

ORDINANCE NO. 533

**EAST NORRITON TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

AN ORDINANCE AMENDING THE CODE OF EAST NORRITON TOWNSHIP, SPECIFICALLY CHAPTER 205, KNOWN AS THE EAST NORRITON TOWNSHIP ZONING ORDINANCE FOR THE PURPOSES OF AMENDING ARTICLE II, §205-5, DEFINITIONS, ARTICLE IV, §205-16, ACCESSORY USES, ARTICLE XV, §205-72, PERMITTED USES, ARTICLE XV, §205-72.1 CONSTRUCTION/DEMOLITION WASTE LANDFILLS, ARTICLE XV, §205-72.2, CONDITIONAL USE PROCEDURES FOR CONSTRUCTION/DEMOLITION WASTE LANDFILLS, ARTICLE XIII, §205-65.A(3), PERMITTED USES, ARTICLE XIII, §205-65.A(10)(I), PERMITTED USES, ARTICLE XVI, §205-87, PERMITTED USES, ARTICLE XIX, §205-115, GROUND SIGNS, ARTICLE XXI, §205-137.1, CONDITIONAL USE PROCEDURES, ARTICLE XXI, §205-137.2, APPLICATIONS TO ZONING HEARING BOARD, ARTICLE XXVIII, AIRPORT OVERLAY ZONING DISTRICT AND REPEALING ANY INCONSISTENT PROVISIONS THEREWITH

WHEREAS, §1506 of the Second Class Township Code, as amended, and found at 53 P.S. 66506, entitled “General Powers”, authorizes the Township Board of Supervisors to make and adopt ordinances, bylaws, rules and regulations, not inconsistent with or constrained by the Constitution and the laws of the Commonwealth necessary for the proper management, care, and control of the Township and the maintenance of the peace, good government, health, and welfare of the Township and its citizens; and,

WHEREAS, §1516 of the Second Class Code, as amended, and found at 53 P.S. § 66516, entitled “Land use regulations”, authorizes the Township Board of Supervisors to plan for development of the township through zoning, subdivision and land development regulations; and,

WHEREAS, the Board of Supervisors of the Township of East Norriton has met and/or will meet the procedural requirements of 53 P.S. §10101 et. seq. of the Pennsylvania Municipalities Planning Code, for the adoption of a proposed ordinance, including holding a public hearing; and,

WHEREAS, the Board of Supervisors of the Township of East Norriton, after due consideration of the proposed ordinance at the duly advertised public hearing, has determined that the health, safety, and general welfare of the residents of East Norriton will be served by providing for the following amendments and enacting provisions related thereto.

NOW, THEREFORE, BE IT ENACTED and ORDAINED by the Board of Supervisors of East Norriton Township and it is hereby ordained and enacted by the authority of the same, to wit:

SECTION 1. CODE AMENDMENTS:

Article II, §205-5 – Definitions, the definition of “HEIGHT OF BUILDING” is hereby amended to read as follows:

HEIGHT OF BUILDING – A building’s vertical measurement from the mean level of the ground surrounding the building to a point midway between the highest and lowest points of the roof, provided that chimneys, spires, towers, elevator penthouses, tanks, pentwall and similar projections shall not be included in calculating the height; provided that these projections shall not extend more than fifteen (15) feet above the maximum height established for the district in which located.

Article IV, §205-16, Accessory Uses, is hereby amended by adding subsection D to read as follows:

- D. Uses accessory to all zoning districts:
 - (1) Solar and small wind powered generation devices rated at 100 KW or less may be installed on existing structures that conform to current height and setback requirements of the zoning district in which they are located.
 - (2) Ground-mounted solar and small wind powered generation devices rated at 100 KW or less subject to the following:
 - (a) Solar or small wind powered generation devices shall not be permitted in the front yard of any district nor forward of the line of the rear facade of any principal building which occupies the lot.
 - (b) Solar or wind energy devices shall be permitted within side or rear yards established for the district and shall be set back from the property line a distance equal the greater of the following:
 - [1] Five (5) feet.
 - [2] The maximum height of the device measured from the ground level upon which it will be installed.
 - (c) In no event shall the maximum height measured to its highest point exceed:
 - [1] Fourteen (14) feet for free-standing solar panels.
 - [2] Thirty-five (35) feet for small wind powered generation devices. For devices having rotor blades that rotate around a horizontal axis, the height shall include the highest point of the rotor blade above ground elevation.
 - (d) Special regulations for small wind powered generation devices:

- [1] In Residential Districts only devices with vertical axis rotors shall be permitted.
- [2] The lowest part of a horizontal rotor blade shall be a minimum of twenty-five (25) feet higher than the surrounding ground elevation. The lowest part of a wind turbine with vertical axis rotors shall be a minimum of fifteen (15) feet higher than the surrounding ground elevation.
- [3] Measured at the property line, the sound shall in no event neither exceed 65 dB nor be greater than 10 dB above the ambient noise level.
- [4] There shall be no climbable features less than fifteen (15) feet from ground elevation.
- [5] There shall be not more than 1 small wind turbine per acre, or more than 2 per individual lot.
- [6] Color. Acceptable colors shall be limited to “matte grey”, light sky blue, or silver. Other colors or combinations of colors may be acceptable subject to the approval of the Board of Supervisors, provided the color(s) are determined to be stealth in nature.
- [7] No advertising, logo or signage of any kind shall be permitted on the wind turbine structure or rotor blades.
- [8] No light source shall be permitted on the device.
- [9] Removal of devices (turbines) required. The property owner shall be required to remove small wind turbines that have either been abandoned or are not in operation for three consecutive months.
- [10] Manufacturer’s construction and electrical drawings shall be submitted for approval by a PA licensed Building Code Official.
- [11] A manual override braking system shall be required during power outages.
- [12] A plot plan indicating the location of the turbine, including dimensions from property lines, road rights-of-way, utility easements, and occupied buildings shall be provided.

[13] Pennsylvania P.E. sealed 24 inch by 36 inch structural drawings with wind load calculations.

Article XV, §205-72, Permitted Uses, is hereby amended by adding subsection I to read as follows:

- I. Solar and wind power energy devices shall be permitted in multiple numbers as a principal use and shall comply with all applicable yards, setbacks, and zoning standards that would apply to an industrial building.

Article XV, §205-72, Permitted Uses, is hereby amended by deleting subsection H and replacing it with the following:

- H. Construction/demolition waste landfills when proposed, operated and maintained in accordance with § 205-72.1 of this article and when authorized by conditional use in accordance with § 205-72.2 of this article.

Article XV, §205-72.1, Construction/demolition waste landfills, is hereby deleted and replaced with the following:

- A. This section shall be known and may be cited as the "East Norriton Township Ordinance for Licensing and Regulation of Construction/Demolition Waste Landfills."
- B. Definitions and word usage.

(1) Unless otherwise expressly stated, the following words and phrases in this section, whether capitalized or in lower case letters, shall have the following meanings.

ACT — The Act of July 7, 1980 (P.L. 380, No. 97),³⁶ known as the "Solid Waste Management Act."

BOARD — The Board of Supervisors of East Norriton Township.

CONSTRUCTION/DEMOLITION WASTE — Solid waste resulting from the construction or demolition of buildings and other structures, including, but not limited to wood, plaster, metals, asphaltic substances, bricks, block and unsegregated concrete. The term also includes dredging waste. The term does not include the following if they are separate from other waste and are used as clean fill:

- (a) Uncontaminated soil, rock, stone, gravel, unused brick and block and concrete.
- (b) Waste from land clearing, grubbing and excavation, including trees, brush, stumps and vegetative material.

CONSTRUCTION/DEMOLITION WASTE LANDFILL — A facility using land exclusively for the disposal of construction/demolition waste. The term includes land affected during the lifetime of the operations, including, but not limited to, areas where disposal activities actually occur, support facilities, borrow areas, offices, equipment sheds, air and water pollution control and treatment systems, access roads,

associated on-site or contiguous collection, transportation and storage facilities, closure and postclosure care and maintenance activities and other activities in which the natural land surface has been disturbed as a result of or incidental to the operation of the facility. This term is also referred to as "landfill" in this section.

DEPARTMENT — The Department of Environmental Protection of the Commonwealth of Pennsylvania and its authorized representatives.

LICENSEE — A person who possesses a permit from the Department and a license from East Norriton Township to construct and/or operate a construction/demolition waste landfill.

PERMITTEE — A person who possesses a permit to dispose of construction/demolition waste into the earth pursuant to the Act.

PERSON — Includes an individual, a corporation, a partnership or other legal entity, and any unincorporated association, and shall include both singular and plural.

TOWNSHIP — The Township of East Norriton, Montgomery County, Pennsylvania.

TOWNSHIP ADMINISTRATION — The Board of Supervisors, Township Manager, Secretary/Treasurer, Engineer, Solicitor, Zoning Officer, Permit Officer or any other person designated by the Board of Supervisors to administer, police, enforce and prosecute any violation of this or any ordinance of the Township.

- (2) In the section, the singular shall include the plural, and the masculine shall include the feminine and neuter.

C. License required.

- (1) No person shall maintain or continue to maintain, whether for commercial purposes or otherwise, any place within the Township for disposing construction/demolition waste unless such place is licensed by the Board as a construction/demolition waste landfill. Licensing shall be completed only after a permit to operate a construction/demolition waste landfill has been issued by the Department pursuant to the Act and an application for a license is submitted to and approved by the Board. An application for such license shall contain the following information:
- (a) The name and address of the applicant.
 - (b) A plan drawn to scale indicating by metes and bounds the land upon which the construction/demolition waste landfill is to be maintained and the permit for the operation of the construction/demolition waste landfill issued by the Department.
 - (c) A list of equipment available for use in maintaining the landfill site.
 - (d) The name and address of each individual, directly responsible to the licensee, who shall be present at and in charge of the landfill site at all times during operation of the landfill.

