

ORDINANCE 2021-1479

**BOROUGH OF TINTON FALLS
COUNTY OF MONMOUTH**

ORDINANCE AUTHORIZING AND REGULATING RESIDENTS KEEPING BACKYARD CHICKENS, PURSUANT TO AN AMENDMENT TO CHAPTER 8, "ANIMAL CONTROL," TO ADD A NEW SECTION TO BE ENTITLED "BACKYARD CHICKENS IN TINTON FALLS" AND TO AMEND SECTION 40-37 OF THE LAND USE REGULATIONS TO ALLOW THE KEEPING OF BACKYARD CHICKENS

WHEREAS, the keeping of backyard chickens and other fowl and livestock is generally prohibited under the Tinton Falls Land Development Ordinance, §40-37.B.1; and

WHEREAS, surrounding communities have successfully initiated programs that provide for the allowance of backyard chickens; and

WHEREAS, the State of New Jersey encourages municipalities to promote sustainable programs; and

WHEREAS, the keeping of "Backyard Chickens" is a means by which sustainability can be achieved; and

WHEREAS, in light of the above, the Borough Council of Tinton Falls deems it in the best interests of the citizens of the Borough to amend Chapter 8, Animal Control, to authorize a program which permits the keeping of "Backyard Chickens" under certain circumstances; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, the Governing Body is authorized to enact and amend ordinances as deemed necessary for the preservation of the public health, safety and welfare and as may be necessary to carry into effect the powers and duties conferred and imposed upon the Borough; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of Tinton Falls in the County of Monmouth, State of New Jersey that:

SECTION 1. Chapter 8 of the Borough Code of Tinton Falls shall be amended to create a new Section 8-7, to be entitled "Backyard Chickens in Tinton Falls," and which shall read as follows:

§ 8-7. BACKYARD CHICKENS IN TINTON FALLS

§ 8-7.1. Rules and Regulations.

This Ordinance establishes a temporary 2-year pilot program (the "Pilot Program") to authorize the residents of Tinton Falls to keep Backyard Chickens, subject to the terms and conditions set forth herein.

§ 8-7.2. Eligibility; restrictions.

A. The following shall be eligible to participate in this program: residents of single-family homes with a minimum lot size of one-half acre.

B. For purposes of this Ordinance, no more than twenty-five (25) licenses will be issued at \$10.00 each, on an annual basis.

C. There shall be a limit of four (4) chickens per license during the Pilot Program. Roosters are prohibited.

§ 8-7.3. License required; fee; completion of class required.

A. No person shall keep chickens on their property without first obtaining a license from the Municipal Clerk's Office and paying the required fee. No license shall be issued unless the applicant has demonstrated compliance with all criteria set forth in the herein. Applicants who already keep chickens shall be given priority in the licensing process.

B. A non-refundable annual license fee of \$10.00 shall be paid for each license issued for participation annually. No more than one license may be issued per household.

C. Any applicant wishing to keep chickens shall be required to complete a class on the basics of raising backyard chickens. Proof of attendance must be presented with the completed application. The Borough will provide a class minimally once a year at a nominal fee. The handling of this class will be the exclusive responsibility of the Chicken Advisory Board. A member of the Chicken Advisory Board will review the application with the applicant prior to submission.

§ 8-7.4. Requirements for coops and runs.

Participant shall comply with the following regulations and conditions for keeping and housing of chickens:

A. The coop shall be suitable in size to house the number of chickens subject to this program and shall provide at least four (4) square feet per chicken. The coop shall have four walls, a floor, a roof, be moisture-proof and well-ventilated with windows to admit sunlight. The maximum height of the coop shall not exceed seven (7) feet. The coop must be kept clean. If water or electric is run to the coop, then permits from the building department must be obtained.

B. A run must be attached to the coop and must also be at least 20 feet from the habitable portion of the neighboring residential dwelling. The run size must be at least eight (8) square feet for each chicken.

C. The coop and run shall be located in the backyard, and shall be located no closer than 20 feet from the windows and/or doors of the habitable portion of the neighboring residential dwelling. Garages, attached or otherwise, and accessory buildings shall not be considered a "residential dwelling" for purposes of calculating the required distance. A visual buffer shall be installed as needed.

D. The coop and enclosed run must be made predator-proof and must include construction cloth.

E. Clean water must be provided, and food must be kept tightly closed in a metal container away from the coop and run at night. Chicken feed must be provided only inside the run, not outside and not in the coop.

F. The yard in the area where the coop is located shall be clean and free from odors.

G. Chickens may temporarily "free range" outside of the coop in a suitably contained area provided that an adult, age eighteen (18) or older, is present in the yard the entire time. The property must be completely fenced where chickens are allowed to be "free range."

