

## Cumberland County Planning Department

### *Agricultural Series*

# NON-COMMERCIAL KEEPING of LIVESTOCK / BEEKEEPING MODEL ORDINANCE

## INTRODUCTION

This guide was developed by the Cumberland County Planning Department in consultation with the Rural Economic Development Clinic of Penn State University – Dickinson School of Law, using a variety of ordinances from municipalities in the county, state, and from around the country.

The guide is intended to provide an overview of how non-commercial livestock and beekeeping can be regulated as an accessory use in suburban and urban regions of Cumberland County, Pennsylvania. Municipalities are not recommended to implement this entire guide without modification. Rather, municipalities should review this guide, examine their local situation, and adopt the regulations that make the most sense for their municipality.

It is important to note at the outset that some municipalities may choose to regulate livestock and beekeeping by simply amending their current animal ordinances, rather than altering zoning. This guide does not analyze these methods, and focuses exclusively on the drafting of an ordinance permitting non-commercial livestock and beekeeping as an accessory use in residential areas. To ensure compliance with any applicable law or regulation, municipalities are advised to consult with their solicitor prior to adopting any portion of this guide.

## HOW TO USE THE MODEL

Any text in the following model ordinance in *italics* is an option that a municipality may or may not choose to implement. In these cases, the ordinances that were reviewed for this model were inconsistent in how they regulated these uses. Municipalities should choose if they want to adopt the *italicized* regulations in their jurisdiction. Ordinance language not in *italics* is recommended to be included in municipal ordinances, although some modification may be necessary.

In some cases, there could be multiple ways to regulate a certain aspect of non-commercial livestock. In these cases the word “**OR**” has been placed in the text of the guide. Municipalities should choose the option that works best with their existing ordinances and regulatory framework.

In cases where a range of options are possible, samples of options are provided in (parentheses). The options are regulations commonly found in other ordinances and an “XX” (15’, 20’, XX) to indicate that municipalities may want to adopt a different standard. Footnotes are used throughout the model for informational purposes and are not intended as ordinance text.

## **NON-COMMERCIAL KEEPING OF LIVESTOCK / BEEKEEPING**

### **SECTION 1: PURPOSE AND INTENT**

The purpose of these regulations is to provide a definition of livestock; to set forth reasonable standards for the keeping and care of non-commercial livestock as an accessory use in residential areas; to give appropriate consideration to the property rights of citizens of [name of municipality] with non-commercial livestock; to help maintain neighborhood compatibility; and to protect the health, safety, and welfare of the general public.<sup>1</sup>

### **SECTION 2: DEFINITIONS**

**Animal Equivalent Unit** - 1,000 pounds live weight of livestock or poultry animals, regardless of the actual number of individual animals comprising the unit.<sup>2</sup> Animal weights shall be calculated using the Standard Animal Weights listed in Pennsylvania Act 38 Nutrient Management Program Technical Manual, by the Pennsylvania State Conservation Commission.<sup>3</sup>

**Animal Housing Facility** – A roofed structure or facility, or any portion thereof, used for occupation by livestock or poultry.<sup>4</sup>

**Carriage Horse** - A horse or other similar equine kept for purposes of drawing a carriage and are used as the primary means of transportation.

**Chicken Coop** - A structure for housing chickens made of wood or other similar materials that provides shelter from the elements.

**Flyway Barrier** - A solid wall, fence, dense vegetation or combination thereof that forces bees to fly at a higher elevation above ground level over the property lines in the vicinity of the apiary.

**Fowl** – a domestic bird of any kind, not including chickens.

**Honeybee** - Honey bees are limited to European races of *apis mellifera*.<sup>5</sup>

**Honeybee Apiary** - A place where honey bee colonies and/or hives, and other beekeeping equipment, are kept.

**Honeybee Colony** – An aggregate of worker bees, drones, queen, and developing brood living together in a social family unit in a hive.

**Honeybee Comb** – A mass of six-sided cells made of wax by honey bees in which a brood is reared and honey and pollen are stored; composed of two layers united at their bases.

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<sup>1</sup> It is recommended that the ordinance include a purpose statement. In order to be upheld, the ordinance must relate to a valid municipal purpose, such as public health, safety and welfare.

<sup>2</sup> Pa. Nutrient Management Act (Act 38).

<sup>3</sup> Pa. Nutrient Management Program Technical Manual, Supplement 5; Pennsylvania State Conservation Commission.

<sup>4</sup> Pa. Nutrient Management Act (Act 38).

