

WEST NANTMEAL TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. 2 of 2026

AN ORDINANCE OF THE TOWNSHIP OF WEST NANTMEAL, CHESTER COUNTY, PENNSYLVANIA, AMENDING THE WEST NANTMEAL TOWNSHIP CODE OF ORDINANCES, AS AMENDED, BY THE CREATION OF NEW CHAPTER 10, "HEALTH AND SAFETY," PART 1, "LAND APPLICATION AND STORAGE OF FOOD PROCESSING RESIDUALS," TO PROVIDE FOR REGULATION OF THE LAND APPLICATION AND STORAGE FOR FOOD PROCESSING RESIDUALS; AND OTHER MISCELLANEOUS PROVISIONS CONTAINED HEREIN.

IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors of West Nantmeal Township, Chester County, Pennsylvania, that the Code of West Nantmeal Township, shall be amended as follows:

SECTION 1. A new Chapter 10, "Health and Safety," shall be created, containing Part 1, "Land Application and Storage of Food Processing Residuals," to read as follows:

Part 1. Land Application and Storage of Food Processing Residuals.

Section 10-601. Purpose.

A. The purpose of this Part is to establish uniform standards in the Township for land application and storage of food processing residual ("FPR"), as the term FPR is defined by the Pennsylvania Department of Environmental Protection ("PA DEP"). The Township recognizes that PA DEP and the Courts of the Commonwealth have determined that land application of FPR is a "normal agricultural operation," and that the land application of FPR should comply with PA DEP rules, regulations, standards and best management practices, including those set forth in the Food Processing Residual Management Manual, PA DEP document number 245-5400-100, as may be amended, revised, or superseded (collectively "FPR Manual").

B. The Township also recognizes that it has an obligation to protect public safety and to minimize the adverse effects of such land application of FPR through the standards set forth in the following provisions. Additionally, the Township must meet its constitutional obligation under Article I, Section 27 of the Pennsylvania Constitution, which states: "The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people." The requirements set forth in these provisions are designed to protect the people's constitutional rights, while permitting normal agricultural operations.

Section 10-602. Minimum Distances.

A. The minimum setback of land application of FPR from the listed features is as follows:

Feature	Setback
Property line	50 feet
Occupied building	300 feet
Individual (private) water well	300 feet
Public water well	300 feet
Upgradient from a surface water source	1,000 feet
Intermittent stream	100 feet
Perennial streams	100 feet
Exceptional value wetlands as defined by PA DEP or the Environmental Protection Agency	100 feet
Sinkhole	100 feet
Sinkhole drainage area	100 feet
Perimeter of pond or undrained depression	25 feet
Bedrock outcrop	25 feet

B. The minimum setback for land application of FPR may be waived, by written permission of the site feature owner (often the adjacent property owner), for the following setbacks: property line, occupied buildings, individual or public water well or upgradient from surface water source. All other minimum setbacks for land application of FPR may not be waived.

C. The above isolation distances shall be depicted on a United States Geological Survey ("USGS") Map with a scale not to exceed one inch equaling 200 feet.

Section 10-603. Slope.

A. Subject to compliance with all other provisions of this Part, land application of FPR is permitted on land having slopes of less than 15%.

B. Land application of FPR on land having slopes of greater than 15% but less than 20% is permitted on such slopes with well-established crop cover or adequate crop residue cover as required pursuant to PA DEP guidelines and regulations applicable to land application of FPR. Land application of FPR on slopes of 20% or more is discouraged.

C. Land application of FPR on slopes of 20% to less than 25% is only permitted by subsurface injection approved by PA DEP.

D. Land application of FPR on slopes of 25% or greater is prohibited.

- E. For purposes of this Part, slopes shall be determined by the most current USGS slope maps or actual topographical survey plan prepared and sealed by a surveyor professional licensed in the Commonwealth of Pennsylvania. In the event of a conflict between a USGS slope map and a sealed survey plan, the sealed survey plan shall be used to determine slopes.

Section 10-604. Groundwater, Seasonal-High-Water Table, Bedrock.