- (e) Certificate of insurance, including liability for pollution, together with a copy of insurance policy satisfactory to the Board,
- (2) All applications shall be reviewed by the Board or its designee for completeness within 60 days of receipt of such application. All applications shall be acted upon by the Board within 90 days after an application is deemed complete. No license shall be effective until approved by the Board at a regular meeting.

D. Escrow.

- (1) No license shall be issued, or effective, unless there is on file with the Township a cash escrow or a bond with a corporate surety in penal amount of \$50,000 to assure:
 - (a) That the licensee, licensee's agents and servants shall comply with all the terms, conditions, provisions, requirements and specifications contained in this section.
 - (b) That the licensee, licensee's agents and servants shall hold harmless the Township from any expense incurred through the failure of the licensee, licensee's agents and servants to operate and maintain the construction/demolition waste landfill as required by this section, including any expense the Township may be put to for correcting any condition or violation of this section by the Township's own labor and equipment, whenever the Township administration determines it is necessary for the Township to correct any condition in violation of this section or from any damages growing out of the negligence of the licensee, a permittee or their respective agents or servants.
 - (2) Before acceptance, all bonds shall be approved by the Township. If a corporate bond is offered, it shall be executed by a company authorized to transact business in the Commonwealth of Pennsylvania as a surety. If a cash escrow is offered, it shall be deposited with the Township, who shall give an official receipt therefore, reciting that said cash has been deposited in compliance with and subject to the provisions of this section.
- E. Term of license. A license issued for a construction/demolition waste landfill hereunder shall be valid for the calendar year for which it is issued and upon application may be renewed on a year-to-year basis thereafter.
- F. Revocation and refusal. The Board may revoke or refuse any license previously issued for the operation of a construction/demolition waste landfill if the Board finds, after reasonable investigation, that the landfill has been operated in violation of the regulations set forth in this section, or any other section of the Township, or any pertinent laws or regulations of the Commonwealth of Pennsylvania or of the United States of America.
- G. License fee. The license fee for the operation of a construction/demolition waste landfill shall be established by resolution of the Board, which resolution shall set forth such fee for each calendar year or for each month or portion thereof in the case of a licensee for less than a calendar year, payable in full at the time of application.
- H. Regulations. All operation and maintenance of any construction/demolition waste landfill shall comply with the following rules and regulations:
- (1) Any person may submit an application for a permit to operate a construction/demolition waste landfill in two phases, known as "Phase I" and "Phase II," in accordance with the provisions of 25 Pa. Code § 277.101. Such applications

must be submitted to the Department in accordance with the applicable regulations under the Act.

- (2) All Phase I applications shall conform to the requirements of 25 Pa. Code §§ 277.111 through 277.120.
- (3) All Phase II applications must conform to the following requirements:
 - (a) General Provisions: 25 Pa. Code §§ 277.131 through 277-138.
 - (b) Cover and Revegetation: 25 Pa. Code §§ 277.141 and 277.142.
 - (c) Water Quality Protection and Monitoring: 25 Pa. Code §§ 277.151 and 277.152.
 - (d) Liners and Leachate Management: 25 Pa. Code §§ 277.161 through 277.164.
 - (e) Gas Management: 25 Pa. Code § 277.171.
 - (f) Emergency Planning: 25 Pa. Code § 277.181.
 - (g) Closure Provisions: 25 Pa. Code §§ 277.191 and 277.192.
- (4) All construction/demolition waste landfills shall conform to the following operating requirements:
 - (a) General Provisions: 25 Pa. Code §§ 277.201 through 277.203.
 - (b) Daily Operations: 25 Pa. Code §§ 277.211 through 277.220.
 - (c) Cover and Revegetation: 25 Pa. Code §§ 277.231 through 277.235.
 - (d) Water Quality Protection: 25 Pa. Code §§ 277.241 through 277.246.
 - (e) Liner System: 25 Pa. Code §§ 277.251 through 277.260.
 - (f) Leachate Treatment: 25 Pa. Code §§ 277.271 through 277.277.
 - (g) Water Quality Monitoring: 25 Pa. Code §§ 277.281 through 277.288.
 - (h) Minerals and Gas: 25 Pa. Code §§ 277.291 and 277.292.
 - (i) Emergency Procedures: 25 Pa. Code §§ 277.301 through 277.303.
 - (j) Recordkeeping and Reporting: 25 Pa. Code §§ 277.311 and 277.312.
 - (k) Closure Provisions: 25 Pa. Code §§ 277.321 and 277.322.
- (5) The provisions set forth above regarding applications and operating requirements shall be in addition to any applicable requirements set forth in 25 Pa. Code Chapter 271 relating to municipal waste management insofar as they relate to the operation of a construction/demolition waste landfill.
- (6) The Township reserves the right to impose more stringent requirements than those placed upon a person under any applicable provision or regulation set forth above.
- (7) The licensee shall only accept construction/demolition waste that has first been processed at a transfer station permitted by the Department to process such waste.
- (8) To the extent not provided for in the regulations under the Act, all persons licensed to operate a construction/demolition waste landfill shall also comply with the following:
 - (a) The licensee shall comply with all pertinent laws and regulations of the Commonwealth

of Pennsylvania and of the United States of America or any department, agency or authority thereof.