<sup>5</sup> The European race of the “*apis mellifera*” honeybee is the world’s most popular honeybee for commercial honey production. An ordinance restricting apiaries to this species is primarily an attempt to keep out African races of *apis mellifera*, which are more aggressive towards humans. There is no state regulation mandating the use of these bees.

**Honeybee Hive** – A box or receptacle with movable frames, used for housing a colony of bees.

**Livestock** - those class of animals that are customarily kept and housed outside the home or in enclosures such as pens, barns, corrals or paddock areas. Livestock includes, but is not limited to, horses, cattle (beef and dairy), llamas, alpacas, mules, swine, sheep, goats, chickens, and fowl.

**Livestock Enclosure** - A fenced-in area that presents an adequate blockade around a field, yard, or other such expanse of land for the purpose of containing livestock or prohibiting intrusions from outside.

**Livestock Structure** – Any structure related to the practice of Non-Commercial Keeping of Livestock, including but not limited to animal housing facilities, barns, stables, sheds, coops, cages, and similar structures, not including Livestock Enclosures.

**Non-Commercial Keeping of Livestock** - An accessory use to a dwelling unit involving the breeding, raising, caring for, housing, and principally the hobby / personal use of livestock and products derived from livestock by the occupant, owner or leaser of the lot on which such use is located.

### **SECTION 3: PERMITTED ACCESSORY USES <sup>6</sup>**

- A. The following accessory uses shall be permitted (by right, by conditional use/special exception) in (list residential zones - i.e. R-1, R-2, R-3, Village).
1. Non-Commercial Keeping of Livestock <sup>7</sup>
    - a. Horses, Cows, Llamas, Mules, and similar size animals;
    - b. Goats, Sheep, and similar size animals;
    - c. *Swine* <sup>8</sup>;
    - d. Chickens / Fowl;
    - e. *Rabbits and similar size animals* <sup>9</sup>
  2. Honeybee Apiaries
  3. Livestock Structures permitted as part of permissible accessory uses include: pens, sheds, coops, cages, honeybee apiaries, barns, and similar structures, including livestock enclosures.

### **SECTION 4: SPECIFIC REGULATORY PROVISIONS**

#### **A. Noncommercial Keeping of Livestock**

Noncommercial Keeping of Livestock as an accessory use to a residential zone, subject to the following regulations:

<sup>6</sup> Each municipality should determine which of the permitted uses are appropriate and compatible with the intended zone. The main concerns are nuisances including noise and odors. Beekeeping and chickens are the most common forms of urban livestock.

<sup>7</sup> Livestock is grouped by animal size for convenience. The list is not exhaustive and the municipality should choose which animal(s) to permit or prohibit.

<sup>8</sup> Swine are generally not permitted by most municipalities.

<sup>9</sup> Many municipalities do not regulate these types of animals because they rarely cause a nuisance.

## 1. Lot Size and Density Restrictions<sup>10</sup>

- a. 1 Animal Equivalent Unit shall be permitted for each (15,000, 20,000, 22,000, XX) square feet of lot area used for housing and pasturing of livestock, excluding chickens, fowl, game birds, rabbits and other similar animal(s) which shall be permitted at 1 animal per (1,000, 2,000, XX) square feet.<sup>11</sup>

**OR**

- a. 2 Animal Equivalent Units shall be permitted on 1 acre used for housing and pasturing the animal(s). One (1) additional acre of land shall be provided for each additional Animal Unit, beyond the two permitted on the first acre.<sup>12</sup>

**OR**

- a. Large Animals (livestock of the bovine, equine, swine, sheep, or camelid families) shall be permitted at a density of 1 animal for each (15,000, 20,000, 22,000, XX) square feet of lot area used for housing and pasturing of livestock.

Small Animals (including chickens, fowl, game birds, rabbits and any other animal which is by size and/or nature of a similar character to the aforementioned animals) shall be permitted at a density of 1 per (1,000, 2,000, XX) square feet of gross lot area.

- b. *Minimum lot size of (20,000 sq. ft., ½ acre, 1 acre, XX) shall be required for the noncommercial keeping of livestock; excluding chickens, fowl, rabbits and similar small animals, which shall have a minimum lot size of (10,000 sq. ft., 15,000 sq. ft., ½ acre, XX).*<sup>13</sup>
- c. Notwithstanding the area available for non-commercial keeping of livestock, no more than (3, XX, 8) individual animals shall be permitted per lot, regardless of size, weight, or species.<sup>14</sup>

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<sup>10</sup> Pennsylvania does not regulate or provide guidelines for the keeping of noncommercial livestock. Densities are regulated by each municipality and should be based on need and impact to the community. The most common regulatory methods are based on Animal Equivalent Units or regulating “large” and “small” animals.

