

**TOWNSHIP OF UPPER SAUCON
LEHIGH COUNTY, PENNSYLVANIA**

ORDINANCE NO. 141- W

AN ORDINANCE AMENDING THE UPPER SAUCON TOWNSHIP ZONING ORDINANCE OF 2009 TO REVISE SECTION 464 RELATING TO THE NONCOMMERCIAL KEEPING OF LIVESTOCK TO AUTHORIZE THE KEEPING OF CHICKENS AS AN ACCESSORY USE IN THE RURAL RESIDENTIAL (R-1) AND SUBURBAN RESIDENTIAL (R-2) ZONING DISTRICTS, PROVIDE FOR REGULATIONS RELATING THERETO, CREATION OF A PERMIT PROGRAM, AND THE TERMINATION OR MODIFICATION OF SUCH USE AFTER FIVE (5) YEARS UPON A FINDING OF PUBLIC NUISANCE

SECTION 1: STATEMENT OF LEGISLATIVE FINDINGS

WHEREAS, on June 9, 2009, the Board of Supervisors of Upper Saucon Township (hereinafter, "Supervisors") enacted a comprehensive amendment to the Upper Saucon Township Zoning Ordinance, which amendment is known as Ordinance No. 141 (hereinafter, "Zoning Ordinance"); and

WHEREAS, the Zoning Ordinance has been amended from time-to-time; and

WHEREAS, Article 4 of the Zoning Ordinance provides "Specific Criteria" for certain uses in the Township including the "Noncommercial Keeping of Livestock," found at Section 464; and

WHEREAS, the term "Livestock" is defined to include "poultry;" and

WHEREAS, the Supervisors find that the term "poultry" includes "chickens;" and

WHEREAS, over the years, Township residents have made requests to allow the keeping of chickens to provide eggs for personal consumption on their lots; and

WHEREAS, the Supervisors have received input from proponents of this use indicating that a limited number of chickens may be kept as an accessory use on lots located in the R-2 Zoning District; and

WHEREAS, such activity is not currently permitted in the R-2 Zoning District; and

WHEREAS, the Supervisors find that chickens are by definition "livestock" and "poultry" and not pets or therapy animals; and

WHEREAS, the Supervisors note that Section 603(b) of the MPC indicates that zoning ordinances may "prohibit, regulate, restrict and determine," among other things, uses of land and structures; and

WHEREAS, the authorization to keep chickens in the R-2 Zoning District requires the adjustment of regulations relating to chickens in the R-1 Zoning District; and

WHEREAS, the Supervisors desire to amend the Zoning Ordinance to permit the keeping of a limited number of chickens in the R-1 and R-2 Zoning Districts, subject to the regulations set forth herein, and subject to the ability to repeal or amend this Ordinance after five years, without creating non-conforming uses, if they later find that the keeping of chickens in the R-1 or R-2 Zoning Districts creates a public nuisance; and

WHEREAS, the Supervisors desire to amend the Zoning Ordinance consistent with the afore-stated findings, definitions, and goals.

NOW, THEREFORE, the Board of Supervisors of Upper Saucon Township does hereby enact and ordain the following amendment to the Upper Saucon Township Zoning Ordinance of 2009, as amended.

SECTION 2: ZONING ORDINANCE TEXT AMENDMENT

1. Article 4, titled “Specific Criteria,” is hereby amended to delete Section 464, titled Noncommercial Keeping of Livestock” in its entirety and substitute the following therefore:

“Section 464 Noncommercial Keeping of Livestock

464.A Within the SMC, A, OSR, and R-1 Zones, the noncommercial keeping of livestock, as defined herein, is permitted by right as an accessory use to a principal residence, subject to all of the requirements of sub-sections 1 through 6, below.

1. Minimum Lot Area – All uses shall comply with the minimum lot area requirements within each respective zone; however, in no case shall a lot contain less than one-quarter (1/4) acre for group 1 animals, one (1) acre for group 2 animals, and two (2) acres for group 3 animals. The following list specifies additional requirements by size of animals kept.

