

**EAST COVENTRY TOWNSHIP
BOARD OF SUPERVISORS
CHESTER COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2019-234

**“Amendments to Zoning and Subdivision and Land Development
Ordinances to Implement Open Space Plan”**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWNSHIP OF EAST COVENTRY, CHESTER COUNTY, PENNSYLVANIA, TO AMEND CHAPTER 22 (SUBDIVISION AND LAND DEVELOPMENT), PART 2 (DEFINITIONS), SECTION 22-202 (DEFINITIONS), TO ADD A NEW DEFINITION FOR “RECREATION LAND” AND TO AMEND AND RESTATE THE DEFINITIONS FOR “RECREATION, ACTIVE” AND “RECREATION, PASSIVE” TO INCORPORATE THE DEFINITIONS FROM THE TOWNSHIP PARKS, RECREATION AND OPEN SPACE PLAN; TO AMEND CHAPTER 22 (SUBDIVISION AND LAND DEVELOPMENT), PART 3 (PLAN PROCESSING AND CONTENT), SECTION 22-305 (FINAL PLAN SUBMISSION, RESUBMISSION, REVIEW AND CONTENT), SUBSECTION 3 (CONTENT), PARAGRAPH B (SITE DESIGN, LAYOUT STANDARDS AND CONTENT), SUBPARAGRAPH (2), TO AMEND AND RESTATE CLAUSE (e) IN ITS ENTIRETY TO REQUIRE THE HOMEOWNERS ASSOCIATION ADOPT AN OPEN SPACE MANAGEMENT PLAN FOR THE USE, MAINTENANCE AND MANAGEMENT OF OPEN SPACE CONTAINING THE APPLICABLE ELEMENTS DESCRIBED IN APPENDIX 22-D; TO AMEND CHAPTER 22 (SUBDIVISION AND LAND DEVELOPMENT), PART 4 (DEVELOPMENT DESIGN STANDARDS), SECTION 22-418 (SIDEWALKS), TO ADD NEW SUBSECTION 8 TO PERMIT TRAILS IN LIEU OF SIDEWALKS IF CERTAIN STATED CONDITIONS AND CRITERIA ARE SATISFIED; TO AMEND CHAPTER 22 (SUBDIVISION AND LAND DEVELOPMENT), PART 4 (DEVELOPMENT DESIGN STANDARDS), SECTION 22-426 (PARK, RECREATION AND OPEN SPACE), SUBSECTION 2 (MANDATORY DEDICATION OF LAND FOR ON-SITE PARK, RECREATION AND OPEN SPACE USE), PARAGRAPH A, SUBPARAGRAPH (1) TO INCREASE THE AMOUNT OF OPEN SPACE TO BE DEDICATED FROM 0.07 ACRES TO 0.074 ACRES PER DWELLING UNIT OR BUILDING LOT; TO AMEND CHAPTER 27 (ZONING), PART 2 (DEFINITIONS), SECTION 27-202 (DEFINITIONS), TO ADD A NEW DEFINITION FOR

“RECREATION LAND” AND TO AMEND AND RESTATE THE DEFINITIONS FOR “RECREATION, ACTIVE” AND “RECREATION, PASSIVE” TO INCORPORATE THE DEFINITIONS FROM THE TOWNSHIP PARKS, RECREATION AND OPEN SPACE PLAN; AND TO AMEND CHAPTER 27 (ZONING), SECTIONS 27-805.1.C(14) AND 27-1404.1(6)(C)(1) TO CLARIFY THAT DOCUMENTATION FOR OPEN SPACE MAINTENANCE SHALL ALSO ADDRESS OPEN SPACE MANAGEMENT.

The Board of Supervisors of East Coventry Township does hereby **ENACT** and **ORDAIN**:

SECTION I. – Amendment to Code.

The Code of Ordinances of East Coventry Township, Chapter 22 (Subdivision and Land Development), Part 2 (Definitions), Section 22-202 (Definitions), is hereby amended to add a definition for “Recreation Land,” as follows:

RECREATION LAND – An area of land deemed suitable by the Board of Supervisors for active and/or passive recreation.

SECTION II. – Amendment to Code.

