

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

ORDINANCE NO. 141- T

**AN ORDINANCE AMENDING THE UPPER SAUCON TOWNSHIP ZONING
ORDINANCE OF 2009, AS AMENDED, TO REVISE SECTION 488 RELATING TO
“WAREHOUSING AND WHOLESALE TRADE ESTABLISHMENTS,” A CONDITIONAL
USE IN THE TOWNSHIP’S INDUSTRIAL (I) ZONING DISTRICT, BY ELIMINATING,
MODIFYING, AND ADDING CERTAIN CONDITIONS APPLICABLE TO SUCH USE**

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 Section 230.D of the Zoning Ordinance provides for warehousing and wholesale trade establishments as conditional uses in the Township’s Industrial (I) Zoning District; and

WHEREAS, Section 488, titled “Warehousing and Wholesale Trade Establishments” provides specific criteria for such use; and

WHEREAS, the Supervisors find that while the current version of Section 488 (drafted in 2009) is entirely valid, the same should be revised as a matter of legislative discretion to reflect the growing impact of trucking and warehousing in the Lehigh Valley, generally, and in Upper Saucon Township (hereinafter, “Township”), specifically; and

WHEREAS, the Supervisors acknowledge both their legal duty to continue to provide for warehouse uses, and the desirability of the Township as a location for such uses given the proximity of Industrial-zoned tracts to major transportation arteries, namely PA Rte. 309 and Interstate 78; and

WHEREAS, the Supervisors also acknowledge their duty to protect residential uses which have, over the years, been established in close proximity to the Township’s Industrial Zoning Districts and which, in most every case, pre-date the extraordinary growth in the trucking industry; and

WHEREAS, the Supervisors find that such protections must include or address at least the following:

a. substantial buffer areas, reasonably located, designed and landscaped, at locations where proposed warehouse operations abut residential and similar uses;

b. reasonable requirements for ingress and egress to warehouse facilities which have the effect of placing truck traffic directly on to appropriate roads and highways while diverting such traffic from roads which are not designed or intended for such uses;

c. a recognition of the need for developers to offset the more intensive, warehouse use of the land by providing open space, either on-site or off-site;

d. concentrating warehouses in appropriate locations rather than mixing such uses with other, potentially incompatible industrial or commercial uses;

e. regulating the height of warehouses so that they can be reasonably buffered;

f. requiring compliance with all relevant federal and state laws, including Pennsylvania's Diesel- Powered Motor Vehicle Idling Act; and

g. requiring other design and operational guidelines, including snow and ice removal from trailers, which protect the public health, safety, and welfare; and

WHEREAS, through this Amendment to Section 488 the Supervisors seek to balance their legal obligations and the reasonable needs of the warehouse and trucking industries with the reasonable desires of Township residents to maintain property values and protect the quality-of-life; and

WHEREAS, the Supervisors desire to amend the Zoning Ordinance consistent with the afore-stated findings 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. Section 488, titled "**Warehousing and Wholesale Trade Establishments**" is deleted in its entirety and the following is substituted therefor:

"Section 488 Warehousing and Wholesale Trade Establishments

488.A. Definitions.

1. Operational boundary. The phrase "operational boundary" with respect to a warehouse and wholesale trade establishment use shall include the outside perimeter of the area of operation of the warehouse and wholesale trade establishment site located on the subject property; including without limitation the warehouse and wholesale trade establishment building, accessory buildings, parking lots, docks, access drives, fuel pump islands (if permitted), air compressors, kiosks, repair facilities and any other uses accessory to the principal use. Public roads, to the extent that they lead to the operational boundary, shall be excluded from the operational site.

2. Operational site. The phrase “operational site” with respect to a warehouse and wholesale trade establishment use shall mean the area within the operational boundary. The operational site may, but need not, be co-extant with the subject property. The operational site may include separate lots provided that the applicant complies with the requirements of this ordinance related to the creation of a lot. However, the laying out of streets or access drives within or through the operational site shall not be deemed to create individual lots.

3. Warehouse area. The phrase “warehouse area” shall mean the total square footage of the footprint(s) of the warehouse and wholesale trade establishment building(s).

4. Green space. The phrase “green space” shall mean a protected area with natural or supplemented landscape materials located within the required separation area.

488.B. Conditional Use.

Within the (I) Zone, a warehouse and wholesale trade establishment is permitted by conditional use; provided that the applicant has met its burden of proof that the proposed use meets all applicable regulations contained within this Ordinance, including but not limited to those general criteria contained in Section 905.B, and this Section 488.

488.C. Compliance With Laws.

The applicant shall submit qualified, expert evidence of the proposed use’s compliance with all applicable Federal and State laws, rules, and regulations, including without limitation the Clean Air Act, the Pennsylvania Air Pollution Control Act and the National Ambient Air Quality Standards.