- A. The regional groundwater depth under the site to which FPR will be applied shall be greater than four feet.
 - 1. For purposes of this Part, in the absence of actual measurements performed and certified by a licensed hydrogeologist, regional groundwater depth will be based upon USGS and Pennsylvania Geologic Survey.
 - 2. In the event that regional groundwater depths applicable to a proposed FPR land application site are not available through USGS or Pennsylvania Geologic Survey, actual groundwater depths, measured and certified by a hydrogeologist, shall be provided.
- B. The minimum seasonal-high-water table depth under a site to which FPR will be applied shall be greater than 20 inches.
 - 1. The seasonal-high-water table is determined by the presence of mottling as determined by a licensed hydrogeologist or soil scientist.
 - 2. If the FPRs to be applied are certified as FPRs which have been stabilized by a "process that significantly reduces pathogens" and a "process that further reduces pathogens" recognized as acceptable by PA DEP, the seasonal-high-water table minimum depth may be reduced to 12 inches.
- C. The minimum bedrock depth under a site to which FPR will be applied shall be greater than 20 inches.
 - 1. Bedrock depth must be determined by a licensed hydrogeologist or soil scientist.
 - 2. If the FPRs to be applied are certified as FPRs which have been stabilized by a "process that significantly reduces pathogens" and a "process that further reduces pathogens" recognized as acceptable by PA DEP, the bedrock minimum depth may be reduced to 12 inches.

Section 10-605. Erosion and Sediment Control, Field Markings.

- A. Prior to the land application of FPR, the property owner of the property to which FPR is proposed to be applied shall submit to the Township a farm conservation plan for erosion and sediment control prepared in accordance with Pennsylvania Code Title 25, Chapter 102 ("E & S Plan"). The E & S Plan shall be implemented and maintained by the property

owner. Township approval of the E & S Plan must be obtained prior to the land application of FPR.

- B. Prior to the land application of FPR, if the land to which FPR is to be applied is not clearly delineated (that is, for example, in a meadow condition without a ploughed field or identifiable crop), the property owner shall mark the area to which FPR will be applied (for example, by way of corner stakes and where boundaries change direction).

Section 10-606. Quality, Sampling, Testing and Certification.

- A. FPR for land application in the Township shall meet the minimum quality standards for "food processing wastes used for agricultural purposes" required by PA DEP and Chapter 287 of Title 25 of the Pennsylvania Code, as may be amended or restated from time to time.
- B. FPR for land application in the Township shall not contain any "hazardous waste" or "residual waste" as defined by Chapter 287 of Title 25 of the Pennsylvania Code, or any non-FPR waste.
- C. The property owner of the land to which FPR will be applied shall provide, at their option, one of the following to the Township: 1) prior to land application, the results of the toxic characteristics leaching procedure (TCLP) test, the American Society for Testing Materials (ASTM) water leaching test, or such other test acceptable to the Township on the FPR to be applied and a written certification, made under penalty of perjury, that said results are true, correct and representative of the FPR to be applied; or 2) at least seven days prior to application, a sample of the FPR to be applied, which sample must be sufficient in form, substance and size for the toxic characteristics leaching procedure (TCLP) test, the American Society for Testing Materials (ASTM) water leaching test, or such other test acceptable to the Township. In the event FPR is stored on site, in the alternative, the property owner may choose to provide the Township with access to stored FPR to conduct its own sampling, provided that such access is provided ten days prior to application. Further, the property owner hereby authorizes the Township to use the sample to conduct testing of the FPR to determine, among other things, that the FPR does not contain substances that would, for example, classify the FPR as residual waste or hazardous waste under PA DEP regulations. In the event any test performed or test results obtained under this section indicate that the FPR to be land applied contains any substance that would reclassify the FPR as residual waste or hazardous waste under PA DEP regulations, said reclassified FPR shall not be land applied in the Township.
- D. The property owner of the land to which FPR are applied shall provide the Township with annual access to the lands upon which FPR is applied in the event the Township desires to take samples of soil to verify compliance. The property owner hereby authorizes the Township to use the sample to conduct soil chemistry testing to ensure that the land application of FPR is not introducing, for example, higher than acceptable levels of heavy metals or synthetic organics onto the land. The lifetime heavy metal loading rates of FPR applied to the land may not exceed the limits set forth in the FPR Manual.

