

**EAST NORRITON TOWNSHIP  
MONTGOMERY COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 590**

**AN ORDINANCE OF EAST NORRITON TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA, AMENDING THE EAST NORRITON TOWNSHIP CODE OF ORDINANCES TO ADD A NEW CHAPTER 179 TO PART II, GENERAL LEGISLATION TITLED: “TREE PROTECTION STANDARDS” TO ESTABLISH TREE PROTECTION STANDARDS WITHIN THE LIMITS OF EAST NORRITON TOWNSHIP; PROVIDING A SEVERABILITY CLAUSE; REPEALING ALL INCONSISTENT ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, East Norriton Township (the “Township”) is a duly organized Township operating in accordance with the Pennsylvania Second Class Township Code (the “Code”); and

**WHEREAS**, Section 1506 of the Code, 53 P.S. § 1506, vests the Township Board of Supervisors with the power to: “make and adopt any ordinances, bylaws, rules and regulations not inconsistent with or restrained by the Constitution and laws of this Commonwealth necessary for the proper management, care and control of the township and its finances and the maintenance of peace, good government, health and welfare of the township and its citizens, trade, commerce and manufacturers.”; and

**WHEREAS**, Trees improve air and water quality, reduce soil erosion, noise and glare, provide habitat for desirable wildlife, moderate the climate and enhance community image and property values; and

**WHEREAS**, in accordance with the powers and duties vested in the East Norriton Township Board of Supervisors under the Code and Pennsylvania law, the Board of Supervisors of East Norriton Township now desires to enact an ordinance to encourage the protection of trees through sound land use practices within the limits of East Norriton Township for the benefit of the general health, safety and welfare of the residents of the Township.

**NOW, THEREFORE**, be it **ORDAINED** and **ENACTED** by the Board of Supervisors of East Norriton Township an ordinance as follows:

**SECTION I:** Adoption of Part II, General Legislation, Chapter 179, titled “Tree Protection Standards.”

The Board of Supervisors hereby adopts and establishes a Chapter 179 to the East Norriton Township Code of Ordinances titled “Trees” under Part II, General Legislation that shall state as follows:

## **ARTICLE I. TREE PROTECTION STANDARDS**

### **§ 179-1. Title.**

This chapter shall be known and may be cited as the “East Norriton Township Tree Protection Ordinance.”

### **§ 179-2. Purpose.**

Trees improve air and water quality, reduce soil erosion, noise and glare, provide habitat for desirable wildlife, moderate the climate and enhance community image and property values. The purpose of these regulations is to encourage the protection of trees through sound land use practices. Therefore, the goals of this chapter are to:

- A.** Preserve, protect and maintain existing trees in East Norriton Township and to increase the overall tree canopy and understory on both public and private lands therein.
- B.** Ensure that all applications for earth disturbance permit, demolition permit, building permit, subdivision, land development or zoning change applications shall respect existing trees as a natural resource. As such, impervious areas shall be laid out in a manner so as to preserve the healthy trees on the site to the greatest extent possible.
- C.** To preserve and protect all individual (and groups of) heritage trees as defined herein.
- D.** To ensure that no trees are destroyed on any property scheduled for development within two years prior to the submission of an application for earth disturbance permit, demolition permit, building permit, subdivision, land development or zoning change application.
- E.** To strictly prohibit any clear cutting of trees.
- F.** To preserve, protect and encourage the replacement of native species with native species.

### **§ 179-3. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

#### **APPLICANT**

The property owner or his authorized representative; the term includes "developer."

#### **APPROVED PRESERVED TREE**

Any tree that is inside the limit of disturbance and is to be properly protected and not destroyed or injured during construction as required by this chapter and as approved by the Township.

#### **BOUNDARY TREE**

A tree on an adjacent property whose root protection zone intrudes across the property line of the property under consideration.

**CALIPER**

A measure of nursery stock measured in diameter. For four-inch diameter stock or smaller, the measure is taken at six inches above the root ball. For stock above four inches, the measurement is taken at 12 inches above the root ball.

