

EAST GOSHEN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE EAST GOSHEN TOWNSHIP ZONING ORDINANCE OF 1997, AS AMENDED, WHICH IS CODIFIED IN CHAPTER 240 OF THE EAST GOSHEN TOWNSHIP CODE, SECTION 240-36 TITLED, "SINGLE-FAMILY OPEN SPACE DEVELOPMENT" TO RETITLE THE SECTION AND AMEND THE REGULATIONS FOR AN OPEN SPACE DEVELOPMENT TO ALLOW SEMIDETACHED DWELLINGS AND TOWNHOMES IN OPEN SPACE DEVELOPMENTS SUBJECT TO CERTAIN SPECIFIED CRITERIA.

WHEREAS, pursuant to Section 1516 of the Second Class Township Code, 53 P.S. § 66516, the Board of Supervisors of East Goshen Township (the "Board") is empowered to plan for the development of the Township through the enactment and enforcement of zoning, subdivision and land development regulations in accordance with the Pennsylvania Municipalities Planning Code ("MPC"), 53 P.S. §10101, *et seq.*; and

WHEREAS, consistent with the authority in the Second Class Township Code and the MPC, the Board has previously adopted and currently enforces a zoning ordinance which is codified in Chapter 240 of the East Goshen Township Code; and

WHEREAS, the Board previously allowed a certain type of residential development with single-family detached dwellings and a certain percentage of open space in order to encourage the preservation of environmentally sensitive areas and a large amount of open space which provisions were titled, "Single-family open space development" and codified in Section 240-36 of the Zoning Ordinance; and

WHEREAS, the Board recognizes that there are several large tracts of land that remain undeveloped in the R-2 Zoning District which would be eligible for subdivision and development using the single-family open space development regulations but that additional flexibility in the type of dwelling units may be appropriate and result in greater preservation of open space; and

WHEREAS, Section 603(c)(5) of the MPC, 53 P.S. §10603(c)(5), provides that zoning ordinances may contain "provisions to encourage innovation and to promote flexibility, economy and ingenuity in development, including subdivisions and land developments" as defined in the MPC; and

WHEREAS, Section 604(4) of the MPC, 53 P.S. §10604(4), provides that the provisions of zoning ordinances shall be designed to provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multifamily dwellings in various arrangements; and

WHEREAS, Section 604(5) of the MPC, 53 P.S. §10604(5), provides that the provisions of zoning ordinances shall be designed to accommodate reasonable overall community growth, including population and employment growth and opportunities for development of a variety of residential dwelling types; and

WHEREAS, the Board has determined that it would like to amend the open space development regulations in Section 240-36 of the East Goshen Township Zoning Ordinance to allow and encourage greater flexibility in the design of residential developments on larger lots;

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of East Goshen Township, that the East Goshen Township Zoning Ordinance of 1997, as amended, which is codified in Chapter 240 of the East Goshen Township Code, titled, "Zoning", shall be amended as follows:

SECTION 1. Section 240-9.C(11), shall be revised to read as follows:

"(11) Open space development in accordance with § 240-36."

SECTION 2. Section 240-11.C(10), shall be revised to read as follows:

"(10) Open space development in accordance with § 240-36."

SECTION 3. Section 240-36 titled "Single-family open space development" shall be renamed "Open space development" and revised to read as follows:

"§ 240-36. Open space development.

A. Specific intent.

- (1) The intent of this section is to provide regulations for developing a property in such a manner as to ensure that the environmentally sensitive areas are preserved, to provide a sufficient amount of open space to meet the needs of the residents and to allow additional flexibility in the type of dwelling units in an open space development.

- (2) The intent of this section is also to enable two single-family dwellings and/or three single-family dwellings to be connected, and greater amounts of open space to be set aside in comparison with development with single-family detached dwellings.
- (3) The following regulations shall apply in any district where an open space development is permitted.

