – Shall mean both male and female dogs.
- E. FOWL – Shall mean ~~any bird typically used for food or eggs, this includes, but is not limited to chickens, roosters,~~ pigeons, turkeys, geese, ducks, and peacocks.

- F. EXHIBITOR – As used in this Article, shall mean any person who by contact, agreement and/or ownership, takes responsibility for the operation of a petting zoo.
- G. OFFICER – Shall mean any Police Officer and/or duly appointed Animal Control Officer or his/her designee.
- H. OWNER – Shall mean and include every person, firm or corporation having a right of property in any animal which is kept or harbored within the City, as well as every person, firm or corporation occupying any premises within the City which permits an animal or animals to remain on or about its premises.
- I. PERSON – Any individual, partnership, association, corporation, company, firm, institution, trustee, estate, trust, any private entity or public entity as well as all officers, agents, servants, employees or others acting for any of the same, and shall be taken as applying in the singular or plural as the case may require.
- J. PETTING ZOO – As used in this Article, shall mean any enclosure, area, or other containment where an animal or animals are kept for the purpose of exhibition or education. This definition excludes those events where no physical contact will occur between the animals and the public, i.e. a procession or parade, or events such as a domesticated dog or cat exhibition.

That Section 1159.03 LIMITATION ON NUMBER OF ANIMALS shall be amended as follows:

Except for species of fish, it shall be unlawful and it shall be deemed a public nuisance to keep more than six (6) animals six (6) months of age or older on any premises, regardless of the number of owners; provided, however, that this section shall not apply to any premises for which a kennel license has been obtained pursuant to the Dog Law of 1965 (3 P.S. § 460-208 et seq.), as the same may from time to time be supplemented or amended, nor shall this section apply if a permit has been issued and is in effect pursuant to Article 1159.04 of this ordinance. **This Section shall not apply to Section _____ of this Article as it relates to the keeping of backyard chickens.**

That Section 1159.04 APPLICATION FOR PERMIT – MORE THAN SIX (6) ANIMALS shall be amended as follows:

- A. **Except as provided for in Section _____ of this Article as it relates to the keeping of backyard chickens,** an application for a permit for the keeping of more than six (6) animals shall have attached thereto a registered veterinarian's health certificate for all animals on the premises, including but not limited to those covered by the permit, shall be verified by affidavit and shall set forth the following:

- C. Except as provided for in Section _____ of this Article as it relates to the keeping of backyard chickens, all such permits for the keeping of more than six (6) animals must be renewed annually upon resubmittal of an application of the types required in Article 1159.04-A.

That the currently existing Sections 1159.18 and 1159.19 shall be renumbered as follows:

1. 1159.18 to 1159.19
2. 1159.19 to 1159.20

That Section 1159.18 shall now provide as follows:

- A. Purpose. The purpose of this Section is to provide minimum standards for the keeping of domesticated chickens. This ordinance enables residents to keep domesticated chickens for non-commercial uses while limiting the adverse effects of the activity on the surrounding properties
- B. Definitions. For the purposes of this Section, the following terms shall be defined as follows:
- 1) **Bantam Chicken** – A smaller breed of chicken than “gallus domesticus” chickens.
 - 2) **Chicken** – Female poultry or fowl that is a member of the species “gallus domesticus.”
 - 3) **Chicken Coop** – See Henhouse.
 - 4) **Chicken Run** - a fenced-in or other type of enclosure that is mostly open to the elements, for the purpose of allowing chickens to leave the henhouse or coop while remaining in a predator-safe environment. The chicken run or pen is attached to the henhouse and/or chicken coop.
 - 5) **Chicken Pen** – See Chicken Run.
 - 6) **Domesticated Chicken** – See Chicken.
 - 7) **Flock** – the group of chickens held at each property. Each individual property shall be considered its own “Flock”.
 - 8) **Hen** – See Chicken.
 - 9) **Henhouse** – a structure providing shelter for chickens which is completely enclosed and predator resistant that is thoroughly ventilated, provides adequate sun light and shade and all-season protection from the elements, designed to be easily accessed and cleaned by the owner.
 - 10) **Rooster** – Male poultry or fowl
- C. General Rule. The keeping of chickens in conformity with the provisions of this Ordinance shall be permitted in the City of Bethlehem. This Ordinance enables residents

to keep chickens on a non-commercial basis while limiting the adverse effects of the activity to the surround properties.

