

TOWNSHIP OF FAIRVIEW
ERIE COUNTY, PENNSYLVANIA

ORDINANCE NO. 2013-6

AN ORDINANCE AMENDING FAIRVIEW TOWNSHIP'S
1998 ZONING ORDINANCE, AS AMENDED, TO: (1)
AMENDING SECTION 201; (2) ADD CERTAIN
DEFINITIONS; (3) REGULATE AGRICULTURAL ANIMALS
IN THE A-1 AND A-2 ZONING DISTRICTS AND (4)
PROVIDE FOR HORTICULTURE WITH THE SALE OF
HORTICULTURAL PRODUCTS; AND (5) ADDING A
SUPPLEMENTARY REGULATION IN ARTICLE VIII.

ENACTED by the Township of Fairview under authority of the Municipalities
Planning Code and other applicable law, as follows:

WHEREAS, Fairview Township enacted a Zoning Ordinance, Ordinance No. 98
32, which, from time to time, has been amended in accordance with the Municipalities
Planning Code ("Zoning Ordinance"); and

WHEREAS, the Township has considered the regulation of animals and
horticulture in the A-1 and A-2 Zoning Districts.

NOW, THEREFORE, following public hearing and satisfying all conditions
precedent, it is enacted as follows:

1. Section 201 is amended to read:

Except as specifically provided in any zoning district, this Ordinance is inclusive zoning
in that no use may be operated in a District unless it is specifically included as a use by
right for that District and each parcel shall be limited to one principal use per lot.
Nothing in this Ordinance is intended to prohibit no-impact home based businesses.

2. Section 401 of the Zoning Ordinance is amended to add the following
Definitions:

AGRICULTURAL OPERATION: An enterprise that is actively engaged in the
commercial production and preparation for market of crops, livestock and livestock
products and in the production, harvesting and preparation for market or use of
agricultural, agronomic, horticultural, silvicultural and aquacultural crops and
commodities The term includes an enterprise that implements changes in production
practices and procedures or types of crops, livestock, livestock products or commodities

produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry.

CHICKEN TRACTOR: A portable enclosure of poultry, intended to be frequently moved as a means to build soil or control garden weeds, which may or may not be attached to a henhouse or coop.

COOPS: A building constructed of permanent materials with four opaque walls and a roof, with ventilation through windows or other protected openings, intended for the shelter and protection of poultry.

EXOTIC ANIMALS:

1. All bears, coyotes, lions, tigers, leopards, jaguars, cheetahs, cougars, wolves and any crossbreed of these animals which have similar characteristics in appearance or features.
2. Any ungulate species not regulated as domestic livestock by the PA Department of Agriculture
3. Any species of animal that requires a permit for possession issued by the PA Game Commission.

HEN HOUSE: A building constructed of permanent materials with four opaque walls and a roof, with ventilation through windows or other protected openings, intended for the shelter and protection of poultry.

HOUSEHOLD PET: A domesticated animal that is normally or can generally be kept within the immediate living quarters of a residential structure. Any member of the swine, sheep, poultry, bovine or equidae family of quadrupeds, elephants, rhinoceros, hippopotamus, moose, deer, or reptiles having a venomous or constrictor nature and other animals considered dangerous such as exotic animals defined by this ordinance does not constitute a household pet under any provision of this Ordinance.

MINIATURE PONY: An equine animal with an adult weight of less than three hundred fifty (350) pounds or having a heart girth of fifty two (52) inches or less.

NORMAL AGRICULTURAL OPERATION: The activities, practices, equipment and procedures that farmers adopt, use or engage in the production and preparation for market of poultry, livestock and their products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities and is:

1. Not less than ten (10) contiguous acres in area; or
2. Less than ten (10) contiguous acres in area but has an anticipated yearly gross income of at least \$10,000.