- a. GROUP 1 – Animals whose average adult weight is less than ten (10) pounds shall be permitted at an animal density of twenty-four (24) per acre, with a maximum number of fifty (50) animals;
- b. GROUP 2 – Animals whose average adult weight is between ten (10) and sixty-five (65) pounds shall be permitted at an animal density of two (2) per acre, with a maximum number of twenty (20) animals; and
- c. GROUP 3 – Animals whose average adult weight is greater than sixty-five (65) pounds shall be permitted at an animal density of one (1) per acre, with a maximum number of ten (10) animals.

2. When keeping a combination of animal types (Group 1, 2, and 3) the permitted animal density shall be calculated based on the animals in each group. In no case shall a lot contain more than fifty (50) animals.

3. The following lists minimum setbacks from side and rear property lines imposed upon the placement of any structure used to house noncommercial livestock in the SMC, A, OSR, or R-1 Zones. No structure shall be located in any front yard. Should one structure be used to house a combination of animal types, the most restrictive setback shall apply:

a. GROUP 1 Animals –

Up to twenty-five (25) animals; a twenty-five foot (25') setback;
Above twenty-five (25) animals; a fifty foot (50') setback;

b. GROUP 2 Animals –

Up to two (2) animals; a twenty-five foot (25') setback;
Above two (2) animals, a fifty foot (50') setback and;

c. GROUP 3 Animals –

Fifty feet (50')

4. All structures used to house noncommercial livestock comprised of any Group 2 or Group 3 animals shall be fitted with a durable floor surface that can withstand the wear associated with the weight and movement of animals of fifty (50) pounds or more without failure (portable storage shed floors are generally unsuitable for such purposes). Structures for Group 1 animals shall comply with Section 464.B.3, sub-sections a through c.

5. All outdoor pasture/recreation areas shall be maintained with a vegetated and stable surface and enclosed with fencing to prevent the escape of animals.

6. The applicant shall furnish evidence of an effective means to dispose of dead animals according to the regulations of the Pennsylvania Department of Agriculture.

7. The above notwithstanding, the keeping of chickens in the R-1 Zone shall be subject to the requirements of Section 464.B of this Ordinance.

464.B Within the R-1 and R-2 Zones, the noncommercial keeping of chickens (only) shall be permitted by right as an accessory use to a principal residence subject to the following requirements of sub-sections 1 through 10:

1. The maximum number of chickens permitted shall be six (6) per dwelling.

2. Only hens and chicks shall be permitted. Roosters and other poultry, fowl or livestock shall not be permitted. Hens and chicks constitute "livestock," as that term is defined in the Zoning Ordinance and shall not by virtue of this amendment constitute, or be considered, pets or therapy animals.

3. Chickens shall be kept in an enclosure (coop) and all animals, their housing, and their outdoor area shall be properly maintained so as not to become a nuisance to the adjoining properties. In addition, each coop shall meet all of the following requirements.

a. Each coop shall be maintained and operated in a clean, dry, and odor-free condition while providing adequate sun, shade, and ventilation. It shall be impermeable to rodents, wild birds, and predators, including dogs and cats. Any operating windows and/or vents must be covered with predator and bird-proof wire with less than one-inch openings.

b. Each coop shall have four walls, a roof, and one or more doors that can be shut completely. Floors shall be constructed of concrete, wood, or wire.

c. Each coop shall be fully surrounded by a single pen consisting of a sturdy fence. The fence shall contain a gate. The fence and gate shall be maintained at all times in good working order for the purpose intended and shall be neat and clean in appearance and construction. All areas within the fencing shall be kept free from trash and accumulated droppings and maintained with a vegetated and stable surface. Every chicken shall at all times be secured within the pen and shall be contained within the coop between the hours of 10 p.m. and 7 a.m. prevailing time.

d. Coop and pen dimensions shall meet the following requirements.

(1) The combined footprint of the coop and pen shall not exceed sixty-four (64) square feet.

(2) The maximum height of the coop and pen shall not exceed six (6) feet as measured from ground level to the highest point of the coop.

(3) Each coop shall have a raised floor of at least eighteen (18) inches in height measured from ground level.

(4) Each coop shall provide no less than two (2) square feet per chicken, and each pen shall provide no less than six (6) square feet per chicken.

