

**ORDINANCE NO. 2017-04**

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF MOUNT JOY, ADAMS COUNTY, PENNSYLVANIA, CHAPTER 86, SUBDIVISION AND LAND DEVELOPMENT, TO MINIMIZE CONFLICTS IN DEFINITIONS, STANDARDS AND REQUIREMENTS SET FORTH IN THE 2017 ZONING ORDINANCE**

**WHEREAS**, Mount Joy Township adopted a Subdivision and Land Development Ordinance for Mount Joy Township on June 14, 1990, which ordinance was amended at the time of the adoption of the Code of the Township of Mount Joy and codified therein as Chapter 86, and which ordinance as then codified has thereafter been amended over time;

**WHEREAS**, Mount Joy adopted a new Zoning Ordinance on November 2, 2017 (2017-03 Zoning Ordinance); and

**WHEREAS**, Mount Joy Township desires to amend its Subdivision and Land Development Ordinance to minimize conflicts with definitions, standards and requirements set forth in the 2017 Zoning Ordinance.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED** by the Board of Supervisors of Mount Joy Township:

**Section 1. Purpose**

The purpose of this Ordinance is to amend the Mount Joy Subdivision and Land Development Ordinance to minimize conflicts with definitions, standards and requirements set forth in the 2017 Zoning Ordinance.

**Section 2. Enabling Authority**

This Ordinance is enacted pursuant to the enabling authority of the Pennsylvania Municipalities Planning Code, Article V. Subdivision and Land Development, 53 P.S. §§ 10501. *et seq.*

### **Section 3. Amendment of The Mount Joy Township Subdivision and Land Development Ordinance**

Section 86-7 Word usage and definitions, subsection (5) shall be amended to read:

If a word is not defined in this Chapter, but is defined in Chapter 110 Zoning, the definition found in Chapter 110 Zoning shall apply. If a word is not defined in this Chapter, but is defined in Chapter 81 Stormwater Management, the definition found in Chapter 81 Stormwater Management shall apply. In the event of a conflict between the definitions found in Chapter 110 Zoning and Chapter 81 Stormwater Management, the definitions found in Chapter 110 Zoning shall control; except, in matters relating to stormwater management or erosion and sedimentation control, the definitions found in Chapter 81 Stormwater Management shall control.

The following definitions shall be deleted in their entirety from Chapter 86, Section 86-7:

**AGRICULTURAL PURPOSE**  
**APPLICATION FOR DEVELOPMENT**  
**LOT THROUGH OR DOUBLE**  
**LOT REVERSE FRONTAGE**  
**RIGHT-OF-WAY, EXISTING OR LEGAL**

The following definitions shall be added to Chapter 86, Section 86-7:

**DEVELOPER** – As defined in the then-current Pennsylvania Municipalities Planning Code, 53 P.S. § 10107(a) as of the date of enactment of this Ordinance, means any landowner, agent of such landowner, or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land, a land development or a use requiring zoning approval.

**EASEMENT** – An interest in land owned by another person, consisting in the right to use or control the use of land, or areas above or below it, for a specific limited purpose and which reserves to the owner of the land all other incidents of ownership.

**IMPROVEMENT** – Any structure or paving placed upon land, including the provision of underground or above-ground utilities, as well as any physical change to the surface of the land, including but not necessarily limited to grading, paving, the placement of stormwater management facilities, sidewalks, street signs, traffic control devices, and monuments. This definition expressly excludes the tilling of soil for planting.

The definitions set forth in Chapter 86, Section 86-7 for the terms highlighted in bold below shall be amended to read as follows:

**ACCESS DRIVE or ACCESSWAY** shall be restated as **ACCESS DRIVE** – An improved surface, other than a street or driveway, which is privately owned and maintained and

intended to provide vehicular access from a street, whether public or private, to a lot or development.

**ACCESSORY STRUCTURE** – A subordinate structure serving a purpose customarily subordinate and incidental to that of the principal use and which is located on the same lot as the principal use.

**APPLICANT** – As defined in the then-current Pennsylvania Municipalities Planning Code, 53 P.S. § 10107(a) as of the date of enactment of this Ordinance, “applicant” means a landowner or developer, as hereinafter defined, who has filed an application for development or permit, including his heir, successor, assign and agent.

**LOT AREA OR LOT SIZE, GROSS shall be restated as AREA** – The two-dimensional measurement of space between known lines or boundaries.

Building Area – The total area of all buildings (principal and accessory) taken on one or more horizontal planes that are directly between the ground and the sky, exclusive of awnings, terraces, and steps (e.g., top view).

