

**TOWNSHIP OF SALISBURY
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 06-2021-635

AN ORDINANCE

**OF THE BOARD OF COMMISSIONERS OF THE TOWNSHIP OF
SALISBURY, LEHIGH COUNTY, PENNSYLVANIA, AMENDING CHAPTER
9 (GRADING AND DEVELOPMENT ORDINANCE) OF THE SALISBURY
TOWNSHIP CODE OF ORDINANCES**

WHEREAS, the Township's Department of Community Development has proposed changes to the Township's Grading and Development Ordinance; and

WHEREAS, a public hearing was held on June 24, 2021 for input from the public on the proposed Ordinance; and

WHEREAS, the Board of Commissioners has carefully reviewed and considered the proposed changes to the Township's Grading and Development Ordinance.

Now, THEREFORE, be it ORDAINED and ENACTED by the Board of Commissioners of the Township of Salisbury, Lehigh County, Pennsylvania, that Chapter 9 of the Salisbury Township Code of Ordinances shall be amended in its entirety as follows:

ARTICLE I.

Chapter 9 shall be amended, to read as follows:

**Chapter 9
GRADING AND DEVELOPMENT**

§9-101 – Title

This chapter shall be known as the "Township of Salisbury Grading and Development Ordinance".

§9-102 – Authority

1. All activities regulated by this Chapter must have a grading permit that has been reviewed and approved by the Salisbury Director of Community Development or his/her designee.

§9-103 – Definitions

When used in this Chapter, the following words, terms and phrases shall have the following meanings, unless expressly stated otherwise or unless the context clearly indicates otherwise:

ACCESSORY BUILDING OR STRUCTURE: Any building or structure detached from and subordinate to a principal building or structure on the same lot and which is used for purposes that are clearly customarily incidental to the uses of the principal building or structure. Any portion of a principal building or structure used for an accessory use shall not be considered to be an accessory building or structure.

ADDITION: An extension or increase in floor area or height of an existing building or structure beyond the walls or roof of an existing building or structure.

BUILDING: Any structure, excluding a swimming pool, having a permanent roof and/or permanent walls, a footprint greater than or equal to 10 square feet, and a height greater than or equal to 6 feet. The term “permanent walls” includes, but is not limited to, screens, windows, glass, and lattice work. The term “permanent walls” does not include covering over footers or support poles for a deck or porch less than or equal to 3 feet high. All buildings are structures but only those structures that meet this definition shall be considered buildings.

BUILDING COVERAGE: The percentage obtained by dividing the maximum footprint covered by all principal and accessory buildings on a lot by the total lot area of the lot upon which the buildings are located.

CANOPY: The total area of the tree or trees where the leaves and outermost branches extend. When the tree canopy size cannot be calculated, it shall be assumed that a single tree has a canopy of seven hundred (700) square feet. May also be referred to "drip line" of the tree.

CHRISTMAS TREE FARM: A type of crop farming involving the raising and harvesting of evergreen trees for commercial purposes. This may include the retail sale of trees from November 15 to December 30 that were produced on the premises. Shall not be included in the classification of “tree harvesting”.

CONSTRUCTION AREA: The total land areas proposed to be used for and/or within any and all of the following:

- A. Areas within the proposed lot that are within 15 feet of any or all of the following existing or proposed features:
 - 1) Principal buildings or principal structures (other than the required rear yard in Subsection C below).
 - 2) Accessory structures or uses existing or proposed at the time of development of the principal building or structure.
 - 3) An accessory building of more than 500 square feet of building coverage.
- B. Areas within the proposed lot that are within 10 feet of any existing or proposed gravel or paved areas (including driveways) serving nonresidential uses, other than walkways.
- C. Areas within the proposed lot that are within 40 feet of the rear of a principal building.
- D. Areas within a directly abutting portion of a proposed public or private street, from the center line inward to the closest lot line of the abutting lot.
- E. Gravel or paved areas (including driveways) serving residential uses other than walkways.
- F. Areas proposed to be graded.

CROP FARMING: The cultivating, raising and harvesting of products of the soil and the storage of these products produced on the premises. The definition of "crop farming" shall also include orchards, vineyards and accessory wine processing, and Christmas tree farms, but shall not include animal husbandry, commercial forestry, riding academies or kennels. A principal crop farming use may also include customary accessory keeping of animals but shall not include a "kennel," unless the requirements for such use are also met.

FOOTPRINT: The perimeter of a structure measured at the outer edge of the outside walls of the structure, including cantilevered portions of the structure. When calculating the footprint of a structure, retractable awnings shall not be included.

