

ORDINANCE NO. _____
WEST NORRITON TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA

**AN ORDINANCE AMENDING THE WEST NORRITON TOWNSHIP CODE,
CHAPTER 27, ZONING, BY ADDING A NEW PART 13A ENTITLED “OPEN
SPACE PRESERVATION DISTRICT 2014”.**

WHEREAS, West Norriton Township (the “Township”), pursuant to the First Class Township Code, 53 P.S. § 55101, *et seq.*, is authorized to make and adopt Ordinances that are consistent with the Constitution and the laws of the Commonwealth that it deems necessary for the proper management and control of the Township and welfare of the Township and its citizens;

WHEREAS, the Township deems it in the best interest and general welfare of the citizens and residents of the Township to amend its Zoning Ordinance by adding Part 13A “Open Space Preservation District 2014” to Chapter 27, Zoning;

WHEREAS, the Board of Commissioners of West Norriton Township has met and will meet the procedural requirements of the First Class Township Code for the adoption of the proposed ordinance.

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

§ 1. **CODE AMENDMENT.** Chapter 27, Zoning, of the West Norriton Township Code is hereby amended to add Part 13A which shall be entitled “Open Space Preservation District 2014” which shall read as follows:

Section 13A-01. Legislative intent.

In the interest of the public health, safety and welfare, the provisions of this article are intended to:

- A. Provide an effective means of responding to site conditions for the preservation of floodplains, wetlands, streams, valleys, woodlands and other natural and scenic features and historic resources in a manner consistent with Township policy.
- B. Provide for the creation, retention and protection of historic sites and open space areas within the Township.
- C. Provide an opportunity to attain the objectives of the Township's Open Space Study, Historic Sites Comprehensive Mapping Project and Comprehensive Plan with regard to open space preservation, orderly growth and enhancement of environmental resources.
- D. Encourage innovation and to promote flexibility, economy and ingenuity in the residential development of large tracts, including subdivisions and land developments.

Section 13A-02. District established.

A. The Open Space Preservation District is defined and established to include and be an overlay upon all parcels five acres or larger within any residential district designated on the West Norriton Township Zoning Map.

B. All property within the district used or intended to be developed for residential purposes shall comply with the provisions of this article.

Section 13A-03. Conditional uses.

Authorization to develop a tract pursuant to the requirements of the Open Space Preservation District 2014, may be granted by the Board of Commissioners as a conditional use pursuant to Section 1708, provided that the applicant proves compliance with the standards and criteria set forth in Section 1708 and, in addition thereto, establishes the following:

A. That development pursuant to the Open Space Preservation District 2014 will preserve natural and scenic features, historic sites and historic resources to a degree equal to or greater than development under the conventional lotting approach would permit. The applicant may be required to protect such features, sites and resources from further development with appropriate covenants running with the land. Where development of less than the entire parcel is intended or where the parcel is intended to be developed at less density than conventional development would permit, the applicant may be required to file a development plan for the entire parcel pursuant to Section 1708 or may be required to restrict further subdivision and/or development on the remainder of the tract by recorded covenant or agreement.

B. That the applicant has achieved the open space preservation goals set forth in Section 13A-01 by deed restriction, conveyance of a perpetual conservation easement to a recognized nonprofit corporation established for that purpose or by any other means of facility ownership set forth in Section 13A-07.

Section 13A-04. General regulations.

A. A building may be erected or used and a lot may be used or occupied only for a purpose permitted in RA Residential Districts and for the following residential uses:

- (1) Single-family detached dwellings.
- (2) Single-family semidetached dwellings.
- (3) Two-family detached dwellings.
- (4) Apartment and other multifamily dwellings, as conversions of structures listed on the Township's Inventory of Historic Structures. Reconstruction, alteration or restoration of historic structures shall conform to the current requirements of the United States Secretary of the Interior's Standards for Rehabilitation.

B. Common open space and preservation areas. A development in this district shall provide for common open space and for preservation within the common open space. The area of common open space shall be at least as great as the minimum size of the preservation area required by this article.