**CANOPY TREE**

Large, shade trees with deciduous foliage (bare in winter) generally reaching at least 40 feet in height at maturity.

**CLEAR CUTTING**

The indiscriminate and broad removal of trees, shrubs or undergrowth with the intention of preparing real property for nonagricultural development purposes. This definition shall not include the selective removal of nonnative tree and shrub species when the soil is left relatively undisturbed, the removal of dead or significantly diseased trees and those trees which pose an imminent danger to the public health, safety or welfare.

**DBH (or dbh)**

Diameter at breast height; a measure of trunk diameter in inches, taken at 4 1/2 feet above the natural ground line. The measured section of the tree should be free of branches and representative of the typical age of the tree species. DBH measurement is applied to existing trees (compared to caliper used for nursery stock).

**DRIPLINE**

The boundary created by the outermost branches of a tree.

**EVERGREEN TREE**

A woody plant capable of reaching a minimum mature height of 20 feet with foliage persistent for more than one full year, resulting in a year-round (evergreen) foliage screening capacity.

**FLOWERING/ORNAMENTAL TREE**

A deciduous tree, single or multistem, with a minimum height of 15 feet. Single-stem variety must be a minimum of two-inch caliper. Multistem must have no less than three stems with a minimum caliper of 0.75 inch per stem.

**GROUND COVER**

A low-growing perennial plant.

**HAZARD TREE**

A tree with uncorrectable defects severe enough to pose present danger to people or buildings under normal conditions, as determined by the Township.

**HEDGEROW**

A narrow linear vegetated area with a mix of woody trees and shrubs formed along farm fields, pastures and property lines. Hedgerows may be considered as a desirable visual characteristic of a rural landscape, warranting preservation during the subdivision or land development process.

**HERITAGE TREE**

A tree located on public or private property:

- A. Which is specifically identified and considered worthy of preservation by the Township because of the species, size, rarity or historical importance; or
- B. Having a dbh greater than 40 inches or an age greater than 75 years.

**INVASIVE SPECIES**

Any plant that appears in the most recent invasive plants list published by the Pennsylvania Department of Conservation and Natural Resources (DCNR).

**LIMIT OF DISTURBANCE**

Boundary line to be shown on a plan delineating the area outside of which no activity of any sort relating to transplanting, demolition, grading, construction, drainage, storage or any other project activities is permitted.

**LOT**

A designated parcel, tract or area of land established by a plot or otherwise as permitted by law to be used, developed or built upon as a unit.

**NATIVE PLANTS**

A plant species indigenous to the Northeastern United States that occurs naturally in a particular region, state, ecosystem, and habitat without direct or indirect human actions.

**PROPERTY OWNER**

Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the Commonwealth of Pennsylvania, County of Montgomery or East Norriton Township as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

**REMOVED TREE**

Any tree that is destroyed, injured or otherwise not protected according to the provisions of this chapter.

**REPLACEMENT TREE**

A tree required to be planted per this chapter to compensate for the removal or damage of existing trees on a site.

**ROOT PROTECTION ZONE**

The area within a tree's temporary protection fencing which is to be maintained throughout the entire period of any construction. The protective fencing shall be placed at a distance calculated at 1.25 feet (radius) per each one inch of (DBH) diameter breast height or to the outer edge of the dripline, whichever is greater.

**SEEDED MEADOW**

Area that contains native and/or nonnative annual and perennial plants, including a mix of grasses and herbaceous flowering plants that match the growing conditions of the site.

**SHADE TREE**

A woody plant or a portion thereof that has a minimum three-inch caliper, is 14 feet or more in height, has eight feet minimum spread with clear trunk to seven feet, and has full branching structure.

**SHRUB**

A woody plant, usually with multiple stems, each of which has a DBH of less than three inches with a minimum height of 24 inches.

**TREE**

Any hard-wooded perennial plant, whether evergreen or deciduous, or a species which normally reaches a height of eight feet or more at maturity.

**TREE SURVEY PLAN**

Plan identifying the size, species and location of all existing trees having a diameter at breast height (DBH) of six inches or greater and denoting each tree to be saved, removed or planted with the location of the tree protection fences and the proposed schedule of replacement trees.

