



**EASTTOWN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

ORDINANCE NO. 391.09

AN ORDINANCE OF THE TOWNSHIP OF EASTTOWN, CHESTER COUNTY, PENNSYLVANIA, AMENDING THE EASTTOWN TOWNSHIP ZONING ORDINANCE WHICH WAS ADOPTED ON JUNE 18, 2007 AS ORDINANCE NO. 376-2007, AS AMENDED, SPECIFICALLY TO DELETE SECTION 301.F, SECTION 805.C(6), SECTION 1303.B(5), SECTION 1503.B AND TO AMEND THE SECTIONS AS FOLLOWS: SECTION 503 TO PROHIBIT PARKING AT GRADE LEVEL UNDER ANY BUILDING IN THE VILLAGE OF BERWYN DISTRICT; FIGURE 6-1 ADOPTED IN SECTION 602.B TO AMEND THE AREA AND BULK REQUIREMENTS FOR LOT AVERAGING; AMEND THE DEFINITION OF WALL IN SECTION 802.A; SECTION 805.C(9) REGARDING THE HEIGHT OF OUTDOOR LIGHT STANDARDS; SECTION 807 TO PROHIBIT PARKING OF COMMERCIAL VEHICLES ON PUBLIC ROADS IN THE PBO AND VB DISTRICT; SECTION 810.B(2) CONCERNING THE CERTIFICATION OF CLASS II HISTORIC STRUCTURES; SECTION 901 TO CLARIFY THE SETBACK REQUIREMENTS FOR ACCESSORY BUILDINGS AND STRUCTURES; SECTION 908.D TO CLARIFY WHO MAY RESIDE IN A CCRC; SECTION 920 CONCERNING OUTDOOR CAFES; SECTION 1303.B(3) AND SECTION 1303.B(5) REGARDING THE ZONING OFFICER'S DUTIES; SECTION 1304.C TO CLARIFY THAT A BUILDING PERMIT APPLICATION IS FILED WITH THE BUILDING CODE OFFICIAL; SECTION 1404 CONCERNING CONDITIONAL USE APPLICATIONS; AND SECTION 1800 TO AMEND AND ADD VARIOUS DEFINITIONS. THIS ORDINANCE FURTHER AMENDS THE SUBDIVISION AND LAND DEVELOPMENT ORDINANCE 1973 AS AMENDED THROUGH MAY 3, 1993, AND THE NATURAL RESOURCE PROTECTION ORDINANCE #370.06, IN ORDER TO CLARIFY THE DEFINITIONS OF WOODLANDS, WOODED LOTS AND RELATED REQUIRED LANDSCAPING AND RESOURCE PROTECTION STANDARDS.

BE IT ENACTED AND ORDAINED, by the Board of Supervisors of Easttown Township, that the Easttown Township Zoning Ordinance which was adopted on June 18, 2007 in Ordinance No. 376-2007, the Easttown Township Subdivision and Land Development Ordinance 1973 as amended through May 3, 1993, and the Easttown Township Natural Resource Protection Ordinance, Ordinance No. 370.06, shall be amended as follows:

EASTTOWN TOWNSHIP ZONING ORDINANCE AMENDMENTS

SECTION I. Section 301.F. shall be deleted in its entirety and marked "intentionally omitted."

SECTION II. Section 503 entitled "Village of Berwyn Off-Street Parking Regulations and Design Standards," shall be amended by the addition of the following new subparagraph C which shall read as follows:

"C. Street-Level Parking Restrictions. Parking shall not be permitted at grade level under any buildings in the Village of Berwyn District."

SECTION III. Section 602.B. Figure 6-1 entitled "Lot Averaging Requirements," shall be amended as follows:

Figure 6-1 Lot Averaging Requirements

		AA	R1
1.	Minimum Net Lot Area (sq. ft.)	40,000	21,780
2.	Maximum Impervious Surface	20%	30%
3.	Minimum Frontage (ft.)	80	70
4.	Minimum Front Yard Setback (ft.)	50	40
5.	Minimum Side Yard Setback (Aggregate - ft.)	40	30
6.	Minimum Side Yard Setback (ft.)	20	15
7.	Minimum Rear Yard Setback (ft.)	40	35

SECTION IV. The definition of "Wall" in Section 802.A(2) shall be amended to state as follows:

"Wall/Pillar: An upright structure serving as an enclosure, barrier or boundary, made of masonry, stone, brick or similar building materials."

SECTION V. Section 805.C(6) shall be deleted in its entirety and marked "intentionally omitted."