C. Natural features and historic sites. The applicant shall establish that development, including site improvement, lot design and open space configuration, preserves natural features and environmentally sensitive areas, preserves historic sites where applicable and complies with all requirements of the West Norriton Township Subdivision and Land Development Ordinance (Chapter 22) and other applicable Ordinances.

Section 13A-05. Development standards.

The following standards shall apply to development in this district:

A. Density. The maximum number of lots and/or dwelling units shall be determined by the yield map, developed as part of the tentative sketch plan requirements. The tentative sketch shall be based on the Tax Map information at a scale not less than 50 feet to the inch and shall show the entire tract on one (1) sheet. Two (2) sketch plans are required, the first plan shall show development conforming to underlying zoning and subdivision regulations and shall be used as the yield map in establishing the allowable density on the tract. The second plan shall show the development conforming to the overlay regulations of the Open Space Preservation District 2014. The density established with the yield map shall be used with the open space preservation plan; density shall be no greater than that which the underlying zoning and subdivision regulations would permit. The tentative sketch application shall indicate whether conditional use approval will be sought for development in accordance with the underlying zoning and subdivision regulations.

B. Perimeter setback. Structures shall be situated so as to maintain a minimum setback from any tract property line equivalent to the front yard setback of the underlying district.

C. Lot area; setbacks; lot width. The applicant may, but shall not be required to construct residential units on individual lots. Where development is lotted out, minimum lot areas, setbacks and lot width shall not be required, provided that the minimum standards set forth herein are met.

D. Building separation. Individual structures must have sufficient separation to meet applicable fire protection codes. However, in no event shall a detached building be less than 30 feet from any part of an adjacent building.

E. Access to common open space and preservation areas. All dwelling units shall have access to common open space and preservation areas without the obstruction of intervening lots, structures, fences or other impediments to pedestrians. The Board of Commissioners may by conditional use grant relief from the provisions of this subsection, subject to the following conditions:

(1) An existing residence on the tract being developed is listed on the Township's Historic Resource Inventory. If the historic resource is subsequently removed from the Inventory, any restriction on access to the common open space and preservation area which the Board of Commissioners may have granted shall be removed.

(2) The lot or lots containing an historic resource on the tract being developed contain(s) all of the preservation area required by this subsection.

- (3) The preservation area provided is greater by 20% than what would otherwise be required by this article.
- (4) The number of lots proposed is at least 20% fewer than the number of lots permitted by the yield plan developed as part of the tentative sketch plan requirements under this article.
- (5) All of the proposed lots in the development meet or exceed the minimum lot size requirements of the underlying zoning district.
- (6) If an existing historic resource is later removed, any portion of the historic resource used to calculate required open space must remain as open space.
- (7) A declaration of covenants is offered in recordable form, subject to the approval of the Township Solicitor, binding all of the lots in the development to the development limitations of this subsection and prohibiting the subdivision of the tract into a greater number of lots.
- (8) Any existing public right-of-way, or equestrian link on the property to trails maintained by the appropriate association, shall be documented and preserved by a recorded covenant and the use thereof continued.

G. Inclusion of historic sites in preservation areas. Historic sites and their cultural landscapes may be included as part of the required preservation area, subject to compliance with requirements of this article.

H. Cultural landscape delineation and protection. Cultural landscapes required to preserve an historic site's integrity shall be maintained. The Board of Commissioners shall delineate what areas shall be included in the required cultural landscape.

I. Buffer requirements. Natural areas or buffers shall be required for all proposed development in accordance with the requirements of Chapter 22, Part 5, Design Requirements.

J. Viewsheds. The applicant shall identify and preserve viewsheds of natural features and cultural landscapes.

K. Detention, retention and sewage disposal areas. Detention or retention areas or land used for surface or subsurface sewage disposal and holding or settlement ponds, and utility easements may be included as part of the common open space. Easements satisfactory to the Board of Commissioners shall be established to enable maintenance of such facilities by the appropriate parties.

Section 13A-06. Preservation area requirements.

A. Each tract shall contain a preservation area to be included in the common open space which shall meet the following minimum net area requirements:

- (1) Fifty percent when the preservation area is entirely contained on a parcel(s) not intended for residential development or on a single parcel containing the entire residential development.
- (2) Sixty percent in all other cases.