- E. The property owner of the land to which FPR are applied shall provide the Township with an annual report, by the end of January for the prior fiscal year in which FPR is applied, which annual report shall include the minimum recordkeeping information set forth in the FPR Manual. The Township reserves the right, but is not obligated, to conduct soil testing to verify information contained in the annual report.
- F. The property owner of the land to which FPR are applied shall keep a log of daily activities including, at a minimum, the following: type, percentage of solids and weight or volume of FPR that is land applied; name and mailing address of each generator of FPR that is land applied; transportation records of FPR that is land applied (including a chain of custody from FPR generator to land application); a sketch of the area to which FPR are applied (for example, a USGS map overlaid with an outline of the area to which FPR are applied); the FPR land application rate; and pH records of the FPR applied. The aforementioned log shall be made available by the property owner to which FPR are applied to the Township for inspection or copying, upon request by the Township, and within one business day of the Township's request. The log, or portions of it may be marked confidential by the property owner; and, if marked as such, the Township shall treat any physical copy of the log as confidential, subject to disclosure requirement under the Pennsylvania Right-to-Know Law.
- G. In the event the FPR to be land applied shall be stabilized pursuant to PA DEP rules or regulations prior to application, the property owner of the land to which FPR will be applied shall provide a certification acceptable to the Township that the FPRs have been stabilized by a "process that significantly reduces pathogens" and a "process that further reduces pathogens" recognized as acceptable by PA DEP, and a summary of the manner of stabilization.

Section 10-607. Storage of Food Processing Residual.

- A. Prior to storage of FPR in a holding tank or other structure affixed to the land ("FPR storage tank"), or construction of an FPR storage tank, the property owner of the land on which an FPR storage tank is proposed to be located shall provide the Township with a sketch plan and narrative plan ("FPR storage plan"), signed and sealed by engineer, architect, or other design professional acceptable to the Township and licensed in the Commonwealth of Pennsylvania, showing and certifying that the FPR storage and design of the FPR storage tank comply with all applicable local, state and federal rules, ordinances, regulations and statutes, including this Part and Pa. Code Title 25, Chapter 299, as applicable; and certifying that the size (volume) of the proposed FPR storage tank is a suitable size (and not oversized) for land application on the acreage of the tract of land on which the FPR storage tank is located. FPR stored in an FPR storage tank shall only be applied to the parcel upon which the FPR storage tank is affixed, or on other property owned by the owner of the FPR storage tank.

- B. The FPR storage plan shall include a narrative describing proposed notification, response, and clean-up measures to be implemented in the event of a leak or spill of FPR from the FPR storage tank. The FPR storage plan shall also include a narrative describing proposed maintenance and inspection schedule for the FPR storage tank to ensure proper working order of the FPR storage tank and related improvements, and the structural integrity of the FPR storage tank.
- C. The FPR storage plan shall be submitted to the Township prior to use or construction of an FPR storage tank. The FPR storage plan may be updated or amended from time to time, with Township verification of compliance. An inspection and maintenance report shall be submitted to the Township within 30 days of each inspection or maintenance activity.

Section 10- 608. Water Supply Protection.

The property owner of the land to which FPR are proposed to be applied shall, or the owner of an FPR storage tank, as the case may be, prior to the storage or application of FPR, submit a narrative plan to the Township providing for a temporary and permanent water supply in the event of contamination of a water supply by FPR ("water supply plan"). The water supply plan shall provide a temporary water supply within 48 hours of notice of contamination and a permanent water supply within 90 days of notice of contamination, and the estimated costs to provide a temporary water supply and permanent water supply, and the means by which the property owner intends to financially secure the costs of implementing the temporary water supply and permanent water supply, if required.

Section 10-609. Nuisance Prevention.

- A. Land application and storage of FPR shall be conducted in a manner that limits odors, vermin, and ponding of liquids to those associated with a normal agricultural operation.
- B. Land application and storage of FPR shall not adversely impact soil composition, ground water, the food chain or environment more than a normal agricultural operation.
- C. FPR may not be applied to land where root vegetables which may be eaten raw will be grown within two years of said FPR application.

