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Memorandum

December 4, 2020

To: Westtown Township Planning Commission

From: John D. Snook

Re: Ordinance Amendments – Update

“Dog” Ordinance – You should have received a new “final” draft.

Flexible Development – I suggest that the Planning Commission recommend to the Board of Supervisors re-adoption of the amendments adopted 08-19-19 and repealed in March of 2020 and then adopt the more recently prepared “fix-it” amendments prepared by Will Ethridge and myself. These amendments were fully vetted by the Planning Commission. If the Board wishes, to stave off confusion, the two sets of amendments could be merged into one set. I have reviewed them again, and none of the additional text we have been discussing requires any revisions to the earlier work.

904.E(10)(b) currently reads as follows and should be amended as there is otherwise no minimum setback other than the front yard setback:

No single-family detached dwelling or twin dwelling may be erected within 30 feet of any other structure, nor within five feet of any side lot line within the development.

It also would be worth adding to the Flex Development standards a subsection as follows:

As a condition of Conditional Use approval, the Board of Supervisors may require that the subdivision/land development plan include allocation of specific lot lines for individual residences and/or, including where individual lot lines beyond the footprint of the principal residential structures are not provided, specific designation of a permitted building envelope for each residence, including for allocation of planned or potential accessory structures, to be recorded on the final plan and each deed.

Projections into Setbacks – Please refer to recommended revisions in my 11/13/20 memorandum to the Planning Commission.

“Bi-directional” Antennae (Amplification Systems) – Amendments prepared in 2019 appeared ready to go, save concern about referencing a specific version of the International Building Code (IBC) versus a reference to “the version currently adopted by the Township of Westtown.” In careful review of the 2019 draft, it does not infer reference to any later dates but rather is stating that the 2006 IBC is the applicable IBC across the Board in Westtown. I am not sure where to go from here.

Storage (Outdoor) – Please see my 11/13/20 memorandum.

Memo from Bob Flinchbaugh, 11/13/20 – Bob provided specific recommendations for revised text regarding stormwater management and paving standards.

Memorandum

11/13/20

To: Westtown Township Planning Commission

From: John D. Snook

Re: Projections into Setbacks and Flex Development Regulations

Projections into setbacks were including in your list of potential amendments with a specific note as to potential safety issues where setbacks were less than 25 feet from lot lines. Ironically, in the short time since Will Ethridge left and the backlog of zoning applications due to COVID resuscitated, Mila and I have seen considerable other confusion with these provisions. The most important issue is that the side yards in many places are less than 25 feet and even less than the 15 feet in the current ordinance text. The current 15 feet, where applicable, is adequate for an emergency vehicle. If a building is permitted closer to the property line by the side yard setback, what difference does it make if an accessory structure is placed at the same line? Technically, the current language inferring a minimum 15 feet setback does not if there is no projection into a minimum yard area. So, if the minimum side yard is five feet, the accessory structure may “project” to that line without being considered a “projection” in the context of this section. For better clarification, we suggest consideration of the amendments to §170-1502 as shown below in track changes.

While previous rounds of Flex Development amendments remain in flux, a key remaining issue is that there are no yard area limitations for Flex Development other than a minimum setback from streets and from neighboring buildings. There is no formal requirement for specific lot lines, although all flex developments to date have provided individual lots. We have recently seen requests for building expansion up to the lot line, so long as the minimum distance between buildings can be sustained. How do you maintain your building without trespassing, if your home is right on the lot line?

§170-1502, **Projections into setbacks and setback exceptions.**

- A. The following components of principal buildings or accessory thereto (with or without accessory dwelling units), may project into any required yard so long as they are set back at least 15 feet from any lot line: porches, terraces; platforms excluding decks, stoops, patios, and other uncovered landings; buttresses; chimneys; cornices; piers or pilasters; unenclosed fire escapes; and unroofed steps. This provision does not apply to extensions that comply with the minimum

Commented [JS1]: What does this apply to and should it be permitted in the front yard or regulated as with decks?

yard area where the minimum yard area is less than 15 feet from the lot line, such as certain side yards, or where projected along and parallel to a lot line where two dwellings are attached to each other.

B. In situations where the Board of Supervisors permits a lot size which conforms to the footprint of a principal building, such components or decks may project into common lands no more than 25% of the minimum distance between buildings as applicable, or be set back at least 15 feet from the tract boundary; projections into open space not covered by these standards shall be subject to approval by the Board of Supervisors.

Commented [JS2]: Should this be specified as a conditional use?

C. Raised decks attached to a dwelling may extend only into a required side or rear yard, but not a front yard, provided that they are set back a minimum of 15 feet from any lot line, except where in compliance with a minimum yard area where the minimum yard area is less than 15 feet from the lot line or where projected along and parallel to a lot line where two dwellings are attached to each other.

Deleted: (except along a lot line where two dwellings are attached to each other)

D. An open gazebo or a similar unenclosed uninhabitable decorative structure with a maximum floor area of 64 square feet shall be permitted within a front yard setback, provided the front yard has a minimum width of 50 feet. Where otherwise permitted in a side or rear yard, the provisions of this subsection do not apply.

E. A movable awning or movable canopy may project into any required yard not more than 25 feet, but shall not be closer than 15 feet from any property line, except where within a minimum yard setback that is less than 15 feet.

F. Arbors, garden sheds, private garages, private greenhouses, trellises, workshops, and similar accessory structures shall be permitted within side and rear yard areas provided they do not exceed the height, nor 50% of the footprint, of the principal structure. The side and rear yard setbacks for such structures shall be no less than the height of the accessory structure, irrespective of the otherwise applicable yard requirement of the district. Any wheels attached to a mobile structure must be removed prior to the issuance of any permits. These standards do not apply to flexible developments.

