



COLLEGE TOWNSHIP

FREQUENTLY ASKED QUESTIONS

College Township has recently received a lot of interest regarding the keeping of chickens and gardens. This factsheet is intended to provide the reader with information that may help to answer some questions. College Township encourages productive dialogue on these and other Township matters.

▪ Does College Township prohibit the keeping and/or raising of chickens?

Yes. In a residential zoning district (R-1) individuals are prohibited from keeping and/or raising chickens UNLESS the property on which they are kept or raised is 10-acres or more in size.

Of course, chickens are allowed to be kept or raised in Agricultural zoning district and, as noted above, the R-1 zoning district provided a property is 10+ acres in size. Click to view [Zoning Map](#).

▪ How long has College Township restricted the keeping and/or raising of chickens in a residential zoning district?

This portion of the Township Zoning Ordinance was adopted on September 8, 1977. Since that time, the Township has interpreted this order consistently. Click to view the [1977 ordinance adopting the zoning code](#). Do note that zoning will vary in different municipalities.

▪ Has College Township Council considered making modifications or updating this section of the zoning ordinance?

Yes. In 2009, and again in both 2013 and 2014, College Township Council either discussed (2009) or reviewed and voted (2013 and 2014) on modifications to the existing Zoning Ordinance that would allow for the raising and/or keeping of “backyard” chickens. On all three occasions, the zoning change to allow for the keeping and/or raising of backyard chickens was defeated by a majority vote of College Township Council.

Additionally, at their June 4, 2020, meeting, College Township Council agreed to revisit the current ordinance and is expected to begin the initial review of possible changes to the existing ordinance at their meeting to be held on July 16, 2020. Click to view [Meeting Minutes, Public Hearing Minutes, Draft Ordinances of Keeping of Chickens 2009, 2013, 2014, and 2020.](#)

Click to view the links to the recorded Council Meetings of [June 4, 2020](#), and [June 29, 2020](#).

▪ **How is the prohibition of the keeping and/or raising of chickens enforced by College Township?**

The College Township Zoning Officer, an employee of College Township, is responsible for ensuring that this, and all other provisions of the Township's Zoning Ordinance, are adhered to by all residents and those conducting business within the Township.

▪ **Can the College Township Council “override” decisions that are made by the College Township Zoning Officer?**

Actually, no. They cannot. Zoning Officers have particular powers bestowed upon them by the Commonwealth of Pennsylvania through what is known as the [Municipalities Planning Code \(MPC\)](#).

As a duly sworn officer of College Township, the Zoning Officer is authorized by the MPC and the Township Code to act on behalf of College Township. The Zoning Officer is required to administer the Zoning Ordinance in accordance with its literal terms and cannot permit any construction, use, or change of use that does not conform to current Zoning Ordinances. The Zoning Officer is also authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of their employment.

That said, College Township Council may challenge decisions of the Zoning Officer by filing an appeal with the Township's Zoning Hearing Board (ZHB). Members of the ZHB are appointed by College Township Council (for staggered five year terms) but operate independently of Council. (Note that Council members themselves are elected to four year terms every other year and those terms are also staggered – three (3) in one year and two (2) in the next.) College Township Council has challenged a number of determinations of Zoning Officers, most recently a decision involving the proposed construction of a cell tower on an

existing West Penn Power transmission line in the Nittany Orchards neighborhood.

▪ **Does a property owner impacted by a decision of the Zoning Officer have any recourse? Is there no due process available to a property owner?**

Any property owner or resident may challenge a decision made by the Zoning Officer by filing an appeal with the ZHB, just as can College Township Council.

▪ **How does someone appeal a Zoning Officer decision to the ZHB?**

There is an appeal application available from the College Township Zoning Office, 1481, E. College Avenue, State College, PA, 16801, that must be completed by the “appellant” no more than 30-days after the determination of the Zoning Officer has been formalized, which is typically the date of a “Notice of Violation” issued by the Zoning Officer. That form is also available online at www.collegetownship.org. Click to view the [Zoning Hearing Board Application](#). The application and fees must be submitted to the Township by U.S. mail or at the Township office.

