

**RESOLUTION NO. 2026-06
LOWER CHICHESTER TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA**

WHEREAS, on May 18, 1971 Pennsylvania voters, by a margin of 4 to 1, voted to add an Environmental Rights Amendment (“ERA”) to the Pennsylvania Constitution, providing constitutional guarantees of environmental protection. The amendment as adopted reads as follows:

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the 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.

WHEREAS, this constitutional amendment is known as the Environmental Rights Amendment (“ERA”) and is set forth as Article I, Section 27 of the Pennsylvania Constitution; and,

WHEREAS, in 2017 the case entitled *Pennsylvania Environmental Defense Foundation v. Commonwealth of Pennsylvania*, 161 A.3d 911 (Pa. 2017) (“PEDF”) the Supreme Court of Pennsylvania established that the ERA grants Pennsylvania citizens the right to “clean air and pure water, and to the preservation of natural, scenic, historic and esthetic values of the environment,” and directed state and local governments (including Townships) to act as trustees of the environment as follows:

1. First Right (Individual Right)

- The Court explained that the first sentence is a *prohibitory clause* that “places a limitation on the state’s power to act contrary to this right, and while the subject of this right may be amenable to regulation any *laws that unreasonable*

impair the right are unconstitutional”.

2. Second Right (The Trust Doctrine)

- The Court concluded that the ERA establishes a public trust, with Pennsylvania’s natural resources as the corpus of that trust and the Commonwealth as the trustee.
- The trustee obligation is vested in “all agencies and entities of Commonwealth government, both statewide and **local**” (emphasis added) and the people are the named beneficiaries of the trust.
- The Court determined that private trust principles provide the necessary tools to properly interpret the trust created by the ERA.
- The Amendment requires the government to “conserve and maintain the corpus of the trust” and that as trustee, the Commonwealth has duty to act “with prudence, loyalty and impartiality” towards the corpus of the trust.
- The Court found that the trust imposes “two basic duties on the Commonwealth as the trustee” (including Townships):
 - 1) a “duty to prohibit the degradation, diminution, and depletion” of public natural resources, and
 - 2) a duty to “act affirmatively via legislation to protect the environment.”

WHEREAS, the legal duties of the Township Council to evaluate development in light of the Pennsylvania Constitution, Article I, Section 27, has been settled law in Delaware County even before the Supreme Court’s ruling, when the Honorable G. Michael Green issued his October 24, 2016 Order in In Re: Subdivision and Land Development Appeal of Eileen Mutschuler et al., Delaware County Court of Common Pleas Civil Dockets 2015-003480, 2015-004800, and 2015-005550 confirming that the Concord Township Board of Supervisors was required to evaluate a proposed development based upon the Pa. Const.

Art. I, § 27. (See paragraph 12 of the October 24, 2016 Order.) Judge Green's 2016 Order anticipated, by nine months, the Pennsylvania Supreme Court's application of the Environmental Rights Act on the local governments' reviews of proposed development applications.

NOW THEREFORE, it is resolved by the Township Board of Commissioners as follows:

- 1) the development or redevelopment (including but not limited to construction, work or renovation, open space set aside, stormwater control or auxiliary or ancillary use) of any land parcel or structure, or portion thereof, on one (1) acre or greater of land as long as any portion thereof is within the geographic boundaries of Lower Chichester Township ("Project") will require an Environmental Impact Statement ("EIS") to be provided at the time of submission of any application or permit request, to the relevant Township official(s), Township Council, Township Committee(s) or Board(s), which EIS must include relevant information to enable the respective Township application/permit reviewers to evaluate the Project's impact on the environment pursuant to the Township reviewers obligation under the ERA. Such EIS at a minimum must contain an explanation of how the proposed Project will comply with any applicable Township Ordinance including, but not limited to, Zoning or Health Ordinances; and
- 2) the Township Board of Commissioners hereby authorizes the appropriate Township officials, officers, solicitor and employees to take any and all actions necessary or required to carry out the intent of this resolution including, but not limited to, the adoption of Rules, Regulations, additional Resolutions or Ordinances to implement the intent of this Resolution; and,
- 3) This Resolution is effective immediately.

ENACTED by the Board of Commissioners of Lower Chichester Township, Delaware County, this 17th day of August, 2026.

Attest:

TOWNSHIP OF LOWER CHICHESTER

JOSEPH P. POSSENTI, JR.
Township Secretary

BY: _____
ROCCO GASPARI, JR.
President of the Board of
Commissioners