Commented [JS3]: There is no reason why this subsection cannot also apply to flex development where lot lines are provided. Where a flex development is condo style and there are no lot lines, this should add something like "such structures shall only be permitted within a defined building envelope approved as part of the order of conditional use approval for any flex development."

G. Swimming pools, measured from the edge of the water, tennis courts, and similar outdoor recreation facilities shall be permitted within side and rear yard areas provided they are set back at least 25 feet from the lot line or, in the case of a Flexible Development, not within any required tract perimeter setback.

- H. Corner lots. If a corner lot is occupied by a single-family detached dwelling, and the applicant proves to the Zoning Officer that there is no suitable permitted location for customary accessory uses/structures (such as a shed or pool), then the Zoning Officer may permit such accessory use/structure in one of the two front yards, provided it is located and landscaped so as to minimize the impacts upon the neighborhood.

Additional Section in Flex Development standards to be amended through additional text; section number pending other amendments:

904.E(10)(b) currently reads as follows and should be amended as there is otherwise no minimum setback other than the front yard setback:

No single-family detached dwelling or twin dwelling may be erected within 30 feet of any other structure, nor within five feet of any side lot line within the development.

It also would be worth adding to the Flex Development standards a subsection as follows:

As a condition of Conditional Use approval, the Board of Supervisors may require that the subdivision/land development plan include allocation of specific lot lines for individual residences and/or, including where individual lot lines beyond the footprint of the principal residential structures are not provided, specific designation of a permitted building envelope for each residence, including for allocation of planned or potential accessory structures, to be recorded on the final plan and each deed.

ORDINANCE NO. 2020-

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**WESTTOWN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

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AN ORDINANCE AMENDING CHAPTER 170, ZONING, OF THE CODE OF WESTTOWN TOWNSHIP BY AMENDING A DEFINITION IN ARTICLE II; AMENDING VARIOUS PROVISIONS AND SECTIONS OF ARTICLE IX, FLEXIBLE DEVELOPMENT PROCEDURE; AND AMENDING ARTICLE XV, GENERAL REGULATIONS, §170-1519, STANDARDS FOR MINIMUM TRACT AND LOT AREA; MAXIMUM DENSITY OF TRACT USAGE.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Westtown Township, Chester County, Pennsylvania, that certain provisions of Chapter 170, Zoning, of the Code of Westtown Township, as amended, be amended as follows:

SECTION 1. Article II, Definitions, §170-201, Definitions, shall be amended to revise the following term to read as follows, with the graphic appended hereto replacing the graphic presently attached to the Zoning Ordinance as Appendix A:

BRANDYWINE BATTLEFIELD SWATH

That area of the September 11, 1777 Brandywine Battlefield troop movements and battlefield skirmishes so designated and mapped by the Chester County Planning Commission attached as Appendix A. The Brandywine Battlefield Swath also shall be considered an historical landscape and a scenic landscape or scenic view.

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Deleted: dated December 7, 2016 July 3, 2019 and included

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SECTION 2. Article IX, Flexible Development Procedure, §170-904, Density Standards, Subsections C, Subparts (2), (3) and (4), shall be amended to read as follows:

(2) R-1 Residential District, where single-family detached dwellings are provided: 40%.

Deleted: Rural-Suburban

(3) R-1 Residential District, where twin dwellings are provided: 50%.

Deleted: Rural-Suburban

(4) R-1 Residential District, where permitted multifamily dwellings are provided: 60%. Where more than one dwelling unit type is provided in the R-1 District, the minimum open space shall be calculated proportionally to the relative proportion of each unit type, as provided in Subsection C(3), (4) and/or (5) above. Additional open space also may be required as a condition of approval of applicable bonus densities.

Deleted: Rural-Suburban

SECTION 3. Article IX, Flexible Development Procedure, §170-904, Density Standards, Subsection E, Standards applicable to housing sites within a flexible development, Subparts (3) (a) and (3) (i) are amended to read as follows:

- (3) Design standards for all flexible development:
 - (a) Maximum impervious coverage. Not more than 25% of the gross area of the tract shall be covered by impervious surfaces. At the time of Conditional Use application, the applicant shall demonstrate that compliance with 25% maximum impervious coverage is feasible, including all residential buildings, common area buildings, roads, parking and access means and any other facilities or impervious surfaces, and in addition demonstrating that included within the 25% tract maximum, are allowances for future accessory structures or other impervious surfaces (patios, pools, etc.) which may be permitted on any individual residential building lot. As a condition of Conditional Use approval, the Board of Supervisors may require that the subdivision/land development plan include allocation of specific square footage of available impervious cover to each lot and/or parcel, to be recorded on the final plan and each deed.
 - (i) All housing shall be designed with regard to topography and natural features of the site in conjunction with the requirements of §170-905.A. The effects of prevailing winds, seasonal temperatures, and hours of sunlight on the physical layout and form of the proposed land use and buildings shall be taken into account to maximize energy efficiency and sustainable development.

SECTION 4. Article IX, Flexible Development Procedure, §170-905, Design Standards, shall be amended to revise Subsection J to read as follows:

J. Historical Landscapes and Scenic Views.

- (1) Historical landscapes and scenic views within or across any tract subject to flexible development shall be protected to the greatest extent practicable. As a condition of conditional use approval, the Board may reduce or waive landscape buffering requirements in order to minimize impacts to scenic views and historic resources otherwise visually accessible to the public.
- (2) Introduced landscaping, utilizing predominantly native vegetation and replicating landscape features characteristic to Westtown and its environs, shall be used to mitigate scenic impacts of development from public roads and neighboring residential properties where such views shall be altered by proposed development, grading, or other improvements necessary to accommodate proposed development. For purposes of this subsection, mitigation shall not require a complete visual screen, where the Township

Deleted: J. - Article IX, Flexible Development Procedure, §170-904.¶

agrees that a filtered or diffuse screen is augmented by other landscaping or site conditions to deflect prominent lines of sight from development impacts or otherwise minimize the visual impacts of development.