B. Single-Family Detached Dwelling Requirements.

- (1) The tract of land shall be in single ownership or filed jointly by the owners and contain a minimum of eight acres.
- (2) The development shall be comprised of single-family detached dwellings only.
- (3) Each dwelling shall be served by a centralized water supply system and a centralized sewage disposal system.
- (4) At least 55% of the original tract area shall be set aside for open space.
- (5) The applicant shall be permitted to construct one single-family detached dwelling unit for each acre of the tract.
- (6) Building separation. Each single-family detached dwelling shall be separated from any other dwelling by a minimum of 30 feet.
- (7) No minimum lot size is required in an open space development with single-family detached dwellings.
- (8) All buildings shall be located at least 50 feet from the tract boundary.
- (9) Cartway width shall be 18 feet with rolled curb and 22 feet with upright curb. A right-of-way width of 40 feet is required.
- (10) All buildings shall be located at least 25 feet from the edge of the cartway.
- (11) There shall be a minimum of three (3) off-street parking spaces for each dwelling unit. Each parking space shall be designed so that the motor vehicle may proceed to and from the parking space provided for it without requiring any other vehicle to be moved.

- (12) All dwellings shall include, either as part of the lot containing the dwelling unit or as a limited common element, one or more areas for landscaping, decks, and/or patios. The applicant shall identify the location and ownership of these areas on the final plan.

C. Semidetached Dwelling Requirements.

- (1) The tract of land shall be in single ownership or filed jointly by the owners and contain a minimum of twenty acres.
- (2) The development may be comprised of any combination of single-family detached dwellings and semidetached dwellings. If a combination of single-family detached dwellings and semidetached dwellings is developed, the provisions in this Section 240-36.C shall apply.
- (3) Each dwelling shall be served by a centralized water supply system and a centralized sewage disposal system.
- (4) At least 60% of the original tract area shall be set aside for open space.
- (5) The applicant shall be permitted to construct one dwelling unit for each acre of the tract.
- (6) Building separation. There shall be a minimum separation between buildings with dwelling units of 30 feet.
- (7) No minimum lot size is required for an open space development with semidetached dwellings.
- (8) All buildings shall be located at least 50 feet from the tract boundary.
- (9) Cartway width shall be 18 feet with rolled curb and 22 feet with upright curb. A right-of-way width of 40 feet is required.
- (10) All buildings shall be located at least 25 feet from the edge of the cartway.
- (11) There shall be a minimum of three (3) off-street parking spaces for each dwelling unit. Each parking space shall be designed so that the motor vehicle may proceed to and from the parking space provided for it without requiring any other vehicle to be moved.
- (12) Building and Parking Design Standards.
 - (a) No building shall exceed thirty-five (35) feet in height.

- (b) All buildings shall have pitched roofs in the range of 6/12 to 12/12.
 - (c) Garages shall be side loaded to the maximum extent possible. When garages face the street, they shall be setback a minimum of eight (8) feet from the front façade of the dwelling unit.
 - (d) No garage doors shall be white in color.
 - (e) All off-street parking areas with a capacity of three or more vehicles shall comply with the Design Standards in Section 240-33.C.
 - (f) All dwellings shall include, either as part of the lot containing the dwelling unit or as a limited common element, one or more areas for landscaping, decks, and/or patios. The applicant shall identify the location and ownership of these areas on the final plan.
- (13) Landscaping and Screening design standards.
- (a) All landscaping and screening shall be in accordance with the Design Standards in Section 240-27.

D. Townhouse Dwelling Requirements.

- (1) The tract of land shall be in single ownership or filed jointly by the owners and contain a minimum of twenty acres.
- (2) The development may be comprised of any combination of single-family detached dwellings, semidetached dwellings and townhouse dwellings. If any combination of single-family detached dwellings, semidetached dwellings and townhouse dwellings are developed, the provisions in this Section 240-36.D shall apply.
- (3) A maximum of three (3) townhouse dwellings are permitted in a building.
- (4) Each dwelling shall be served by a centralized water supply system and a centralized sewage disposal system.
- (5) At least 65% of the original tract area shall be set aside for open space.
- (6) The applicant shall be permitted to construct one dwelling for each acre of the tract.
- (7) Building separation. There shall be a minimum separation between buildings with dwelling units of 30 feet.