- (b) The licensee shall comply with all applicable requirements of any Township zoning, subdivision or land development ordinance.
- (c) The licensee shall name the Township as an additional beneficiary on any bond or other financial assurance instrument required to be submitted to the Department.
- (d) An attendant, who shall be a competent adult individual directly responsible to the licensee, shall be present at and in charge of the landfill at all times during operation.
- (e) A daily register shall be kept containing the full name and address of each person bringing construction/demolition waste to the landfill, containing the license number of any vehicle involved, specifying the type and quantity of construction/demolition waste, place of origin of such waste and the weight of each individual load of waste.
- (f) The daily register required in Subsection H(8)(e) above shall be open to inspection by the Board or its duly authorized representative at all times during business hours.

The Township administration shall have the right to enter the landfill during hours of normal operation to determine whether the licensee is complying with all requirements of this section. Any unreasonable delay in allowing access to the landfill shall constitute a violation of this section.

- (g) Except in the case of any emergency because of adverse weather conditions, in which case reasonable notice shall be given to the Township, the hours of operation of the landfill shall be restricted to 7:00 a.m. and until 5:00 p.m. Monday through Friday, except that there shall be no operation of the landfill on officially recognized federal or state holidays.
- (h) The property on which the landfill is located shall be enclosed by fencing and vegetation screening as provided by Chapter 175, Subdivision and Land Development, (regardless of whether or not subdivision or land development review is required) and closed by a locked gate at each entrance and exit when the landfill is not open or in operation.
- (i) There shall be no fires or burning of any waste at the landfill site.
- (j) There shall be no uncovered material at the landfill site at the close of each working day.
- (k) The licensee shall provide to the Board the results of any and all tests which are conducted voluntarily or required by the Department and/or the United States Environmental Protection Agency.
- (l) The licensee shall remove and clean any material spilled upon any public or private road or property within the Township from any vehicle carrying material to the landfill within 24 hours and shall have equipment and personnel available at all times for such cleaning and removal. The Township specifically reserves the right to remove and clean any such material at any time, including within the twenty-four-hour time period. If the Township takes any such action under this subsection, the licensee shall be fully responsible for all charges incurred by the Township.
- (m) The licensee shall prevent any material disposed, stored or treated at its landfill from blowing, leaking, seeping or otherwise escaping the construction/demolition waste

landfill onto any other public or private property in the Township. In the event of a violation of this regulation, and in addition to the other penalties provided herein, the licensee shall remove and/or clean any such material within 24 hours unless prevented from doing so in an emergency caused by adverse weather conditions. If such adverse weather conditions exist, the licensee shall remove and/or clean such material as soon as conditions permit.

- (n) All vehicles transporting construction/demolition waste to a construction/demolition waste landfill within the Township shall utilize only such public roads or streets as shall be designated by the Board.
 - (o) All vehicles must have valid permits issued by the Township to gain entrance into the landfill. The form of such permits shall be subject to the approval of the Township Manager and shall be issued on a calendar year basis. Such permits shall be issued for \$50 and shall fully identify the vehicle and its operator or operators. All vehicles and vehicle operators shall conform to all Department requirements applicable to the transport of construction/demolition waste.
 - (p) All vehicles entering the landfill shall check in with the attendant, present a valid permit and notify the attendant of the type, quantity and source of the material being disposed of at the landfill.
 - (q) Traffic within the landfill shall be restricted to roads established for the landfill operation only, and such roads shall be paved in such a manner to prevent any dust, dirt or other material caused by such traffic from blowing or migrating onto any other public or private property in the Township.
 - (r) Removal of material from the landfill is prohibited.
 - (s) Persons under 18 years of age must remain in vehicles on landfill property.
 - (t) Bare feet are not allowed on landfill property.
 - (u) The speed limit on landfill roads is 10 miles per hour.
 - (v) Signs must be posted in conspicuous locations around the landfill, including the landfill entrance, which shall state, at a minimum, the hours of operation and the permitted uses of the landfill.
 - (w) The licensee shall install and maintain any signs or warning signs deemed necessary by the Township in connection with the operation of the landfill.
- I. Hazardous substances; hazardous waste. No person shall dispose of any hazardous substance or hazardous waste or any material containing any hazardous substance or hazardous waste in any construction/demolition waste landfill in the Township. The terms "hazardous substance" and "hazardous waste" as used in this section shall be interpreted in accordance with their definitions in 42 U.S.C. § 6901 et seq. and 42 U.S.C. § 9601 et seq.
- J. Fees. A written schedule of fees, including, but not limited to, host and license fees imposed by the Township for use of the landfill shall be established by resolution of the Board. No person shall use the landfill without paying all applicable fees.
- K. Removal. Any person violating this section or the directions of the licensee's attendant shall, in addition to all other applicable penalties, remove all unacceptable material or pay the

Township the cost of such removal.