The Code of Ordinances of East Coventry Township, Chapter 22 (Subdivision and Land Development), Part 2 (Definitions), Section 22-202 (Definitions), is hereby amended to delete the definitions for “Recreation, Active” and “Recreation, Passive” in their entirety and to add new definitions for “Recreation, Active” and “Recreation, Passive” in their place, as follows:

RECREATION, ACTIVE – Recreational pursuits that require developed facilities and physical alteration to the area in which they are performed. These recreational activities are typically organized or self-directed, often performed with others, require equipment, have rules and take place at prescribed places, sites or fields. Examples of active recreation area include, but are not limited to, playgrounds, ball courts and fields and swimming pools. Active recreation shall exclude amusement parks. Areas of land designed for active recreation shall satisfy the following criteria:

- A. The land has a slope of 5% or less determined by the ratio of the change in elevation (rise) over the horizontal distance (run) as measured between three adjacent contour intervals of two feet each, expressed as a percentage such that they delineate slope of 5% or less, and is suitable for active recreational uses without interfering with adjacent dwelling units, parking, driveways and roads; and,
- B. The land does not constitute a "wetland" under federal or state regulations; and,
- C. The land is not included in, or made part of, stormwater management facilities, including detention/retention basins, swales, culverts and any associated appurtenances thereto.

RECREATION, PASSIVE – Recreational activities that offer constructive, restorative and pleasurable human benefits and foster appreciation and understanding of open space and its purpose. These recreational pursuits do not significantly impact natural, cultural, scientific or agricultural features, can be carried out with little alteration or disruption to the area in which they are performed, and require only minimal visitor facilities and services directly related to safety. Such uses include, but are not limited to, hiking, biking and picnicking.

SECTION III. – Amendment to Code.

The Code of Ordinances of East Coventry Township, Chapter 22 (Subdivision and Land Development), Part 3 (Plan Processing and Content), Section 22-305 (Final Plan Submission, Resubmission, Review and Content), Subsection 3 (Content), Paragraph B (Site Design, Layout Standards and Content), Subparagraph (2), Clause (e), is hereby amended to delete said clause in its entirety and to add the following in its place:

(e) If common elements or common facilities are being proposed, homeowners' association and/or easement documentation acceptable to the Township Board of Supervisors after review and comment by the Township Solicitor. Where a homeowner's association is proposed, it shall be formed and operated under the following documents and provisions, which shall be acceptable to the Township upon advice of the Township Solicitor:

1) The applicant shall provide a description of and proof of incorporation of the association, a copy of its bylaws and proof of adoption thereof.

2) The applicant shall provide a copy of the declaration of covenants, easements and restrictions or similar document(s) regulating the use and maintenance of all common facilities.

3) The association shall be responsible for the management, maintenance and insurance of the open space and common facilities, enforceable by liens placed by the homeowner's association. An open space management plan regulating the use, management and maintenance of all open space and associated common facilities shall be required for all residential developments containing open space or common facilities. The open space management plan shall contain the elements described in Appendix 22-D attached hereto, to the extent applicable. Upon a default by the association in its management obligations, the Township may, but shall not be obligated to, take the following actions:

- (i) Upon 30 days' advance written notice to the association (or such lesser period as may be specified in the notice in case of emergency) and the failure of the association within such period to perform the necessary maintenance and otherwise remedy the condition set forth in the Township's notice, to enter upon the open space, accessing the same through any other lands of the association or such individual(s) as may be necessary, to perform such maintenance and take any other action necessary to correct the condition.
- (ii) Any and all costs incurred by the Township shall be paid by the association within ten (10) days after written demand by the Township. Upon the failure to timely pay such costs, interest at the annual rate of 15 percent shall be added thereto, plus all costs incurred by the Township for the collection thereof.
- (iii) All costs incurred by the Township, including court costs and attorneys' fees,

shall constitute a municipal lien and shall be enforceable as such against the association.

(iv) Such lien shall extend to all property of the association within the development containing the affected open space and shall also constitute a lien, pro rata, against all of the lots owned by members of the association.

4) The association shall be organized, operated and financed by the developer prior to the sale of any lots within the development. The conditions and timing of transfer of the control of the association from the developer to the homeowners shall be identified.