4. Every coop and its associated pen shall meet the following yard, setback, and location requirements.

a. No coop or its associated pen shall be placed in any front or side yard.

b. Each coop and its associated pen shall be set back a distance equal to the applicable side yard setback for principal structures but, in no case shall the setback be less than twenty (20) feet from all side property lines.

c. The setback from the rear yard property line for each coop and pen shall be:

(1) Fifty (50) feet for lots of 22,000 square feet or more; or

(2) Thirty-five (35) feet for lots of less than 22,000 square feet.

d. No coop or pen may encroach into any required buffer or easement.

5. Chickens shall at all times be provided with access to feed and clean water. Uneaten feed shall be removed in a timely manner. Water containers shall not be allowed to become breeding grounds for mosquitos and other insects.

6. All animal waste shall be properly stored and disposed of, so as not to be objectionable at the site's property line or become a public or private nuisance. Landowners shall make appropriate arrangements for the storage and removal of chicken manure from the coop, pen, and lot, and with respect to manure the following shall apply:

a. All manure not used for on-site composting or fertilizing shall be removed regularly; and

b. All stored manure shall be in a fully enclosed container with a secured lid over the entire container.

7. No breeding of chickens or sale of chickens, chicken manure, chicken eggs or products derived or created from chickens or their eggs is permitted on, or off-site.

8. No slaughter of chickens for the purpose of consumption may occur on the site.

9. The applicant shall furnish evidence of an effective means to dispose of dead chickens according to the regulations of the Pennsylvania Department of Agriculture.

10. If a coop is uninhabited for one (1) year or more, all structural elements of the coop and pen must be removed from the site.

11. A Zoning Permit shall be obtained prior to establishing this use on any property in the R-1 or R-2 Zone.

464.C Definitions. For the purpose of Section 464.B, only, the following definitions shall apply:

1. Coop. A building for housing chickens as permitted by Section 464.B.

2. Pen. An area enclosed by a protective fence which is connected to, or surrounds, a coop to allow chickens to leave the coop while remaining in an enclosed, predator-safe environment.

464.D Permit Program. For the purpose of Section 464.B only, the keeping of chickens in the R-1 and R-2 Zones shall be subject to a permit program, to be administered by the Township. Enforcement shall be in accordance with the authority set forth in the Zoning Ordinance and the Pennsylvania Municipalities Planning Code. Nothing set forth herein shall preclude use by the Township of any other remedies available at law or in equity.

464.E Modification or Termination of Use. Section 464.B, C and D may be modified or repealed after five (5) years from the effective date hereof without there being deemed to have been created or established any non-conforming use(s). A modification or termination which is deemed to preclude the establishment of a non-conforming use hereunder shall be based upon a legislative finding by the Supervisors that the keeping of chickens in the R-1 or R-2 Zone constitutes a public nuisance and is or has become contrary to the public health, safety and general welfare. This Section shall apply only to the keeping of chickens in the R-1 and R-2 Zones.”

SECTION 3: PROTANTO REPEAL

Unless otherwise specifically stated in this Ordinance 141-W, all Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4: EFFECTIVE DATE

This Ordinance shall become effective five (5) days after enactment by the Board of Supervisors of Upper Saucon Township.

SECTION 5: SAVINGS CLAUSE

To the extent that any word, portion or provision of the text hereof is found by any court of competent jurisdiction to be invalid or void on constitutional or other grounds, such word, phrase, portion or provision shall, if possible, be deemed to be repealed and those remaining valid portions of the text shall remain in full force and effect if the same can be accomplished without the structure of the Ordinance having been destroyed by the elimination of that word, phrase, portion or provision found to be invalid or void.

DULY ENACTED AND ORDAINED this 24th day of October 2022, by the Board of Supervisors of the Township of Upper Saucon, Lehigh County, Pennsylvania in lawful session duly assembled.

[Signatures Follow]

**TOWNSHIP OF UPPER SAUCON
BOARD OF SUPERVISORS**

Brian Full
CHAIRMAN

VICE CHAIRMAN

Stephen Wagner
SUPERVISOR

DM
SUPERVISOR

[Signature]
SUPERVISOR

ATTEST:

TF Neil
SECRETARY