This term includes new activities, practices, equipment and procedures consistent with technological development within the agricultural industry. Use of equipment shall include machinery designed and used for agricultural operations, including, but not limited to, crop dryers, feed grinders, saw mills, hammer mills, refrigeration equipment, bins and related equipment used to store or prepare crops for marketing and those items of agricultural equipment and machinery defined by the act of December 12, 1994 (P.L. 944, No. 134), known as the Farm Safety and Occupational Health Act. Custom work shall be considered a normal farming practice.

POULTRY: Domestic fowl such as chickens, turkeys, ducks, pheasants, and quail.

ZOO: A place where animals are kept, often in a combination of indoor and outdoor spaces, and the primary purpose is to be viewed by the public.

3. Section 708 is amended and restated to provide as follows:

Section 708 A-1 RURAL DISTRICT

A. Principal Uses:

1. Single-family detached dwellings.
2. Parks, playgrounds and other publicly owned and/or operated recreational uses, including those of a subdivision association.
3. Educational, religious and philanthropic uses may be permitted as a special exception by the Zoning Hearing Board.
4. Municipal or civic buildings, public libraries and museums, and fire and police stations.
5. Cemeteries and mausoleums.

B. Accessory Uses:

1. Private garages, barns, sheds and parking areas.
2. Household pets.

3. No-impact Home-Based Business.
4. Home gardens.
5. Signs. See Supplementary Regulations, Section 827.
6. Home occupations. See Supplementary Regulations, Section 828.
7. Horticulture with the sale of products. Only one roadside stand selling the products produced on the premises or by the property owner is permitted provided:
 - a. The roadside stand must be temporary in design and located outside of the road right-of-way.
 - b. There shall be a minimum of four off-street parking spaces outside of the road right-of-way.
 - c. No more than 50% of the total product sold, may be produced by another producer.
8. Horticulture with the sale of products may be permitted from a permanent structure as a special exception by the Zoning Hearing Board. Criteria listed by the Zoning Hearing Board:
 - a. Sales area inside of the permanent structure shall be limited to a maximum of 1,000 square feet.
 - b. No more than 50% of the total products sold may be produced by another producer.
 - c. One parking space for every 100 square feet of sales area, with a minimum of four off-street parking spaces outside of the road right-of-way.
9. Agricultural animals are permitted on a **minimum lot area of (1) acres and less than three (3) acres** provided:
 - a. A maximum of seven (7) per acre of any combination of the following: chickens (females only), turkey, ducks, pheasants or quail **AND** a maximum of two (2) per acre of any combination of the following: female or male castrated goats, sheep, miniature ponies or pot-bellied pigs.

b. The lot area used by such animals must be completely enclosed by a fence, or other method of enclosure (including, but not limited to, chicken tractors), located a minimum of 10 feet from any property line.

c. Must follow Department of Environmental Protection (DEP) authorized manure management practices.

d. Accessory buildings (hen houses, coops or barns) housing the animals must be located a minimum of 25 feet from any property line and located to the side or rear of the principal structure.

1. Hen houses, coops and chicken tractors shall be designed to provide safe and healthy living conditions for the poultry with a minimum of 3 square feet per bird, while minimizing adverse impacts to other residents in the neighborhood. The accessory building must be kept in good repair.

e. Slaughtering and butchering of poultry must be done in a sanitary manner indoors and waste disposed of properly.

f. Deceased animals must be disposed of properly.

g. Properties adjacent to any R-1, R-2 or R-3 zoning district, must have a fence, or other method of enclosure (including, but not limited to, chicken tractors), containing the animals located no less than twenty-five (25) feet from any R-1, R-2, or R-3 zoning district property lines and the structures housing the animals must be kept a minimum of 50 feet from any R-1, R-2, or R-3 zoning district property lines.