FORESTRY: The management of forests and timberlands when practiced in accordance

with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any land development.

IMPERVIOUS COVERAGE: The total area of all impervious surfaces (including building coverage) on a lot divided by the total lot area.

IMPERVIOUS SURFACE: Any structure or man-made surface with a runoff factor of 0.80 or greater. For purposes of this Chapter, gravel/stone surfaces and pavers laid with a minimum of two (2) inches between each paver shall not be considered impervious.

LAND DEVELOPMENT: The following activities are regulated as a land development and subject to the land development approval requirements set forth in the Salisbury Township Subdivision and Land Development Ordinance (Chapter 22 of the Township Municipal Code). All sizes and numbers are calculated as an aggregate over the proceeding five years regardless of the permits and approvals issued for each proceeding activity:

- A. A subdivision, resubdivision, or consolidation of land.
- B. Construction of one or more principal, non-residential structures regardless of the number of occupants.
- C. Construction of a non-residential addition with a footprint greater than or equal to 1,000 square feet.
- D. Construction of two or more dwelling units on a single lot.
- E. The conversion of an existing structure to increase the number of uses or occupants.
- F. The conversion of an existing residential structure or dwelling unit into a non-residential structure or unit.
- G. The conversion of an existing structure into condominiums.
- H. Construction of a new, or expansion of an existing, parking area by 12 or more parking spaces.
- I. Work involving 5,000 square feet or more of new impervious coverage, both on-

lot and within the public right-of-way, regardless of use.

- J. Work involving 10,000 square feet or more of site alterations, both on-lot and within the public right-of-way, regardless of use.

The following shall be excluded from the definition of “Land Development”:

- 1) The construction of a single-family detached dwelling on an existing lot.
- 2) The conversion of an existing single-family detached dwelling or a single-family semi-detached dwelling, into not more than three residential units, unless such units are intended to be condominiums.
- 3) The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building.
- 4) The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For purposes of this exclusion, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by the Township.
- 5) Commercial communication towers and their structures.
- 6) An approved tree harvesting operation when the value of the trees, logs, or other timber products removed exceeds \$2,000 per calendar year.
- 7) The subdivision of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or access easement.
- 8) The reconfiguration and/or movement of site improvements previously approved as part of land development project as long as the proposed work does not meet any of the criteria listed in 1 through 10 above.

LOT: The designated area of land within the lot area. May also be referred to as “parcel”.

LOT AREA: An area of land which is determined by the limits of the property lines bounding that area and expressed in terms of square feet or acres. Any portion of a lot included in a street right-of-way shall not be included in determining lot area. Property lines shall be bound by a singular tax parcel, as determined by the Lehigh County Tax Assessment Office and Lehigh County Geographic Information Systems Office. When a tax parcel spans more than one municipality, the taxing municipality shall have sole control over the development and use of the lot and its entire lot area shall be included when calculating lot area, setbacks, building coverage, and impervious coverage.

RIGHT-OF-WAY: Areas beyond each property's lot area which is not privately owned. Areas of right-of-way include, but are not limited to, road, streets, and alleys.

SITE ALTERATIONS: All ground disturbance including, but not limited to: new impervious coverage; regrading existing topography; alterations to lakes, ponds, marshes, or floodplains; clearing vegetation; construction of a stormwater detention basin; and altering watercourses. Site alterations does not include the repaving/replacement of an existing impervious surface unless the size is increased and/or the topography is altered.

STRUCTURE: Any man-made object having an ascertainable location on, below, or in land or water, whether or not affixed to the land. The term "structure" shall not include a child's playset or playhouse, as long as its design is clearly that for a child and it will not be utilized as a storage shed or similar type of use.

TEMPORARY STRUCTURE: Unless otherwise provided for in regards to a specific provision, or otherwise approved by the Township, any structure, as defined above, that will be situated on a lot for not more than 30 days in any calendar year (January 1st through December 31st).

TREE HARVESTING: The portion of "forestry" which involves the cutting down of trees and removing logs for any type of business or other commercial purpose. Does not include trees permitted to be removed as part of an approved development or construction project nor does it include trees removed as part of an approved Christmas tree farm or other cropping farming use. May also be referred to as "timber harvesting" or "logging". "Tree harvesting" does not include other activities associated with the removed trees such as, but not limited to, on-site retail sales, manufacturing, and processing.