SECTION 5. Article XV, General Regulations, §170-1519, Standards for Minimum Tract and Lot Area; Maximum Density of Tract Usage, Subsection B, Maximum Density of use on any Tract within a Particular Zoning District, shall be amended to revise Subpart (5) (a) to read as follows:

(5) Bonus Density for Historic Preservation, subject to conditional use approval:

- (a) Bonus dwelling units for preservation of historic resources and landscapes. One additional dwelling unit may be provided for each two acres comprising a lot (or open space parcel) which contains any Township-, state- or federally designated Historic Resource. The use of this bonus shall be limited to no more than four bonus dwelling units for each distinct historic resource or landscape preserved and shall be subject to the following criteria:

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Deleted: and where such acreage otherwise meets all applicable criteria for open space

SECTION 6. If any sentence, clause or section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or validity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisor that this Ordinance would have been adopted had such unconstitutional, illegal, invalid sentence, clause, section or part thereof not been included herein.

SECTION 7. All ordinances or parts of ordinances conflicting or inconsistent herewith are hereby repealed.

SECTION 8. This Ordinance will be effective five (5) days after enactment.

ENACTED AND ORDAINED this _____ day of _____, 2020.

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ATTEST:

WESTTOWN TOWNSHIP

Secretary

Richard Pomerantz, Chair

Carol R. DeWolf, Vice Chair

Scott E. Yaw, Police Commissioner

ORDINANCE NO. 2019-05

**WESTTOWN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

AN ORDINANCE AMENDING CHAPTER 170, ZONING, OF THE CODE OF WESTTOWN TOWNSHIP BY ADDING NEW DEFINITIONS TO ARTICLE II; AMENDING THE STATEMENT OF INTENT FOR ARTICLE V, A/C AGRICULTURAL/ RESIDENTIAL DISTRICT, §170-500; AMENDING VARIOUS PROVISIONS AND SECTIONS OF ARTICLE IX, FLEXIBLE DEVELOPMENT PROCEDURE; AMENDING ARTICLE XV, GENERAL REGULATIONS, §170-1519, STANDARDS FOR MINIMUM TRACT AND LOT AREA; MAXIMUM DENSITY OF TRACT USAGE; AND AMENDING ARTICLE XX, ADMINISTRATION, §170-2009.D, STANDARDS FOR CONDITIONAL USE APPROVAL.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Westtown Township, Chester County, Pennsylvania, that certain provisions of Chapter 170, Zoning, of the Code of Westtown Township, as amended, be amended as follows:

SECTION 1. Article II, Definitions, §170-201, Definitions, shall be amended to add the following terms and definitions:

BRANDYWINE BATTLEFIELD SWATH

That area of the September 11, 1777 Brandywine Battlefield troop movements and battlefield skirmishes so designated and mapped in correspondence to Westtown Township from the Chester County Planning Commission dated December 7, 2016 and included in Appendix A. The Brandywine Battlefield Swath also shall be considered an historical landscape and a scenic landscape or scenic view.

DENSITY, NET RESIDENTIAL

Within a flexible development, the number of residential dwelling units of a single particular type and no others, divided by the area of that portion or portions of the tract to be utilized for that specific dwelling unit type, expressed in units per acre. Calculation of the area of the tract so utilized shall comply with the standards set forth in §170-904.E.

HISTORIC RESOURCE(S)

Any site, structure, ruin, landscape feature or other object included in the Westtown Township Inventory of Historic Resources or listed in the National Register of Historic Places or determined eligible for such listing by the Pennsylvania Historic and Museum Commission.

HISTORICAL LANDSCAPE

The landscape area surrounding any historic resource(s) that contributes to or is visually consistent with the historical character of the designated resource(s) as may be determined by the Township.

SCENIC LANDSCAPE(S)

Those landscapes visible from public rights-of-way at any time of year which are characteristic of the natural heritage and historical settlement of Westtown Township as further described in the Westtown Township Comprehensive Plan.

SCENIC VIEW(S)

Views of Scenic Landscapes as defined herein.

SECTION 2. Article V, A/C Agricultural/Cluster Residential District, §170-500, Statement of Intent, shall be amended to read as follows:

§170-500 Statement of Intent.

In addition to the general goals in the preamble, the purpose, and the community development objectives, it is the purpose of this article to preserve the traditional agricultural and rural residential character of appropriate areas of the Township including scenic views and historical landscapes, notably the area involved in the Battle of Brandywine, September 11, 1777, especially that area denoted as the “Brandywine Battlefield Swath,” and to provide housing opportunities for residential development at low densities consistent with such character, and provide for clustering of housing as an option to preserve and enhance the natural, scenic, and historic character of the landscape.

SECTION 3. Article V, A/C Agricultural/Cluster Residential District, 170-503, Design Standards, Subsection C(3), shall be amended to read as follows:

- (3) Continuous collector road(s) and pedestrian trail(s) shall be developed as part of the subject use or development to provide direct internal through connection(s) between existing collector and/or arterial streets and trail(s), as applicable, and as required by the Board of Supervisors to provide reasonable access to the subject use, enhance community connectivity and improve local mobility. Examples include but are not limited to through collector streets connecting:
- Skiles Boulevard and West Pleasant Grove Road;
 - West Pleasant Grove Road and PA Route 926 at the intersection of Bridlewood Boulevard in Thornbury Township, Chester County;
 - Walnut Hill/Shady Grove Roads to PA Route 926 opposite Cheyney Road in Thornbury Township.