5) Membership in the association shall be mandatory for all owners and successors of dwellings in the development. The members of the association shall share equitably the costs of managing and maintaining the open space and common facilities. Association dues shall be structured to provide for both annual operating costs and to cover projected long-range costs related to the stewardship of open space and the maintenance, repair or replacement of common facilities.

6) The association shall have or employ adequate staff to administer and provide continuous and proper management and maintenance of the open space and common facilities.

7) Homeowners association documentation approved by the Township shall be recorded with the final subdivision and land development plans, and proof of recording thereof shall be provided to the Township prior to the issuance of any building permits.

SECTION IV. – Amendment to Code.

The Code of Ordinances of East Coventry Township, Chapter 22 (Subdivision and Land Development), Part 4 (Development Design Standards), Section 22-418 (Sidewalks), is hereby amended to add a new Subsection 8, as follows:

8. Publicly accessible trails may be provided in lieu of sidewalks when approved by the Board of Supervisors upon recommendation of the

Planning Commission, subject to the satisfaction of the following conditions and criteria:

A. The roadway adjacent to the proposed trail is an arterial or collector street.

B. The trail shall be contained within an easement area established by an easement agreement satisfactory to the Township upon advice of the Township Solicitor, which shall be recorded.

C. The trail shall be accessible to the general public.

D. No trail shall be constructed where a proposed dwelling fronts on the street.

E. The trail shall satisfy the specifications and design criteria set forth in §22-429.2.D.(2) of this chapter.

SECTION V. – Amendment to Code.

The Code of Ordinances of East Coventry Township, Chapter 22 (Subdivision and Land Development), Part 4 (Development Design Standards), Section 22-426 (Park, Recreation and Open Space), Subsection 2 (Mandatory Dedication of Land for On-Site Park, Recreation and Open Space Use), Paragraph A, Subparagraph (1), is hereby amended to delete “0.07 acres” and to add “0.074 acres” in its place.

SECTION VI. – Amendment to Code.

The Code of Ordinances of East Coventry Township, Chapter 27 (Zoning), Part 2 (Definitions), Section 27-202 (Definitions), is hereby amended to delete the definitions for “Recreation, Active” and “Recreation, Passive” in their entirety and to add new definitions for “Recreation, Active” and “Recreation, Passive” in their place, as follows:

RECREATION, ACTIVE – Recreational pursuits that require developed facilities and physical alteration to the area in which they are performed. These recreational activities are typically organized or self-directed, often performed with others, require equipment, have rules and take place at prescribed places, sites or fields. Examples of active recreation area include, but are not limited to, playgrounds, ball courts and fields and swimming pools.

Active recreation shall exclude amusement parks. Areas of land designed for active recreation shall satisfy the following criteria:

- A. The land has a slope of 5% or less determined by the ratio of the change in elevation (rise) over the horizontal distance (run) as measured between three adjacent contour intervals of two feet each, expressed as a percentage such that they delineate slope of 5% or less, and is suitable for active recreational uses without interfering with adjacent dwelling units, parking, driveways and roads; and,
- B. The land does not constitute a "wetland" under federal or state regulations; and,
- C. The land is not included in, or made part of, stormwater management facilities, including detention/retention basins, swales, culverts and any associated appurtenances thereto.

RECREATION PASSIVE – Activities that offer constructive, restorative and pleasurable human benefits and foster appreciation and understanding of open space and its purpose. These recreational pursuits do not significantly impact natural, cultural, scientific or agricultural features, can be carried out with little alteration or disruption to the area in which they are performed, and require only minimal visitor facilities and services directly related to safety. Such uses include, but are not limited to, hiking, biking and picnicking.

SECTION VII. – Amendment to Code.

The Code of Ordinances of East Coventry Township, Chapter 27 (Zoning), Part 8 (R-3 Residential District), Section 27-805 (Adult Communities), Subsection 1, Paragraph C (Open Space, Density, Area, Bulk, Dimensional, Circulation and Design Standards), Subparagraph 14 (Declaration of Covenants, Conditions and Restrictions), is hereby amended to delete the second sentence of said Subparagraph and to add the following in its place:

The declaration shall also provide for the management and maintenance of any common open space and common facilities such as, but not limited to, interior roads, any community facility, landscaped buffer, with the cost of said management and maintenance to be borne and shared by the residents of the community.