10. Agricultural animals are permitted on a **minimum lot area of three (3) acres** provided:

a. A maximum of seven (7) per acre of any combination of the following: chickens (females only), turkey, ducks, pheasants or quail **AND EITHER** a maximum of two (2) per acre of any combination of the following: female or male castrated goats, sheep, miniature ponies or pot-bellied pigs **OR** a maximum of one (1) per acre of any combination of the following: horse, pig, cattle, llama or alpaca.

b. A maximum of 25% of the horses kept on the property may be boarded (or owned by a non-resident of the property).

c. The lot area used by such animals must be completely enclosed by a fence, or other method of enclosure (including, but not limited to, chicken tractors), located a minimum of 10 feet from any property line.

d. Must follow Department of Environmental Protection (DEP) authorized manure management practices.

e. Accessory buildings (hen houses, coops or barns) housing the animals must be located a minimum of 25 feet from any property line and located to the side or rear of the principal structure.

1. Hen houses, coops and chicken tractors shall be designed to provide safe and healthy living conditions for the poultry with a minimum of 3 square feet per bird, while minimizing adverse impacts to other residents in the neighborhood. The accessory building must be kept in good repair.

f. Slaughtering and butchering of poultry must be done in a sanitary manner indoors and waste disposed of properly.

g. Deceased animals must be disposed of properly.

h. Properties adjacent to any R-1, R-2 or R-3 zoning district, must have a fence, or other method of enclosure (including, but not limited to, chicken tractors), containing the animals located no less than twenty-five (25) feet from any R-1, R-2, or R-3 zoning district property lines and the structures housing the animals must be kept a minimum of 50 feet from any R-1, R-2, or R-3 zoning district property lines.

11. Male chickens may be permitted as a special exception by the Zoning Hearing Board, unless the parcel abuts any R-1, R-2 or R-3 zoning districts. Criteria as listed by the Zoning Hearing Board:

a. A maximum number of two (2) male chickens.

b. The lot area used by such animals must be completely enclosed by a fence, or other method of enclosure (including, but not limited to, chicken tractors), located a minimum of 10 feet from any property line.

c. Must follow Department of Environmental Protection (DEP) authorized manure management practices.

d. Accessory buildings (hen houses, coops or barns) housing the animals must be located a minimum of 25 feet from any property line and located to the side or rear of the principal structure.

1. Hen houses, coops and chicken tractors shall be designed to provide safe and healthy living conditions for the poultry with a minimum of 3 square

feet per bird, while minimizing adverse impacts to other residents in the neighborhood. The accessory building must be kept in good repair.

e. Slaughtering and butchering of poultry must be done in a sanitary manner indoors and waste disposed of properly.

f. Deceased animals must be disposed of properly.

12. See Article VIII, Supplementary Regulations Section 831 with regard to the Pennsylvania Right to Farm Act, 3 P.S. 951, et seq. and the Pennsylvania Uniform Construction Code.

13. Other accessory uses customarily incidental to a permitted principal use.

C. Lot and Area Requirements:

1. Minimum lot area:

a. Single-family detached dwellings - one acre.

b. Other permitted principal uses - two acres

2. Minimum lot width:

a. Single-family detached dwellings - 135 feet.

b. Other permitted principal uses - 170 feet.

3. Minimum front yard - 35 feet.

4. Minimum side yard:

a. Principal use - 24 feet total, 10 feet minimum one side.

b. Accessory use - 10 feet except for section 708 B.9 and 10.

c. Street side on corner lot - 20 percent of lot width or 35 feet whichever is less.

5. Minimum rear yard:

a. Principal use - 40 feet.

- b. Accessory use - 10 feet except for section 708 B.9 and 10.
- 6. Maximum building height - three stories or 40 feet.
- 7. Maximum building lot coverage:
 - a. Principal use - 35 percent of total lot area.
 - b. Accessory use - 40 percent of rear and side yard area.
- 8. Minimum lot depth - 200 feet.
- 9. Maximum lot depth to width ratio - four to one.
- D. Off-Street Parking Requirements:
 - 1. A minimum of two off-street parking spaces per family dwelling unit.
 - 2. Section 708 A.2. and 5. uses: one space per 2,000 square feet of gross lot area.
 - 3. Section 708 A.3. and 4. uses: one space for each three seats of assembly use and one space for each employee on maximum work shift.
 - 4. Section 708 B.7.b: there shall be a minimum of four off-street parking spaces outside of the road right-of-way.
 - 5. Section 708 B.8.c: one parking space for every 100 square feet of sales area, with a minimum of four off-street parking spaces outside of the road right-of-way.
- 4. Section 709 is amended and restated to provide as follows:

Section 709 A-2 AGRARIAN DISTRICT

- A. Principal Uses:
 - 1. Single-family detached dwellings.
 - 2. Agricultural operations.
 - 3. Agricultural operations with a single family dwelling, in which the residence supports the agricultural operation.

4. Parks, playgrounds and other publicly owned and/or operated recreational uses, including those of a subdivision association.
5. Educational, religious and philanthropic uses.
6. Municipal or civic buildings, public libraries and museums, and fire and police stations.
7. Cemeteries and mausoleums.
8. Private clubs, lodges and recreational buildings and/or facilities.
9. Mobile homes are permitted outside a mobile home park, provided:
 - a. The mobile home shall be placed on a lot in compliance with all requirements of a single-family detached dwelling in the A-2 Agrarian District.
 - b. The entire mobile home shall be anchored for safety reasons to a permanent foundation, as defined in this Ordinance.
 - c. The entire mobile home shall be skirted for safety reasons by fire resistant skirting, as delineated in the Pennsylvania Construction Code Act and regulations promulgated thereunder.
10. Zoos, riding academies, stables, and kennels within Federal, State and County requirements.
11. Private airstrips and airports
12. Mobile home parks. See Supplementary Regulations, Article III - A, of the Fairview Township Subdivision and Land Development Ordinance.
13. Recreational vehicle parks, vacation home developments, and recreational camp parks. See Supplementary Regulations, Article III - Section 308, of the Fairview Township Subdivision and Land Development Ordinance.

B. Accessory Uses:

1. Private garages, barns, sheds and parking areas.
2. Household pets.
3. No-impact Home-Based Business.

4. Home gardens.
5. Signs. See Supplementary Regulations, Section 827.
6. Home occupations. See Supplementary Regulations, Section 828.
7. Sale of agricultural products, produced on the premises or by the property owner, is permitted from a temporary roadside stand provided:
 - a. The roadside stand must be temporary in design and located outside of the road right-of-way.
 - b. There shall be a minimum of four (4) off-street parking spaces outside of the road right-of-way.
 - c. No more than 50% of the total product sold, may be produced by another producer.
8. Sale of agricultural products, produced on the premises or by the property owner, is permitted from a permanent roadside stand provided:
 - a. Sales area inside of the permanent structure shall be limited to a maximum of 1,000 square feet.
 - b. No more than 50% of the total products sold may be produced by another producer.
 - c. One parking space for every 100 square feet of sales area, with a minimum of four off-street parking spaces outside of the road right-of-way.
9. Agricultural animals are permitted on lots with an area of less than three (3) acres provided:
 - a. A maximum of seven (7) per acre of any combination of the following: chickens (females only), turkey, ducks, pheasants or quail **AND EITHER** a maximum of two (2) per acre of any combination of the following: female or male castrated goats, sheep, miniature ponies or pot-bellied pigs **OR** a maximum of one (1) per acre of any combination of the following: horse, pig, cattle, llama or alpaca.
 - b. A maximum of 25% of the horses kept on the property may be boarded (or owned by a non-resident of the property).

c. The lot area used by such animals must be completely enclosed by a fence, or other method of enclosure (including, but not limited to, chicken tractors), located a minimum of ten (10) feet from any property line.

d. Must follow Department of Environmental Protection (DEP) authorized manure management practices.

e. Accessory buildings (hen houses, coops or barns) housing the animals must be located a minimum of twenty-five (25) feet from any property line and located to the side or rear of the principal structure.