<sup>11</sup> Most guidelines discourage keeping a large animal or 1 animal equivalent unit on less than ½ acre or 20,000 sq. ft. for the welfare of the animal and potential impact to neighbors. Ordinances that provided lot area standards for small animals generally require 1,000 to 2,000 sq. ft. per animal.

<sup>12</sup> This option is appropriate for low density and rural residential zones where an acre or more is available. These standards were developed in Pa. by the Small-scale Livestock Work Group, comprised of State and local agencies, municipal officials, and horse owners, 2004.

<sup>13</sup> Some municipalities require a minimum lot size as a condition of keeping any livestock. If this section is used, the acreage chosen should be based on the zoning lot area requirement or typical lot size of the community.

<sup>14</sup> A maximum number of animals limit the impact of large animals and the potential for transmission of diseases, which small animals are susceptible. In regulations researched, the maximum number of animals permitted on a lot varied from 3 to 8 animals. A regulatory option may include varying the number of animals allowed based on the density of dwellings permitted in the zoning district – the higher the density, the less animals permitted.

- d. In the event any livestock, excluding chickens and fowl, gives birth, thereby exceeding the number of livestock animals allowed by the minimum set forth in this subsection, the owner of said livestock and/or the occupier of the premises shall conform to the number of livestock animals for the dimensional requirements within one year of the birth of the animal. Chickens and fowl shall conform to the number for the dimensional requirements within six (6) months of the birth of the animal.
- e. The lot size and density restrictions of this section shall not apply to Carriage Horses (See below).

## 2. Setback Requirements<sup>15</sup>

- a. Livestock structures, excluding structures for chickens, fowl, game birds, rabbits and other similar animal(s), shall be located a minimum of (25, 35, 50, XX) feet from all property lines, or the accessory building setback required by the zone in which the use is located, whichever is greater.
- b. Livestock structures for chickens, fowl, game birds, rabbits and other similar animal(s), shall be located a minimum of (10, 15, XX) feet from all property lines, or the accessory building setback required by the zone in which the use is located, whichever is greater.
- c. Livestock structures shall not be permitted in the front yard *and side yard*.<sup>16</sup>
- d. *Livestock Enclosures shall be located at least (30, 50, XX) feet from the principal structure on an adjacent lot.*

## 3. Fencing:<sup>17</sup>

- a. All animals shall be kept within a livestock enclosure at all times when said animals are not leashed, haltered or bridled and under the direct control of the owner or an authorized agent of the owner of the animals.
- b. Barbed-wire fencing shall not be permitted for livestock enclosures.
- c. The height of the fencing shall be sufficient to keep the animal(s) within the pen and shall be adequately constructed to prevent the animal(s) from being able to escape from its confines.

## 4. Manure Management:

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<sup>15</sup> Setback standards vary greatly based on the character and density of the zone. The options provided represent the most common distances used.

<sup>16</sup> Some municipalities prefer to allow this use only in the rear yard. Almost all prohibit it in the front yard.

<sup>17</sup> Pennsylvania has limited law related to fences. No municipality can require a person to erect a fence along a stream to prevent livestock from entering a stream. (35 P.S. § 691.702). Additionally, should two neighboring property owners both own livestock on their respective properties, both parties would be required to pay to build/maintain a fence separating the property, (29 P.S. § 41). Pennsylvania municipalities are permitted to regulate or prohibit barbed-wire fences as they see fit (53 P.S. § 23159).

- a. Non-Commercial Keeping of Livestock must comply with the Pennsylvania Nutrient Management Regulations, Pa. Code Title 25, Chapter 83, as required by the Department of Environmental Protection.<sup>18</sup>
- b. A minimum setback of one hundred (100) feet shall be provided for any area or structure used for the storage of animal wastes and all property lines, wetlands, and waterways.
- c. All animal wastes shall be properly stored and disposed of, so as not to be objectionable at the site's property line.
- d. The keeper of such animal(s) shall show that adequate provisions are being implemented to collect, store and dispose of the manure and other litter associated with the keeping of the subject animal(s). The containers to be used in the process shall be kept covered and shall be cleaned on a regular basis to avoid the potential for detectable odors.

### **1. Animal Care:**

- a. All Non-Commercial Keeping of Livestock must comply with minimum standards of animal care as required by Pennsylvania law, Pa. Code Title 18, regarding animal cruelty provisions.<sup>19</sup>
- b. An animal housing facility shall be provided as a shelter for the animal(s). The structure shall incorporate no less than three walls and a sufficient roof area to provide a weather proof shelter.
- c. Animal housing facilities shall be of sufficient size to enable the animal to comfortably stand, turn around and lay down.
- d. Animal housing facilities shall be ventilated to avoid respiratory disease and infections, control ambient temperature, and prevent accumulation of toxic gases.