SECTION VIII. – Amendment to Code.

The Code of Ordinances of East Coventry Township, Chapter 27 (Zoning), Part 14 (Conditional Use Process), Section 27-1404 (Clustered Single-Family Detached Residential Development Open Space and Other Open Space Design Standards), Subsection 1, Paragraph A (Open Space Standards), Subparagraph (6) (Ownership and Maintenance of Open Space), Clause (c) (Homeowners Association), Sub-clause 1), is hereby amended to add the words “, management” after the word “use” and before the word “maintenance” appearing near the end of the first sentence of said Sub-clause.

SECTION IX. – Severability.

The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted even if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

SECTION X. – Failure to Enforce not a Waiver.

The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

SECTION XI. – Effective Date.

This Ordinance shall take effect and be in force from and after its approval as required by the Second Class Township Code.

SECTION XII. – Repealer.

All other ordinances and resolutions or parts thereof insofar as they are inconsistent with this Ordinance are hereby repealed.

ORDAINED AND ENACTED by the Board of Supervisors of East Coventry Township,

Chester County, Pennsylvania, this 9th day of September, 2019.

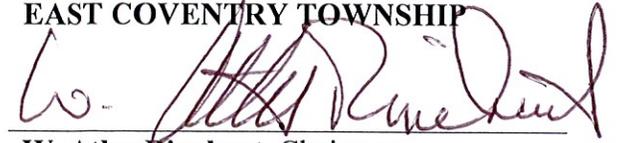
Attest:



David G. Kraynik, Secretary

EAST COVENTRY TOWNSHIP

By:



W. Atlee Rinehart, Chairman

NOTICE

NOTICE is hereby given that the Board of Supervisors of the Township of East Coventry, at its public meeting on September 9, 2019 in the Township Building, 855 Ellis Woods Road, Pottstown, Pennsylvania, will hold a public hearing on and could vote to adopt an Ordinance amending the Code of Ordinances of the Township of East Coventry, Chester County, Pennsylvania, to amend Chapter 22 (Subdivision and Land Development), Part 2 (Definitions), Section 22-202 (Definitions) and Chapter 27 (Zoning), Part 2 (Definitions), Section 27-202 (Definitions), to add a new definition for “recreation land” and to amend and restate the definitions for “recreation, active” and “recreation, passive” to incorporate the definitions from the Township Parks, Recreation and Open Space Plan; to amend Chapter 22 (Subdivision and Land Development), Part 3 (Plan Processing and Content), Section 22-305 (Final Plan Submission, Resubmission, Review and Content), Subsection 3 (Content), Paragraph B (Site Design, Layout Standards and Content), Subparagraph (2), to amend and restate clause (e) in its entirety to require the homeowners association adopt an open space management plan for the use, maintenance and management of open space containing the applicable elements described in Appendix 22-D; to amend Chapter 22 (Subdivision and Land Development), Part 4 (Development Design Standards), Section 22-418 (Sidewalks), to add new Subsection 8 to permit trails in lieu of sidewalks if certain stated conditions and criteria are satisfied; to amend Chapter 22 (Subdivision and Land Development), Part 4 (Development Design Standards), Section 22-426 (Park, Recreation and Open Space), Subsection 2 (Mandatory Dedication of Land for On-Site Park, Recreation and Open Space Use), Paragraph A, Subparagraph (1) to increase the amount of open space to be dedicated from 0.07 acres to 0.074 acres per dwelling unit or building lot; and to amend Chapter 27 (Zoning), Sections 27-805.1.C(14) and 27-

1404.1(6)(C)(1) to clarify that documentation for open space maintenance shall also address open space management.

Copies of the full text of the proposed ordinance are available for examination during normal business hours without charge at the offices of *The Pottstown Mercury*, 307 Derstine Avenue, Lansdale, Pennsylvania 19446, the Chester County Law Library, 201 West Market Street, Suite 2400, West Chester, Pennsylvania 19380-0989 and the East Coventry Township Building, 855 Ellis Woods Road, Pottstown, Pennsylvania 19465, where a copy of the proposed ordinance may be obtained for a charge not greater than the cost thereof.

**MARK A. HOSTERMAN, ESQUIRE
WISLER PEARLSTINE, LLP**