

**EAST NOTTINGHAM TOWNSHIP
ZONING ORDINANCE**

**ARTICLE XXI
ADMINISTRATION**

SECTION 2101 INTERPRETATION AND APPLICATION

The provisions of this ordinance, in its interpretation and application, shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals, and general welfare. Every use, lot, structure, building, or sign shall conform to all provisions of this ordinance except those exempted by or under this ordinance. Nothing in this ordinance shall require any change in plans or construction of a building for which a building permit has been issued by the Township prior to the effective date of this ordinance and which is completed within one (1) year of the effective date of this ordinance.

SECTION 2102 THE ZONING OFFICER

The provisions of this ordinance shall be administered and enforced by the Zoning Officer, who shall be appointed by and serve at the pleasure of the Board of Supervisors. The Zoning Officer shall meet qualifications established by the Township and shall be able to demonstrate to the satisfaction of the Board of Supervisors a working knowledge of municipal zoning. The Zoning Officer shall administer the ordinance in accordance with its literal terms and shall not have the power to waive or modify any term or condition of the ordinance or permit any construction or any use or change of use which does not conform to the ordinance. The Zoning Officer may be provided with assistance of such persons as the Board of Supervisors may direct.

SECTION 2103 DUTIES AND POWERS OF THE ZONING OFFICER

The Zoning Officer shall be charged with the duty and shall have the power to enforce the provisions of this ordinance and its amendments. The Zoning Officer shall have such duties and powers as are conferred upon him by the ordinance and as reasonably implied for the purposes of enforcement. These duties may include, but are not limited to, the following:

- A. Receive and examine all applications for permits governed by the ordinance and issue such permits only when in conformance with the provisions of the ordinance and with other Township ordinances, provided, however, that the issuance of a permit shall not be deemed a waiver of the requirements of any Township ordinance.
- B. Keep an official record of all business and activities, including complaints of a violation of any of the provisions of this ordinance and of the action taken consequent to each such complaint. All such records shall be open to public inspection.
- C. Before issuing any permit, and at his discretion, examine or cause to be examined all

- buildings, structures, signs, or lands and portions thereof for which an application has been filed.
- D. Issue cease and desist orders and order, in writing, correction of all conditions found to be in violation of the provisions of this ordinance. Such written orders shall be served personally, or by constable, by general mailing, or by certified mail upon persons, firms, or corporations deemed by the Zoning Officer to be violating the terms of the ordinance. It shall be unlawful for any person to violate any such order lawfully issued by the Zoning Officer, and any person violating any such order shall be guilty of a violation of this ordinance.
 - E. With the approval of the Board of Supervisors, or when directed by the Board, institute any appropriate enforcement proceedings to prevent unlawful use; to restrain, correct, or abate violations so as to prevent the unlawful occupancy or use of any building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about such premises.
 - F. Revoke a permit issued:
 - 1. under a mistake of fact; or
 - 2. contrary to the law or the provisions of this ordinance; or
 - 3. on the basis of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based, if it is found that work performed or the use to which the property is put is not in conformance with the application..
 - G. Maintain a map showing the current zoning classification of all land.
 - H. Submit monthly to the Board of Supervisors a written statement of all permits, violations, and stop-work orders recommended or promulgated.

SECTION 2104 PERMITS AND CERTIFICATES

- A. Applications to Zoning Officer
 - 1. All applications for zoning permits; building permits; use and occupancy permits; shall be made directly to the Zoning Officer. (Application to additional county, state, and federal agencies may be required).
 - 2. All applications shall be in writing on forms to be furnished by the Zoning Officer. The number of required copies of applications, supporting information and documents shall be determined by the Zoning Officer on an as needed basis.
 - 3. Lot lines and corner markers shall be accurately located on the lot by a Registered Land Surveyor and the proposed location of all buildings, structures, and required improvements shall be located and staked on the lot for review by the Zoning Officer or designee at the time of permit application submission.
- B. Zoning Permits
 - 1. No person shall erect, alter, or convert any structure, building, or sign, nor alter any land, nor alter the use of any land or structure, until the Zoning Officer issues a zoning permit (and, as necessary, a building permit) for said change or construction. Zoning permits shall be issued in duplicate. One copy shall be kept conspicuously on the premises, and no person shall perform building operations

or site preparation operations of any kind unless a zoning permit is being displayed.