SECTION VI. Section 805.C(9) shall be amended to read as follows:

"9. The maximum height of a freestanding outdoor light standard which illuminates any portion of a lot in a Residential District which is improved with a dwelling shall be eight (8) feet; except lights which illuminate a tennis court which may be a maximum of twenty (20) feet in height. The maximum height of a freestanding outdoor light standard in all other Districts and for all other uses other than dwellings shall be sixteen (16) feet. The height of an outdoor lighting fixture shall be defined as the vertical distance from the grade elevation of the surface being illuminated to the top of the lighting fixture."

SECTION VII. Section 807 shall be amended by adding a new subparagraph D which shall read as follows:

"D. Parking of Commercial Vehicles in the Planned Business Office (PBO) District and Village of Berwyn (VB) District.

No commercial motor vehicle or part thereof which has a gross weight in excess of eight thousand (8,000) pounds, or which is in excess of twenty (20) feet in length, and no construction, excavating, earth moving or similar equipment shall be parked, stored or maintained on any public road or right-of-way in the PBO and VB Districts except during deliveries, for purposes of moving in and out, and when construction work is actually being performed on an adjacent lot."

SECTION VIII. Section 810.B(2) shall be amended to read as follows:

"2. Class 2. The applicant can document to the satisfaction of the Zoning Officer that the structure is more than one hundred (100) years old."

SECTION IX. Section 901.A and 901.B. shall be amended to read as follows:

"A. Except as otherwise provided in Section 901.B below, accessory buildings and structures must comply with all minimum yard setbacks for the district in which the lot is located.

B. Accessory buildings and structures which are used for active recreational uses such as swimming pools, tennis courts, basketball courts, riding rinks and other similar uses must comply with all minimum yard setbacks for the district in which the lot is located and in addition may not be located in front of the principal building on a lot."

SECTION X. Section 901.C. shall be amended to read as follows:

“C. The floor area of accessory buildings and structures which are enclosed shall not exceed forty percent (40%) of the footprint of the principal building.”

SECTION XI. Section 908.D. shall be amended to read as follows:

“D. The CCRC shall be limited to residents who are at least fifty-five (55) years of age and older in accordance with the exemption to the prohibition against discrimination based on familial status found in Section 3607(b)(1) of the United States Fair Housing Act, 42 U.S.C. § 3607(b)(1), and the Housing for Older Persons Act of 1995 and the regulations promulgated thereunder, as the same may be amended.”

SECTION XII. The title and introductory paragraph to Section 920 shall be amended to read as follows:

“Section 920. Outdoor Cafés.

An outdoor café shall adhere to the following standards:”

SECTION XIII. Section 1303.B(3) shall be amended to read as follows:

“3. To issue permits for uses which comply with the regulations of this Ordinance.”

SECTION XIV. Section 1303.B(5) shall be amended to read as follows:

“5. To record and file all applications for permits and accompanying plans and documents and keep them as public records in accordance with the Pennsylvania Right to Know Law, Act 3 of 2008, as amended.”

SECTION XV. Section 1303.B(15) shall be deleted.

SECTION XVI. Section 1304.C shall be amended to read as follows:

“C. Building Permits. Upon the issuance of a zoning permit, the applicant may file a written application on a Township approved form for a building permit with the Building Code Official. No building permit shall be issued until the Zoning Officer has certified the proposed use by issuance of a zoning permit. It shall be unlawful for any person to commence work on the erection, alteration, enlargement, extension, or demolition of any building until a building permit has been issued.”

SECTION XVII. Section 1404 titled “Review and Decision Process” shall be amended to read as follows:

"A. At least 30 days prior to the date of the conditional use hearing, the Board of Supervisors shall forward a copy of the application and any supporting material to the Planning Commission with a request that such Commission review the application and submit recommendations and comments regarding the proposed conditional use. The Township may, at its discretion, forward a copy of the application to other consulting agencies that the Supervisors deem appropriate with a request that such agency review the application and submit recommendations and comments regarding the proposed conditional use.

B. Prior to the public hearing which is held by the Board of Supervisors on the conditional use application, the applicant shall send a copy of the public notice which the Township prepares for advertisement of the public hearing, as well as a map identifying the location of the property which is the subject of the application, to the last known address of all property owners within a five-hundred-foot radius of the property, regardless of whether a roadway or Township boundary intersects such radius. The public notice and map shall be sent by regular mail and certified mail, return receipt requested, and mailed a minimum of two weeks before the first scheduled public hearing on the application. At the hearing, the applicant shall provide a copy of each notification and mailings that were sent and the certified mail green cards, if available. The hearing shall not proceed unless the applicant provides such evidence of mailing.