- L. Dumping refuse, garbage or other material.
 - (1) It shall be unlawful to dump or dispose of any waste material other than construction/demolition waste into any landfill in the Township. Notwithstanding this provision or any other provision in this section, nothing shall preclude a construction/demolition landfill from accepting the following, if they are separate from other waste and are used as clean fill, so long as the acceptance of such material does not conflict with any regulation of the Department:
 - (a) Uncontaminated soil, rock, stone, gravel, unused brick and block and concrete.
 - (b) Waste from land clearing, grubbing and excavation, including trees, brush, stumps and vegetative material:
 - (2) All provisions of this section governing construction/demolition waste shall also be fully applicable to the foregoing material.
- M. Enforcement. The Township administration shall be charged with the enforcement of this section and shall make any inspection necessary to that end.
- N. Violations and penalties. Any person who violates any of the provisions of this section shall, upon conviction thereof, in addition to any other charges or penalties imposed by this section, pay a fine of not more than \$1,000, in addition to any other costs allowed by law. A separate and distinct offense shall be deemed to have been committed for each day such violation exists. Nothing shall preclude the Township from imposing any other penalty for any violation if authorized by federal or state law.

Article XV, §205-72.2, Conditional Use Procedures for Construction/Demolition Waste Landfills, is hereby created to read as follows:

- A. Any person seeking to operate a construction/demolition waste landfill pursuant to §205-72.1 must file an application for such use pursuant to §205-137.1.
- B. In addition to complying with the procedures set forth in §205-137.1, any person seeking to operate a construction/demolition waste landfill pursuant to §205.72.1 shall also demonstrate compliance with each of the following requirements by a fair preponderance of credible evidence as part of its request for conditional use:
 - (1) *Floodplain.* The construction/demolition waste landfill will not be located in the 100-year floodplain of waters of this Commonwealth.
 - (2) *Wetland.*
 - (i) The construction/demolition waste landfill will not be located in or within 300 feet of an exceptional value wetland, as defined in 25 Pa. Code § 105.17 (relating to wetlands).

- (ii) The construction/demolition waste landfill will not be located in or within 100 feet of a wetland other than an exceptional value wetland, unless storage, processing and disposal will not occur within that distance and one of the following applies:
 - (A) If the operation is in or along the wetland, the operator has received a permit from the Pennsylvania Department of Environmental Protection under 25 Pa. Code, Chapter 105 (relating to dam safety and waterway management).
 - (B) If the operation is not in or along the wetland, no adverse hydrologic or water quality impacts will result.
- (3) *Valley, ravine or head of hollow.* The construction/demolition waste landfill will not be located in a valley, ravine or head of hollow where the operation would result in the elimination, pollution or destruction of a portion of a perennial stream.
- (4) *Limestone or carbonate formation.* The construction/demolition waste landfill will not be located in areas underlain by limestone or carbonate formations where the formations are greater than 5 feet in thickness and present at the topmost geological unit. The areas include an area mapped by the Pennsylvania Geological Survey as underlain by these formations, unless competent geologic studies demonstrate the absence of limestone and carbonate formations under the site.
- (5) *Occupied dwelling-existing facility.* Except as provided in paragraphs (6) and (7), the construction/demolition waste landfill will not be located within 300 feet measured horizontally from an occupied dwelling, unless the current owner of the dwelling has provided a written waiver consenting to the facility being closer than 300 feet. Except as provided in paragraphs (6) and (7), the disposal area of the construction/demolition waste landfill will not be within 500 feet measured horizontally from an occupied dwelling, unless the current owner has provided a written waiver consenting to the disposal area being closer than 500 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the current owner.
- (6) *Occupied dwelling-expansion.* For a permitted construction/demolition waste landfill that was operating and not closed as of December 23, 2000, an expansion permitted on or after December 23, 2000 may not be operated within 900 feet measured horizontally from an occupied dwelling, unless one or both of the following conditions are met:
 - (i) The owner of the dwelling has provided a written waiver consenting to the facility or disposal area being closer than 900 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.
 - (ii) The applicant owned or entered into an enforceable option contract to purchase the land on which the expansion would operate on or before

December 23, 2000, and still holds the option rights, still owns the land or owns the land pursuant to the option rights contract when the permit expansion is issued. Even if the requirement of this subparagraph is met, the expansion may not be operated within 300 feet measured horizontally from an occupied dwelling and the disposal area may not be within 500 feet measured horizontally from an occupied dwelling.