2. A separate zoning permit is required for each use or tenant within any multi-tenant or multi-use building or on any multi-use parcel of land. Changes in tenancy, activities, or uses shall require zoning permits.
3. Any such permit shall expire and become invalid if: (i) the permitted construction or change in use is not commenced within one hundred eighty (180) days from the date of issuance of the permit, or (ii) the permitted construction or change of use is not completed within five (5) years from the date of issuance of the permit.
4. In the event the project is not completed within five (5) years from the date of issuance of the permit, the Zoning Officer may grant an extension of time to complete the project, provided there is no deviation from the original plan on which the zoning permit was based. Such extension shall be for the minimum time period necessary, but in no event shall exceed one (1) year beyond the expiration date of the original zoning permit, as extended. The extension request shall be submitted on a form provided by the Township.
5. The Zoning Officer may issue a work cease and desist order if the work being done on the premises differs materially from that called for in the application.

C. Building Permits

1. A building permit shall be required where a building or structure is to be erected, constructed, reconstructed, structurally altered, or moved. An addition to a principal structure, where the proposed additional area is designed to be habitable, shall require a building permit under the terms applicable to a principal structure. Work to be performed under the terms of any building permit shall conform to the requirements of the applicable Township Building Code (UCC). No building permit shall be issued until the Zoning Officer or designee has certified that the proposed building, structure, or enlargement complies with the provisions of this ordinance and all other ordinances of East Nottingham Township and all applicable state and federal statutes and regulations.
2. All applications for building permits for principal structures shall be made in writing on a form furnished by the Township and shall be accompanied by the following supporting documents:
 - a. A lines and grades plan showing the exact location of each of the following if applicable: lot boundaries, setback lines, existing and proposed buildings, ancillary structures (e.g., decks, patios, etc.), driveway, well, septic system, temporary erosion and sedimentation control measures, permanent stormwater management facilities, existing topography (2' contours) based on field/aerial photogrammetric surveys. The lines and grades plan shall be prepared and certified by a registered professional surveyor.

- b. If the lot is not part of a recent subdivision with an approved stormwater management plan and erosion and sedimentation control plan, then the building permit application shall be accompanied by stormwater management and erosion and sedimentation control plans prepared by a professional engineer.
- c. Permit from the Chester County Health Department for the installation of an on-site septic system (if applicable) or a letter from the Oxford Area Sewer Authority confirming hook-up to public sewer (if applicable).
- d. Permit from the Chester County Health Department for the installation of an on-site well (if applicable) or a letter from the Chester Water Authority confirming hook-up to public water (if applicable).
- e. Driveway permit (if applicable) from the Township for access to a Township road or from PennDOT for access to a state road.
- f. In addition to the above, there shall be included with all applications such other plans, documents, and information as may be necessary to enable the Zoning Officer to ascertain compliance with this ordinance and all other pertinent ordinances.

After construction of the foundation and prior to construction commencing on the remainder of the structure, a foundation as-built plan shall be submitted demonstrating that the structure is properly placed on the lot. The as-built plan shall be prepared and certified by a registered professional surveyor. The Building Inspector shall review the as-built plan and perform a site inspection. Once he is satisfied that the structure is properly placed on the lot, he will authorize commencement of construction.

- 3. All applications for building permits for accessory structures shall be made in writing on a form furnished by the Township and shall be accompanied by the following supporting documents:
 - a. A hand-drawn sketch of the lot showing the location of the proposed accessory structure with the dimensions to the property lines labeled.
 - b. A hand-drawn sketch of the lot showing the size and shape of the proposed accessory structure.
 - c. In addition to the above, there shall be included with all applications such other plans, documents, and information as may be necessary to enable the Zoning Officer to ascertain compliance with this ordinance and all other pertinent ordinances.
- 4. No more than ten lots in a subdivision may have active building permits at one time. The eleventh building permit in a subdivision cannot be issued until one of the previous ten building permits has been completed and a use and occupancy permit issued pursuant to Section 2107.

D. Permitted Uses

A zoning permit for a permitted principal or accessory use may be issued by the Zoning Officer. The Township Planning Commission or Board of Supervisors may elect to review an application prior to issuance of a permit. In those cases where subdivision or land development approval is required for a permitted use, such final approval and recording of the plan shall be required prior to issuance of a zoning or building permit.

