

**MONTOUR TOWNSHIP
COLUMBIA COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2026-03

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF
MONTOUR, COLUMBIA COUNTY, PENNSYLVANIA, TO AMEND THE MONTOUR
TOWNSHIP ZONING ORDINANCE TO PROVIDE FOR USES NOT EXPRESSLY
PERMITTED OR PROHIBITED**

WHEREAS, the protection of public health, safety, and welfare is the paramount concern of the Township of Montour, Columbia County;

WHEREAS, it is the municipality's policy that development within the jurisdiction be consistent with existing community characteristics, including environmental, infrastructure, and residential considerations;

WHEREAS, it is imperative that the municipality's zoning ordinance provide a comprehensive scheme for the regulation of all uses foreseeable and unforeseen; and

WHEREAS, the Board of Supervisors of Montour Township believe that a provision addressing uses not directly regulated accomplishes the municipality's concerns, policies and obligations;

NOW, THEREFORE, it is hereby ordained that Chapter 27, Part 4, is amended by the addition of new Section 27-403 to read as follows:

§ 27-403. Uses Not Expressly Permitted or Prohibited.

(A) **Applicability.** This section shall apply to any land use, structure, or activity that is not expressly listed as a permitted use, conditional use, special exception, accessory use, or prohibited use within the applicable zoning district.

(B) **Conditional Use Required.** Any use, structure, or activity subject to this section may be authorized only as a conditional use in the zoning district in which it is proposed, in accordance with the procedures and standards for conditional uses set forth in this Ordinance, including § 27-1003.

(C) **Standards and Required Findings.** The Township Supervisors may approve an application for a conditional use permit under this section only upon a determination that all the following criteria have been met in such application:

1. **Environmental Impact Assessment.** The application shall be accompanied by a comprehensive Environmental Impact Assessment ("EIA") prepared by a qualified professional, evaluating the potential direct, indirect, and cumulative environmental

impacts of the proposed use, reasonable alternatives, and proposed mitigation measures. The EIA must be submitted to the Township Supervisor for review and approval at the time of the submission of an application for a conditional use permit. The Township Supervisors may attach reasonable conditions and safeguards on approval of the conditional use permit in addition to this ordinance's requirements in order to protect public health, safety, and welfare. In imposing such reasonable conditions and safeguards, the Township Supervisors may rely upon the EIA in determining what additional conditions and safeguards may be required. The EIA shall be prepared by licensed professionals in land surveying, civil engineering, ecology, atmospheric studies, or geology, as appropriate for the claims made in the EIA. The EIA shall consist of the following sections: (1) a project description providing: (a) the nature and purpose of the project, (b) the location information (maps, parcel data, zoning) concerning the project, (c) size, scale, and intensity of the project, (d) construction methods and phases needed for the project, (e) operational characteristics (hours, throughput, emissions, traffic) of the project's day to day activity, and (f) utilities and infrastructure needs; (2) Existing site conditions describing (a) topography, soils, and geology, (b) hydrology and groundwater, (c) wetlands and floodplains, (d) vegetation and wildlife habitat, (e) existing land use and surrounding context, and (f) ambient air quality and noise levels; (3) an impact analysis describing the project's effects upon (a) water resources, (b) stormwater directional flow alterations, discharge volume changes, or changes in stormwater quality, (c) changes in groundwater recharge, (d) surface water impacts, (e) air quality, construction emissions, operational emissions, and odor, (f) noise, baseline vs. projected noise, receptors (residences, schools), (g) biological resources, (h) wetlands, (i) threatened or endangered species, (j) habitat fragmentation, (k) Soils and erosion, (l) earth disturbance, (m) sedimentation risks, (n) Traffic and transportation, trip generation, road capacity and safety, (o) Visual character, (p) lighting, (q) screening and viewsheds. Each subsection must identify the magnitude, duration, and geographic location of each condition considered and must use accepted methodologies to distinguish between construction and operation; and (4) a mitigation measures section stating (a) how impacts are avoided, minimized, or offset, (b) what specific design features (buffers, controls, BMPs) will be implemented, (c) what the operational limits for the project will be, and (d) how the use plan submitted under the EIA complies with permit requirements under this ordinance, provided that, and only to the extent that, the regulation of the same subject matter is not pre-empted by other law. The EIA must include all approvals or certifications required by public utility service providers indicating that public utilities required by the use shall be available at the site where the use is proposed.