C. The Supervisors shall schedule and hold a public hearing on the application within sixty (60) days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Notice of such meeting shall be provided in compliance with the Pennsylvania Municipalities Planning Code ("MPC").

D. The property, which is the subject of the application, shall be posted in accordance with the MPC.

E. The conditional use hearing shall be conducted in accordance with all procedural requirements in the MPC.

F. In granting or denying a conditional use or establishing conditions upon the grant of the use, the Supervisors shall determine compliance with the standards and criteria established in Section 1402 to be mandatory. In granting a conditional use, the Board may attach such conditions as it deems necessary to protect the health, safety and public welfare.

G. The Supervisors shall render a written decision or, when no decision is called for, make written findings on the conditional use application within 45 days after the last hearing before the Supervisors. The date for the Supervisors' decision may be extended by the applicant either on the record or in writing addressed to the Supervisors. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefore. Conclusions based upon this Article, the MPC or any rule or regulation shall contain a reference to the provision relied on and the reasons why the

conclusion is deemed appropriate in the light of the facts found. A copy of the decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him no later than the day following its date.

H. If, after the conclusion of the public hearings, the application is amended or revised, the Supervisors shall hold one or more public hearings thereon as may be necessary and shall issue a new decision thereon in conformance with the procedure established in this section.

- I. A conditional use approval shall be valid for a period of five years from the date of the Board of Supervisors' decision or in the case where the use, which was approved, by conditional use requires subdivision and land development approval, five years from the date of preliminary plan approval. Upon written application, the Board of Supervisors may grant an extension of the conditional use approval without the need for a hearing."

SECTION XVIII. Article XV of the Zoning Ordinance, Section 1503.B shall be deleted in its entirety and marked "Intentionally Omitted."

SECTION XIX. The following terms shall be added to Section 1800, titled "Definition of Terms and Applicable Regulations," in alphabetical order:

"ACCESSORY DWELLING UNIT- a self contained dwelling unit which is accessory and subordinate to the principal dwelling on a lot and which meets all criteria in Section 926 of this Ordinance."

"APPLICANT: A landowner or developer, as hereinafter defined, who has filed an application for development including his, her or its heirs, personal representatives, successors and assigns."

"APPLICATION FOR DEVELOPMENT: Every application, whether preliminary or final, required to be filed and approved prior to start of construction or development, including but not limited to, an application for a building permit or for the approval of a subdivision plan or plot."

"BLOCK: An area bounded by streets."

"CARTWAY (ROADWAY): The portion of a street right-of-way, paved or unpaved, customarily used by vehicles in the regular course of travel over the street."

"CLEAR SIGHT TRIANGLE: An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the intersection of the street center lines."

"COMMON OPEN SPACE: A parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of the development but not including streets, off-street parking areas, and areas set aside for public facilities. Common open space shall be substantially free of structures but may contain such improvements as are in the subdivision or development plan as finally approved and as are appropriate for the recreation of residents."

"CROSSWALK (INTERIOR WALK): A publicly or privately owned right-of-way for pedestrian use extending from a street into a block or across a block to another street."

"DECK: A structure that is an unroofed platform supported by pillars or posts, either freestanding or attached to the principal structure, that shall meet all applicable setbacks for the zoning district in which the structure is located and shall be considered a pervious surface so long as the deck surface is open (allowing for water to pass between gaps in the deck surface) and the ground surface below the deck allows for the infiltration of water."

"DEVELOPER: Any landowner, agent of such landowner or tenant with the permission of such landowner, who files an application for subdivision or land development approval or for zoning approval."

"ENGINEER: A licensed professional engineer registered by the Commonwealth of Pennsylvania."

"FLOOR AREA, GROSS USABLE: The total area of all floors within a building which is available and suitable for the business or use conducted within the building, including all lavatory areas, corridors, storage areas and other areas used to keep stock and inventory. This term shall be exclusive of the floor area included in party and outside walls, stairwells, overhangs, loading docks, elevator shafts, common hallways, storage areas in basement, and any room or area dedicated to the heating equipment, air conditioning equipment, or other utility areas necessary for the operation of the building. "

"FLOOR AREA, HABITABLE: The total area of the floors of a residential use, measured from the face of the interior walls and excluding the following: unfinished basement space, elevator shafts, stairwells, attic space, roof, terraces, exterior balconies, breezeways or porches, enclosed space devoted to heating, air conditioning or other mechanical equipment, and any space located in an accessory building or structure."