### **2. General Requirements**

- a. Livestock structures shall not exceed (15', 20', XX,) in height.

**OR**

- a. Livestock structures shall comply with the accessory building height requirement of the zoning district.

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<sup>18</sup> Pennsylvania's manure management regulations apply to any operation that produces manure. Guidelines are provided in the DEP policy manual: "Manure Management for Environmental Protection." DEP approval of Nutrient Management Plans are required for operations defined as concentrated animal operations (greater than 2 Animal Equivalent Units per acre).

<sup>19</sup> 18 Pa.C.S.A. § 5511(c)(1) states person may not deprive an animal of necessary sustenance, water, shelter or veterinary care, or access to clean and sanitary shelter which will protect the animal against inclement weather and preserve the animal's body heat and keep it dry.

- b. Livestock structures shall be kept in a sanitary condition and free from unpleasant odors and from conditions contributing to the breeding of flies.
- c. The raising of animals for commercial use or profit is not permitted. The sale of animal products is prohibited.
- d. The conversion of non-commercial keeping of livestock to a commercial livestock operation shall not be permitted unless such use complies with all ordinance and permitting requirements in effect at the time of application.
- e. The slaughtering of animals on the property is prohibited.<sup>20</sup>
- f. The disposal of dead animals shall be in accordance with the Domestic Animal Law, 3 Pa. C.S. §2352. Dead animals shall be disposed of within 48 hours after death.<sup>21</sup>
- g. The use shall not constitute a nuisance with regard to noise, odor, vectors, dust, vibration, or other nuisance effects beyond the property lines of the parcel upon which the use is located.
- h. Animal feed that is not stored in the principal building shall be stored in sealed, rodent-proof containers.

**7. Regulations Specific to Chickens:** In addition to regulations applicable to all Livestock, the keeping of chickens is subject to the following additional regulations:

- a. Coops shall be stationary, enclosed with solid material on all sides, have a solid roof, and vents to ensure adequate ventilation. Coops shall be predator proof and provide shelter from moisture and extremes of temperatures.
- b. Coops shall be constructed as to prevent rodents from being harbored underneath or within the enclosure.
- c. The minimum coop size shall provide at least (2, 2.5, 3, XX) square feet per chicken.<sup>22</sup>

**OR**

- c. The minimum coop size shall be sufficient to permit free movement of the chickens.
- d. Outside runs shall provide at least ten (10) square feet per chicken and shall be enclosed in a way that contains the chicken and is predator proof.

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<sup>20</sup> Most ordinances prohibit slaughtering because of the close proximity of residences and its unpopular perception by the public. If permitted, it is usually required within a building and must comply with State and Federal regulations.

<sup>21</sup> Required by Pa. Domestic Animal Law.

<sup>22</sup> The ordinances researched required between 2 and 3 square feet per chicken. The most common was 3 square feet.

- e. Coops and outside runs shall be cleaned of hen droppings, uneaten feed, feathers and other waste on a regular basis and as necessary to ensure they do not become a health, odor or other nuisance.
  - f. Roosters are not permitted.
  - g. A maximum of (3, 4, 5, XX) chickens are allowed on a residential property.<sup>23</sup>
- 8. Regulations Specific to Carriage Horses:** The following lot size and density restrictions shall apply to the keeping of carriage horses. Carriage horses are subject to all other applicable livestock regulations.
- a. Carriage horses are permitted at an animal density of one (1) horse per 10,000 square feet of lot area used for housing and pasturing the animal.<sup>24</sup>

**OR**

- a. Carriage horses are permitted by (conditional use / special exception) in accordance with Section \_\_\_\_\_ and applicable criteria in this ordinance.
- b. *A maximum of (4, 5, 6, XX) carriage horses shall be kept on the property;*<sup>25</sup>

**B. Beekeeping**

Honeybee apiaries are permitted (by right, by conditional use, by special exception) as an accessory use in (list residential zones) when in compliance with the Pennsylvania Bee Law (3 Pa.C.S.A. § 2101-§ 2117) and, subject to the following regulations:

- 1. Best Management Practices:** Beekeeping facilities must be consistent with the Pennsylvania Department of Agriculture “Best Management Practices for Maintaining European Honey Bee colonies in the Commonwealth of Pennsylvania”.
- 2. Registration:** The apiary must be properly registered with the Pennsylvania Department of Agriculture, Bureau of Plant Industry, pursuant to applicable Pennsylvania state laws;<sup>26</sup>
- 3. Ownership and Care:** Ownership, care and control of the honey bees shall be responsibility of a resident of the dwelling on the lot or the individual listed on the registration;<sup>27</sup>

<sup>23</sup> Most ordinances limit the number of chickens permitted. The most common number is 3-4 chickens, which will produce an average of 1–2 dozen eggs per week; “Residential Urban Chicken Keeping: An Examination of 25 Cities”, 2008.