H. All chickens must be kept in the coop overnight.

I. Waste will be handled by the participant to prevent offensive odors and disposed in an environmentally-friendly manner.

J. There shall be no selling of eggs.

K. There shall be no slaughtering of chickens in the Borough.

§ 8-7.5. Creation of "chicken advisory board"; complaints.

A. A Chicken Advisory Board consisting of six (6) members shall be formed, including a Chair, Vice Chair and Secretary. All members shall serve a term of two (2) years. The members shall be appointed by the Borough Council. The Board shall include at least one member of the Monmouth County Society for the Prevention of Cruelty to Animals (MCSPCA). The Board shall meet on a regular basis, at least once per month, and shall keep minutes which shall be submitted along with a quarterly report to the Liaison for Borough Council. These reports will include any activities of the Board, as well as any complaints and resolutions from residents concerning backyard chickens.

B. If a complaint is received by the Borough, it will be forwarded to the Chicken Advisory Board for investigation by two members of the Board. If the Board finds a violation of the regulations set forth in this Section, solutions will be discussed with the offending resident to allow them to meet the requirements of the program as soon as possible. However, if after fourteen (14) days the violation has not been remedied, the Chicken Advisory Board will notify the Council liaison so that code enforcement proceedings can be implemented. Complaints involving rodents or animal mistreatment shall be addressed immediately.

C. The Chicken Advisory Board shall be authorized to conduct a site visit to any property with chickens under this Chapter with at least forty-eight (48) hours' notice.

D. The Chicken Advisory Board will assist anyone who no longer desires to keep backyard chickens with the relocation of their chickens.

E. The Chicken Advisory Board shall develop written procedures and practices for the raising of chicks by licensees. No licensee shall raise chicks until after such procedures and practices are issued. Any chick raising shall be in compliance with such procedures and practices.

F. The Borough Council shall review and re-evaluate the 2-year Pilot Program at the end of the term and determine whether the program shall continue and/or be amended.

§ 8-7.6. Revocation of license.

Failure to comply with the conditions and regulations set forth in this Ordinance shall result in revocation of the license and the removal and relocation of chickens. The applicant shall be notified by certified mail of the license revocation. All chickens and coops shall be removed within one (1) week after receipt of such notice of revocation.

§ 8-7.7. Violations and Penalties.

The owner or tenant shall, for each and every violation, be liable to the penalty stated in Chapter 1, Section 1-5. Each and every day that such violation continues shall be considered a separate and specific violation of this section and not as a continuing offense.

SECTION 2. Chapter 40 of the Borough Code of Tinton Falls, entitled "Land Use Ordinance," shall be amended to add the following (additions indicated as underlined) to current Section 40-37.B, "Conditional Uses":

§ 40-37. Conditional Uses.

- A. General. The Planning Board shall not approve a conditional use unless it finds that the use meets all the requirements of this Chapter, does not substantially impair the use and enjoyment of surrounding properties, does not substantially impair the character of the surrounding area and does not have any adverse effect on surrounding properties.
- B. Requirements for Specific Uses.
 1. Agricultural Uses. The intent of this section is to allow for the continued use of agricultural properties at a scale that is consistent with the minimum standards required for inclusion in New Jersey Department of Agriculture SADC preservation requirements. Agricultural uses, buildings and structures, as defined in this Chapter, may be located, when approved as conditional uses, in the zone as specified in Schedule A subject to the following:
 - a. The property on which agricultural activities are to take place must contain a minimum of five acres if the property does not include a residence and is solely used for agricultural activities.

- b. The property on which agricultural activities are to take place must contain a minimum of six acres if the property includes a residence and is solely used for agricultural activities.
- c. The following shall be exempt from the requirements of this Section 40-37: the keeping of Backyard Chickens in compliance with Section 8-7 of this Code.

* * *

SECTION 3. All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are, to the extent of such inconsistency, hereby repealed.

SECTION 4. Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

SECTION 5. This Ordinance shall take effect upon final passage, adoption and publication in the manner prescribed by law.

Introduced: October 5, 2021

Adopted: October 19, 2021




TRACY BUCKLEY
COUNCIL PRESIDENT

VITO PERILLO
MAYOR

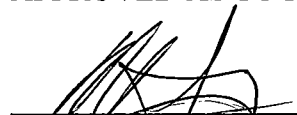
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10/29/2021

ATTEST:



MELISSA A. HESLER
BOROUGH CLERK

APPROVED AS TO FORM:



KEVIN N. STARKEY, ESQ.
DIRECTOR OF LAW