- (7) *Occupied dwelling-new landfill.* A new construction/demolition waste landfill permitted on or after December 23, 2000, may not be located within 900 feet measured horizontally from an occupied dwelling, unless the owner of the dwelling has provided a written waiver consenting to the facility being closer than 900 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner. A closed landfill that submits an application to reopen and expand shall also be subject to this paragraph.
- (8) *Occupied dwelling-access road.* Notwithstanding the prohibitions in paragraphs (6) and (7), an access road to a construction/demolition waste landfill may not be located within 300 feet measured horizontally from an occupied dwelling, unless the owner of the dwelling has provided a written waiver consenting to the access road being closer than 300 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.
- (9) *Perennial stream.* The construction/demolition waste landfill will not be located within 100 feet of a perennial stream, unless storage, processing and disposal will not occur within that distance and no adverse hydrologic or water quality impacts will result.
- (10) *Property line.* The construction/demolition waste landfill will not be located within 100 feet of a property line, unless one of the following applies:
 - (i) Actual disposal of waste will not occur within that distance.
 - (ii) The current owner has provided a written waiver consenting to the facility being closer than 100 feet. The waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the current owner.
- (11) *Water source.* The construction/demolition waste landfill will not be located within $\frac{1}{4}$ mile upgradient, and within 300 feet downgradient, of a public or private water source for disposal, processing and storage areas.
- (12) *School, park or playground.*
 - (i) For a construction/demolition waste landfill permit issued on or after December 23, 2000, other than an expansion of a construction/demolition waste landfill that was permitted prior to December 23, 2000, a

construction/demolition waste landfill will not be located within 300 yards of:

- (A) A building which is owned by a school district or school and used for instructional purposes.
- (B) A park.
- (C) A playground.

(13) *Traffic Impact Study.*

- (i) A traffic impact study shall be required for any proposed construction/demolition waste landfill. Such study shall enable the Board to assess the likely impact of the construction/demolition waste landfill in the various components of the transportation system in the Township. The purpose of said study shall be to identify any traffic problems which may result from the construction/demolition waste landfill, and to determine its impact on public transportation and pedestrian and non-vehicular circulation in the area. Then applicant shall retain a qualified professional traffic engineer to prepare the traffic impact study.
- (ii) The study area shall be the road network as defined by the traffic engineer, which represents the area that is likely to be affected (from a traffic impact standpoint) by the construction/demolition waste landfill. Prior to identifying the study area, the traffic engineer shall discuss possible study area boundaries with the applicant and the Township. Specific intersections to be included in the study shall be mutually agreed upon prior to initiating work.

(14) *Obstruction.* For areas permitted on or after December 23, 2000, a construction/demolition waste landfill will not be located in a manner in which any portion of the landfill would be an obstruction to air navigation under 14 CFR 77.23(a)(5) (relating to standards for determining obstructions).

Article XIII, §205-65.A(3), Permitted uses shall be amended to read as follows:

- (3). Restaurants, tearooms, confectioneries or similar establishments serving food or beverage.

Article XIII, §205-65.A(10)(i), Permitted uses shall be amended to read as follows:

- (i). Taprooms, bars, taverns, liquor stores.

Article XVI, §205-87, Permitted uses shall be amended to add a new subsection L to read as follows:

- L. Solar and wind power energy devices shall be permitted in multiple numbers as a principal use and shall comply with all applicable yards, setbacks, and zoning standards that would apply to an industrial building. [Editor's Note: At this point all other standards within the LI – Limited Industrial District shall apply.]

Article XIX, §205-115, Ground Signs, is hereby amended by adding the “HI” zoning district to the zoning districts in which ground or freestanding signs are permitted.

Article XXI, §205-137.1, Conditional Use Procedures is hereby deleted and replaced with the following:

Whenever a conditional use is authorized pursuant to the terms of this chapter, as amended, the procedures for application and review of requested conditional uses shall be as follows:

- A. Written request. The landowner shall make a written request to the Board of Supervisors that it hold a hearing on his or her application. The request shall contain a statement reasonably informing the Board of Supervisors of the matters that are in issue.
- B. Plans and accompanying documents. The application shall be accompanied by plans and other materials in accordance with Article XXII. If the application shall involve a subdivision or land development, then plans prepared in accordance with the requirements of Chapter 175, Subdivision and Land Development, of the Code of the Township of East Norriton shall be filed for review as well.
- C. Hearing on conditional use request. The Board of Supervisors shall hold a hearing upon the request, commencing not later than 60 days after the request is filed, or as may be required by the Pennsylvania Municipalities Planning Code, as amended, unless the applicant requests or consents, in writing, to an extension of time.
- D. Decision on conditional use request. In allowing a conditional use, the Board of Supervisors may attach reasonable conditions and safeguards as may be deemed necessary to implement the purposes of this chapter and to ensure the protection of adjacent uses from adverse impacts that may be determined by a fair preponderance of credible evidence
- E. Criteria and standards.
 - (1) The applicant shall establish, by a fair preponderance of credible evidence, that the conditional use complies with the intent of this chapter and the uses permitted by conditional use.