At the discretion of the Board of Supervisors in the context of any conditional use application, as a condition of approval, the Board may require that collector road(s) be developed, in whole or in part, through the subject property. The design of such road(s) shall support the goal of providing through collector road(s) functioning independently of other streets or roads, existing or proposed. The Board may require that no dwellings have individual driveway access onto a collector road.

SECTION 4. Article IX, Flexible Development Procedure, §170-900, Statement of Intent, Subsection B(4), shall be amended to read as follows:

- (4) Encourage more flexible land development which will respect and conserve natural resources such as streams, lakes, floodplains, groundwater, wooded areas, steeply sloped areas, areas of unusual beauty or importance to the natural ecosystem; and conserve cultural resources including scenic views and historical landscapes, notably the area involved in the Battle of Brandywine, September 11, 1777, especially that area denoted as the “Brandywine Battlefield Swath.”

SECTION 5. Article IX, Flexible Development Procedure, §170-902, Applicability to Base Zoning Districts, Subsection B, shall be amended to read as follows:

- B. Unified tract(s) of land for flexible development shall be of ten (10) acres in size or greater.

SECTION 6. Article IX, Flexible Development Procedure, §170-904, Density Standards, Subsection A, Permitted Base Density and Potential Bonus Density, is deleted in its entirety, and shall be amended to read as follows:

- A. Permitted base density and potential bonus density.
 - (1) Base density. In a flexible development, subject to compliance with all applicable standards, criteria and requirements herein, and as a condition of conditional use approval, the Board of Supervisors may approve a plan that provides for a greater number of dwelling units per acre than would be permitted by the Township zoning regulations applicable to the subject tract(s), as provided in §170-1519.B of this chapter.
 - (2) Bonus density for historic preservation. The maximum density established in accordance with §170-904.A(1) above may be further increased, where approved by the Board of Supervisors subject to conditional use approval, and in accordance with the standards set forth in §170-1519.B(5).

SECTION 7. Article IX, Flexible Development Procedure, §170-904, Density Standards, Subsection C, shall be amended to read as follows:

- C. The following percentages of the gross area of the tract shall be set aside as minimum required open space for the use and benefit of the residents of the development and/or Township, subject to the standards for measurement of minimum required open space set forth in §170-907.A. Additional open space may be provided: (1) A/C Agricultural/Cluster Residential District: 60%. Where applicable, the minimum required open space shall include at least 85% of any area on the subject property that comprises the Brandywine Battlefield Swath or a portion thereof.
 - (2) R-1 Rural-Suburban Residential District, where single-family detached dwellings are provided: 40%.
 - (3) R-1 Rural-Suburban Residential District, where twin dwellings are provided: 50%.
 - (4) R-1 Rural-Suburban Residential District, where permitted multifamily dwellings are provided: 60%. Where more than one dwelling unit type is provided in the R-1 District, the minimum open space shall be calculated proportionally to the relative proportion of each unit type, as provided in Subsection C(3), (4) and/or (5) above. Additional open space also may be required as a condition of approval of applicable bonus densities.

SECTION 8. Article IX, Flexible Development Procedure, §170-904, Density Standards, Subsection E, Standards applicable to housing sites within a flexible development, Subpart (1)(d), shall be amended to read as follows:

- (d) The acreage set aside for common open space, wastewater management facilities, and rights-of-way of public or private streets shall not be used for computation of net residential density for any residential use. No area used to comply with net density requirements for any particular residential dwelling unit type shall also be used to comply with net density requirements for any other residential dwelling unit type or toward area and bulk requirements for any other permitted use.

SECTION 9. Article IX, Flexible Development Procedure, §170-904, Density Standards, Subsection E, Standards applicable to housing sites within a flexible development, Subparts (2) and (3), are deleted in their entirety, and amended to read as follows:

- (2) Permitted multifamily dwellings shall be designed and constructed in accordance with the following standards:

- (a) Maximum dimensions. No row of townhouses or single structure containing single-family attached dwellings shall exceed 120 feet in any dimension, nor shall exceed five dwellings in a single structure or continuous row. No other structure containing permitted multifamily dwellings shall exceed 100 feet in any dimension.
 - (b) All buildings within an integrated townhouse development shall be set back from the right-of-way line of any street the development abuts a distance of not less than 100 feet.
- (3) Design standards for all flexible development:
- (a) Maximum impervious coverage. Not more than 25% of the gross area of the tract shall be covered by impervious surfaces. At the time of Conditional Use application, the applicant shall demonstrate that compliance with 25% maximum impervious coverage is feasible, including all residential buildings, common area buildings, roads, parking and access means and any other facilities or impervious surfaces, and in addition demonstrating that included within the 25% tract maximum, are allowances for future accessory structures or other impervious surfaces (patios, pools, etc.) which may be permitted on any individual residential building lot.
 - (b) Streets within the flexible development shall be designed in accordance with the terms of Chapter 149, Subdivision and Land Development; provisions for the maintenance of any private streets shall be an essential part of the plan for development. The Township may, but is not required to, accept dedication of the streets within the flexible development for public use. It may require the posting of security in an amount and form satisfactory to it for the construction of such streets, as set forth in Chapter 149, Subdivision and Land Development.
 - (c) Parking requirements.
 - [1] Except where part of a shared parking arrangement authorized under the terms of Article XVII, all required off-street parking shall be developed within the boundaries of the flexible development tract.
 - [2] Except where individual garages are provided, parking for each dwelling unit shall be provided either at the rear of the unit or shall be grouped into one or more parking areas serving a number of dwelling units. Individual curb cuts shall be permitted only for access to garages attached to individual dwelling units. Other front yard parking and individual curb cuts at the street line for access to parking shall not be permitted except where approved as a condition of Conditional Use approval at the discretion of the

Board of Supervisors.