§9-104 – Regulated Activities

1. Any of the following activities, unless classified as "Land Development" in §9-103, shall be

governed by this Chapter. All sizes are calculated as an aggregate over the proceeding five years regardless of the permits and approvals issued for each proceeding activity:

- A. Construction of a principal residential structure on an existing lot.
- B. Construction of a non-residential addition or accessory structure with a footprint greater than or equal to 500 square feet.
- C. Construction of a residential addition or accessory structure with a footprint greater than or equal to 500 square feet.
- D. Work involving 2,000 square feet or more of new impervious coverage, both on-lot and within the public right-of-way.
- E. Work involving 5,000 square feet or more of site alterations, both on-lot and within the public right-of-way.
- F. Construction of a new, or expansion of an existing, parking area by 5 or more paved parking spaces.
- G. Installation of a new, underground, public utility lateral or pipe, including storm water, sanitary sewer, and potable water service, whether on-lot or within the public right-of-way.
- H. Replacement or repair of an existing, underground, public utility lateral or pipe, including storm water, sanitary sewer, and potable water service, whether on-lot or within the public right-of-way.
- I. Installation of curbing, driveway curb-cuts, and sidewalks, when not previously approved as part of a land development or subdivision project.
- J. Removal of trees with a canopy area of 10,000 square feet or greater, excluding:
 - 1) Trees to be removed by a utility company, or its authorized agents, in order to maintain the existing utilities.
 - 2) Trees to be removed as part of an approved tree harvesting operation when the value of the trees, logs, or other timber products removed exceeds \$2,000 per

calendar year.

- 3) Trees to be removed as part of an approved Christmas tree farm or other crop farming use.
- 4) Trees to be removed as part of an approved land development, subdivision, or construction project.

K. Trees to be removed and/or replaced within the required eighteen (18) month maintenance period of an approved land development, subdivision, or construction project, as regulated by the Salisbury Township Subdivision and Land Development Ordinance (Chapter 22).

L. The reconfiguration and/or movement of site improvements previously approved as part of a land development project. This shall include the relocation of parking spaces and driving aisles.

2. The following activities are exempt for all regulations in this chapter:

- A. Erection of a temporary structure, except when required by §9-105.1.E.
- B. Site alterations to be completed as part of an approved tree harvesting operation when the value of the trees, logs, or other timber products removed exceeds \$2,000 per calendar year.
- C. Site alterations as part of an approved land development, subdivision, or construction project.

3. All other permits, when applicable, shall not be issued until the grading permit application, or a revision to an existing grading permit, is approved by the Township.

§9-105 – Submission Standards

1. A grading permit application shall be submitted for review along with the appropriate application fee as approved by the Board of Commissioners.
2. Three copies of the grading plan and all design information shall be submitted with the application.

3. The final grading permit fee will be determined after review and/or approval of the application. The final fee, as approved by the Board of Commissioners, will be based on the amount of work proposed and/or inspections required.
4. Revised plans may be resubmitted with the appropriate fee up to 60 days after the denial letter, unless a time extension has been granted by either the Salisbury Township Director of Community Development or his/her designee.
5. Regulations of this Chapter do not exempt the activities from being subject to the requirements of the State Soil Erosion and Sedimentation Control Regulations, the Township Zoning Ordinance, the Township Subdivision and Land Development Ordinance, the Township Act 167 Ordinance, and the Township Floodplain Ordinance, when applicable.
6. It is the Applicants' responsibility to submit the plans to any outside agency for approval when determined applicable by the Director of Community Development.
7. Outside agency approvals, when applicable, shall be completed, and approval letters supplied to the Township, prior to Township approval of a grading permit application and issuance of a permit. Outside agency approvals include, but are not limited to: PA DEP approval of Sewer Planning Module; PA DEP approval of NPDES permit; Salisbury Township Sewerage Enforcement Officer approval of on-lot septic system; Lehigh County Conservation District approval of an erosion control plan; and the Lehigh County Planning Commission approval of a stormwater drainage plan when required by Township Act 167.
8. For properties with disturbed slopes in excess of eight (8) percent, the applicant shall submit the plan to the Lehigh County Conservation District for review. Proof of submission shall be provided to the Township.