▪ **Is there a cost to file the ZHB appeal?**

Yes. The total cost to a property owner or a resident to file an appeal with the ZHB is \$600.00 – \$100.00 for the appeal application, and a \$500.00 deposit to partially offset ZHB costs. If the applicant prevails in the ZHB determination the fees they paid are returned to the applicant.

It should also be noted that once an appeal to ZHB has been made, all enforcement activity is “suspended” for the duration of the ZHB process. The imposition of any fines or other enforcement action is suspended until a final decision is made in connection with an appeal of the ZHB determination.

▪ **Why does it cost so much to file an appeal with the College Township ZHB?**

The fees for the ZHB are set by and can be found in the College Township Zoning Ordinance Section A-203.

The reason the fee for a ZHB appeal is set at that amount is because of the costs involved in convening and conducting a hearing at the ZHB. Because the ZHB hearing is a quasi-judicial process and is typically, the first step in taking a zoning

issue to higher Pennsylvania courts if necessary, all proceedings of the ZHB are required to operate in a similar fashion as a court of law. Thus, complete transcripts of all meetings relating to an appeal must be made and transcribed. Such transcription costs can be substantial. In addition, College Township Council is required by the MPC to cover all legal fees incurred by the ZHB. So, in addition to covering the cost to defend the Zoning Officer's decision (Zoning Officer's time and legal representation by the Township Solicitor), College Township Council is obligated to cover the costs of a separate ZHB Solicitor for his/her work on behalf of the ZHB itself.

The \$600.00 fee is designed to approximately "split" the costs of deciding a typical ZHB appeal between the applicant (property owner or resident challenging the Zoning Officer's determination) and the Township.

▪ **How does the College Township Zoning Officer make the determination that chickens can't be kept or raised on less than 10-acres in a residential zoning district?**

While the Township's Zoning Ordinance is very specific in this regard, the Zoning Officer also relies on the definition of "Farm Use" as exists in the current Zoning Ordinance. Click to view the [College Township Zoning Use Chart](#).

The Farm Use definition states "The use of land and structures for one or more of the following: the tilling of the land, the raising of crops, fruits and vegetables and the raising and keeping of livestock and poultry; horticultural uses related to the raising, propagating and selling of trees, shrubs, flowers and other plant materials; and forestry uses related to the harvesting of lumber products". The Zoning Officer has interpreted this definition to mean that no keeping or raising of chickens (poultry) can happen within any residential zoning district within College Township unless a property is greater than 10-acres in size. Click to view the [College Township's Zoning Ordinance](#) and [definition of Farm Use](#).

▪ **What if a chicken – or a cow, goat, sheep or pig – is being kept or raised as a pet?**

There is no latitude or discretion for the Zoning Officer to make such a distinction within the definition of Farm Use. Any living animal that can be properly classified as livestock or poultry cannot be kept or raised on a residentially-zoned property less than 10-acres in size.

The College Township Zoning Officer is bound to adhere to the definitions and requirements set forth in the Township Zoning Ordinance. While he/she is expected to use good judgement in interpreting the Township Zoning Ordinance, where things are defined in the Ordinance, there is no latitude for interpretation.

▪ **People have all kinds of pets. Why can I have an alligator or a fish or a snake or a rabbit or a dog or a cat as a pet but not a chicken?**

The reason people can have other types of pets in College Township is because the current Zoning Ordinance does not restrict or preclude most animals being kept or raised as pets. There is no definition of “pet” in the Zoning Ordinance. The Zoning Ordinance, through the Farm Use definition, only restricts those animals that can be properly classified as livestock or poultry from being kept or raised in a residential zoning district on lots of less than 10-acres. Whether or not individuals think of their livestock or poultry as a pet has no impact on how the Zoning Ordinance definition is interpreted by the Zoning Officer.

▪ **So why can't I have a garden? The Farm Use definition specifically calls out “tilling of soil”.**

There is no prohibition from having a garden in a residentially zoned district in College Township. There is no prohibition from having a garden in any zoning district within College Township.