- (8) No minimum lot size is required for an open space development with townhouse dwellings.
- (9) All buildings shall be located at least 50 feet from the tract boundary.
- (10) Cartway width shall be 18 feet with rolled curb and 22 feet with upright curb. A right-of-way width of 40 feet is required.
- (11) All buildings shall be located at least 25 feet from the edge of the cartway.
- (12) There shall be a minimum of three (3) off-street parking spaces for each dwelling unit. Each parking space shall be designed so that the motor vehicle may proceed to and from the parking space provided for it without requiring any other vehicle to be moved.
- (13) Building and Parking Design Standards.
 - (a) No building shall exceed thirty-five (35) feet in height.
 - (b) All buildings shall have pitched roofs in the range of 6/12 to 12/12.
 - (c) Garages shall be side loaded to the maximum extent possible. When garages face the street, they shall be setback a minimum of eight (8) feet from the front façade of the dwelling unit.
 - (d) No garage doors shall be white in color.
 - (e) All off-street parking areas with a capacity of three (3) or more vehicles shall comply with the Design Standards in Section 240-33.C.
 - (f) All dwellings shall include, either as part of the lot containing the dwelling unit or as a limited common element, one or more areas for landscaping, decks, and/or patios. The applicant shall identify the location and ownership of these areas on the final plan.
- (14) Landscaping and Screening design standards.
 - (a) All landscaping and screening shall be in accordance with the Design Standards in Section 240-27.

E. Accessory uses.

- (1) The following accessory uses shall be permitted in an open space development:

- (a) Antennas.
 - (b) Satellite dishes. Satellite dishes shall be limited to a twenty-four-inch maximum diameter.
 - (c) Home occupations.
 - (d) Fences.
 - (e) Private greenhouses. Private greenhouses must be attached to the dwelling unit.
 - (f) Tennis courts. Tennis courts shall be a minimum of 25 feet from any lot line and at least 50 feet from the tract boundary.
 - (g) Swimming pools.
 - [1] Single Family Detached Dwellings - Swimming pools permitted in accordance with §240-32.Q.
 - [2] Semidetached Dwellings and Townhouse Dwellings - Swimming pools shall not be permitted for individual semidetached dwellings or individual townhouse dwelling units.
 - [3] Single Family Detached Dwellings, Semidetached Dwellings and Townhouse Dwellings - A community swimming pool shall be permitted, in accordance with §240-32.Q.
 - (h) Solar energy systems. Solar energy systems must be attached to the dwelling unit in accordance with §240-32.O.
 - (i) Keeping of animals or fowl.
 - (j) Home-related business.
 - (k) No-impact home-based business.
- (2) The following accessory uses shall not be permitted in an open space development:
- (a) Storage sheds.
 - (b) Detached garages.
 - (c) Recreational vehicles.
 - (d) Windmills.

