

NEWBERRY TOWNSHIP

ORDINANCE NO. 410

AN ORDINANCE OF NEWBERRY TOWNSHIP, YORK COUNTY, PENNSYLVANIA, AMENDING SECTIONS 203 AND 614.02.5 OF THE SUBDIVISION AND LAND DEVELOPMENT ORDINANCE OF NEWBERRY TOWNSHIP AND SECTIONS 402.3.A, 402.3.B, AND 402.3.D OF THE ZONING ORDINANCE OF NEWBERRY TOWNSHIP OF 2006 REGARDING STEEP SLOPES

WHEREAS, Newberry Township, York County, Pennsylvania (the “Township”) is a second class township and municipal corporation organized under the Pennsylvania Second Class Township Code (the “Code”); and

WHEREAS, the Township has adopted a Subdivision and Land Development Ordinance (“SALDO”) and a Zoning Ordinance pursuant to the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 et seq. (the “MPC”); and

WHEREAS, Sections 505 and 609 of the MPC authorizes the Township to amend its SALDO and Zoning Ordinance, respectively, as the Township deems appropriate; and

WHEREAS, the Board of Supervisors has proposed certain amendments to the SALDO and Zoning Ordinance; and

WHEREAS, all required planning commission reviews were performed, notices were timely advertised, and a public hearing on the proposed amendments was properly held, after which the Township Board of Supervisors, upon a motion duly made and properly voted upon, voted to amend the Ordinances.

NOW, THEREFORE, be it ordained and enacted and it is hereby ordained and enacted as follows:

SECTION 1: In Section 203 [SPECIFIC TERMS] of the SALDO, add the following definition between the terms “Slope” and “Stream”:

Steep Slope – Steep slopes are slopes of at least fifteen percent (15%) but less than twenty-five percent (25%) (e.g., sloping at least fifteen (15) feet, but not more than twenty-five (25) feet vertical over a distance of one hundred (100) feet horizontal). Slopes shall be deemed steep slopes when there are five (5) or more adjacent contour intervals of two (2) feet each such that, in aggregate, they delineate slope of at least fifteen percent (15%) but less than twenty-five percent (25%).

- a. Very Steep Slope – Very steep slopes are slopes of at least twenty-five percent (25%) slope (e.g., sloping twenty-five (25) feet or more vertical over a distance of one hundred (100) feet horizontal). Slopes shall be deemed steep slopes when there are five (5) or more adjacent contour intervals of two (2) feet each such that, in aggregate, they delineate slope of at least twenty-five percent (25%).

SECTION 2: In Section 614.02.5 [PLANNING AND DESIGN STANDARDS] of the SALDO, subsection a. should be deleted in its entirety and replaced with the following language:

- a. Site disturbance of very steep slopes shall be restricted to the uses as set forth in the Zoning Ordinance at Section 402.3.B.

SECTION 3: In Section 614.02.5 [PLANNING AND DESIGN STANDARDS] of the SALDO, insert a new subsection e. as follows:

- e. Any otherwise permitted use that alters or removes very steep slopes shall comply with the following restrictions:
 - 1) The landowner (or his agent) shall submit plans and calculations from a licensed design professional:
 - i. showing the surface area of each lot to be developed with very steep slopes;
 - ii. showing the surface area of the lot containing very steep slopes that are proposed to be altered or removed; and
 - iii. calculating the ratio of the surface area of very steep slopes to be altered to the pre-development area of very steep slopes on the lot.

- 2) The ratio of the surface area of very steep slopes altered or removed to the pre-development surface area of very steep slopes on a lot shall not exceed one to four (1:4).
- 3) For the purposes of this Section 614.02.5.e, “pre-development surface area” shall be defined as the surface area of the very steep slopes existing at the time of the creation of the lot.

SECTION 4: Revise Section 402.3.A of the Zoning Ordinance as follows [deletions shown by ~~double strikethrough~~ and insertions shown by double underline]:

A. ESTABLISHMENT OF SLOPE PROTECTION OVERLAY BOUNDARIES

The Slope Protection Overlay Zoning District shall consist of all land which has ~~twenty five (25%) percent or more (which are considered very steep slopes)~~ very steep slopes as that term is defined in Section 203 [SPECIFIC TERMS] of the SALDO. The Slope Protection Overlay Zoning District boundary shall be based on a topographic investigation of critical sloped areas as set forth in Section 614.02.5 of the SALDO. ~~The average natural slope of an area shall be determined by dividing the horizontal run of the slope into the vertical rise of the same slope and converting the resulting figure into a percentage value. The sloped area shall be measured at right angles to the natural contours.~~

SECTION 5: In Section 402.3.B [PERMITTED USES] of the Zoning Ordinance, after subsection 8, insert the following:

9. Any use permitted within the underlying zoning district shall also be permitted within the Steep Slope Protection Overlay Zoning District, provided the use also complies with the provisions of this Section 402.3 and the SALDO, or which requirements of the SALDO have been waived or modified by the Board of Supervisors.

SECTION 6: Delete in its entirety Section 402.3.D [LAND MAY BE REMOVED OR ALTERED] of the Zoning Ordinance.

SECTION 7: If any sentence, clause, or section 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, or sections of this Ordinance. It is hereby declared to be the intent of the Township Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, or section not been included herein.

SECTION 8: This Ordinance shall be effective five (5) days after its enactment.

ORDAINED AND ENACTED this 24 day of September, 2019.

ATTEST:

NEWBERRY TOWNSHIP
BOARD OF SUPERVISORS



~~Donald L. Keener, Secretary~~
Andrew J. Miller, Secretary




Anthony Miller, Chairman

(SEAL)

CERTIFICATE

I, the undersigned, Secretary of the Board of Supervisors of the Township of Newberry, York County, Pennsylvania (the "Township"), certify that the foregoing is a true and correct copy of an Ordinance of the Board of Supervisors of the Township which was duly enacted by 5 to 0 affirmative vote majority of the members of the Board of Supervisors of the Township at an open public meeting held after notice required by law on September 24, 2019, and that said Ordinance has been recorded in the Ordinance Book of the Township; that said Ordinance was duly published as required by law; and that said Ordinance remains in effect, unaltered and unamended as of the date of this Certificate.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Township on this 24 day of September, 2019.



Donald L. Keener, Secretary
Andrew J. Miller, Solicitor