"IMPROVEMENTS: Grading, paving, curbing, street lights, fire hydrants, water mains, sanitary sewers, storm sewers, detention basins, retention basins, culverts, streets, sidewalks, monuments, open space improvements, recreation facilities, buffer and screen plantings, street and replacement trees and similar improvements."

"LAND DEVELOPMENT: (1) The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving: (i) a group of two or more residential or non-residential buildings, whether proposed initially or cumulatively, or a single non-residential building on a lot or lots regardless of the number of occupants or tenure; or (ii) the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features. (2) A subdivision of land."

"OUTDOOR CAFE: An outdoor patio area of an associated restaurant or tavern, used for the express purpose of furnishing food and beverages to the public to be consumed on the premises, and directly abutting and on the same lot as the principal building in which the associated restaurant or premises is located. Outdoor cafes shall comply with the criteria in Section 926 of this Ordinance. "

"PLANNING COMMISSION: The Easttown Township Planning Commission."

"REVERSE FRONTAGE LOT: A lot extending between and having frontage on two generally parallel streets (excluding service streets or alleys) with vehicular access solely from one street."

"SEPTIC TANK: A covered water-tight settling tank in which raw sewage is changed into solid, liquid, and gaseous states to facilitate further treatment and final disposal."

"SUBDIVISION: The division or re-division of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partitioned by the Court for distribution to heirs or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted."

SECTION XX. The following terms in Section 1800, titled "Definition of Terms and Applicable Regulations," shall be amended as follows:

"DRAINAGE: The flow of water or liquid waste and the method of directing flow, whether natural or artificial."

"DWELLING UNIT: A single residential unit providing complete independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking and sanitation."

"WOODED LOT: Any building lot having more than one (1) viable tree, six (6) inches or greater in diameter dbh, per 1,500 square feet of gross lot area, exclusive of street right-of-way."

**EASTTOWN TOWNSHIP NATURAL RESOURCE PROTECTION
ORDINANCE AMENDMENTS.**

SECTION XXI. The following term in Article I, Section 6 titled "Definitions" shall be amended as follows:

"WOODED LOT: Any building lot having more than one (1) viable tree, six (6) inches or greater in diameter dbh, per 1,500 square feet of gross lot area, exclusive of street right-of-way."

SECTION XXII. Article VIII, Section 99-29. titled "Delineation" shall be amended to read as follows:

"§99-29. Delineation.

- A. All tree masses, hedgerows, and individual freestanding trees over six (6) inches in diameter dbh shall be inventoried on the Conservation Plan as follows:
 - 1. The outermost edge of the canopy (drip line) shall be shown for woodlands, tree masses and hedgerows.
 - 2. The canopy, trunk location, trunk diameter and species shall be noted for all other individual freestanding trees, and for all trees on a wooded lot.
 - 3. A calculation shall be provided on the plan indicating whether or not the proposed building lot is a wooded lot, and the basis for the calculation (ie. individual tree counts or the average density of a woodland).
 - a. A wooded lot is any building lot having more than one (1) viable tree, six (6) inches or greater in diameter dbh, per 1,500 square feet of gross lot area, exclusive of street right-of-way.
 - b. A woodland is a plant community, of one-quarter (0.25) acre or larger in area, well-stocked and comprised predominantly of healthy trees, six (6) inches and greater in diameter dbh, and other woody vegetation, growing more or less closely together, the branches of which form a complete or nearly complete aerial canopy.
- B. Parcels or building lots up to two (2) acres in area, exclusive of existing right-of-way, shall be subject to the regulations pertaining to Wooded Lots.

- C. Parcels that are two (2) acres in area and over, exclusive of existing right-of-way, shall be subject to the regulations pertaining to Woodlands, however tree removal percentage may be calculated individually, as on a Wooded Lot.
- D. Wooded lots and woodlands shall be so designated regardless of future subdivision or land development, and the requirements of this Article shall apply to future tree or woodland disturbance."

SECTION XXIII. Article VIII, Section 99-30. titled "Resource Protection Standards" shall be amended with respect to the introductory paragraph and subsections A and B as follows:

"§99-30. Resource Protection Standards.