- [3] Provisions for pedestrian circulation paths from parking areas to the residential dwellings and other buildings they serve shall be provided. These paths shall be constructed of an all-weather surface.
- [4] No parking space shall be more than 250 feet from an entrance to the residential dwelling or other building it serves.
- (d) Landscaping: As required by §170-1507 of this chapter.
- (e) Screening: As required by §170-1508 of this chapter.
- (f) Storage: As required by §170-1509 of this chapter.
- (g) Access and traffic control. Routes for vehicular and pedestrian access and parking shall be designed and situated so as to create no nuisances or detractions from privacy. Design of the site shall comply further with the standards in §§170-1510, 170-1511, 170-1512, and 170-1513 of this chapter. Townhouse structures shall be arranged so as to reduce the amount of roads required to serve the development and to provide for an adequate open space design.
- (h) The developer shall make adequate provision for the maintenance of buildings and land within yard areas set aside for condominium development by the organization of a condominium corporation with the responsibility for collection of sufficient levies or fees to pay the cost of such maintenance. Such maintenance may be conducted in conjunction with the requirements of §170-908, where a condominium corporation owns and maintains common open space. Any such terms and provisions shall be consistent with the requirements of the Uniform Condominium Act of 1980.
- (i) All housing shall be designed with regard to topography and natural features of the site in conjunction with the requirements of §170-905.A. The effects of prevailing winds, seasonal temperatures, and hours of sunlight on the physical layout and form of the proposed land use and buildings shall be taken into account.
- (j) To create architectural interest in the layout and character of housing fronting streets, variations in building line shall be encouraged.
- (k) All housing should be sited so as to provide privacy and to ensure natural light in all principal rooms.

- (l) Building height shall be limited to three stories not to exceed 38 feet.
- (m) Routes for vehicular and pedestrian access and parking areas shall be convenient without creating nuisances or detracting from privacy.
- (n) The approximate location and arrangement of buildings and open spaces must be shown on tentative plans so that the Board may review the intensity of land use and serve the public interest by protecting neighboring land uses.
- (o) The following requirements shall apply, except where more stringent criteria apply:
 - [1] No structure shall be within 30 feet of the curb of access roads.
 - [2] No single-family detached dwelling or twin dwelling may be erected within 30 feet of any other structure.
 - [3] The distance between buildings containing multi-family dwellings shall be determined in accordance with the requirements of §170-802.B(7).
 - [4] At its sole discretion, and for purposes of promoting innovative and preferred design of dwellings and structures, the Board may vary the terms of this §170-904.E(3)(o) where deemed appropriate as a condition of Conditional Use approval.
- (p) Single-family detached dwellings, and uses accessory thereto, shall be a minimum of 50 feet, and all other structures shall be a minimum of 100 feet, from the property lines of the tract. Where proposed structures other than single-family detached dwellings will abut tracts containing similar uses, this distance may be reduced to 50 feet. Landscaping shall be required in these boundaries, regardless of the use being proposed. In cases where a one-hundred-foot setback from the tract boundary is required, including where twin dwellings are provided, at least 50 feet shall be a planted buffer conforming to the requirements of §170-1508 and containing no paving.
- (q) Where permitted, apartment dwellings shall comply with the minimum floor area provisions set forth in §170-802.B(3).

SECTION 10. Article IX, Flexible Development Procedure, §170-905, Design Standards, shall be amended to add new Subsections J and K to read as follows:

J. Historical landscapes and scenic views.

- (1) Historical landscapes and scenic views within or across any tract subject to flexible development shall be protected to the greatest extent practicable. As a condition of conditional use approval, the Board may reduce or waive landscape buffering requirements in order to minimize impacts to scenic views otherwise visually accessible to the public.
- (2) Introduced landscaping, utilizing predominantly native vegetation and replicating landscape features characteristic to Westtown and its environs, shall be used to mitigate scenic impacts of development from public roads and neighboring residential properties where such views shall be altered by proposed development, grading, or other improvements necessary to accommodate proposed development. For purposes of this subsection, mitigation shall not require a complete visual screen, where the Township agrees that a filtered or diffuse screen is augmented by other landscaping or site conditions to deflect prominent lines of sight from development impacts or otherwise minimize the visual impacts of development.

K. Stormwater management.

- (1) Stormwater management facilities shall be designed to optimize the capture of stormwater at the sources of generation, maximize recharge to the subsurface groundwater system and minimize discharge to surface water flow. Guidance for stormwater management shall use the most current Best Management Practices (BMPs) such as those promulgated by the Pennsylvania Department of Environmental Protection.
- (2) Collectively, in addition to compliance with the design criteria for stormwater management set forth in Chapter 144 and 149 of the Code of the Township of Westtown, the design of stormwater management facilities across the tract subject to flexible development shall result in groundwater infiltration of stormwater equal in volume to the incremental increase of the two-year storm, pre-development to post-development. For purposes of calculating the pre-development volume of the two-year storm, pre-development land cover conditions shall be assumed to be woodland-good for any area predominantly under cover of trees and meadow-good for any other area, regardless of actual cover conditions. The applicant shall be required to submit soil percolation test results and other credible evidence including a maintenance program satisfactory to demonstrate long-term feasibility of required groundwater infiltration. Where groundwater infiltration of the full incremental volume of the two-year storm is not practicable, the Township may require employment of

other means to mitigate potential groundwater impacts.