§9-106 – Plan Requirements

1. All plans shall meet the following requirements:
 - A. The plan shall be prepared by a professional engineer, land surveyor, or landscape architect registered in the State of Pennsylvania.
 - B. The plan shall be drawn at a scale of no less than one inch equals 20 feet, except for properties exceeding two acres where a smaller scale may be accepted;

- C. The drawing size of the plan shall be no less than 8-1/2 inches by 11 inches, and not larger than 24 inches by 36 inches;
- D. All elevations shall be based on field survey on the USGS datum, and benchmarks used shall be indicated;
- E. The plan shall show spot elevations of all critical locations;
- F. The plan shall show the elevations and location where drainage courses cross the property lines;
- G. The plan shall show existing and proposed contours for the entire tract on two-foot contour intervals;
- H. The plan shall show all existing and proposed site improvements;
- I. The plan shall show all driveway gradients, if applicable;
- J. If applicable, the plan shall show proposed building top of foundation; elevation of all entries; and elevations of proposed finished ground grade at all significant points around the proposed structure;
- K. If applicable, the plan shall show conformance to the Salisbury Township Floodplain regulations and Act 167 Ordinance;
- L. If applicable, the plan shall show all existing public utilities, including water, sanitary sewer, storm sewer, gas, and other utilities, and proposed utilities, including connection to existing public facilities or private on-lot facilities. The plan shall include invert elevations and size and location of said utilities as necessary for construction. The plan shall also show the location and disposition of downspouts and footing drain discharge;
- M. As necessary, the plan shall include information on adjacent properties to show contours, drainage courses, structure locations, and foundation elevations, within 50 feet of the subject property.
- N. Plan and profile plans for all proposed underground utilities shall be provided as necessary.

- O. Plan and profile plans for all driveways, access drives, and curb construction shall be provided as necessary.
 - P. The plan shall show all construction details necessary to construct the improvements. All construction within any Township public right-of-way or easement shall be completed in accordance with the approved Township Construction Standards, latest edition.
 - Q. The plan shall show all appropriate soil erosion and sedimentation control requirements. All erosion control designs shall meet the current Lehigh County Conservation District and Pennsylvania Department of Environmental Protection requirements.
2. The following activities are exempt from the above plan requirements:
- A. Installation of a sidewalk within the Township right-of-way, when the site has existing curbing but no driveway curb cut.
 - B. Installation of a driveway curb cut within the Township right-of-way, when the site has existing curbing but no sidewalk.
 - C. Street openings when all proposed work is located within the Township right-of-way.

§9-107 – Review Standards

- 1. When a plan is not required, as stated in §9-106.2, or a waiver to the plan requirement is granted, a grading permit application shall be reviewed within fifteen (15) calendar days of submission and either approved or denied by the Salisbury Director of Community Development or his/her designee.
- 2. When a plan is required, a grading permit application shall be reviewed within thirty (30) calendar days of submission and either approved or denied by the Salisbury Director of Community Development or his/her designee.
- 3. If a permit application is denied, the Salisbury Township Director of Community Development or his/her designee shall submit a letter to the applicant detailing the reasons for denial.

4. All proposed activity shall be reviewed for compliance with the design standards stated in the Salisbury Township Streets and Sidewalks Ordinance (Chapter 21 of the Township Municipal Code), the Salisbury Township Sewers and Sewage Disposal Ordinance (Chapter 18 of the Township Municipal Code), Part 10 of the Salisbury Township Subdivision and Land Development Ordinance (Chapter 22 of the Township Municipal Code), and the Salisbury Township Water Ordinance (Chapter 26 of the Township Municipal Code), when applicable.
5. Proposed activities, and the issuance of all required permits, must commence within one year of approval of a grading permit. If permits have not been issued within one year of a grading permit approval, the application will be considered abandoned. A new application and application fee shall be submitted again if the applicant wishes to continue with the proposed activity.
6. Proposed activities must commence within one year of the issuing of a grading permit. If the activity has not commenced within one year the permit will be considered abandoned. A new application and application fee shall be submitted again if the applicant wishes to continue with the proposed activity.
7. A time extension for the requirements in §9-107.5 and §9-107.6 may be granted by the Salisbury Township Director of Community Development or his/her designee if a request has been submitted in writing and due diligence has been shown within the required timeframe.

§9-108 – Waiver Requests and Appeals

1. A request for a waiver from any regulation or requirement within this Chapter shall be addressed to the Salisbury Township Director of Community Development.
2. All waiver requests may be submitted with the initial submission of the plan, or no more than sixty (60) days from the Township's denial letter.
3. Waiver requests shall be in writing and accompanied with all necessary supporting documentation.
4. The Director of Community Development shall grant or deny each waiver request within thirty (30) days of submission of the waiver request. The decision of the Director of Community Development shall be communicated to the applicant in writing.
5. The applicant has the right to appeal the denial by the Director of Community Development

of a waiver request by submitting an appeal application, the appropriate fee, and all required documents, to the Community Development Department. The appeal application must be submitted within thirty (30) days of the waiver denial letter.