E. Permits Required for Mobile Homes

1. A building permit shall be required for the placement of a mobile home on any lot, whether or not such lot is located within a mobile home park. The terms of Subsection [C], above, shall be applicable.
2. No mobile home shall be removed from any mobile home park or any other lot within East Nottingham Township without first obtaining a removal permit from the Township Tax Collector or his/her designee, as required by Pennsylvania Act 54 of 1969. Such permit shall be issued upon payment of the required fee and any real estate taxes assessed against the home and unpaid at the time the permit is requested.

SECTION 2105 REQUIREMENT FOR USE AND OCCUPANCY PERMIT

- A. It shall be unlawful for any person to use or occupy any building, other structure, or land until a use and occupancy permit has been duly issued.
- B. A use and occupancy permit shall be required prior to any of the following:
 1. Use and occupancy of any building or other structure hereafter erected or altered for which a building permit is required.
 2. Change in the use of any building or structure or any part thereof.
 3. Use of land or change in the use thereof, except that the use of vacant land or change in use for cultivation shall not require a use and occupancy permit.
 4. Change in use or extension of a nonconforming use.
 5. Operation of any home occupation as may be provided under terms of this ordinance.
- C. It is the responsibility of the property owner to notify the Zoning Officer of a change in use of a building or structure or any part thereof or the completion of any activity authorized by a building permit.

SECTION 2106 APPLICATION FOR USE AND OCCUPANCY PERMIT

Any application for a use and occupancy permit shall be made in writing by the landowner or his authorized agent on a form furnished by the Township. The application shall contain all information necessary to enable the Zoning Officer to determine compliance with this ordinance

and other applicable regulations. As determined by the Zoning Officer, applications shall be accompanied by:

- A. One copy of any approved plot plan, land development plan, or other data and information deemed appropriate by the Zoning Officer to evaluate compliance with this ordinance and other applicable regulations.
- B. One copy of the architectural plans for any proposed building or structure under application.

SECTION 2107 ISSUANCE OF USE AND OCCUPANCY PERMIT

- A. No use and occupancy permit shall be issued until the Zoning Officer has certified that the proposed use complies with all provisions of this ordinance and all other applicable regulations of the Township, Chester County, and the Commonwealth of Pennsylvania, and has inspected the property to confirm compliance.
- B. Within fifteen (15) days after receipt of the application, the Zoning Officer shall either approve or deny the application and notify the applicant accordingly. If the application is denied, the Zoning Officer shall provide the applicant, in writing, the reasons for the denial.
- C. Upon approval of an application, the Zoning Officer shall issue a use and occupancy permit to the applicant for the use indicated on the approved application.
- D. Upon request, the Zoning Officer may issue a temporary use and occupancy permit for a period not to exceed six (6) months to enable partial occupancy of a building pending completion of construction or alteration. The Zoning Officer may attach conditions and safeguards to such a temporary occupancy permit to protect the occupants and the public.

SECTION 2108 PERMITS FOR TEMPORARY USES

The Zoning Officer may issue a permit for a temporary use permitted under Section 1602 of this ordinance. Such permit shall be for a period of time as stipulated in Section 1602.

SECTION 2109 EROSION AND SEDIMENT CONTROL PERMIT

- A. Requirements.

An East Nottingham Township erosion and sediment control permit (Township E&S Permit) shall be required prior to earthmoving activities that involve more than 1,000 square feet. It shall be unlawful for any person to commence earth-moving activities without first obtaining a Township E&S Permit.

- 1. Residential
Any earth disturbance greater than 1,000 square feet for the purpose of the following:

- a. Construction, addition, or expansion of the primary residence.
 - b. The placement or construction of an accessory building less than 2,000 square feet.
 - c. Installation of a swimming pool.
 - d. Addition or expansion of driveways or parking areas.
 - e. The addition of a deck or patio.
 - f. Miscellaneous grading or contouring of the lot that results in more than 1,000 square feet of earth disturbance.
2. Non-residential (Commercial, Industrial, or Institutional)
Any earth disturbance greater than 1,000 square feet for the purpose of the following:
- a. The placement or construction of an accessory building less than 2,000 square feet.
 - b. Installation of sidewalks.
 - c. Addition or expansion of access driveways or parking lots less than 2,000 square feet.
 - d. Miscellaneous grading or contouring of the lot that results in more than 1,000 square feet of earth disturbance.
3. Agricultural
Any earth disturbance greater than 1,000 square feet for the purpose of the following:
- a. Construction, addition, or expansion of a primary residence.
 - b. The placement or construction of an accessory building less than 2,000 square feet.
 - c. Addition or expansion of access driveways or parking lots.
4. Exclusions
- a. A Stormwater NPDES permit for earthmoving activities associated with the construction of site improvements in a new subdivision or land development shall be obtained from the Chester County Conservation District or Pennsylvania Department of Environmental Protection prior to final plan approval. This permit will supersede any requirement for a Township E&S permit for the installation of site improvements.
 - b. Agricultural activities that result in earth disturbance, such as the planting and harvesting crops, are excluded from the requirement for a Township E&S permit.
 - c. The resurfacing of driveways and parking lots are excluded from requiring a Township E&S permit.
 - d. The addition or expansion of access driveways or parking areas in excess of 2,000 square feet shall require a land development plan.

B. Application.

Any application for a Township E&S permit shall be made in writing on a form furnished by the Township and shall be accompanied by an erosion and sediment control plan drawn accurately and legibly in accordance with Section 2109-C, Specifications, and Section 508, Stormwater Management, of the Township Subdivision and Land Development Ordinance.

C. Specifications.

The application for a Township E&S permit shall be accompanied by a plan of the property showing:

1. A property sketch (drawn to approximate scale) of the lot on which the work is to be performed.
2. Description of the features, existing and proposed, surrounding the lot that are important to the proposed development.
3. Description of the general topographic (including drainage) and soil conditions on the lot (available through the Chester County Conservation District).
4. Location and description of existing and future man-made features of importance to the proposed development (i.e., wells, septic systems, cuts and fills, buildings, driveways, etc.).
5. Description and location of soil erosion and sediment control measures in accordance with standards and specifications of the Chester County Conservation District. The attached plan illustrates what a typical plan would look like. At a minimum the following items shall be included in the plan:
 - a. An upstream diversion berm to direct runoff away from areas to be disturbed.
 - b. A downstream E&S control (sediment trap, silt fence, etc.) designed to filter sediment from the runoff before leaving the lot.
 - c. A stone construction entrance which overlaps the paving and extends into the lot at least ten feet beyond the right-of-way.
6. A time schedule indicating the anticipated start and completion dates of the development sequence and the time of exposure of each area prior to the completion of the effective erosion and sediment control measures.

D. Issuance.

A Township E&S permit shall be issued only when the following conditions are met:

1. The erosion and sediment control plan has been prepared in accordance with the above specifications and approved by the Township Engineer.

2. No more than ten lots in a subdivision may undergo earthmoving activities at any one time. The eleventh permit in a subdivision cannot be issued until one of the previous ten permitted lots has had its erosion and sediment control plan satisfactorily implemented, the control measures have been inspected and approved by the Township Engineer, and all major excavation and earthmoving activities necessary to start construction, including stripping topsoil and excavation of the basement and/or footers, are completed.

E. Fees.

Fees required in the administration of the Township E&S permit process shall be paid in accordance with a schedule of fees adopted by resolution of the Board of Supervisors.

SECTION 2110 CONDITIONAL USE PROCEDURES AND GENERAL STANDARDS

A. Intent

In order to limit the potential impact that certain uses may create on other surrounding uses and the general welfare of the Township, certain reasonable conditions and safeguards are imposed prior to granting approval.

B. Requirements

The following provisions shall apply to conditional use applications, in addition to the provisions of the district in which the proposed use is located and any applicable standards and criteria in Section 1604.

C. Application

The application for a conditional use permit shall include a proposed plan indicating the size and location of the proposed use, the location of all proposed buildings and facilities, and the location of all existing buildings and structures on adjacent properties within five hundred (500) feet of the property line. Application for a conditional use permit shall be filed with the Township Secretary with accompanying form, text, and fees. All owners of land within five hundred (500) feet of the property shall be notified by the applicant of the conditional use application. The applicant shall be able to show proof at the conditional use hearing that all property owners were notified.

