

**TOWNSHIP OF MILLBURN
ORDINANCE NO. 2509-2018
AN ORDINANCE OF THE TOWNSHIP OF MILLBURN, COUNTY OF ESSEX,
STATE OF NEW JERSEY,
AMENDING ARTICLE V OF THE REVISED GENERAL ORDINANCES OF THE
TOWNSHIP OF MILLBURN**

***STATEMENT OF PURPOSE:** The purpose of this ordinance is to provide appropriate standards and regulations for the keeping of chickens for noncommercial purposes within the suburban residential environment of Millburn Township. The ordinance establishes standards and limitations so as to avoid adverse impacts on neighboring properties and residents, and to provide for the health and safety of the chickens.*

WHEREAS, the concept of local sustainability has fostered an interest in backyard food production; and

WHEREAS, Millburn residents maintain chickens as pets; and

WHEREAS, municipalities have been considering how to compatibly integrate the keeping of backyard chickens into suburban residential settings; and

WHEREAS, Millburn Township officials are informed that not more than four chickens are sufficient to meet the needs of an average family's egg consumption and/or desires to have chickens as pets; and

WHEREAS, Millburn Township is largely built out and of a density such that special attention to how chickens can be integrated successfully into residential neighborhoods is required; and

WHEREAS, the Centers for Disease Control and Protection has issued guidance on safety measures related to the keeping of backyard chickens and the potential for illnesses from contact with live poultry, which can be addressed through regulations fostering the proper maintenance of coops and enclosures as well as the confinement of chickens so as to prevent roaming or movement of chickens to areas where they might come into contact with neighboring owners or others; and

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Millburn in the County of Essex and State of New Jersey, as follows:

Section 1. Article V entitled "Animal Control" shall be amended and supplemented by the adoption of a new Section 5-10 entitled "Keeping of Chickens, Permit Required" to read as follows:

Section 5-10 – Keeping of Chickens, Permit Required

(a) Definitions:

- i. For the purpose of this ordinance, a chicken (*Gallus Domesticus*) refers only to a female chicken.
- ii. Coop – the covered house, structure or room that is required in order to provide chickens with shelter from the weather and with a roosting area protected from predators. No Coop shall exceed six (6) feet in height.
- iii. Chicken Enclosure – means a fenced area that is attached to a Coop in order to provide an outside exercise area for the chickens free from predators, and of a size no greater than forty (40) square feet, with a fence not in excess of six (6) feet in height, but sufficiently constructed to prevent entrance by predators.
- iv. Repeat Violation – shall mean the violation of a provision of this ordinance or of the Revised General Ordinances, pertaining to the requirements of the keeping of chickens, by a person who has been found two previous times, through a code enforcement proceeding or any other administrative, quasi-judicial or judicial process, to have violated, or who has admitted violating, any provision within three years prior to the current violation.

(b) Permit

Any person who keeps chickens in the Township of Millburn shall obtain a permit from the Township prior to acquiring the chickens. The issuance of permits shall be limited to one (1) per residential property. Any person who, at the time of the effective date of this ordinance, is currently keeping chickens at a residential property within the Township shall apply for a permit within sixty (60) days. Application shall be made to the Health Officer and the fee for the permit shall be one hundred dollars (\$100.00). A separate inspection fee shall be charged at the time of application in the amount of sixty-five dollars (\$65.00). The Application shall include a survey and a drawing or diagram depicting the placement and dimensions of the Coop and Chicken Enclosure.

In the event that a Permit Application by any person who is currently keeping chickens is denied, such person shall be obliged to remove any such chickens, coops and enclosures within 30 days of such denial. Any such person shall have the right to immediately file a conforming application so as to obtain a permit, in which case it shall not be necessary for them to comply with the removal requirements above set forth.

The permit shall be obtained annually in the month of December from the Health Officer for a permit commencing on the ensuing January 1st. Failure

to obtain an annual renewal permit shall result in a penalty of twenty-five dollars (\$25.00) for each chicken, which shall be collected as a surcharge to the permit fee hereinabove required. In the event that a permit application is made after January for a new commencement of the keeping of chickens at a property, the fee shall be prorated to December 31st of that year.

Permits expire and become invalid on December 31st of each year. A person who wishes to continue keeping chickens shall have obtained a new permit on or before the expiration date of the previous permit. Application for a new permit shall be pursuant to the procedures and requirements that are applicable at the time the person applies for a new permit.

