

**TOWNSHIP OF EAST WHITELAND  
CHESTER COUNTY, PENNSYLVANIA**

**ORDINANCE NO. #337-2021**

**AN ORDINANCE AMENDING THE EAST WHITELAND TOWNSHIP SUBDIVISION AND LAND DEVELOPMENT ORDINANCE TO AMEND THE DEFINITION OF “SLOPE”, AND TO ADD THE DEFINITIONS OF “STEEP SLOPE” AND “STEEP SLOPE, VERY”, AND THE ZONING ORDINANCE TO AMEND THE DEFINITIONS OF “STEEP SLOPE” AND “STEEP SLOPE, VERY”, TO ADD THE DEFINITION OF “SLOPE”, AND TO REPEAL AND REPLACE CHAPTER 200, ARTICLE X, §200-57, STEEP SLOPE PROTECTION.**

**WHEREAS**, the Board of Supervisors have met the procedural requirements of 53 P.S. § 10101, *et seq.*, of the Pennsylvania Municipalities Planning Code, and of the Pennsylvania Second Class Township Code, 53 P.S. §65101, *et seq.*, for the adoption of the proposed Ordinance, including advertising and holding a public hearing;

**WHEREAS**, the Board of Supervisors desires to amend the Township Subdivision and Land Development Ordinance to amend the definition of “Slope” and to add the definitions of “Steep Slope” and “Steep Slope, Very”;

**WHEREAS**, the Board Of Supervisors desires to amend the Township Zoning Ordinance to amend the definitions of “Steep Slope” and “Steep Slope, Very”, and to add the definition of “Slope”;

**WHEREAS**, the Board of Supervisors desires to amend the Township Zoning Ordinance to repeal and replace Chapter 200, Article X, §200-57, Steep Slope Protection;

**WHEREAS**, the Second Class Township Code authorizes the Board of Supervisors to make, amend, 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 the health, safety, and welfare of its citizens;

**WHEREAS**, the Board of Supervisors has determined that amending the Township Zoning Ordinance is necessary for the proper management and control of the Township and supports the health, safety and welfare of its citizens;

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

**SECTION 1. CODE AMENDMENTS.**

- A. CHAPTER 175, ARTICLE II. Terminology, §175-6, Definitions, is hereby amended to amend the definition of “SLOPE”, and to add the definitions of “STEEP SLOPE” and “STEEP SLOPE, VERY”, as follows:**

**SLOPE** – The ratio of a change in elevation (rise) over a horizontal distance (run) as measured between four consecutive two-foot contour lines. The ratio of a slope shall be expressed as a percentage.

**STEEP SLOPE** – An area of land that is characterized by a slope of 15% or more.

**STEEP SLOPE, VERY** – An area of land that is characterized by a slope of 25% or more.

**B. CHAPTER 200, ARTICLE III. Definitions, §200-14, Terms Defined, is hereby amended to add the definition of “SLOPE” and to amend the definitions of “STEEP SLOPE” and “STEEP SLOPE, VERY”, as follows:**

**SLOPE** – The ratio of a change in elevation (rise) over a horizontal distance (run) as measured between four consecutive two-foot contour lines. The ratio of a slope shall be expressed as a percentage.

**STEEP SLOPE** – An area of land that is characterized by a slope of 15% or more. This term shall apply only to steep slopes that are naturally occurring and shall exclude steep slopes that are man-made as a result of previous grading and earth moving activities, except as outlined in 200-57.

**STEEP SLOPE, VERY** – An area of land that is characterized by a slope of 25% or more. This term shall apply only to very steep slopes that are naturally occurring and shall exclude steep slopes that are man-made as a result of previous grading and earth moving activities, except as outlined in 200-57.

**C. CHAPTER 200, ARTICLE X. Environmental Protection, §200-57, Steep Slope Protection, is hereby repealed and replaced as follows:**

§ 200-57 Steep slope protection.