SECTION 11. Article IX, Flexible Development Procedure, §170-907, Open Space Standards, Subsection A, Use and Design Standards, Subpart 5(e), shall be amended to read as follows:

- (e) Areas used for subsurface infiltration or land application (irrigation) of stormwater and/or treated wastewater, including open storage or settling ponds accessory to infiltration facilities. All such stormwater and wastewater facilities may be physically located in open space areas but shall be excluded from measurement of the minimum required open space as provided in §170-907.A(6) below.

SECTION 12. Article IX, Flexible Development Procedure, §170-907, Open Space Standards, Subsection A, Use and Design Standards, Subpart 6, shall be amended to read as follows:

- (6) All open space used incrementally toward calculation of minimum required open space, as set forth in §170-904.C shall, in addition to full compliance with all other applicable standards herein, fully exclude any existing or proposed impervious surfaces, stormwater management facilities, wastewater treatment and disposal facilities, wetlands, water bodies, watercourses, 50% of any area of prohibitive slope (including created slopes exceeding 25%), and 50% of any lands subject to floodplain regulations.

SECTION 13. Article IX, Flexible Development Procedure, §170-907, Open Space Standards, Subsection A, Use and Design Standards, Subpart 7(a), shall be amended to read as follows:

- (a) Not less than 75 feet in width at any point and not less than 1/2 acre of contiguous area where used toward calculation of minimum required open space. These dimensional standards may be modified by the Board of Supervisors as a condition of Conditional Use approval where the Board is satisfied that the result of such modification is preferable open space design.

SECTION 14. Article XV, General Regulations, S 170-1502, Projections into setbacks and setback exceptions, Subparagraph F shall be amended to read as follows:

- F. Arbors, garden sheds, private garages, private greenhouses, trellises, workshops, and similar accessory structures shall be permitted within side and rear yard areas provided they do not exceed the height, nor 50% of the footprint, of the principal structure, and shall not exceed applicable impervious cover limitations. The side and rear yard setbacks for such structures shall be no less than the height of the accessory structure, irrespective of any otherwise applicable yard requirement of the district. Any wheels attached to a mobile structure must be removed prior to the issuance of any permits.

SECTION 15. Article XV, General Regulations, §170-1519, Standards for Minimum Tract and Lot Area; Maximum Density of Tract Usage, Subsection B, Maximum Density of use on any Tract within a Particular Zoning District, Subparts (2)(a), (b), (c) and (e) shall be amended to read as follows (Subpart (2)(d) remains unchanged):

- (a) A/C District.
 - [1] Standard single-family detached dwelling subdivision: tract area multiplied by 0.5.
 - [2] Flexible development: tract area multiplied by 0.7.
 - [3] Adult community development: tract area multiplied by 1.0.
- (b) R-1 District.
 - [1] Standard single-family detached dwelling subdivision: tract area multiplied by 1.0.
 - [2] Flexible development: tract area multiplied by 1.1.
- (c) R-2 District:
 - [1] Standard single-family detached dwelling subdivision, served by:
 - [a] On-site sewage and on-site water: tract area multiplied by 1.0.
 - [b] On-site sewage and off-site water, or public off-site sewage and on-site water: tract area multiplied by 1.45.
 - [c] Public off-site sewage and off-site water: tract area multiplied by 1.98.
 - [2] Single-family semidetached or two-family detached dwellings: tract area multiplied by 2.9.
- (e) M-U District.
 - [1] Residential uses authorized in the R-1, R-2, or R-3 Districts: as specified in Subsections B(2)(d)[1][b], [c], and [d] above.
 - [2] Mobile home park: tract area multiplied by four.

SECTION 16. Article XV, General Regulations, §170-1519, Standards for Minimum Tract and Lot Area; Maximum Density of Tract Usage, Subsection B, Maximum Density of use on any Tract within a Particular Zoning District, Subparts (3)(a) and (c) shall be amended to read as follows (Subpart (3)(b) remains unchanged):

- (a) R-3 District.
 - [1] Professional or business office: tract area multiplied by 0.40 (square feet of floor area)
- (c) C-1 District.
 - [1] Total number of permitted, special exception, or conditional uses: tract area multiplied by 0.5.
 - [2] Total amount of square feet of floor area per use: lot area (as determined by § 170-1519C, below) multiplied by 0.40.

SECTION 17. Article XV, General Regulations, §170-1519, Standards for Minimum Tract and Lot Area; Maximum Density of Tract Usage, Subsection B, Maximum Density of use on any Tract within a Particular Zoning District, shall be amended to add new Subpart (5) to read as follows:

- (5) Bonus Density for Historic Preservation, subject to conditional use approval:
 - (a) Bonus dwelling units for preservation of historic resources and landscapes. One additional dwelling unit may be provided for each two acres comprising a lot (or open space parcel) which contains any Township-, state- or federally designated Historic Resource and where such acreage otherwise meets all applicable criteria for open space. The use of this bonus shall be limited to no more than four bonus dwelling units for each distinct historic landscape preserved and shall be subject to the following criteria:
 - [1] The Township shall approve the configuration of the lot and/or restricted open space created to accommodate preservation of the historic landscape, which shall include, at a minimum, those portions of the property that contain outbuildings or ruins associated with the historical use of the principal historic building(s) and/or those areas of greatest public visibility.
 - [2] In order to be eligible for this bonus, the historical setting, including all acreage used to calculate bonus dwelling units, and the principal facades of any historical structures shall be preserved through establishment of a conservation easement acceptable to the Township. Such easement shall be recorded prior to or simultaneously with the recording of approved land development

plans and prior to issuance of building permits, as applicable, for any situation where this bonus shall be utilized.

[3] Land(s) utilized for calculation of this bonus also may be counted toward the calculation of required or bonus open space, where applicable open space, criteria are met.

