

**\*\*\*ADOPTED AUGUST 7, 2023\*\*\***

**DELANCO TOWNSHIP**

**ORDINANCE 2023-12**

**AN ORDINANCE AMENDING CHAPTER 123 OF THE CODE OF THE TOWNSHIP OF DELANCO GOVERNING “ANIMALS” TO AMEND ARTICLE I TO BE CONSISTENT WITH STATE LAW AND TO CREATE ARTICLE V GOVERNING KEEPING OF HENS**

**WHEREAS**, the existing provisions of Chapter 123 of the Code of the Township of Delanco governing “Animals” provide that the keeping of hens is a prohibited activity within the municipality; and

**WHEREAS**, the Township Committee of the Township of Delanco desires to change that restriction and to provide certain regulations and limitations with regard to the keeping of hens within the municipality; and

**WHEREAS**, the Township Committee further desires to amend Article I of Chapter 123 to be consistent with State Law, where State Law preempts ownership and regulation of the keeping of wild animals; and

**WHEREAS**, the Township Committee of the Township of Delanco finds this amendment and addition to the Code to be in the best interests of the health, safety and welfare of the residents of the Township and the public at large.

**NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED** by the Township Committee of the Township of Delanco, State of New Jersey Section 123 is hereby amended as follows:

**SECTION 1.**

Chapter 123, Article I, Section 123-4 of the Township Code entitled “Keeping of Animals” is hereby amended to read as follows:

**§123-4. Animals restricted in certain areas.**

**A.** Farm animals.

- (1)** Farm animals as herein defined shall be kept on a farm as herein defined.
- (2)** Farm animals shall not be permitted to be owned or maintained anywhere within the Township of Delanco other than in accord with Subsection **A(1)** above.
- (3)** Any person that desires to keep a farm animal other than on a farm in accord with Subsection **A(1)** above shall be required to seek a use variance before the Delanco Township Joint Land Use Board from the prohibited uses specified under § **110-8C(22)**.
- (4)** The provisions of Article V below create an exception to the above provisions with regard to the keeping of hens in accord with that Article.

**B.** Wild animals.

~~(1) Wild animals shall not be permitted to be owned or maintained anywhere within the Township of Delanco. The keeping of Wild animals is prohibited by N.J.S.A. 23:4-50 and 23:4-63.3, and this article is not intended to, and shall not be read to, conflict with those state statutes.~~

~~(2) No exception may be allowed to this subsection.~~

**SECTION 2.** Chapter 123 of the Township Code governing “Keeping of Animals” is hereby amended to add the following Article V:

**Article V Keeping of Hens**

**§123-25.** Hens permitted.

The keeping of backyard hens shall be permitted in the Township of Delanco subject to rules and regulations as specified in this article.

**§123-26.** Definitions.

Backyard Hen – Any female of the chicken species.

Coop – A small building for housing chickens.

Attached enclosed run – A fenced in space attached to the Coop.

Habitable portion of a residential dwelling – Any portion of a residential dwelling that is used for human occupation including attached decks, porches or patios.

**§123-27.** Participation; location; number restricted.

A. Residents of single-family homes or residents of town-homes which meet the criteria set forth in this section shall be eligible to keep backyard hens. Residences that are governed by Homeowners Associations (HOA) must have written permission from the applicable HOA to participate.

B. There shall be a limit of two hens permitted per 1,000 square feet of lot area, capped at a maximum of 8 hens; No roosters are permitted.

**§123-28** Requirements for coops; slaughter of hens; waste.

The following regulations and conditions for the keeping and housing of hens shall be complied with:

A. Location and size:

1. The keeping of hens shall be limited to the Rear Yard as defined by the Township Code.
2. The coop and attached enclosed run shall be kept at least 15 feet from any point of the habitable portion of the neighboring residential dwelling. Garages attached or otherwise, and accessory buildings shall not be considered a “habitable dwelling” for the purposes of calculating the required distance.
3. A minimum of a five-foot side and rear yard setback shall be maintained as a buffer.
4. The maximum permitted area of the coop and attached enclosed run shall be 120 square feet.
5. The maximum permitted height of any coop structure, whether or not said coop is stacked, shall be eight feet as measured from the natural grade.

B. Conditions and regulations:

1. The coop and attached enclosed run shall be a sound structure and predator-proof.
2. The coop and attached enclosed run shall be appropriate size for the number of hens. The Coop shall be a minimum of three square feet per hen. The run shall be a minimum of 8 square feet per hen.
3. The coop shall be dry and well-ventilated with windows to admit sunlight and shall not be heated.
4. The housing of hens must be the primary purpose of the structure.
5. The coop and attached run must be kept clean and the utilization of a tarp as a portion of the roof is not permitted.
6. Clean water must be provided, and food must be kept in a tightly sealed rodent and predator-proof container.
7. The yard in the area where the coop is located shall be clean, free of odors and dust abatement techniques must be utilized.
8. Hens may roam outside of the coop area but only in the fenced in run area adjacent to the coop. However, hens shall be allowed outside the coop/run area provided they are in an enclosed area from which they cannot escape or an adult is outside with them the entire time to keep them from leaving the owner’s property.
9. There shall be no slaughter of hens in the Township of Delanco.
10. Waste shall be handled properly to prevent offensive odors and disposed of in an environmentally friendly manner. Run-off waste on adjacent properties shall not be permitted.
11. Hens or eggs produced from hens kept on the property shall not be sold under the license.