1. Hen houses, coops and chicken tractors shall be designed to provide safe and healthy living conditions for the poultry with a minimum of three (3) square feet per bird, while minimizing adverse impacts to other residents in the neighborhood. The accessory building must be kept in good repair.

f. Slaughtering and butchering of poultry must be done in a sanitary manner indoors and waste disposed of properly.

g. Deceased animals must be disposed of properly.

10. Agricultural related structures such as greenhouses, coops, barns, silos, corncribs, smokehouses, temporary sawmills, and temporary housing for agricultural workers.

11. See Article VIII, Supplementary Regulations Section 831 with regard to the Pennsylvania Right to Farm Act, 3 P.S. 951, et seq. and the Pennsylvania Uniform Construction Code.

12. Other accessory uses customarily incidental to a permitted principal use.

C. Lot and Area Requirements:

1. Minimum lot area:

a. Agricultural operations - 3 acres.

b. Single-family detached dwellings - 2 acres.

c. Mobile homes - 2 acres.

d. Zoos, private airstrips/airports, recreational vehicle parks, vacation home developments, and recreational camp parks - 10 acres.

- e. Other principal uses - 2 acres.
2. Minimum lot width:
 - a. Agricultural operations - 300 feet.
 - b. Single-family detached dwellings - 150 feet.
 - c. Mobile homes - 150 feet.
 - d. Zoos, private airstrips/airports, recreational vehicle parks, vacation home developments, and recreational camp parks - 300 feet.
 - e. Other principal uses - 150 feet.
3. Minimum front yard - 40 feet.
4. Minimum side yard:
 - a. Principal use - 50 feet total, 20 feet minimum one side.
 - b. Accessory use - 10 feet except for section 709 B.9. and 10.
 - c. Street side on corner lot - 20 percent of lot width or 35 feet, whichever is less.
5. Minimum rear yard:
 - a. Principal use - 80 feet.
 - b. Accessory use - 10 feet except for section 709 B.9. and 10.
6. Maximum building height - three stories, or 40 feet or as specified elsewhere in this Ordinance.
7. Maximum building lot coverage:
 - a. Principal use - 35 percent of total lot area.
 - b. Accessory use - 40 percent of rear and side yard area.

8. Minimum lot depth:
 - a. Agricultural operations - 400 feet
 - b. Single-family detached dwellings - 250 feet.
 - c. Mobile homes - 250 feet.
 - d. Zoos, private airstrips/airports, recreational vehicle parks, vacation home developments, and recreational camp parks - 400 feet.
 - e. Other principle uses - 250 feet.

9. Maximum lot depth to width ratio - 5 to 1.

D. Off-Street Parking Requirements:

1. A minimum of two (2) off-street parking spaces per family dwelling unit.
2. Section 709 A.2, 5, 9 and 10 uses: one (1) space per 2,000 square feet of gross lot area.
3. Section 709 A.3, 4 and 7 uses: one (1) space for each three (3) seats of assembly use and one (1) space for each employee on maximum work shift, and twelve (12) spaces per hole for a golf course.
4. Section 709 B.7.b: there shall be a minimum of four (4) off-street parking spaces outside of the road right-of-way.
5. Section 709 B.8.c: one parking space for every 100 square feet of sales area, with a minimum of four off-street parking spaces outside of the road right-of-way.
5. Article VIII, Supplementary Regulations shall be amended to add Section 831 to read as follows:

No part of this Ordinance is intended to and shall not be construed to affect any provisions of any state statute which preempts local regulation, including but not limited to the Pennsylvania Right to Farm Act, 3 P.S. 951, et seq. and the Pennsylvania Uniform Construction Code.

6. All ordinances or parts of any ordinances inconsistent herewith are hereby repealed.

ENACTED and ORDAINED this 23rd day of DEC., 2013.

FAIRVIEW TOWNSHIP BOARD OF SUPERVISORS

Attest:


Secretary

By 
Peter Kraus, Chairman

By 
Ralph Heidler

By 
David Carner