(b) Additional bonus dwelling units for historic restoration/rehabilitation. Where preservation of historic sites, as provided in §170-1519.B(5)(a) above, includes restoration or rehabilitation of historic structures approved by the Township, one additional dwelling unit may be provided for each 2,000 square feet, or portion thereof exceeding 1,000 square feet, of floor area on all floor levels in the historic sections of such structures which are restored or rehabilitated, subject to the following requirements:

[1] Eligible structures shall have been used historically as principal residential or agricultural structures or structures accessory to a principal residential use and shall be included or be eligible for inclusion as part of a Township-, state- or federally designated Historic Resource or historic district;

[2] The applicant shall demonstrate to the satisfaction of the Township, submitting copies of appropriate plans and other documentation as necessary, that such structures have been or shall be restored and/or rehabilitated in accordance with plans prepared by a qualified restoration architect and in general compliance with the U.S Department of the Interior Standards for Rehabilitation of Historic Structures;

[3] All principal facades of eligible historic structures shall be preserved through establishment of conservation easement(s) acceptable to the Township;

[4] This bonus shall not apply if the integrity and scale of eligible historic structures have been or will be altered by additions that overwhelm their historic integrity due to the size of such addition(s) or to the use of modern or inappropriately scaled or proportioned materials, including exterior skins, windows, doors, chimneys, porches, and other features.

(c) Limitation to use of historic preservation bonus. An historic preservation bonus shall not be applicable if the owner, subdivision/land development applicant, or developer of the subject property shall or has, within three years of the development application period or during actual development, destroyed or demolished any Historic Resource as defined herein without the express approval of the Township.

SECTION 18. Article XX, Administration, §170-2009, Conditional Uses, Subsection D, Standards for Conditional Use Approval, Subpart (1)(h), shall be amended to read as follows:

- (h) The burden of proof shall be upon the applicant, to prove to the satisfaction of the Board of Supervisors by credible evidence, including a Traffic Impact Study addressing the requirements of §149-804.A(1) – (11) and the Pennsylvania Department of Transportation, prepared by a licensed Professional Engineer, that the use will not result in a traffic hazard or traffic congestion within or along existing roads and road intersections adjacent to the tract proposed to be developed, or magnify any existing traffic hazard or traffic congestion within or along existing roads and road intersections adjacent to the tract proposed to be developed. The traffic generated by the development shall be accommodated in a safe and efficient manner on all roads and road intersections internal to the development site, and on all adjacent roads, accesses and road intersections external to the development site. This may include pedestrian and other travel modes as determined appropriate by the Board. The Traffic Impact Study shall identify any and all traffic capacity and traffic safety improvements within or along existing roads and road intersections adjacent to the tract proposed to be developed, and on all roads and road intersections internal to the development site, that are necessary to accommodate the traffic generated by the development. This includes vehicular and non-vehicular connections, as well as facilities to encourage and support non-automotive traffic. As a condition of approval, the Board shall require the applicant to complete and/or fund these traffic improvements, or provide surety for required improvements which may be completed by others.

SECTION 19. If any sentence, clause or section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or validity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisor that this Ordinance would have been adopted had such unconstitutional, illegal, invalid sentence, clause, section or part thereof not been included herein.

SECTION 20. All ordinances or parts of ordinances conflicting or inconsistent herewith are hereby repealed.

SECTION 21. This Ordinance will be effective five (5) days after enactment.

ENACTED AND ORDAINED this 19TH day of August, 2019.

ATTEST:

WESTTOWN TOWNSHIP

Robert R. Pilgus
Secretary

Scott E. Yaw
Scott E. Yaw, Chair

Mike T. Di Domenico
Mike T. Di Domenico, Vice Chair

Carol R. De Wolf
Carol R. De Wolf, Police Commissioner

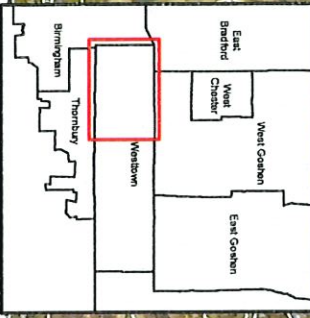


APPENDIX A

BRANDYWINE BATTLEFIELD SWATH IN WESTTOWN TOWNSHIP, CHESTER COUNTY, PA



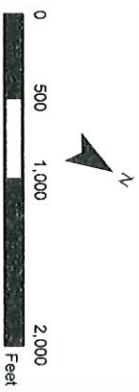
WESTTOWN
TOWNSHIP



Prepared By:
Chester County Planning Commission
July 25, 2019
[2014 Orthophotos]



Brandywine Battlefield Swath
Approximate troop movements and battlefield skirmishes based on interpretation of information in the Brandywine Battlefield Study (2010) and Brandywine Battlefield Preservation Plan (2013)



John D. Snook
300 Barn Hill Road
West Chester, PA 19382
snookjohnd@gmail.com
610-314-5378

Memorandum

December 3, 2020

To: Westtown Township Planning Commission

From: John D. Snook

Re: Dogs – Revised Text

The text below is prepared in ordinance adoption format and reflects our prior discussion as well as input from Solicitor Pat McKenna. Highlighted text shows key changes since our last discussion, including both revised and new text. This mainly reflects input from the PA Federation of Dogs Clubs, which had provided sample text from other jurisdictions which we discussed, and based on your advice to me to incorporate what I thought improved upon our earlier draft. The adoption format is also new but is not highlighted since it is not substantive in nature.