B. Land designated as preservation area shall conform to the following:

- (1) Preservation areas shall preserve and protect the tract's significant natural features, cultural landscapes and historic sites.
- (2) No more than 75% of the preservation area shall be comprised of designated flood hazard districts, wetlands or slopes in excess of 25%.
- (3) Any area designated as a preservation area shall be no less than one acre or less than 75 feet in width or have a ratio of the longest to shortest dimension exceeding 4 to 1, except areas which serve as public pedestrian or equestrian links and/or preserve a viewshed or scenic corridor. No structures or impervious surface shall be counted towards the preservation area requirements, except as permitted in Part 13A-05, Development standards.
- (4) There shall be no more than three noncontiguous preservation areas.
- (5) Preservation areas may be used for the following:
 - (a) Woodland, meadow, wetland, watercourse, wildlife sanctuary or similar conservation-oriented area.
 - (b) Park, pedestrian or equestrian trails or outdoor recreation area.
 - (c) Pasture land, open field or lawn.

Section 13A-07. Common open space and facility ownership and maintenance standards.

To ensure adequate planning for operation and maintenance of common open space, preservation areas, recreation facilities, sewage facilities, central water supply facilities, stormwater management facilities, common parking areas and driveways, private streets and any other common or community facilities (hereinafter referred to as "common facilities"), the following regulations shall apply:

- A. Preservation. Common open space shall be restricted in perpetuity from further subdivision and/or land development by deed restriction, conservation easement or other agreement in a form acceptable to the Township Solicitor and duly recorded in the Office of the Recorder of Deeds of Montgomery County.
- B. Maintenance. A plan for the disposition, use, maintenance and insurance of the common open space, including provisions for funding, shall be provided to and approved by the Township Solicitor prior to preliminary plan approval. The Board of Commissioners may permit or require all or portions of common open space or common facilities be divided among one or more individual lots and may confer responsibility for maintenance of such upon the owner(s) of such lot(s).
- C. Use. Common open space shall be available for use by those having an ownership interest in the tract as developed. Portions of the common open space may be designated for use by the general public. The Board of Commissioners may by conditional use grant relief from the provisions of this subsection subject to all of the conditions for the grant of conditional use set forth in Part 13A-05.F.

D. Ownership. The following methods may be used, either individually or in combination, to own common facilities: condominium ownership, fee simple dedication to public agency, dedication of easements to the Township, fee simple dedication to a private conservation organization, transfer of easements to a private conservation organization and/or homeowners' association. Common facilities shall not be eligible for transfer to another entity except for transfer to another method of ownership permitted under this section, and then only where there is no change in the common facilities. Ownership methods shall conform to the following:

(1) Condominium. Common facilities shall be controlled with condominium agreements. Such agreements shall be approved by the Township Solicitor and be in conformance with the Uniform Condominium Act of 1980. Editor's Note: See 68 Pa.C.S.A. §3707 et seq. All land and facilities shall be held as "common element."

(2) Fee simple dedication to a public agency. The Township or other public agency acceptable to the Township may, but shall not be required to, accept any portion of the common facilities. The Township shall have the right to accept at any time and from time to time the dedication of land or any interest therein for public use, provided that:

- (a) Any common facilities are accessible to the residents of the Township.
- (b) There is no cost of acquisition (other than any costs incidental to the transfer of ownership, such as title insurance).
- (c) The Township or other public agency acceptable to the Township agrees to and has access to maintain such common facilities.

(3) Transfer of easements to a public agency. The Township or other public agency acceptable to the Township may, but shall not be required to, accept easements for public use of any portion of the common facilities, title of which is to remain in private ownership, provided that:

- (a) Any common facilities are accessible to the residents of the Township.
- (b) There is no cost of easement acquisition (other than any costs incidental to the transfer of ownership, such as title insurance).
- (c) A satisfactory maintenance agreement is reached between the owner and the Township.