F. Open space regulations.

- (1) Use and maintenance. All land held for open space shall be so designated on the plans. The plans shall contain the following statement: "Open space land may not be separately sold, nor shall such land be further developed or subdivided." The subdivision or land development plans shall further designate the use of open space, the type of maintenance to be provided and a planting plan or schedule. In designating use and maintenance, the following classes should be used:
 - (a) Lawn. A grass area with or without trees which may be used by the residents for a variety of purposes and which shall be mowed regularly to ensure a neat and tidy appearance.
 - (b) Natural area. An area of natural vegetation undisturbed during construction, or replanted. Such areas may contain pathways. Meadows shall be maintained as such and not left to become weed-infested. Maintenance may be minimal but shall prevent the proliferation of weeds and undesirable plants. Trash and construction debris shall be removed, and streams shall be kept in free-flowing condition.
 - (c) Passive Recreation area. An area designated for informal gathering in the form of a Green of at least 40 feet in width and 60 feet in length, with a slope not to exceed 3%, located in proximity to proposed dwellings and consisting of Lawn, with Shade Trees around the perimeter.
 - (d) Active Recreation area. An area designated for a specific recreation use, including but not limited to tennis, swimming, shuffleboard, playfield and tot lot. Such areas shall be maintained so as to avoid creating a hazard or nuisance and shall perpetuate the proposed use.
 - (e) Planting area. An area created for purposes of hedgerow replacement, buffer planting area and/or plant screening.
- (2) Ownership of open space. All required common open spaces shall be protected by a conservation easement in perpetuity, with the Board of Supervisors, at a minimum, provided with the authority to enforce such easement. Ownership for the open space area shall be by any of the following procedures, provided that the legal mechanisms for such proper ownership and maintenance are acceptable to the Board of Supervisors, based upon review by the Township Solicitor:

- (a) Ownership by the Township. The Board of Supervisors may, at its option, now or in the future, voluntarily accept the dedication of all or part of the common open space.
 - (b) Ownership by a nature organization. The sale, lease or other disposition of open space to an established lawfully incorporated nonprofit nature conservation organization acceptable to the Board of Supervisors or to a homeowner's association to be incorporated in a form acceptable to the Board of Supervisors. Such organization shall be chartered under the laws of Pennsylvania to administer and shall maintain the land and facilities subject to an acceptable deed restriction or conservation easement in perpetuity. The eventual disposition of said open space shall be limited to the purposes stated in the article of incorporation.
 - (c) Ownership by individuals. The inclusion of the open space in the deed description of the individual purchasers or subdivision, subject to an acceptable deed restriction or conservation easement in perpetuity limiting the eventual disposition of said open space for the purposes outlined in the plan submitted to the Township Supervisors.
 - [1] Such private ownership shall only be permitted if the applicant proves that it is the most reasonable and responsible method of ensuring protection, ownership, maintenance and funding of the common open space.
 - [2] Access rights shall be guaranteed for all residents within the development.
 - (d) Other methods. Such other method that the applicant proves to the full satisfaction of the Board of Supervisors will ensure proper protection, ownership, maintenance and funding of the common open space.
- (3) Planting and recreation facilities within open space areas. The developer shall provide designated planting and areas suitable for active or passive recreation within open space areas. A performance bond or other securities shall be required to cover the cost of installation in accordance with the provisions of Chapter 205, Subdivision and Land Development. The use of species of vegetation that are native to the area is encouraged, and subject to the approval of the Township.

- (4) Determination of open space areas. The applicant shall prove that the following resources and conditions, as applicable, were carefully and appropriately considered in determining which areas are to be set aside as common open space:
- (a) Flood-prone areas, wetlands, watercourses, ponds and creek valleys.
 - (b) Concentrations of slopes of 15% or steeper.
 - (c) Woodlands and forested areas.
 - (d) Areas proposed as greenways or recreation areas, or other applicable recommendations in the Township Comprehensive Plan and/or open space, recreation and environmental resources plan.
 - (e) Historic buildings and sites, and areas around such buildings and sites.
 - (f) Land within 100 feet of the perimeter of the tract.
 - (g) Lands highly suitable for active recreational purposes, and passive recreation purposes.
 - (h) Scenic areas and vistas and other highly visible views.
 - (i) How the common open space will relate to the objectives of a single-family open space development.
- (5) Common Open Space Design Standards.
- (a) No individual area of the minimum common open space shall be less than one acre. No area of the minimum common open space shall have a width less than 50 feet, except for points of access, which shall be no less than 20 feet in width
 - (b) If the Board of Supervisors determines that an area is needed for active recreation, then a suitable area shall be provided,
 - (c) The common open space shall be made up of the minimum number of parcels possible to avoid fragmentation of open space within the tract.
 - (d) The applicant shall show that the common open space will be conveniently accessible to the residents of dwellings intended to be served by it.
 - (e) Common open spaces shall be coordinated with other nearby existing, proposed or potential common open

spaces or parks, either through being contiguous or through safe pedestrian connections. Where an open space development will abut an undeveloped tract and/or a future development phase, the proposed common open space shall be located in consideration of the potential to eventually link together the open space on the two tracts or phases.