2. **Setbacks.** A site plan shall be provided indicating the setbacks relating to the use, and the yard and setback distances shall be the most restrictive setback requirements applicable to any permitted principal use within the zoning district in which the proposed use would be located, unless a greater setback is otherwise required by this Ordinance or other applicable law.
3. **Compliance with Conditional Use Criteria.** The application shall meet all applicable standards and approval criteria for conditional uses pursuant to § 27-1003, and any other applicable provisions of this Ordinance.
4. **Most comparable use; applicable standards.** The applicant shall identify the use(s) provided for in this Ordinance that are most comparable in nature, intensity, and external impacts to the proposed use. In evaluating the application, the Township Supervisors may classify the proposed use by its most comparable listed use and may apply any objective performance standards and operational limitations that would apply to such comparable use, in addition to the standards of this section.
5. **Heightened compatibility for high-impact uses.** Where the proposed unlisted use is industrial in character, utility-scale, or is reasonably expected to generate regional or off-site impacts (including, without limitation, substantial truck traffic, high water demand, significant energy demand, emissions, noise, vibration, glare, or large impervious coverage), the applicant shall demonstrate, by competent evidence, that the location, design, and operation of the use will be compatible with the zoning district and surrounding uses and will not adversely affect public health, safety, and welfare beyond impacts typically associated with uses permitted in the district.

(D) **Burden of Proof; Interpretation; No Precedent.** The applicant shall have the burden to demonstrate compliance with this section and § 27-1003. Approval of a conditional use under this section shall not be construed to amend the list of uses for any zoning district and shall be limited to the specific application and conditions of approval, if any. No approval granted pursuant to this section shall be deemed to establish a permitted use, conditional use, special exception, or accessory use in any zoning district, nor shall any such approval be construed as a text amendment to this Ordinance or as binding precedent for any other application.

(E) **EIA Review; Escrow; Effect of Nonpayment.** In considering an application for a conditional use under this section, the Township Supervisors may direct that the Township Engineer and/or other qualified consultants review the EIA and any supporting studies. All reasonable costs of such review shall be borne by the applicant.

1. **Initial escrow; completeness.** The applicant shall deposit, at the time of filing, escrow funds in an amount established by resolution of the Township to cover anticipated review costs. An application shall not be deemed complete or accepted for processing until the required escrow deposit is paid.
2. **Replenishment.** If, at any time during review, the escrow balance is insufficient to pay incurred or anticipated review costs, the Township may issue a written request for additional escrow. The applicant shall replenish the escrow in the amount requested within the time stated in the Township's request.
3. **Suspension for nonpayment.** Upon failure to timely pay or replenish escrow as required, the Township may, upon written notice to the applicant, suspend further processing of the application, including cessation of consultant review and postponement or continuation of any scheduled hearing, until all amounts due are paid.
4. **Applicant extension of time.** To the extent any applicable decision or hearing deadlines are established by the Pennsylvania Municipalities Planning Code ("MPC"), the applicant shall, as a condition of filing and continued processing, execute a written extension of time and/or place an extension on the hearing record, in a form acceptable to the Township Solicitor, for the period during which processing is suspended due to nonpayment, and for any additional period reasonably necessary to complete professional review following payment. If the applicant declines to grant such extension, the Township may deem the application withdrawn without prejudice and close its file upon written notice to the applicant.