A. Intent. The intent of this § 200-57 is to protect natural hillsides and their related soil and vegetative resources, thereby minimizing adverse environmental effects. Specific objectives include the following:

(1) Conservation and protection of steep and very steep slopes from inappropriate development, such as excessive grading, landform alteration, and extensive vegetation removal.

(2) Avoidance of potential hazards to life and property and the disruption of ecological balance that may be caused by increased runoff, flooding, soil, erosion and sedimentation, blasting and ripping of rock, and landslide and soil failure.

(3) Protection of the entire Township from uses of land that may result in subsequent expenditures for public works and disaster relief and adversely affect the economic well-being of the Township.

(4) Encouragement of the use of steep and very steep slopes for open space and other uses that are compatible with the conservation and protection of natural resources.

B. Applicability and scope. This § 200-57 regulates the circumstances in which any use may occur on areas of natural steep slope or natural very steep slope. The regulations of this § 200-57 shall apply to all districts in the Township but are not applicable to man-made steep slopes and man-made very steep slopes resulting from previous grading or earthmoving activities, except as outlined herein:

(1) In determining whether a slope is naturally occurring or man-made, the burden of proof shall be on the Applicant to provide sufficient justification as to the origin, extent, and physical characteristics of the slopes, subject to review and approval by the Township Zoning Officer.

(2) In his or her review, the Zoning Officer may require additional information and documentation as outlined in Subsections I, G, and H in order to examine the existing condition and ensure that appropriate mitigation measures are employed as part of any proposed disturbance of man-made slopes.

C. Permitted uses in areas of steep slope and very steep slope. The following uses and no other are permitted in areas of steep slope and very steep slope:

(1) Agricultural uses not requiring cultivation or structures.

(2) Game preserve, wildlife sanctuary, woodland preserve, or similar conservation uses not requiring structures.

(3) Passive recreation.

(4) Sealed water supply wells with the approval of the Township Engineer.

(5) Front, side, or rear yards, and required lot area, for any district, provided such yards are not to be used for on-site sewage disposal systems or other structures.

(6) Existing single-family detached dwellings, when permitted in the district in which the property is located. This shall apply to only the existing dwellings and not to any new dwellings on the same property or on vacant property. [Amended 11-8-2017 by Ord. No. 295-2017]

(7) Replacement of existing bridges, culverts, or stream crossings, subject to appropriate permit approvals from local, state, and federal agencies.

D. Prohibited uses in areas of steep slope and very steep slope. The following uses and activities are specifically prohibited:

(1) Structures, other than those associated with Subsections C(6), E and F.

- (2) Cut and fill, other than in conjunction with uses associated with Subsections C(6), E and F.
- (3) Soil, rock, or mineral extraction.
- (4) Removal of topsoil.
- (5) On-site sewage disposal systems.
- (6) Roads and parking lots, other than those associated with Subsection F(4).

E. Conditional uses in areas of very steep slope. The Board of Supervisors is authorized to grant conditional uses for the following uses, subject to recommendations of the Planning Commission and Township Engineer and pursuant to the standards of Subsections G and H:

- (1) Agricultural cultivation and agricultural uses requiring structures.
- (2) Conservation uses requiring structures.
- (3) Passive recreation uses requiring structures.
- (4) Utility easements and rights-of-way.

F. Conditional uses in areas of steep slope. The Board of Supervisors is authorized to grant conditional uses for the following uses, subject to recommendations of the Planning Commission and Township Engineer and pursuant to the standards of Subsections G and H:

- (1) Any conditional use identified in Subsection E.
- (2) Recreation use, whether open to the public or restricted to private membership, such as parks, camps, picnic areas, and golf courses, when permitted in the district in which the property is located; not to include enclosed structures excepting toilet facilities and small shelters usually found in developed outdoor recreational areas.
- (3) Stormwater management facilities.
- (4) Roads and parking lots, where required by the regulations for the district applicable to the lot without consideration of this § 200-57, provided that no practicable alternative alignments or locations exist.
- (5) Central sanitary sewer systems.
- (6) Accessory uses and structures customarily incidental to uses identified in this Subsection F.