D. Powers and Duties of the Animal Control Officer.

- 1) The Animal Control Officer shall have the power to review or cause to be reviewed each application for a permit and may either approve or reject such application or require modification of the application. When the Officer has approved the application, he/she shall issue the permit pursuant to the procedures of this Ordinance.
- 2) If the conditions presented by the application for a permit or for renewal of a permit constitute an actual or potential public nuisance and/or a hazard and/or a danger to the public health, safety and welfare, the application for a permit or for renewal of a permit shall be denied by the Animal Control Officer.
- 3) The Animal Control Officer and police officers of the City of Bethlehem are authorized to enter upon any premises within the City for the purpose of investigating a possible violation of this chapter. If access is denied by the property owner, the Animal Control Officer and/or Police Officers are authorized to submit an application for a search warrant to the appropriate judicial authority.

E. Permits.

1) Application.

- i. An applicant must submit a completed application provided by the Animal Control Officer and pay all fees.
- ii. A complete application shall include:
 1. Proof that the applicant is the owner of the property or has express written permission from the owner of the property;
 2. A written and signed affidavit that the proposed property is in full compliance with all sections of this Ordinance;
 3. A drawn to scale site plan showing proposed locations and footprint of the proposed chicken coop and runs as well as all existing structures on the property and the location of adjacent homes or, in the event there are no adjacent homes, structures on adjacent properties.
 4. A drawn to scale plan that shows elevations and floor plans of the proposed chicken coop and run along with labeling of the proposed building materials. Photographs may submitted at the discretion of the applicant.
 5. All applications shall be submitted to the Animal Control Officer, or such other designated surrogate as appointed by the city administration.
 6. The Animal Control Officer, or such other designated surrogate as appointed by the city administration, may periodically inspect the

proposed property and facility upon reasonable notice to the applicant, to ensure continued compliance with this Ordinance.

- iii. In addition to the required application information, the Animal Control Officer shall consider all other relevant conditions, and may independently investigate and/or require the applicant to submit additional information in writing, verified by affidavit, concerning but not limited to the following:
 - 1. The odor emanating or likely to emanate from the premises to persons and places off the premises;
 - 2. The noise emanating or likely to emanate from the premises to persons and places off the premises;
- iv. Issuance of Permit.
 - 1. If an applicant has met all application conditions, and the Animal Control Officer is satisfied with the applicable conditions, the Animal Control officer shall issue the permit within fifteen (15) days.
- v. Renewal.
 - 1. A permit issued pursuant to this ordinance shall expire three (3) years after the date of issuance but may be renewed in accordance with the terms of this section.
 - 2. So long as a permit holder has not violated any section of this Ordinance, a permit may be renewed upon payment of the renewal fee as established by the Animal Control Officer.
 - 3. In the event a permit holder has been cited for violating any section of this Ordinance, any renewal applications shall be approved by the Bethlehem City Code Inspection Officer.
- vi. Suspension, Revocation, and Non-Renewal of Permit.
 - 1. The Animal Control Officer shall also have the power, with the consent of the City Council, to make such rules and regulations as he/she shall deem necessary to carry out the purposes of this ordinance. The Animal Control Officer and/or Police Officers shall be responsible to determine whether any person is violating any provisions of this ordinance. In making such determinations as to whether to approve or reject an application for a permit or an application for renewal of a permit, the Animal Control Officer and/or Police Officers shall consider whether any one or more of the following approved standards are not complied with. The failure of the applicant to comply with or satisfy any one or more of the requirements of this Ordinance or to satisfy any one or more of the following approved standards shall constitute grounds for denial of the application as a public nuisance:

- a. All animals and animal quarters shall be kept in a clean and sanitary condition. Adequate ventilation shall be maintained.
- b. The permittee shall use every reasonable precaution to assure that the animals are not teased, abused, mistreated, annoyed, tormented or in any manner made to suffer by any means.
- c. The permittee shall maintain the premises so to eliminate offensive odors or excessive noise.
- d. The permittee shall not permit any condition causing disturbance of the peace and quiet of his/her neighbors.
- e. Animals must be maintained in quarters so constructed as to prevent their escape. The permittee assumes full responsibility for recapturing any animal that escapes from his/her premises. The permittee shall make adequate provisions and safeguards to protect the public from the animals.
- f. Every person shall conform to all present and future laws of the Commonwealth of Pennsylvania and the United States of America, the ordinances of the City of Bethlehem and the rules and regulations that may accompany this chapter in any way connected with animals, specifically including anticruelty laws.
- g. Any and all animals must be kept healthy and free from sickness and disease at all times. Should the Animal Control Officer or any Police Officer question the health of any animals, he/she shall have the authority to require an examination by a doctor of veterinary medicine, such examination to be at the expense of the owner.
- h. The permittee shall be responsible and liable for the actions of all persons employed by or otherwise associated with him/her as such actions relate to permittee's obligation to comply with this chapter.
- i. Every owner and occupant of a structure or property shall be responsible for the extermination of insects, rodents, vermin or other pests in all areas of the premises.

2. Notification of Revocation.

- a. Revocation, suspension, or denial of a renewal of a permit shall be in writing and delivered in at least one of the following manners:
 - i. By First Class Mail;
 - ii. In person to the address indicated on the application; or

- iii. Presented by hand delivery to the application or permit holder at a location other than the address indicated on the application or permit.
 - b. The Notification shall specify reasons for the revocation, suspension, denial of a permit, or denial of a renewal of a permit.
 - vii. Applicability. The provisions providing for the care of chickens under this Ordinances shall not apply to lots that are 10 acres or greater that are located in a zoning district where agricultural uses are permitted.
- 2) Structure Requirements.
- i. Enclosed Structures. Chickens raised pursuant to this Article shall be kept in a Chicken Run. No chicken shall be permitted to roam freely outside of the Chicken Run.
 - ii. The uses provided for in this Ordinance shall be allowed within residential zones RR, RS, RG, and RT. This ordinance shall only apply to single family homes and side-by-side homes.
- 3) Noncommercial Use. The keeping of chickens under this ordinance shall be for noncommercial use only. A permittee may not engage in commercial:
- i. Chicken breeding;
 - ii. Sale of chickens;
 - iii. Egg producing; or
 - iv. Fertilizer production.
- 4) Fees. All fees referenced in this section shall be set by resolution approved by City Council. In the event City Council has not passed a resolution, the Permit fee shall be Twenty—Five Dollars (\$25.00).
- 5) A max amount of forty (40) permits shall be issued. At no time shall the amount of permits issued exceed forty.

F. Limits on Chicken Keeping.

- 1) No roosters. Only hens shall be allowed within the City of Bethlehem.
- 2) Number of Chickens:
 - i. A maximum of six (6) chickens shall be permitted per property.
 - ii. In the event 50% or more of the flock is made up of bantam chickens, a collective maximum of ten (10) chickens shall be permitted per property.
- 3) Distance. A chicken coop and run shall be located in the rear yard of a property. The chicken coop and run must be a minimum of twenty (20) feet from structures with habitable space on all adjacent properties.
 - i. A chicken coop and run must be at least twenty-five (25) feet from any street.
 - ii. A chicken coop and run may not be closer than five (5) feet from any property line.