**§ 179-4. Applicability.**

- A. Unless exempt, any property owner or developer who makes application for an earth disturbance permit, demolition permit, building permit, subdivision, land development or zoning change application, shall comply with the terms of this chapter.
- B. No clear cutting shall be permitted under any circumstance.
- C. Except as to heritage trees, this chapter is not intended to apply to:
  - (1) The removal of trees from a lot containing an existing single-family residence, unless such removal is a part of earth disturbance activities that impact 5,000 square feet or more of area. However, no property owner or occupant shall be permitted to remove trees if such trees have been planted or preserved to meet the requirements of Township ordinances or an application approved by the Township.
  - (2) The removal of trees identified as dead or diseased by the Township Arborist.

- (3) The removal of trees for sale in the ordinary course of business from horticultural properties, such as farms, nurseries or orchards.
  - (4) The removal of any tree which has become or threatens to become a danger to life or property.
  - (5) The removal of trees required for approved utility construction within established easement areas.
  - (6) Forestry practices, in keeping with established best management practices for selective harvesting and sustained yield forestry.
- D. The removal of more than 50% of the trees on any lot shall not be permitted under any circumstance unless expressly permitted by the terms of this Code.

**§ 179-5. Tree Preservation, Protection and Replacement.**

**A. Tree survey plan.**

- (1) Each and every application for an earth disturbance permit, demolition permit, building permit, subdivision, land development or zoning change application shall include a tree survey plan except any action that does not include ground coverage disturbance.
- (2) The tree survey plan shall contain existing and proposed topographic information at two-foot contour intervals and shall show all existing and proposed buildings and structures, driveways, and parking areas, drainage structures, water detention/retention areas, utilities, construction material staging area and all limits of grading.
- (3) The tree survey plan shall denote each tree to be saved, lost or destroyed, the location of tree protection fences for each tree to be saved, and the proposed tree replacement schedule.
- (4) Subject to the recommendation of the Township, the number of trees shall be calculated using the guidelines listed in this chapter.
- (5) Any tree lost or destroyed within two years prior to the submission of an application shall be shown on the tree survey plan as a "removed tree" and shall be replaced in accordance with this chapter.
- (6) Heritage trees and Boundary trees shall be individually noted on the tree survey plan.

**B. Tree protection and preservation.**

- (1) Protective fencing. Every application subject to this chapter shall be prepared in such a manner to preserve the healthy trees and shrubs on the site. Prior to the preconstruction conference with the Township's designee, protective fencing shall be placed around trees to minimize damage to root systems. The protective fencing shall be placed around the root protection zone. The fencing shall be highly visible orange construction fence, at least four feet high and staked with posts every five feet on center. Nothing shall be stored, stockpiled, temporarily placed or allowed in the root protection zone. This fence will be installed prior to any and all work conducted; e.g., excavation, grading, trenching (especially silt fence), cleaning, etc. No fuel storage, refueling or maintenance of equipment or wash down of cement handling equipment shall be permitted within 100 feet of any tree to be preserved. Any damage to the fencing or encroachment on the protected areas shall be remedied immediately. Any observed damage to the trees shall be immediately reported to the Township and remedied as soon as is practicable. At the discretion of the Township, approved preserved trees that have not been adequately protected or damaged may be required to be removed and replaced at the expense of the applicant.
- (2) Preconstruction conference. Upon approval of any permit subject to this chapter, and prior to any construction, demolition or earth disturbance on the site, a preconstruction conference shall be held on the site between the Township's designee and the applicant. The Township's designee shall inspect the tree protection fences and other protective devices which have been installed to protect trees.
- (3) After the preconstruction conference, the Township's designee shall notify the Township of its findings in writing. Upon approval of the tree protection measures by the Township, demolition, grading and construction may proceed, provided that all pertinent permits have been secured.
- (4) Invasive vines. Invasive vines which threaten the health of any approved preserved tree shall be cut at the base using a hand saw, snips or loppers, and treated with a basal herbicide to minimize regrowth. The vine shall not be pulled out of the tree but shall be allowed to die in place.
- (5) Replacement tree requirement.
  - (a) Every tree determined to be living and healthy, with a DBH of six inches or greater and which is designated to be removed or which is destroyed, shall be replaced with one or more new shade trees of a type approved by the Township Arborist with a trunk diameter of not less than three inches in caliper. The total caliper of replacement trees, measured at six inches above the ground line, shall equal or exceed 35% of the DBH of the tree removed.
  - (b) No heritage tree is to be removed for any reason without the prior approval of the Board of Supervisors after recommendation by the Township Arborist. Any heritage tree removed without approval by the Board of Supervisors must be replaced with trees of equivalent value as recommended by the Township and approved by the Board of Supervisors.