(F) **Third-Party Peer Review.** Where the Township Supervisors determine that specialized review is reasonably necessary to evaluate the EIA, supporting studies, or other technical submissions, the Township may retain one or more independent qualified professionals to perform peer review. The reasonable costs of peer review shall be borne by the applicant and may be funded through the escrow established in subsection (E).

(G) **Conditions and Safeguards.** In addition to any standards set forth elsewhere in this Ordinance, the Township Supervisors may impose reasonable conditions and safeguards to implement the purposes of this Ordinance and to mitigate adverse impacts identified in the record, including, without limitation: (1) hours of operation; (2) maximum occupancy, throughput, or intensity; (3) delivery and truck routing and scheduling; (4) limits on outdoor storage and loading areas; (5) noise limits and monitoring at the property line or other receptors; (6) glare and lighting limits, fixture type, and shielding; (7) odor, dust, and emissions controls; (8) buffering, landscaping, fencing, screening, and berming; (9) stormwater and erosion/sedimentation controls beyond minimum requirements where

warranted; (10) generator testing schedules and limitations; (11) emergency management, fire protection, and hazardous materials protocols; and (12) ongoing compliance reporting reasonably related to the approved use.

(H) **Other Permits and Approvals.** Conditional use approval under this section shall not relieve the applicant from the obligation to obtain any other permits, licenses, approvals, or certifications required by federal, state, county, or Township law. The Township Supervisors may condition any approval upon the applicant's submission of evidence of such permits or approvals to the extent permitted by law.

(I) **Change, Expansion, or Intensification.** Any material change, expansion, or intensification of a use, structure, or activity approved under this section, including changes that would increase external impacts (such as traffic, noise, vibration, glare, emissions, water use, energy demand, hours of operation, number of employees, building area, or impervious coverage), shall require an amended conditional use application and approval in accordance with this and other applicable Sections of the Township municipal code unless the Zoning Officer, after consultation with the Township Solicitor and/or Township Engineer as appropriate, issues a written determination that the proposed change is de minimis and does not materially alter the impacts evaluated in the original approval. The Zoning Officer shall issue a determination within sixty (60) days of any inspection of a change in use. Any determination of the Zoning Officer under this subsection shall be appealable to the Board.

(J) **Severability.** If any subsection, sentence, clause, or phrase of this section is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this section, which shall remain in full force and effect.

(K) **Limited Approval.** Any approval granted pursuant to this section shall be construed narrowly and shall authorize only the specific use, scope, and intensity described in the approved application and conditions of approval. Nothing in this section shall be interpreted to either confer a right to any other unlisted use, structure, or activity, or to create a presumption that any other unlisted use, structure, or activity is appropriate in any zoning district.

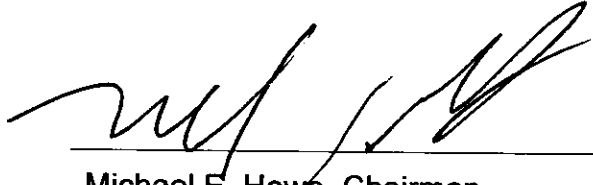
Effective Date. This ordinance shall take effect thirty (30) days after adoption and publication as required by law.

Adoption

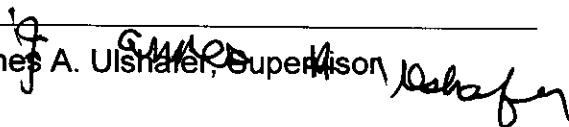
ENACTED AND ORDAINED this 13th day of August, 2026, by the Board of Supervisors of the Township of Montour, County of Columbia, Commonwealth of Pennsylvania.

TOWNSHIP OF MONTOUR, By:

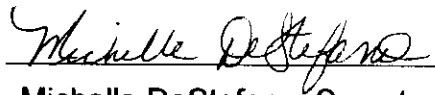
Board of Supervisors


Michael E. Howe, Chairman


Joseph T. Mullen, Vice-Chairman


James A. Ulshaefer, Supervisor

ATTEST:


Michelle DeStefano, Secretary

(SEAL)