Floor Area – Except as otherwise expressly provided in this Ordinance, the sum of the floor area of a structure as measured to the outside surfaces of exterior walls. The floor area of a dwelling includes all rooms used for habitation, such as living room, dining room, kitchen, basement, bedroom, bathroom, family room, closets, hallways, stairways and foyers, but not including unfinished cellars or attics that would not meet Pennsylvania Uniform Construction Code requirements for a habitable space and unheated areas such as a porch.

Lot Area – The total surface area contained within the lot lines of a lot, exclusive of public and private street rights-of-way.

**DWELLING** – Any structure or portion thereof designed and used exclusively for residential occupancy, including those listed below, but not including: (i) hotel, motel and similar uses (including, as example, such uses generally understood to be a boarding home, rooming house, or lodge); (ii) institutional housing such as a hospital, nursing home, assisted living facility, dormitory and orphanage; and bed & breakfast, limited lodging, care dwelling, and sober living residence uses, each of which is discretely identified and regulated in this ordinance as a specific use. A recreational vehicle or camper shall not be construed as a dwelling.

Single-Family – A freestanding structure containing one dwelling unit occupied by one family.

Manufactured (Mobile) Home – As defined in the then-current Pennsylvania Municipalities Planning Code, 53 P.S. § 10107(a). As of the date of enactment of this Ordinance, a transportable, single family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into an integral unit capable of again being separated for repeated towing, which arrives

at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations. Such dwelling must comply with applicable federal and state law and regulations governing construction and safety.

Multiple Family – A freestanding structure containing three or more dwelling units each occupied by one family, arranged in a side-by-side or over-and-under configuration, or combination thereof.

Two-Family – A freestanding structure containing two dwelling units each occupied by one family, arranged in a side-by-side or over-and-under configuration.

**DWELLING UNIT** - A structure or portion thereof arranged or designed for occupancy by not more than one family and having its own sleeping, cooking and sanitary facilities and having a separate access to the outside or to a common hallway that connects to an outside access, including by means of a common stairway or elevator. Occupancy of a dwelling unit shall be sufficiently stable and permanent as to not be fairly characterized as transient.

**LAND DEVELOPMENT** – As defined in the then-current Pennsylvania Municipalities Planning Code, 53 P.S. § 10107(a) as of the date of enactment of this Ordinance, means:

1. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
  - a. a group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of the occupants or tenure; or
  - b. 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.
3. In accordance with Section 503(1.1) of the Pennsylvania Municipalities Planning Code and Section 86-7 of the Mount Joy Township Subdivision and Land Development Ordinance, Chapter 86 of the Code of the Township of Mount Joy, the following activities are excluded from the definition of land development:
  - a. the conversion of an existing single-family detached dwelling, two-family dwelling or single family semi-detached dwelling into not more than three residential units, unless such units are intended to be a condominium.
  - b. the addition of an accessory building on a lot or lots subordinate to an existing principal building; provided, however, that the addition of a non-residential building does not:

- i. exceed a total square footage of 4,000 square feet if the accessory structure is to be used for agricultural purpose;
  - ii. exceed a total square footage of 1,000 square feet if the accessory structure is to be used for a non-agricultural purpose or 10% of the principal non-residential building's square footage, whichever is less, as existed as of any addition of an accessory structure made following the effective date of this Ordinance;
  - iii. create negative stormwater impacts on existing stormwater facilities or on neighboring lots;
  - iv. require the construction of additional access drive(s); and
  - v. require the need for DEP Sewer Planning Module or exemption.
- c. the addition or conversion of buildings, structures or rides within an amusement, theme and/or zoo park.

**LANDOWNER** – As defined in the then-current Pennsylvania Municipalities Planning Code, 53 P.S. § 10107(a) as of the date of enactment of this Ordinance, means the legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he or she is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land.

**LOT** – As defined in the then-current Pennsylvania Municipalities Planning Code, 53 P.S. § 10107(a) as of the date of enactment of this Ordinance, means a designated parcel, tract or area of land, established by a plat or otherwise as permitted by law and to be used, developed, or built upon as a unit. The bisection of a lot by street (public or private) or waterway does not create separate lots.

Lot, Corner – A lot having street frontage on two intersecting streets or along a single curved street with an interior angle of less than 135 degrees as measured along the interior edge of the street right-of-way, or in the event of no right-of-way, along the interior edge of the cartway.

Lot, Flag – A lot generally configured in the shape of a flag pole and flag.

Lot, Interior – A lot with only one street frontage.

Lot, Landlocked – A lot which has no frontage on any street (public or private).

Lot, Through / Reverse Frontage – A lot having frontage on two parallel or approximately parallel streets.

Where used in this Ordinance, the word “premises” shall mean lot.