Because the term tilling is used in the context of the Farm Use definition of the Zoning Ordinance, it has been, and continues to be, the interpretation of Zoning Officers that this term is intended to denote a larger-scale cultivation of crops than is typically seen or might reasonably occur in a residential garden. The interpretation of “Farm Use” by the Zoning Officer does not, now or in the past, prohibit residential gardens.

▪ **Can I plant a garden in the Township's Right-Of-Way (ROW)?**

ROW is an area of land, typically along a street or road that is reserved for use by the governing body. The property owner retains ownership of the land that is part of a ROW, but the governing body has a right to use the land within the ROW. The actual street or road may not be on the entirety of the ROW, but the governing body has the ability to utilize any portion of the ROW in the performance of its duties and obligations – current or future - such as providing

for water and sewer lines, sidewalks, street trees, signage, etc. College Township has ROW's along all of its streets and roads within the Township.

Generally speaking, gardening within the ROW is not an issue because most residents utilize the ROW for ornamental-type gardening such as flower beds, shrubs and sometimes trees. However, items such as fences and structural elements – other than mailboxes – are not permitted in the ROW without a permit from the Township. That said, no type of planting can significantly impact vehicle site distance along a street or road. In this context, most items typically grown in a vegetable or flower garden could be grown in the ROW. (Exceptions to this may be sweet corn, sunflowers or pole beans and the like that could become a vehicle site distance issue if planted within the ROW.)

▪ **What happens if something that is placed in the ROW is damaged by work within the ROW?**

Anything placed within the ROW without a permit is at the landowner's own risk. College Township is not obligated to repair or replace anything – garden, landscaping, structure, etc. – that occupies the ROW without a permit. College Township and its contractors will make reasonable efforts to minimize disturbances to obstructions within the ROW but is not responsible for their replacement or reconstruction.

▪ **So, what about mailboxes?**

For those residents and businesses that receive mail at their property via a roadside mailbox, the US Postal Service publishes standards for where mailboxes must be placed in order to ensure delivery of mail. Click to view a link to the [College Township brochure providing guidance on mailbox construction and placement](#).

While mailboxes are most definitely within the ROW, College Township does not regulate individual's mailboxes; no permit is required to erect a mailbox that is in conformance to US Postal Service standards. However, because they occupy the ROW, the Township does not replace mailboxes damaged during snowplowing season, unless the mailbox was actually struck by the plow.

▪ **Say I have a shed that is in the ROW and I do not have a Township permit. What happens?**

You will eventually be contacted by the Zoning Officer who will inform you of the violation, in this case, an obstruction in the ROW without a permit. Shortly thereafter, you will receive a “notice of enforcement” letter from the Zoning Officer which will describe the violation, the section of the Zoning Ordinance that details the violation and the potential penalty for non-compliance with the zoning ordinance. The letter will also provide a timeframe within which the violation must be corrected, typically 30-days.

▪ **What happens after 30-days and I do not move my shed?**

First, sometime soon after the 30-days has expired the Zoning Officer will visit your property and make a determination if the violation has been brought into compliance. If the owner of the property has not appealed the Zoning Officers notice of violation with the ZHB, the Zoning Officer will proceed to file a civil enforcement complaint with the District Magistrate’s office.

Once the paperwork has been prepared by the Zoning Officer and sent to the District Magistrate’s office, the District Magistrate will schedule the matter for a hearing. Both the Zoning Officer and the landowner will present their respective case to the District Magistrate, who will decide if a violation exists, how the violation must be corrected and any fine or penalty that is to be paid.

▪ **Is there a fine for violating the Township zoning ordinance?**

Yes. If a notice of violation is not corrected, a property owner may face fines set in accordance with the Township Zoning Ordinance, Section A-203. Note that some fees are not specified in A-203 but are referenced back to fee guidance provided in the MPC.

As noted in the question above, the District Magistrate ultimately decides if a fine and penalty will be assessed and, if so, in what amount.

Fines and penalties not otherwise specified in A-203 may be assessed by the District Magistrate at up to \$500.00 per violation per day until corrective action is taken by the property owner.