- (2) The applicant shall establish, by a fair preponderance of credible evidence, compliance with all conditions of the conditional use enumerated in that section which gives the applicant the right to seek a conditional use.
- (3) The applicant shall establish, by a fair preponderance of credible evidence, that adequate screening is provided between the lands subject to the conditional use application and surrounding residential uses and residentially zoned districts to screen the facility from view, preclude any glare from lighting or noise above the allowable decibel level in the Ordinance from being ascertained beyond the boundaries of the property.
- (4) The applicant shall establish, by a fair preponderance of credible evidence, that the proposed conditional use will be properly serviced by all existing public service systems. The peak traffic generated by the conditional use must be accommodated for in a safe and efficient manner, or improvement must be made in order to effect the same. Similar responsibility must be assumed with respect to other public service systems, including, but not limited to, police protection, fire protection, utilities, parks and recreation.
- (5) The applicant shall establish, by a fair preponderance of credible evidence, that the proposed conditional use shall be in accord with the comprehensive plan and any of its implementing or supporting plans or policies.
- (6) The applicant shall establish, by a fair preponderance of credible evidence, that the proposed conditional use shall comply or shall be subject to waiver therefrom under all other applicable criteria and standards of East Norriton Township Ordinances and any other applicable state or federal laws or regulations.
- (7) The applicant shall establish, by a fair preponderance of credible evidence, that the plan for development for said conditional use shall be properly designed with regard to internal circulation, parking, building relationships, landscaping, ingress and egress, screening, stormwater management and buffering.
- (8) The applicant shall establish, by a fair preponderance of credible evidence, that the use intended at the location intended shall not be contrary or adverse to the public health, public safety, or public welfare.

Article XXI, §205-137.2, Applications to Zoning Hearing Board, is hereby created to read as follows:

An appeal or an application for a special exception or variance from the terms of this chapter may be filed with the Secretary to the Zoning Hearing Board and shall set forth the following facts:

- A. Name and address of the applicant.

- B. Name and address of the owner of the real estate to be affected by the proposed exception or variance.
- C. A brief description and location of the real estate to be affected by such proposed change.
- D. Present zoning classification of the real estate in question, the improvements thereon and its present use.
- E. Section of this chapter under which the variance or exception requested may be allowed and reasons for which it should be granted.
- F. A fee as established by the Board of Supervisors.
- G. A plot plan, drawn to scale of not less than 1" = 20', showing, at a minimum, the following features:
 - (1) The name(s) of the property owner(s)
 - (2) The address of the property
 - (3) A north arrow
 - (4) The entire property including property lines and distances
 - (5) Existing and proposed structures including dimensions of all slides
 - (6) Distances of existing and proposed structures from property lines
 - (7) Existing and proposed roads, driveways and parking areas
 - (8) The areas (in square feet) of existing and proposed structures
 - (9) Existing and proposed impervious and building coverage percentages for the property
 - (10) Floodplain conservation district boundary lines

ARTICLE XXVIII, §205-176 through §205-186, Airport Overlay Zoning District, is hereby created to read as follows:

§205-176. Purpose.

The purpose of this ordinance is to create an airport district overlay that considers safety issues around the *Airport*, regulates and restricts the heights of constructed structures and objects of natural growth, creates appropriate zones, establishing the boundaries thereof and providing for changes in the restrictions and boundaries of such zones, creates the permitting process for use within said zones and provides for enforcement, assessment of violation penalties, an appeals process, and judicial review.

§205-177. Relation to Other Zone Districts.

The Airport District Overlay shall not modify the boundaries of any underlying zoning district. Where identified, the Airport District Overlay shall

impose certain requirements on land use and construction in addition to those contained in the underlying zoning district.

§205-178. Definitions.

The following words and phrases when used in this Article shall have the meaning given to them in this section unless the context clearly indicates otherwise.

Airport Elevation: The highest point of an airport's useable landing area measured in feet above sea level. The airport elevation of the *Airport* is 302 feet above sea level.

Airport Hazard: Any structure or object, natural or manmade, or use of land which obstructs the airspace required for flight or aircraft in landing or taking off at an airport or is otherwise hazardous as defined in 14 CFR Part 77 and 74 Pa. Cons. Stat. §5102.

Airport Hazard Area: Any area of land or water upon which an airport hazard might be established if not prevented as provided for in this Ordinance and the Act 164 of 1984 (Pennsylvania Laws Relating to Aviation).

Approach Surface (Zone): An imaginary surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of the runway based on the planned approach. The inner edge of the approach surface is the same width as the primary surface and expands uniformly depending on the planned approach. The approach surface zone, as shown on Figure 205-179.1 (Titled: Wings Field Airport Surface Areas), is derived from the approach surface.

Conical Surface (Zone): An imaginary surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet horizontally to one (1) foot vertically for a horizontal distance of 4,000 feet. The conical surface zone, as shown on Figure 205-179.1 (Titled: Wings Field Airport Surface Areas), is based on the conical surface.

Department: Pennsylvania Department of Transportation.

FAA: Federal Aviation Administration of the United States Department of Transportation.

Height: For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

Horizontal Surface (Zone): An imaginary plane 150 feet above the established airport elevation that is constructed by swinging arcs of various radii from the center of the end of the primary surface and then connecting the

adjacent arc by tangent lines. The radius of each arc is based on the planned approach. The horizontal surface zone, as shown on Figure 205-179.1 (Titled: Wings Field Airport Surface Areas), is derived from the horizontal surface.

Larger Than Utility Runway: A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

Nonconforming Use: Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.

Non-Precision Instrument Runway: A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

Obstruction: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth by this Ordinance.