**PLAN, SKETCH** – An informal plan, not necessarily to exact scale, generally indicating existing features of a tracts, its surroundings and the general layout of a proposed subdivision or land development. Submission of a sketch plan is encouraged, but not required.

**PUBLIC NOTICE** – As defined in the then-current Pennsylvania Municipalities Planning Code, 53 P.S. § 10107(a) as of the date of enactment of this Ordinance, means a notice published once each week for two successive weeks in a newspaper of general circulation in Mount Joy Township. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty days and the second publication shall not be less than seven days from the date of the hearing.

Public notice for rezoning, special exception, conditional use and/or variance requests also includes the posting of a sign at conspicuous locations along the perimeter of the subject lot deemed sufficient by the Zoning Officer to notify potentially interested citizens. These sign(s) shall be posted at least one week prior to the hearing and will display the purpose, date, time, and location of the public hearing.

**RIGHT-OF-WAY** – An area reserved for and/or improved with streets (public or private), utilities or stormwater management facilities.

**RIGHT-OF-WAY, FUTURE** shall be restated as **RIGHT-OF-WAY, ULTIMATE** – Land that is required to be reserved for future use as part of the public street in accordance with the Roadway Classification made part of the Mount Joy Township Comprehensive Plan.

**STREET CLASSIFICATION** – The functional classification of streets as shown on the Roadway Classification made part of the Mount Joy Township Comprehensive Plan:

1. Expressway – A major divided highway with access provided only at interchanges. U.S. Route 15 is classified as an expressway.
2. Arterial – A major street designed for high volumes of traffic at moderate speeds. Baltimore Pike (State Road 97) is an arterial.
3. Collector – A major street gathering traffic from local roads and intended to provide for moderate volumes of traffic at low speeds.
4. Minor/Local – A street primarily intended to provide direct access to adjacent lots and channeling traffic to collector roads.

**STRUCTURE** – As defined in the then-current Pennsylvania Municipalities Planning Code, 53 P.S. § 10107(a) as of the date of enactment of this Ordinance, means any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land, excluding stormwater management retention/detention basins and related inlet and/or outlet devices, sidewalks, driveways leading directly to a public street, and public utility lines and appurtenances. Structures shall not include such things as sandboxes, decorative fountains, swing sets, birdhouses, birdfeeders, mailboxes, landscape pots and urns,

planters not exceeding twelve inches in height, and any other similar non-permanent improvements.

**SUBDIVISION** – As defined in the then-current Pennsylvania Municipalities Planning Code, 53 P.S. § 10107(a) as of the date of enactment of this Ordinance means the division or redivision 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, partition by the court for distribution to heirs or devisees, transfer of ownership, or building or lot development. The subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

**WETLANDS** – An area of land and/or water meeting one or more definitions of a “wetland” set forth in then-current Federal and/or Pennsylvania law and regulation.

The following shall be deleted in their entirety from Chapter 86:

Section 86-17.I Trees, pathways or bikeways.

Section 86-19 Off Street Parking, Subsections A., B., and C.

Section 86-22 Lots

B. Lot Frontage, Subsection (3), E. Unique Lots, Subsection (3)

F. Building setback and yard measurement, Subsection (1) and (3)

Section 86-25.E. Street trees

Section 86-8 Preapplication procedures; fees shall be amended to read:

Conservation design process. See Section 86-10.E.

Section 86-9 Sketch Plan shall be amended to read:

Prior to the submission of a preliminary plan, applicants are encouraged, but not required, to submit a sketch plan. [Remainder not amended]

Section 86-10.E. Conservation design process shall be amended to read:

As part of a preliminary plan submission for a subdivision or land development that involves over three acres of land for a nonresidential project or six or more dwelling units for a residential project, the applicant shall prove to the planning Commission that the following process was followed in designing the proposed development.

(1) Applicants are encouraged to submit a sketch plan.

**Section 4. Repealer**

All other ordinances of Mt. Joy Township that conflict with this Ordinance are hereby repealed. All other ordinances of the Township not specifically amended or repealed hereby shall remain in full force and effect.

**Section 5. Effective Date**

This Ordinance shall become effective five days from the date of enactment.

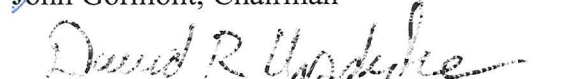
ENACTED this 2<sup>nd</sup> day of November, 2017

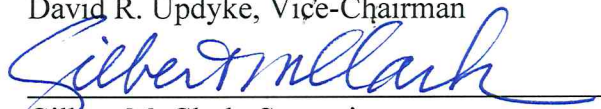
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ADAMS COUNTY, PENNSYLVANIA

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