Woodland disturbance and the disturbance of trees on Wooded Lots, including alteration or removal of any hedgerows and clear cutting, shall be performed in accordance with the standards of this section. Regulations regarding tree protection shall not extend to deadwood, diseased trees or forestry operations conducted in compliance with a timber harvesting plan, or to trees within a public right-of-way being removed for public purposes.

- A. Establishment of Tree Protection Zone. All trees, tree masses and their associated vegetation layers located twenty-five (25) feet away from a building, parking area, swimming pool, stormwater management system or other proposed improvement, and all specimen trees located anywhere on the site, shall be considered within a Tree Protection Zone. These trees shall be protected from damage during construction activities with approved fencing, or other barrier, to the limits of the tree protection zone.
 - 1. The limits of tree protection fencing shall be clearly delineated on the Soil Erosion and Sedimentation Control plans. Its installation, prior to earth movement, and its removal, following construction activities, shall be listed in the sequence of construction notes. Details noting placement and materials shall be provided on the plans.
 - 2. There shall be no encroachment and/or compaction of soil and roots within the tree protection zone by excavation or trenching, change of grade, or storage of materials, soil, debris or vehicles. Feeder roots shall not be cut closer than twenty-five (25) feet from tree trunks. The use of geotextiles or boards, over a layer of mulch or straw shall be required to protect tree roots from compaction when machinery cannot avoid passing under trees, subject to approval by the Township Engineer or Landscape Architect.
 - 3. Tree protection zone fencing is subject to periodic monitoring by the Township. Any downed fencing shall be replaced immediately.
 - 4. Where possible, the applicant is encouraged to retain additional trees that are approved for removal, outside of the tree protection zone as "living barriers" to construction vehicles. These trees would be removed after major construction activity has ceased, but before fine grading and finishing.

- B. Clearing of trees for any purpose shall not result in the removal of more than twenty-five percent (25%) of any existing tree mass, hedgerow or individual freestanding trees, without approval from the Board of Supervisors.
1. This twenty-five percent (25%) cap is a maximum amount that applies to any current or future tree or woodland removal. Wooded lots shall remain so designated until such time as the area of the lot is changed. Subject to the requirements of this Article, the lot may then be reclassified.
 2. Where the applicant demonstrates to the satisfaction of the Planning Commission and/or the Board of Supervisors that additional tree or woodland removal beyond the permitted twenty-five percent (25%) disturbance allowance is necessary to permit development in accordance with the Zoning Ordinance, tree replacement shall be provided in accordance with Article IX of this Chapter, for the portion of tree removal beyond the twenty-five percent (25%) allowance."

SECTION XXIV. Article VIII, Section 99-30.C. 4 is amended to include the following sentence as the last sentence of the section as follows:

"Replacement shall be in accordance with Article IX."

SECTION XXV.

Article IX, Section 99-32.A.3 is amended to read as follows:

3. Three (3) additional shade trees for each specimen tree thirty-six (36) inches or greater dbh removed from any location on the site. This includes trees located within areas to receive improvements and trees subject to the permitted twenty-five percent (25%) disturbance allowances.

Article IX, Section 99-32.B.3. is amended to read as follows:

3. One (1) additional shade tree for each specimen tree thirty-six (36) inches or greater dbh removed from any location on the site.

**EASTTOWN TOWNSHIP SUBDIVISION AND LAND DEVELOPMENT
ORDINANCE AMENDMENTS.**

SECTION XXVI.

Section 705 of Article VII shall be removed in its entirety and replaced with the following:

"Section 705. Landscaping.

Landscape improvements shall be provided as set forth in Easttown Township's Natural Resource Protection Ordinance, No. 370.06, as amended, in particular in

adherence to those standards and requirements as provided in Article XI entitled "Landscaping". "

GENERAL PROVISIONS.

SECTION XXVII. 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 XXVIII. Repealer. Ordinances or parts thereof inconsistent with the provisions of this Ordinance are repealed to the extent of the inconsistency only.

SECTION XXIX. Effective Date. This Ordinance shall become effective five (5) days after enactment as by law provided.

ENACTED AND ORDAINED this 21st day of September, 2009.

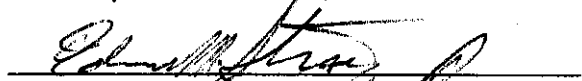
ATTEST:


Secretary

**BOARD OF SUPERVISORS
EASTTOWN TOWNSHIP**


James G. Spofford, Chairman


Christopher D. Polites, Vice Chairman


Edward M. Strogen, Jr. Member


Vincent J. Rogusky, Member


Richard Frazier, Member