(4) Fee simple dedication to a private conservation organization. Any owner may dedicate any portion of the common facilities to a private, nonprofit conservation organization, provided that:

- (a) The organization is acceptable to the Township and is a bona fide conservation organization with perpetual existence.
- (b) The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions.
- (c) A maintenance agreement acceptable to the Township is established between the owner and the grantee, in accordance with Part 13A-07.E.

(5) Transfer of easements to a private conservation organization. Any owner may transfer easements on common facilities to a private, nonprofit conservation organization, provided that:

(a) The organization is acceptable to the Township and is a bona fide conservation organization with perpetual existence.

(b) The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions.

(c) A maintenance agreement acceptable to the Township is established between the owner and the grantee, in accordance with Part 13A-07.E.

(6) Homeowners' association. Common facilities shall be held in common ownership by a homeowners' association, subject to all the provisions set forth herein and in Section 705-f of the Pennsylvania Municipalities Planning Code. Editor's Note: See 53 P.S. § 10705 (f). In addition, the homeowners' association shall be governed according to the following:

(a) The owner or applicant shall provide to the Township a description of the organization, including its bylaws, and all documents governing maintenance requirements and use restrictions for common facilities.

(b) The organization shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the sale of any dwelling units within the development.

(c) Membership in the organization shall be mandatory for all purchasers of dwelling units therein and their successors and assigns.

(d) The organization shall be responsible for maintenance of and insurance on common facilities.

(e) The members of the organization shall share equitably the costs of maintaining, insuring and operating common facilities.

(f) The owner or applicant for any tract proposed to contain common facilities shall arrange with the County Board of Assessment a method of assessment of the common facilities which will allocate to each tax parcel in the development a share of the total assessment for such common facilities. Where this alternative is not utilized, the organization shall be responsible for applicable real estate taxes on common facilities.

(g) Written notice of any proposed transfer of common facilities by a homeowners' association or the assumption of maintenance for common facilities must be given to all members of the organization and to the Township no fewer than 30 days prior to such event.

(h) The organization shall have or hire adequate staff, as necessary, to administer, maintain and operate common facilities.

E. Maintenance and operation of common facilities.

(1) The applicant shall, at the time of preliminary plan submission, provide a plan for maintenance and operation of common facilities. Said plan shall:

(a) Define ownership;

- (b) Establish necessary regular and periodic operation and maintenance responsibilities; and
- (c) Estimate staffing needs, insurance requirements and associated costs, and define the means for funding the same on an ongoing basis.

(2) During the first year following final plan approval, the applicant may be required to escrow sufficient funds for the maintenance and operation of common facilities for up to one year.

(3) In the event that the organization established to own and/or maintain common facilities, or any successor organization thereto, fails to maintain all or any portion of the aforesaid common facilities in reasonable order and condition in accordance with the development plan and all applicable laws, rules and regulations, the Township may serve written notice upon such organization, and upon the residents and owners of the uses relating thereto, setting forth the manner in which the organization has failed to maintain the aforesaid common facilities in reasonable condition. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the organization, or any successor organization, shall be considered in violation of this chapter, in which case the bond, if any, may be forfeited, and any permits may be revoked or suspended. The Township may enter the premises and take corrective action.

(4) The costs of corrective action by the Township shall be assessed ratably, in accordance with tax assessments, against the properties that have the right of enjoyment of the common facilities and shall become a lien on said properties. The Township, at the time of entering upon such common facilities for the purpose of maintenance, shall file a notice of such lien in the office of the Prothonotary of the county upon the properties affected by such lien.

§ 2. 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.

§ 3. REVISIONS.

The West Norriton Township Board of Commissioners does hereby reserve the right, from time to time, to adopt modifications of, supplements to, or amendments of its Ordinance, including this provision.

§ 4. 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.

§ 5. EFFECTIVE DATE.

This amendment shall become effective five (5) days after date of adoption.

ORDAINED AND ENACTED by the Board of Commissioners for West Norriton Township, Montgomery County, Pennsylvania, this ____ day of _____, 2014.

ATTEST:

**WEST NORRITON TOWNSHIP
BOARD OF COMMISSIONERS:**

Jason Bobst, Township Manager

By: _____
Ralph Panzullo, President