488.D. Traffic Impact Study

The applicant shall submit a Traffic Impact Study prepared by a professional traffic engineer meeting the requirements of Section 305.A.5 of the Subdivision and Land Development Ordinance, as amended. In preparing the Study the applicant’s engineer shall use the ITE designation most applicable to the operation of the proposed use.

488.E. Access and Circulation.

The subject property or properties on which the operational site is located shall meet the following criteria with respect to access, circulation, and parking.

1. The subject property shall have a minimum of three hundred (300) feet of contiguous road frontage along an arterial or collector road. For the purpose of this Section 488, the terms “arterial,” “collector,” and “local” with respect to roads shall mean those arterial and collector roads identified at Section 320 of this Ordinance, Component 2 of the Official Map, or any arterial or collector roads which an applicant proposes to construct in accordance with its plan for a warehouse and wholesale trade establishment.

2. The following design requirements shall apply.

(a) The proposed use shall have full movement vehicular access onto an arterial and/or collector road in at least two locations, all of which shall be designed to meet

applicable intersection regulations of the Township Subdivision and Land Development Ordinance, PennDOT, and any other applicable laws, ordinances, regulations, or specifications (hereinafter, collectively “applicable laws”).

(b) Provided that appropriate separation and signalization criteria are adequately addressed as required by the Subdivision and Land Development Ordinance, Zoning Ordinance, and all other applicable laws; the points of access described herein may be located along the same or different arterial or collector roads.

(c) In the conditional use process, if an applicant demonstrates that it cannot meet the requirements of sub-sections 2(a) or 2(b), above, it may provide for the extension of a public road to a second arterial or collector road or in the alternative pay a reasonable sum to the Township to accommodate the option for the future construction of said access or other related traffic improvements (an amount equal to \$1.15 times the warehouse area shall be deemed reasonable). In determining whether to allow this option and in determining the amount of the contribution, the Board shall consider the applicant’s ability to supplement a full movement access point with a less than full movement intersection (e.g., right-in/right-out).

3. Circulation within the operational site shall be designed to separate truck traffic from passenger vehicle traffic and comply with the following.

(a) All access to roads located within the operational site shall be located and designed in accordance with the provisions of the Subdivision and Land Development Ordinance and Section 301 herein.

(b) A maximum of one (1) access point for every five-hundred feet (500’) of road frontage associated with the operational boundary shall be permitted.

4. Required parking shall be a minimum of one space for every 3,000 square feet of warehouse area or one space for each employee on the two largest shifts, whichever is most closely aligned with the actual parking needs of the operation.

5. All employee parking lots shall comply with the landscape and screening requirements of Sections 314.U.1, 2, and 3.

6. Off street loading spaces may be permitted in the front yard between a building and adjoining street right-of-way when the off-street loading space is at least five hundred feet (500’) from an existing street right-of-way; is separated from an existing street right-of-way by a minimum fifty foot (50’) wide and ten foot (10’) high planted berm; or is separated from a proposed street right-of-way by a minimum fifteen foot (15’) wide landscaped strip.

488.F. Separation Areas.

1. The operational boundary of a warehouse and wholesale trade establishment use shall provide the following separation areas:

(a) a minimum seventy-five feet (75’) from the cartway edge of an existing arterial, collector, local or scenic road, except as otherwise set forth below;

(b) a minimum two hundred feet (200') from the right-of-way of a collector road which is adjacent to or abutting any residential zoning district;

(c) a minimum of five hundred feet (500') from the right-of-way of a local road which is adjacent to, or abutting any, residential zoning district;

(d) a minimum of five hundred feet (500') from any property containing an approved or existing day care facility, park, playground, library, hospital or similar medical facility, nursing, rest or retirement home, medical residential campus, or school, college or university; and

(e) where no road separates the subject property from the boundary of a residential zoning district, a minimum of five hundred feet (500') from that boundary.

2. Separation areas shall meet the following landscape requirements.

(a) The separation areas described in sub-section 1, above, shall remain as green space and shall be developed using a system of berms and landscape materials which shall substantially screen the warehouse and wholesale trade establishment operation from the roads and uses described therein. In the conditional use process, the applicant shall provide a landscape plan exhibiting compliance with this sub-section 2 and the effectiveness of the proposed berms and landscape materials.

(b) The landscape plan required by subsection 2(a) above shall meet the following minimum requirements.

(1) Berms shall be one hundred feet (100') wide and ten feet (10') tall when located in a separation area adjoining a collector or local road that abuts a residential zoning district.

(2) Berms shall be one hundred feet (100') wide and ten feet (10') tall when located in a separation area adjoining a residential zoning district where no road separates the subject property from the boundary of that district.

(3) Berms shall be fifty feet (50') wide and ten feet (10') tall when located in a separation area adjacent to an existing arterial road or to a collector road which is not adjacent to a residential zoning district.

(4) Planting on the berm(s) shall include a combination of Norway Spruce or similar evergreen variety that are ten feet (10') tall at time of planting and placed sixteen feet (16') apart on center, and Green Giant Arborvitae that are ten feet (10') tall at the time of planting and placed eight feet (8') apart on center. Plants shall be staggered to fill the width at the top of the berm.