**§123-29.** Creation of the Delanco Hen Advisory Board; complaints.

- A. The Delanco Hen Advisory Board (hereafter HAB) is hereby created to have a program run by residents knowledgeable about backyard hens, with the following duties:
1. advising the Township Committee about the safe and proper way for hens to be kept in the Township;
  2. educating residents who wish to keep hens per this code;
  3. assisting residents in making an application for a license to keep hens;
  4. evaluating such applications and recommend to the Township Committee approval of an application;

5. handling complaints about how hens are kept;
  6. recommending revocation of licenses when necessary and appropriate;
  7. assisting anyone desiring to no longer participate in the backyard hen program to relocate their hens.
- B. The Township Committee shall appoint a HAB as follows:
1. It shall consist of at least three and no more than five Delanco residents. However, one or more non-Delanco resident(s) with expertise and training in this area may be appointed if sufficient Delanco residents are not available, but the membership at any time may not consist of less than two-thirds (2/3) residents of Delanco Township.
  2. All members shall have received appropriate training from a credible organization on the basics of raising backyard chickens prior to appointment.
  3. The term shall be for one-year on a calendar year basis.
  4. The members shall elect a chair, a vice chair, and board secretary from the members. The chair and vice chair shall be residents of Delanco Township.
  5. A member of the Township Committee shall be designated by the Township Committee to serve as a liaison to the Board.
  6. The HAB shall meet at least on quarterly basis and keep minutes.
- C. When a complaint is received by the Township of Delanco, it will be forwarded to the HAB for investigation. If the HAB finds a violation of this article, and cannot resolve the complaint, the complaint will be reported to the Code Enforcement Officer, or the County Board of Health, as appropriate, for an investigation.

**§123-30** License required; class; fee; expiration;.

- A. No person shall keep hens on their property without having first complied with the provisions of this chapter by obtaining a license therefor as provided herein.
- B. There shall be a maximum of 15 licenses issued annually.
- C. Any applicant desiring to keep backyard hens shall be required to take a class on the basics of raising backyard hens prior to their first initial application.
  1. The HAB will provide a class at least once a year, directly or through a credible organization, at a nominal fee, for anyone who has not previously met this requirement.
  2. Proof of attendance must be presented with the completed application.
- D. A member of the HAB will review the application with the applicant prior to final submission including a review of the plans for the chicken coop and attached enclosed run and perform an inspection of the applicable property. A report of the review will be provided to the full Board. An applicant must authorize members of the HAB to enter their property for inspection purposes.
  1. The HAB, shall provide a certification to accompany the application to the Township that the applicant has met all the conditions to apply and believe the applicant is

compliant with all provisions of this code based on the report and their analysis of the application.

E. Application for license.

The following regulations shall apply when applying for a license:

1. Applications for a license required by this chapter shall be submitted to the Municipal Clerk's office with the relevant information as required by that office, proof of compliance with the conditions specified from the HAB per D1 above, and paying the required fee thereof. Tenants of a property submitting an application must have the written consent of the landlord.
2. An annual non-refundable license fee of \$25.00 shall be paid with each application for a license to be issued pursuant to this article.
3. The Zoning Officer shall review the application and advise whether or not it meets the location requirements per **§123-28 A**.
4. Every license issued pursuant to this article shall expire annually on December 31<sup>st</sup> of the year of issuance. If an initial application is approved between July 1 and December 31, it shall be good until the following December 31.
5. Applications for renewal must be submitted by March 1 for that calendar year. Renewal applications received after that date will incur a \$5 per month additional late charge.

F. Licenses shall be issued by the Township Clerk upon verification that the applicant has complied with all the criteria and rules set forth by the HAB and this code.

G. Once a license has been issued, the Clerk shall forward a copy of the approved application to the HAB. As a condition of license approval, the applicant must advise the HAB when the installation of the coop and run are complete to schedule an inspection, before any hens are placed there. An applicant must authorize members of the HAB to enter their property for inspection purposes. The HAB must provide a report to the Municipal Clerk's office that the installation is in compliance.

H. Any applicant who has backyard hens within the Township of Delanco as of the date of adoption of this ordinance, shall be required to apply for a license. If the existing situation does not comply with all the conditions of this code, applicants will be allowed to come into compliance with the criteria and rules, through the natural expiration of their hens, provided such waiver does not negatively affect the health, safety and welfare of any resident or person and provided such application is made with the same year of the passage of this ordinance.

**§123-31. Access to property.**

As a condition of receiving said license, the resident authorizes members of the HAB to enter their property for inspection purposes in response to complaints per **§123-29 C**. Any official of the County Health Department and/or a Township Code Official shall be permitted to enter any property for the purpose of a site inspection to ensure compliance with the provisions of the article, either during the application process or during the period of the license. Such official may request to be accompanied by a member of the HAB.

**§123-32.** Revocation of license.

The Township Committee shall have the right to revoke the license for failure to comply with the conditions and regulations set forth in the article based on the recommendation of the HAB. Prior to such revocation, a written notice with the basis for the revocation shall be served upon the licensee and setting the place, date and hour when the Township Committee will hear the matter. Following such hearing, the Township Committee may proceed to revoke the license.

**§123-33.** Violations and penalties.

Any person who shall violate any provision of this article shall, upon conviction, be punishable as provided in Chapter 1, General Provisions, Article II, General Penalty. Each day that a violation continues shall be deemed a separate offense.

**SECTION 3.** Except as set forth in Section 1 above, the balance of the Code of the Township of Delanco will not be affected by this Ordinance.

**SECTION 4.** All Ordinances contrary to the provisions of this Ordinance are hereby repealed to the extent that they are inconsistent herewith.

**SECTION 5.** If the provision of any section, subsection, paragraph, subdivision, or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this Ordinance.

**SECTION 6.** This Ordinance shall be effective upon proper passage and approval in accordance with the law.