<sup>24</sup> Federation of Animal Science Societies-“Guide for the Care and Use of Agricultural Animals in Agricultural Research and Teaching” indicates necessary areas for exercise may vary considerably based on the size, age, and type of horse. Generally, carriage horses receive daily exercise which may reduce the area needed for pasture area.

<sup>25</sup> The number of carriage horses on a property can vary based on the number of residents and activities. A policy of restricting the number is to ensure that non-carriage horses are not referred to as carriage horses to allow more animals on a property. If this regulation is used, the number should be based on the character and needs of the community.

<sup>26</sup> Governed by 3 Pa.C.S.A. § 2105 Registration of apiaries. “Bee Law”

<sup>27</sup> Governed by 3 Pa.C.S.A. § 2101-§ 2117. “Bee Law”

**4. Colony Density:**

- a. One hive is permitted for every (2,000, 3,000, 4,000, XX,) square feet of lot area;

**OR**

- a. *There is no minimum parcel size for beekeeping.*
- b. A maximum of (2, 3, XX) hives may be kept on a lot.<sup>28</sup>

**5. Location:**

- a. Apiaries are not permitted within (10, 25, 30, XX) feet of any lot line.<sup>29</sup>
- b. The front of any apiary shall face away from the property line of the residential property/zone closest to the hive;
- c. No apiary shall be kept in front or side yards that abut streets.

**6. Flyway Barriers:**

- a. For all colonies located on a property, a flyway barrier at least six feet in height consisting of a solid wall, fence or dense hedge parallel to the property line and extending at least 10 feet beyond the apiary in each direction is required.
- b. *A flyway barrier is not needed if the beehive is kept at least 8 feet off the ground.*

- 7. Water:** A supply of fresh water shall be maintained in a location readily accessible to all bee colonies on the site throughout the day to prevent bees from congregating at neighboring swimming pools or other sources of water on nearby properties.

**8. Safety:**

- a. In any instance in which a hive exhibits unusually aggressive characteristics it shall be the duty of the beekeeper to destroy or requeen the hive.
- b. Hives must be located within a secured area to protect the colony and prevent direct access by the public.

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<sup>28</sup> Keeping at least 2 hives per lot helps maintain healthy honeybee colonies, Pa. State Beekeepers Assoc.

<sup>29</sup> Pa. Dept. of Agriculture, Best Management Practices for Maintaining Honey Bee Colonies recommend 10' setback; other sources varied from 15' to 30' setbacks.

9. **Hive Type:** No person shall keep or maintain honeybees in any hive other than a modern moveable frame hive which permits thorough examination of every comb to determine the presence of bee disease.<sup>30</sup>

## **SECTION 5: PERMITTING PROCESS FOR NON-COMMERCIAL LIVESTOCK / BEEKEEPING**<sup>31</sup>

Applicants proposing the non-commercial keeping of livestock and/or beekeeping must submit a zoning permit application identifying the following:

- A. Property address, name and contact information of applicant.
- B. Description of the proposed animals and activities on the property.
- C. Location and area of proposed livestock enclosures.
- D. Location and height of proposed livestock structures including sheds, containers, animal housing, coops, hives, apiaries, flyway barriers, manure storage facilities, landscaping and fencing.
- E. Distance between structures/activities and neighboring properties.
- ii. Verification that to the owner's knowledge, there is no private restriction against the keeping of animals/bees on the property.
- iii. Verification that the applicant is familiar with the requirements set forth in this ordinance.
- iv. *At least 1 week prior to the meeting to consider granting permission to keep non-commercial livestock and/or beekeeping on a property, the applicant shall give notice to all property owners (adjacent to / within 200 feet of) the subject property. The applicant shall present proof of the provision of notice as required herein.*
- v. *At least 1 week prior to the meeting, notice shall be conspicuously posted by the applicant on the subject property at points sufficient to notify potentially interested citizens.*
- vi. Certify compliance with all applicable local, state, and federal regulations and permits.

<sup>30</sup> Governed by 3 Pa.C.S.A. § 2109. "Bee Law"

<sup>31</sup> The municipality should review the zoning permit requirements and incorporate these requirements as applicable.