(5) Street trees located in the separation area shall be a minimum of four and one-half inches (4 1/2") in diameter at time of planting.

(6) Stormwater BMPs, meeting the requirements of Article 5 of this Ordinance and the most current version of the Township's stormwater management ordinance, may be located in a separation area provided that the BMPs do not

adversely impact the ability to install an effective visual screen as required by this Section 488.F. Additional plantings associated with the design of the BMPs or intended to supplement the requirements of this Section 488.F may be provided, subject to Township approval.

(7) The applicant shall provide walking trails, bike paths, and other, similar outdoor amenities in the separation areas where appropriate.

3. Effective screening may be accomplished by, among other things, the use of retaining walls to increase the height and planting area of landscaped berms and the grading of the site to lower warehouse and wholesale trade establishment building pads.

488.G. Operations.

The applicant shall provide evidence of operational health, safety, and public welfare measures to be implemented at the site or incorporated into the site design as follows.

1. Gates or barriers (if any) located on access drives leading to the operational site shall be located and designed to preclude vehicle back-ups and overflow parking on adjoining roads.

2. Operational procedures that are implemented to avoid vehicle back-ups on to adjoining roads and such other disruptions and hazards to traffic flow, including without limitation the unauthorized parking along such roads.

3. Compliance with the Pennsylvania Diesel-Powered Motor Vehicle Idling Act, 35 P.S. 4601, et. seq.

4. Installation or location, and operation, of an adequate snow removal equipment/scrapper system to remove snow, slush, and ice from trucks and trailers. At least one system shall be installed and used at each warehouse and wholesale trade establishment structure located on the operational site.

5. Design and operation of any public address system so as not to be audible beyond the boundaries of the separation areas described in sub-section F, above.

488.H. Service and Repair.

All vehicle service and/or repair activities shall be conducted within a completely enclosed building. Outdoor storage of parts, equipment, lubricants, fuels, or other materials used or discarded in any such activities must be screened from sight.

488.I. Storage.

The outdoor storage of unlicensed and/or uninspected vehicles is prohibited.

488.J. Demolition and Junk.

The demolition or junking of vehicles and machinery is prohibited. Demolished vehicles and/or parts thereof shall be removed from the subject property within thirty (30) days after arrival.

488.K. Storage and Disposal.

The applicant shall provide evidence that the storage and disposal of materials and wastes will be accomplished in a manner that complies with all Federal, State, and local laws, rules and regulations.

488.L. Building Height

1. The building height for any building located within the operational boundary shall not exceed forty feet (40').

2. In the conditional use process, an applicant may request an increase in the building height up to a maximum of sixty feet (60'), provided that the site plan provides for open space based upon the formula set forth in sub-section b, below.

(a) The open space provided hereunder shall be in addition to, and not in lieu of, green space within the separation areas described in Section 488.F.

(b) The amount of open space required hereunder shall be not less than five (5) acres for every one hundred thousand (100,000) square feet of terminal area.

(c) The open space offered hereunder shall meet the criteria for open space as set forth in Section 316.B of this Ordinance.

(d) In the conditional use process, and subject to the reasonable approval of the Board of Supervisors, the applicant may offer open space that is located in one or more off-site locations in the Township.

(e) Open space offered pursuant to this Section shall be offered for dedication to the Township, unless otherwise approved by the Board of Supervisors.

488.M Design Standards.

Design standards shall be utilized as follows.

1. Buildings shall be painted with muted earth tones, ivory, or other non-reflective, off-white shade.

2. Building roof equipment shall be screened.

3. Building facades shall vary through the use of masonry accents, off-sets and shadow to break up a continuous façade and provide architectural variety.

4. Project entrances shall be enhanced with special landscaping, entry features and signage that attractively identify the project as a cohesive development.

5. Transit stops with drop off areas which provide locations to serve car pools and buses shall be provided.

6. A system of walkways connecting warehouse and wholesale trade establishment buildings with employee parking and drop off areas as described in sub-section 5 above, shall be provided.

488.N Truck Driver Amenities.

Every warehouse and wholesale trade establishment building shall provide restrooms for truck drivers. Additional amenities may include driver lounges/rest areas, vending machines, and seating areas.”

SECTION 3: PROTANTO REPEAL

Unless otherwise specifically stated in this Ordinance 141-T, 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 of 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.

[Signatures Follow]

DULY ENACTED AND ORDAINED this th 15 day of November, 2021, by the Board of Supervisors of the Township of Upper Saucon, Lehigh County, Pennsylvania in lawful session duly assembled.

**TOWNSHIP OF UPPER SAUCON
BOARD OF SUPERVISORS**

Brian Farrell

CHAIRMAN

Ph. Abbott

VICE CHAIRMAN

John W. [Signature]

SUPERVISOR

[Signature]

SUPERVISOR

ATTEST:

T.F. [Signature]

SECRETARY

SUPERVISOR