D. Procedure for Review

1. The Township Planning Commission shall review each conditional use request pursuant to the criteria in this ordinance, and submit its recommendations to the Board of Supervisors.
2. After review by the Planning Commission, the Board of Supervisors shall hold a public hearing pursuant to public notice. The public hearing shall be held within sixty (60) days from the date the application was filed, unless such time is extended in writing by the applicant.
3. Following the public hearing, the Board of Supervisors shall render a decision on the matter in accordance with statutory requirements.
4. In granting an application for conditional use approval, the Board of Supervisors may waive or modify applicable area and bulk regulations and design standards when said waiver or modification is deemed by the Board of Supervisors to be in the public interest and in furtherance of the goals as set forth in this ordinance.
5. If the Board of Supervisors approves the application and accompanying generalized site plan, such approved plan shall accompany: (i) any application for subdivision or land development as prescribed by the Township Subdivision and Land Development Ordinance, in addition to the detailed plans normally required, and (ii) any application for a building permit or use and occupancy permit. The issuance or denial of such permit shall take place in the regularly prescribed manner herein pertaining to permits, but shall be preceded by compliance with the Township Subdivision and Land Development Ordinance.

E. Criteria

The following criteria shall be used by the Board of Supervisors as a guide in evaluating a proposed conditional use. The burden of proof in establishing that all criteria have been met shall at all times rest upon the applicant.

1. The proposed use at the location in question shall be in the public interest and best serve the public health, safety, and general welfare.
2. The proposed use shall be consistent with the goals and objectives of the East Nottingham Township Comprehensive Plan and those of the East Nottingham Township Open Space, Recreation, and Environmental Resource Plan.
3. The size, scope, extent, and character of the proposed use shall be consistent with the spirit, purpose, and intent of this ordinance.

4. Applicant shall take into consideration the character and type of development in the area surrounding the tract, and determine that the proposed change will not injure or detract from the use of surrounding properties or from the character of the neighborhood.
5. Consideration shall be given to the effect of the proposed use with respect to the most appropriate use of land, conserving building and property values, and safety from fire and other dangers.
6. Sufficient land area shall be made available to be able to effectively screen the proposed conditional use from adjoining different uses.
7. Sufficient safeguards for parking, traffic control, screening, setbacks and other design requirements under this ordinance can be implemented to remove any potential adverse influences created by the proposed use.
8. The impact and effect on buildings or districts of historical or architectural significance shall be considered.

F. Safeguards

In granting a conditional use, the Board of Supervisors may attach such reasonable conditions and safeguards in addition to those expressed in this ordinance, as it may deem necessary to implement the purposes of the ordinance and the Municipalities Planning Code.

SECTION 2111 DETERMINATION OF FEES

A. Permit Applications

Application fees for permits governed by this ordinance, including zoning permits, certificates of use and occupancy, temporary use permits, and building permits shall be paid in accordance with a fee schedule adopted by resolution of the Board of Supervisors.

B. Applications or Appeals before the Board of Supervisors or Zoning Hearing Board

1. Upon submission of an application or appeal before either the Board of Supervisors or the Zoning Hearing Board, the applicant shall deposit an amount of money in accordance with a schedule of applicant expenses, adopted by resolution of the Board of Supervisors.
2. If, at any time, the charges then made against the applicant's deposit shall reduce the remaining balance to an amount less than fifteen percent (15%) of the initial deposit amount and thereby render the balance insufficient to insure payment of all expenses that may accrue in the disposition of the pending appeal or application, the applicant shall, upon notice from the Township, provide

additional deposits to assure adequate funds to pay such expenses as they may accrue. The failure of the Township or the Zoning Hearing Board to require and obtain additional deposits from time to time shall not relieve the applicant from liability for expenses in excess of deposits. Any amount deposited in excess of actual final expenses shall be refunded to the applicant.

3. The applicant shall be responsible for all costs related to the public hearing that are authorized by and consistent with the Municipalities Planning Code. Responsibility for the costs of a conditional use hearing shall be the same as those specified in the Municipalities Planning Code for a hearing before the Zoning Hearing Board.
- C. An application for conditional use, special exception, variance, validity challenge, curative amendment, petition for a zoning change, or appeal shall not be deemed complete or to have been filed until all application fees, charges, and expenses have been paid in full. Required fees shall accompany the application.

SECTION 2112 MUNICIPAL LIABILITY

The granting of any permit under this ordinance shall create no liability upon, nor a cause of action against, any Township official or employee for damages or injury that may occur from the use, construction, or enlargement of structures or the use of land.