- (c) Replacement trees shall be planted in addition to the trees required by planting requirements otherwise set forth in the Subdivision and Land Development Code. All replacement trees shall have deer protection on the tree trunks at a minimum of 4 1/2 feet from the ground up to prevent bark damage without the use of chemicals. Said deer protection shall remain in place 18 months from the post-construction conference.
  - (d) If the Township determines that there is not sufficient area on the development site for the placement of all replacement trees, a percentage of the replacement trees that can be planted on the development site will be increased in caliper size from the three-inch minimum.
  - (e) The species of replacement trees shall be subject to the prior approval by the Township. Species are to be hardy to the area and noninvasive and 50% shall be native, consistent with the provisions of this section. The applicant can refer to the Pennsylvania Department of Conservation and Natural Resources Bureau of Forestry's latest publication of tree species for listing of selections.
  - (f) Subject to the prior approval of the Township:
    - (i) A maximum of 30% of the replacement trees may be replaced with ornamental/flowering trees or evergreen trees at a ratio of two flowering or two evergreen trees per required three-inch-caliper shade tree.
    - (ii) A maximum of 10% of the replacement trees may be replaced as shrubs groundcover at a ratio of 40 plants to one three-inch-caliper shade tree. The minimum size of the groundcover will be a one-gallon container.
  - (g) Calculation and estimation of existing trees to be indicated on the tree survey plan shall be performed before any clearing commences and shall be performed in the presence of the Township or its designee.
- (6) Post-construction. Calculation of approved trees actually remaining after construction shall be performed by the Township or its designee based on a procedure similar to that used in completing the tree survey. In the event the completed project is not in compliance with the approved schedule of preserved trees on the final plan, the applicant shall receive written instructions from the Township addressing reparation for all removed trees. The applicant shall complete the reparation, weather permitting, within 45 days of receiving such notification.
- (7) Replacement guarantee. All replacement plantings shall be guaranteed and maintained in a healthy and/or sound condition for at least 2 full growing seasons or shall be replaced.

**§ 179-6. Violations and Penalties.**



- A. In addition to the other provisions of this chapter, the penalties for any violation of this chapter, including, without limitation, failure to comply with a plan approved by the Township, shall be guilty of a summary offense and upon conviction thereof shall be subject to the enforcement remedies within the East Norriton Township Code and any other applicable law.
- B. Any person who violates this chapter, including property owners, occupants, tree companies and gardeners, may be held liable for a violation of this chapter. If a violation occurs during construction, the Township may issue a stop-work order suspending and prohibiting further activity on the property until a mitigation plan, including protection measures for remaining trees on the property, has been approved by the Township.

**SECTION II: SEVERABILITY**

In the event that any section, sentence, clause, 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 the validity of the remaining portions of this Ordinance.

**SECTION III: REPEALER**

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

**SECTION IV: EFFECTIVE DATE**

This Ordinance shall take effect and be in force from and after its approval as required by the law.

**ORDAINED AND ENACTED** by the Board of Supervisors of East Norriton Township, Montgomery County, Pennsylvania, this 29th day of June, 2021.

Attest:



**EAST NORRITON TOWNSHIP  
BOARD OF SUPERVISORS**

*Ashley DiPiero*  
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Ashley DiPiero, Chairwoman

*Robert H. Hart*  
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Robert H. Hart, Esq., Secretary