Section 10-610. Records, Compliance with Laws and Regulations; Notice.

- A. Prior to the storage or land application of FPR, or any change to an existing FPR storage or land application activity, the property owner of land upon which FPR are stored or applied shall complete and deliver to the Township a food processing residual land application and storage compliance review form providing documentation and certification that the storage and land application of FPR will comply with all federal, state and local laws, rules, regulations and ordinances. The provided documentation shall include at a minimum all documentation the property owner and/or land applier submitted to the PA DEP.

- B. Upon receipt of a food processing residual land application and storage compliance review form, the Township will: review the documentation provided to ensure compliance with all federal, state and local laws, rules, regulations and ordinances; and mail a one-time notice to property owners within 500 feet of the boundary of the tract upon which storage or land application of FPR is proposed alerting them of the submitted food processing residual land application and storage compliance review form and recommending property owners review the testing guidelines posted on the PA DEP website and test their private wells prior to the commencement of FPR land application.
- C. The property owner of land upon which FPR are stored or applied, on behalf of themselves, their successors and assigns acknowledges and agrees that the Township will maintain records provided to it and a list of parcels of land upon which FPR is stored or applied, in a manner and for a length of time deemed administratively necessary in the Township's sole discretion; and further acknowledges and agrees that those records may constitute public records subject to public disclosure under the Pennsylvania Right-to-Know Law unless otherwise exempt thereunder.
- D. This Part is intended to supplement and not supersede the laws of the Commonwealth or rules and regulations promulgated by PA DEP or any other agency having jurisdiction over and application of FPR which are more stringent than the provisions hereof.
- E. If a law of the Commonwealth of Pennsylvania, law of the Federal Government, or holding of a Pennsylvania or federal court with jurisdiction determines that land application of FPR is not a "normal agricultural operation," this Part shall be null and void and automatically repealed.

Section 10-611. Violations and Penalties.

- A. Any person or entity who violates or permits the violation of the provision of this Part shall, upon conviction thereof in a summary proceeding brought before a magisterial district justice under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be subject to the payment of a fine of not more than \$1000, plus all costs of prosecution, including reasonable attorney's fees incurred by the Township. In default of payment thereof, the defendant may be sentenced to imprisonment for a term of not more than 90 days.. Each section or subsection of this Part violated shall constitute a separate offense, and each day or portion thereof in which a violation of this Part is found to exist shall constitute a separate violation, each of which violation shall be punishable by a separate fine or penalty. In addition to the penalty provisions herein, the Board of Supervisors may authorize the institution of proceedings in equity to compel compliance with this Part and/or seek to enjoin temporarily or permanently the land application of FPR.
- B. The Township, by allowing land application of FPR or taking any other action pursuant to this Part, does not waive, reduce, lessen, or impair the lawful police powers or any other rights or remedies vested in the Township under applicable federal, state, and local laws and regulations.

SECTION 2. Severability. If any sentence, clause, section or part 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, sections or parts hereof. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

SECTION 3. Repealer. All Ordinances or parts of Ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance. Notwithstanding the foregoing, the adoption of this amendment and the repeal of ordinances shall not affect any right or liability established, accrued or incurred under any legislative provision of the Township prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability or any cause of action acquired or existing.

SECTION 4. General Code. General Code is hereby authorized to make non-substantive formatting and numbering changes necessary to clarify references to other sections of the Township ordinances and/or codification and to bring the Ordinance into conformity with the Township ordinances/codification.

SECTION 5. Effective Date. This Ordinance shall be effective immediately.

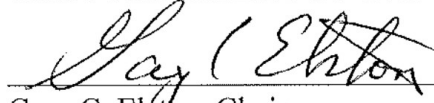
ENACTED AND ORDAINED this 9th day of February, 2026.

Attest:



Deborah M. Kolpak

By:

**BOARD OF SUPERVISORS
WEST NANTMEAL TOWNSHIP**


Gary C. Elston, Chair


Nelson R. Beam, Vice-Chair


Harold Barclay Hargreaves III, Member