- 4) The footprint of a chicken coop and enclosed run shall not exceed one hundred and twenty (120) square feet. The maximum height of the coop shall be eight (8) feet. A chicken coop shall have either a raised floor of at least eighteen (18) inches above ground level, or it must incorporate a mesh apron buried around the perimeter of the coop or run, with hardware cloth with no more than half inch (½) openings to prevent wildlife intrusion.
 - i. A chicken coop shall provide no less than one (1) square foot per chicken.
 - ii. A chicken run will provide no less than four (4) square feet per chicken.
 - iii. All chicken coops are required to have a chicken run.
- 5) Chicken Feed:
 - i. If stored outside of the residence, chicken feed shall be kept inside of metal containers and outside of the view of the property from the street.
 - ii. If stored inside the garage of the residence, chicken feed shall be kept inside of metal containers.
 - iii. If stored inside of the residence, chicken feed shall be stored in such a way that it deters rodents, bugs, cockroaches, or such other residential pests.
- 6) No slaughtering of chickens is allowed.
- 7) Odors, Manure, and Related Substances
 - i. Odors from chickens, chicken manure or other chicken-related substances shall not be perceptible beyond the boundaries of the permitted tract of land.
 - ii. Waste and Storage Removal
 1. All store manure shall be covered by a fully closed structure with a roof or life over the entire structure. Manure can be dropped off at the compost center during open hours.
- 8) Chickens shall have access to feed and clean water at all times, as well as shade during daylight hours. Chickens shall be enclosed in a secure coop at from dusk until dawn.
- 9) Nuisance Conditions.
 - i. Nuisance conditions are not allowed. Nuisance conditions include, but in no way are limited to, foul smells, flies, vermin, and excessive noise.
 - ii. Chicken coops and runs shall be maintained in a clean fashion to prevent odors. Chicken manure shall be removed unless used for composting purposes. In the event of composting, the chicken manure must be maintained in such a way that no nuisance is caused.
 - iii. At the discretion of the Department of Community and Economic Development, or the assigned official, the finding of nuisance conditions may result in the forfeiture of a property's chickens.

G. Application Submission.

- 1) All backyard chicken uses and facilities shall require a permit from the Department of Community and Economic Development or surrogate as designated by the Mayor of Bethlehem. This permit shall only be issued after the backyard chicken application has been approved in accordance with this Ordinance and shall specify any terms or conditions of the permit.

H. Violations.

- 1) Any person, partnership, corporation or other entity who or which violates or permits a violation of the provisions of this ordinance shall be subject to the following penalties:
 - i. First Violation – a fine of not less than \$100.00 nor more than \$250.00;
 - ii. Second Violation – a fine of not less than \$250.00 nor more than \$500.00;
 - iii. Third Violation – a fine of not less than \$500.00 nor more than \$1,000.00;
 - iv. Fourth and each subsequent violation – a fine of not less than \$1,000.00.
 - v. Each day's failure to comply with any provision of this Article shall constitute a separate violation.
- 2) The Animal Control Officer may revoke any license hereunder, or deny any application to renew, upon the finding of a violation of this Ordinance.
- 3) All fines, penalties, and costs collected for violations of this chapter shall be paid to the City of Bethlehem for its general use

I. Notice of Violation.

- 1) If it appears to the Animal Control Officer that a violation of this ordinance has or is occurring, the Animal Control Officer shall send a written notice of violation to the license holder by personal delivery or by United States first-class and certified mail. The Animal Control Officer shall enumerate the conditions which constitute the violation, cite the specific sections of this ordinance.

J. Repealer.

- 1) All Articles and sections of Articles inconsistent herewith are hereby specifically repealed.

K. The provisions of this Ordinance shall be severable and, if any provision thereof shall be declared unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as legislative intent of the Bethlehem city Council that this ordinance would have been enacted as otherwise set forth had such unconstitutional, illegal or invalid provision(s) not been included herein.

L. Effective Date. This Section of Article 1159 shall become effective on January 1, 2023.

Sponsored by _____

Passed finally in Council this _____ day of _____, 2022.

President of Council

ATTEST:

City Clerk

This Ordinance approved this _____ day of _____, 2022.

Mayor