- (f) The proposed common open spaces shall be accurately and clearly delineated on the land development plans. The intended class of each area of open space shall be stated, which should follow the categories listed in Subsection F(1) of this section.
- (g) Common open space areas that are not already wooded and are not approved as lawn, natural areas or recreation areas shall be attractively and extensively landscaped, according to a plan approved by the Board of Supervisors.
- (h) Common open space shall have appropriate access for needed maintenance.
- (i) Common open space areas shall not include any land area closer than 20 feet to any residential building.

G. Open space plan development.

- (1) Applicants are strongly encouraged to engage in a Pre-Application and/or Pre-Sketch Plan Meeting to discuss the proposed plan.
- (2) A base plan shall be prepared by a design team that includes a registered professional engineer and a registered landscape architect. The applicant shall submit a base plan that contains the following information:
 - (a) Tract boundaries.
 - (b) One-hundred-year floodplain and wetland boundaries, existing watercourses, streams and ponds.
 - (c) Significant historical, farmland, natural or man-made features.
 - (d) Slopes of 15% to 25%, and greater than 25%.
 - (e) Tree masses and specimen trees.
 - (f) Contour lines at a vertical interval of not more than two feet.

- (g) Location of any proposed stormwater basins or sewage facilities.
- (3) The Board of Supervisors, the Planning Commission, the Conservancy Board, the Park and Recreation Commission and the Historical Commission (if applicable) shall be given the opportunity to inspect the tract proposed for the Open Space Development with the applicant and the design team, in order to determine which areas of the property or which views should be preserved.
- (4) These areas or views to be preserved, along with the recommended use of each of these areas, shall be marked on the base plan. The preliminary location of all principal buildings shall be marked on the base plan.
- (5) Using the marked up base plan as a guide the applicant and the design team shall then prepare an Open Space Development Plan that shows the location and class of the common open space, the location of all dwellings, lot lines, driveways, roads, and stormwater facilities. This Plan shall comply with all sketch plan requirements as provided in Chapter 208, Subdivision and Land Development.
- (6) The Open Space Development Plan shall be presented to the Planning Commission for their review and comment. The Planning Commission shall coordinate its review with the Conservancy Board, Park and Recreation Commission and Historical Commission (if applicable). The applicant shall revise the Open Space Development Plan, as often as necessary, to address the Planning Commission's comments.
- (7) A recommendation on the Open Space Development Plan shall be provided by the Planning Commission to the Board of Supervisors, together with any supporting documentation.
- (8) The Board of Supervisors shall conduct a conditional use hearing to review and approve, conditionally approve with modifications or reject the proposed Open Space Development Plan.
- (9) After the Board of Supervisors has granted conditional use approval for the proposed open space development, with any conditions, the applicant shall be authorized to submit preliminary and final plans pursuant to Chapter 205, Subdivision and Land Development.
- (10) At the option of the Board of Supervisors, the applicant may be allowed to submit preliminary subdivision and land development plans during an overlapping time period with the conditional use approval process.

SECTION 4. Severability. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts hereof. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 5. Repealer. All ordinances or parts of ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

SECTION 6. Effective Date. This Ordinance shall become effective in five (5) days from the date of adoption.

ENACTED AND ORDAINED this ____ day of _____, 2019.

ATTEST:

**EAST GOSHEN TOWNSHIP
BOARD OF SUPERVISORS**

Louis F. Smith, Jr., Secretary

E. Martin Shane, Chairman

Carmen R. Battavio, Vice-Chairman

Janet L. Emanuel, Member

Michael P. Lynch, Member

David E. Shuey, Member