G. Standards for conditional uses or variances. The Board of Supervisors, in considering a use as a conditional use, and the Zoning Hearing Board, in considering a variance, shall bear in mind the objectives of Subsection A and shall consider the following:

- (1) Degree of modification proposed to the topographic, soil, and vegetation resources.
- (2) Techniques and extent of mitigation proposed to offset potential adverse environmental effects.
- (3) Effects on adjacent and neighboring properties.
- (4) Consistency of proposed uses with the objectives of Subsection A.

H. Additional standards for conditional uses or variances. An affirmative decision shall not be issued by the Board of Supervisors for conditional uses nor by the Zoning Hearing Board for variances unless there is evidence that:

- (1) Development is being proposed on areas of steep slope or very steep slope only because no other alternative location is practicable.
- (2) Earthmoving activities and vegetation removal will be conducted only to the extent necessary to accommodate the proposed uses and structures and in a manner that will not cause uncontrolled surface water runoff, erosion, sedimentation, and unstable soil conditions.
- (3) Mitigation techniques will be utilized, including, but not limited to, retaining walls, tree wells, the establishment of ground covers and/or low spreading shrubs, and the use of erosion control fabric.
- (4) Proposed structures will be of sound engineering design, and footings will be designed in response to the site's slope, soil, and bedrock characteristics.

I. Application procedures for conditional uses or variances. An application for a zoning permit shall be filed with the Zoning Officer who shall make an initial determination on the application. For a use other than those permitted in Subsection C, an application seeking approval of a conditional use or variance shall be forwarded to the Board of Supervisors or Zoning Hearing Board, as appropriate, along with required studies or information and the findings of the Zoning Officer. The application for conditional use or use by variance shall be accompanied by the following:

- (1) Plans drawn to a scale of at least one inch equals 50 feet depicting the following:
  - (a) Location, dimensions, and elevation of the property.

- (b) Existing and proposed uses and development.
  - (c) Existing and proposed contours at two-foot intervals.
  - (d) Location and boundaries of steep slopes and very steep slopes.
  - (e) Cross sections and elevations of the property and proposed structures.
  - (f) Existing and proposed land cover characteristics of that portion of the property within the area of steep slope or very steep slope, indicating wooded areas, open areas, ground cover types, any areas with impervious surfaces, and subsurface soil types.
- (2) Photographs showing existing uses, vegetation, and topography of areas of steep slope or very steep slope.
- (3) Narrative report describing the slope, soil, and vegetation characteristics of that portion of the property within the area of steep slope or very steep slope. Such report shall also describe:
- (a) Proposed types of structures and methods of construction, types of foundation system(s) to be employed, and proposed landscaping, sewage disposal, and water supply.
  - (b) Sediment and erosion control measures.
  - (c) Engineering and conservation techniques intended to alleviate adverse environmental effects that may be created by the proposed use.

**SECTION 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.

**SECTION 3. REVISIONS.** The East Whiteland Township Board of Supervisors does hereby reserve the right, from time to time, to adopt modifications of, supplements to, or amendments of its Ordinance, including this provision.

**SECTION 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.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall become effective five (5) days after date of adoption.

**SECTION 6. FAILURE TO ENFORCE NOT A WAIVER.** The failure of East Whiteland Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

**ENACTED AND ORDAINED** this **21<sup>st</sup>** day of **June, 2021** by the Board of Supervisors of East Whiteland Township.

**ATTEST:**

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

By: Donna Wikert  
Township Secretary

By: Scott Lambert  
Scott Lambert

By: Richard Orlow  
Richard Orlow

By: Sue Drummond  
Susan Drummond