6. All appeals will be heard by the Salisbury Township Planning Commission at a public meeting. All submission deadlines and announcement requirements for a public meeting of the Planning Commission, as outlined in the Pennsylvania Municipalities Planning Code and the Salisbury Township Subdivision and Land Development Ordinance, must be followed. The decision of the Planning Commission is final.

§9-109 – Inspections

1. The Applicant agrees that the Township may enter the property at any time during the plan approval and construction process to inspect the site and all grading and construction activities on site.
2. Upon issuance of a grading permit, the applicant will be provided with a list of all required inspections and the applicant shall contact the appropriate Township personnel, as stated on the inspection list, to arrange each inspection.
3. All required inspections are included in the final grading permit fee. Failed inspections and re-inspections are subject to additional fees as set by the Salisbury Township Board of Commissioners.
4. All failed inspection and re-inspection fees shall be paid to the Township before a Certificate of Occupancy and/or Certificate of Completion will be issued. Failure to pay any failed inspection or re-inspection fees within sixty (60) days will result in a lien on the property, plus interest and any legal fees, until all monies due are paid.

§9-110 – Improvements Agreement

1. All proposed work must be completed as stated on the approved grading permit application.
2. All proposed activity, as approved on the grading permit application, must be completed within one year of issuance of the permit. This time limit may be extended by the Salisbury Township Director of Community Development or his/her designee if a request has been submitted in writing and due diligence has been shown within the required timeframe.

3. If work has not been completed, or a time extension has not been granted, within one year of a permit being issued, the proposed activity will be considered abandoned and the Township, at the expense of the property owner, may complete all necessary improvements as shown on the approved permit application. Failure to repay the Township for its work within sixty (60) days will result in a lien on the property, plus interest and any legal fees, until all monies due are paid.
4. The property owner is responsible for maintaining all work, as approved on the grading permit application, for eighteen (18) months following the issuance of a Certificate of Occupancy and/or Certificate of Compliance. Failure to do so will result in a violation as outlined in §9-112 and subject to all penalties or costs as stated in such.

§9-111 – Emergency Situations

1. In case of emergency, where safety is concerned, work may be completed without a permit; however, a permit must be applied for within 72 hours. Failure to apply for a permit within 72 hours for emergency work shall result in penalties as stated in §9-112 of this Chapter.
2. If work is completed due to an emergency situation, it does not void the requirement to submit a plan and complete inspections, as required within this Chapter.
3. In the case of an emergency, where safety is concerned, the Township may complete any required work. The property owner shall be liable to the Township for costs of all work. Such work shall be performed by the Township, or contracted by the Township, and the costs assessed to the property owner. The property owner may also be subject to the penalties as stated in §9-112 of this Chapter.

§9-112 – Violations

1. All penalties stated herein shall be issued as a non-traffic citation filed with the District Magistrate's office.
2. Violations of this chapter shall be subject to a penalty not to exceed one thousand dollars (\$1,000) for each day a violation exists, with each day constituting a separate violation, subject to the penalties set forth herein.
3. Unless the violation requires immediate action for safety issues, the property owner and/or applicant may be issued a Notice of Violation by the Salisbury Township Director of Community Development or his/her designee and given five (5) days to correct the violation.

4. If a violation is a safety concern and requires immediate action, the Township, at the expense of the property owner, may take all appropriate steps to remediate the situation. Failure to repay the Township for its work within sixty (60) days will result in a lien on the property, plus interest, and any legal fees, until all monies due are paid.
5. A Certificate of Occupancy and/or Certificate of Completion will not be issued until all fines, penalties, and remediation fees are paid in full. A Certificate of Occupancy and/or Certificate of Completion may be issued, upon approval of the Salisbury Township Director of Community Development, if a payment plan is on file with the Township Finance Office.

ARTICLE II.

This Ordinance shall be effective immediately.

DULY ORDAINED and ENACTED by the Board of Commissioners of the Township of Salisbury, Lehigh County, Pennsylvania this 24th day of June, 2021, in lawful session duly assembled.

Attested:

TOWNSHIP OF SALISBURY

(Lehigh County, Pennsylvania)

By: _____

Cathy Bonaskiewich

Debra Brinton

Township Secretary

President, Board of Commissioners