Precision Instrument Runway: A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

Primary Surface (Zone): An imaginary surface longitudinally centered on the runway, extending 200 feet beyond the end of paved runways or ending at each end of turf runways. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The primary surface zone, as shown on Figure 1, is derived from the primary surface.

Runway: A defined area of an airport prepared for landing and takeoff of aircraft along its length.

Structure: An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.

Transitional Surface (Zone): An imaginary surface that extends outward and upward from the edge of the primary surface to the horizontal surface at a slope of seven (7) feet horizontally to one (1) foot vertically (7:1). The transitional surface zone, as shown on Figure 205-179.1 (Titled: Wings Field Airport Surface Areas), is derived from the transitional surface.

Tree: Any object of natural growth.

Utility Runway: A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

Visual Runway: A runway intended solely for the operation of aircraft using visual approach procedures.

§205-179. Establishment of Airport Zones: There are hereby created and established certain zones within the Airport District Overlay ordinance, defined in §205-178 and depicted on Figure 205-179.1 (Titled: Wings Field Airport Surface Areas), hereby adopted as part of this ordinance, which include:

1. Approach Surface Zone
2. Conical Surface Zone
3. Horizontal Surface Zone
4. Primary Surface Zone
5. Transitional Surface Zone

§205-180. Permit Applications. As regulated by Act 164 and defined by 14 Code of Federal Regulations Part 77.13(a) (as amended or replaced), any person who plans to erect a new structure, to add to an existing structure, or to erect and maintain any object (natural or manmade), in the vicinity of the airport, shall first notify the Department's Bureau of Aviation (BOA) by submitting PENNDOT Form AV-57 to obtain an obstruction review of the proposal at least 30 days prior to commencement thereof. The Department's BOA response must be included with this permit application for it to be considered complete. If the Department's BOA returns a determination of no penetration of airspace, the permit request should be considered in compliance with the intent of this Overlay Ordinance. If the Department's BOA returns a determination of a penetration of airspace, the permit shall be denied, and the project sponsor may seek a variance from such regulations as outlined in §205-181.

No permit is required to make maintenance repairs to or to replace parts of existing structures which do not enlarge or increase the height of an existing structure.

§205-181. Variance. Any request for a variance shall include documentation in compliance with 14 Code of Federal Regulations Part 77 Subpart B (FAA Form 7460-1 as amended or replaced). Determinations of whether to grant a variance will depend on the determinations made by the FAA and the Department's BOA as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable air space. In particular, the request for a variance shall consider which of the following categories the FAA has placed the proposed construction in:

1. No Objection - The subject construction is determined not exceed obstruction standards and marking/lighting is not required to mitigate potential hazard. Under this determination a variance shall be granted.

2. Conditional Determination - The proposed construction/alteration is determined to create some level of encroachment into an airport hazard area which can be effectively mitigated. Under this determination, a variance shall be granted contingent upon implementation of mitigating measures as described in §205-184 - Obstruction Marking and Lighting.

3. Objectionable - The proposed construction/alteration is determined to be a hazard and is thus objectionable. A variance shall be denied and the reasons for this determination shall be outlined to the applicant. Such requests for variances shall be granted where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and that relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the intent of this ordinance.

§205-182. Use Restrictions. Notwithstanding any other provisions of this Ordinance, no use shall be made of land or water within the Airport District Overlay in such a manner as to create electrical interference with navigational signals or radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise endanger or interfere with the landing, takeoff or maneuvering of aircraft utilizing the *Airport*.

§205-183. Pre-Existing Non-Conforming Uses: The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of a non-conforming use. No non-conforming use shall be structurally altered or permitted to grow higher, so as to increase the non-conformity, and a non-conforming use, once substantially abated (subject to the underlying zoning ordinance,) may only be reestablished consistent with the provisions herein.

§205-184. Obstruction Marking and Lighting. Any permit or variance granted pursuant to the provisions of this ordinance may be conditioned according to the process described in Section 6 to require the owner of the structure or object of natural growth in question to permit the municipality, at its own expense, or require the person requesting the permit or variance, to install, operate, and maintain such marking or lighting as deemed necessary to assure both ground and air safety.

§205-185. Violations and Penalties. Violations of this Article shall be subject to that in the underlying Zoning Ordinance.

§205-186. Appeals. Appeals shall be subject to the process in the underlying Zoning Ordinance.

SECTION 2. Severability.

In the event that any section, sentence, clause, phrase or word of this ordinance shall be declared illegal, invalid or unconstitutional by any Court of competent jurisdiction, such declaration shall not prevent, preclude or otherwise foreclose enforcement of any of the remaining portions of this ordinance.

SECTION 3. Repealer.

All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

SECTION 4. Effective Date.

This ordinance shall become effective five days after its adoption by the East Norriton Township Board of Supervisors.

ORDAINED and **ENACTED** by the Board of Supervisors of East Norriton Township this 3rd day of January, 2011.

BOARD OF SUPERVISORS
EAST NORRITON TOWNSHIP


Chairwoman

ATTEST: 
Secretary