Upon a Repeat Violation, any permit issued shall be revoked. The holder of a revoked permit is ineligible from applying for or attaining a new permit for a period of 2 (two) years from the date of revocation. Upon the revocation of any permit, the permit holder shall be obliged to remove chickens, Coop and Chicken Enclosure immediately thereafter.

(c) Private Restrictions

Notwithstanding the issuance of a permit by the Township, private restrictions on the use of property shall remain enforceable and take precedence over a permit. Private restrictions include but are not limited to deed restrictions, condominium master deed restrictions, neighborhood association by-laws, and covenant deeds. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.

(d) Requirements

A person who keeps or houses chickens on his or her property shall comply with all of the following requirements:

- i. Shall have received a permit required under Subsection (b) of this section.
- ii Shall keep no more than four (4) chickens.
- iii Shall keep chickens only on a property, the principal use of which is as a single-family dwelling.
- iv Shall keep no rooster.
- v Shall not slaughter any chickens.
- vi Shall provide the chickens with a Chicken Enclosure as defined in Section 5-10(a)(iii) and the chickens must be kept in the Coop or Chicken Enclosure at all times. No chickens shall be allowed to free range or be otherwise located outside of the Coop and Chicken

Enclosure areas. The Coop and Chicken Enclosure are subject to all provisions of the Development Regulations and Zoning Ordinance of the Township, as well as all building, plumbing and electric permitting requirements, except to the extent addressed by the provisions of this Subsection (d).

- vii Shall not keep chickens in any location on the property other than in the backyard. For purposes of this ordinance, “backyard” means that portion of a lot enclosed by the property’s rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the single-family structure and extending to the side lot lines.
- viii No part of a Coop or Chicken Enclosure shall be closer than twenty (20) feet to any property line of an adjacent property.
- ix Shall provide a Coop and Chicken Enclosure for the keeping of chickens which shall be so constructed and repaired as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of, the enclosure. No part of a Coop or Chicken Enclosure shall not be located closer than twenty (20) feet to the residential structure on the property. Coops shall be ventilated and in a clean and sanitary condition at all times.
- x Shall protect feed and other items associated with the keeping of chickens that might attract or become infested with or infected by rats, mice, or other rodents through the use of rat-proof containers so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with them. All food for immediate consumption shall be placed in a suitable feeding trough or similar container and all other food shall be stored in rat-proof containers at all times. No poultry feed shall be scattered about any premises.
- xi. For purposes of this ordinance, adjacent property means all parcels of property that the applicant’s property comes into contact with at one or more points.
- xii Nothing herein shall be construed to abrogate the provisions of Chapter III, Section 3-7 in general, and specifically with respect to the keeping of any bird which by “frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity”. (Section 3-7.2(a))
- xiii The selling of eggs by any person keeping chickens pursuant to this ordinance is prohibited.
- xiv Any dead chicken must be double bagged and placed in the garbage.
- xv Violations

If any of the requirements of this ordinance are not complied with:

- a) the Township Health Officer, Code Enforcement Officer or Animal Control Officer may revoke any permit granted under this ordinance and/or initiate prosecution for a violation pursuant to Section 5-7 “Penalty for Violation”, and/or Section 1-5 “General Penalty”, as applicable; and/or
 - b) any person residing within the Township may initiate prosecution for a violation pursuant to Section 5-7 “Penalty for Violation”, and/or Section 1-5 “General Penalty”, as applicable; and/or
 - c) the Township shall also have the right to commence litigation in a court of competent jurisdiction.
- (e) Permit Examination

A person who has been issued a permit for the keeping of chickens pursuant to this Ordinance shall submit it for examination upon demand by any enforcement officer listed in Subsection (f) below.

- (f) The Township Health Officer, Code Enforcement Officer or Animal Control Officer shall have authority to discern compliance with this Ordinance and the authority to direct compliance with this Ordinance with regard to requiring certain facilities or activities by chicken owners to ensure that neighbors of those who keep chickens are not unreasonably subjected to noise, rodents, predators, or other violations of the provisions of this Ordinance.

Section 2. The provisions of this ordinance are severable and the invalidity of any phase, clause or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

Section 3. This ordinance shall take effect after final passage and publication as required by law.

ATTEST:

MILLBURN TOWNSHIP

Christine A. Gatti, Township Clerk

By: _____
Cheryl H. Burstein, Mayor

Introduced:
Published: Public Hearing/Adopted:
Published:

CERTIFICATION

I, Christine A. Gatti, Clerk of the Township of Millburn, in the County of Essex, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of an Ordinance duly adopted by the Township Committee at a regular meeting held on the ____ day of _____, 2018.

Christine A. Gatti, RMC
Township Clerk