ORDINANCE NO. _____ OF 2021
WESTTOWN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

AN ORDINANCE OF WESTTOWN TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE TOWNSHIP OF WESTTOWN, SPECIFICALLY, CHAPTER 49, ANIMALS, ESTABLISHING ARTICLE I, DOGS, §49-100, REGARDING THE PURPOSE OF THE ARTICLE; §49-101, REGARDING THE ADDITION OF DEFINITIONS; §49-102, REGARDING RESTRICTIONS OF DOGS; §49-103, REGARDING RUNNING OF DOGS AT LARGE; §49-104, REGARDING THE PROHIBITION OF CONTINUOUS BARKING OF DOGS; §49-105, REGARDING THE ISSUANCE OF WARNINGS; AND §49-106, REGARDING VIOLATIONS AND ENFORCEMENT.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Westtown Township, Chester County, Pennsylvania, that Part II, General Legislation, Chapter 49, Animals of the Code of the Township of Westtown shall be amended to delete the parenthetical “[This chapter is reserved for future animals legislation.]” and to establish Article I, Dogs, as follows:

SECTION 1. Part II, General Legislation, Chapter 49, Animals, Article I, Dogs, of the Code is hereby established to include the following sections:

Article I **Dogs.**

§49-100 Purpose.

The intent of this Article is to establish reasonable regulations governing the keeping of dogs in order to protect human and dog health and reduce the safety and nuisance hazards of straying dogs or incessant noise of dogs. Nothing in this Article shall be construed or enforced in such a way as to conflict with Pennsylvania's Right to Farm Act (RTFA), 3 P.S. § 951 et seq., the Agricultural Area Security Law (AASL), 3 P. S. § 901 et seq., the Agriculture Communities and Rural Environment (ACRE) Law, 3 P.S. § 311 et seq., or other state law or statute which prohibits inconsistent regulation by a local municipality.

§49-101 Definitions.

OWNER

Includes every person having a right of proprietorship or ownership in a dog and every person who keeps or harbors such dog or has it in his care and any person who permits a dog to remain on or about any premises occupied by him.

RUNNING OF DOGS AT LARGE

Shall mean any dog not under immediate control, not on a leash or lead, not at heel, not beside a competent person, not in a vehicle driven or parked, or not confined within the property limits of his owner, except as provided below.

A dog shall not be considered to be "running at large" in the following circumstances:

Dogs Used for Hunting or Tracking. Dogs used for hunting or tracking shall not be deemed to be running at large provided any such dog is wearing a collar with a tag showing the name and telephone number of the owner of the dog and the hunting or tracking is being conducted with the permission of the landowner.

Field trials or training. During field trials or formal obedience, agility, or similar training periods when the dog is accompanied by its owner or custodian.

Fenced dog park or exercise area. When the dog is in a securely fenced, specifically designated dog park or dog exercise area established by a governmental entity, a homeowner's association, or a community organization, where the fencing is designed to prevent a dog from escaping.

Service dog; when leashing is not required. When the dog is a service animal whose handler, because of a disability, is unable to use a harness, leash, or other tether, or the use of such a device would interfere with the service dog's safe and effective performance of work or tasks, provided that the service dog is otherwise under the handler's control through voice control, signals, or other effective means.

Public service training. During search and rescue and similar public service training when the dog is accompanied by its owner or custodian, or by a qualified handler, provided the owner, custodian, or handler has the express permission of the owner or occupant of the property on which the dogs are being trained.

Farm dogs. When the dog is a working farm dog that is either guarding or herding cows, fowl, goats, sheep, swine, or other domestic animals normally raised on a farm.

§49-102 Restrictions of Dogs.

- A. The owners of every dog within the Township of Westtown shall at all times take reasonable care and precaution to prevent the dog from leaving the real property limits of its owner, possessor, or custodian, and ensure that:
1. It is securely and humanely enclosed within a house, building, fence, pen or other enclosure out of which it cannot climb, dig, jump, or otherwise escape on its own volition; and that such enclosure is securely locked at any time the animal is left unattended; or
 2. It is securely and humanely restrained by an invisible containment system. If using an invisible containment system, a sign must be posted on the property indicating that the system is in place; or
 3. It is on a leash or lead and under the control of a competent person; or it is off leash or lead and obedient to and under voice command of a competent person who is in the immediate proximity of the dog any time it is not otherwise restrained.
- B. No person shall permit a dog which is under his or her custody or control, either by leash or lead, restraint, verbal command or otherwise, to deposit feces upon any other person's private property or on any public property, including but not limited to sidewalks, pathways, streets, parking lots, parks, waters or other public property of any kind. All persons exercising custody or control of dogs shall be required to immediately cleanup and remove any feces resulting from the dog's presence on any such public or private property, for proper disposal as solid waste.

§49-103 Running of Dogs at Large.

It shall be unlawful for the owner or keeper of any dog to permit such dog to run at large in Westtown Township. Any such dog found to be running at large, whether licensed or unlicensed, shall be subject to seizure, detention and disposition by the Westtown-East

Goshen Regional Police Department or agency employed by the Township to carry out such seizure, detention or disposition in accordance with the provisions of the Pennsylvania Dog Law, as amended from time to time.

§49-104 Continuous Barking of Dogs Prohibited.

No person shall own, possess, harbor or control any dog which howls or barks continuously or incessantly for a period of 10 minutes or makes such noise intermittently for 1/2 hour or more to the disturbance of any person at any time of the day or night, regardless of whether the dog is situated in or upon private property; provided, however, that at the time the dog is making such noise, no person is trespassing or threatening to trespass upon private property in or upon which the dog is situated or for any other cause which teased or provoked the dog.

§49-105 Issuance of Warnings.

Prior to the issuance of a citation for a violation of § 49-104, a warning shall be issued to the owner of the dog. Upon notification that a person is violating § 49-104, the Regional Police, Code Enforcement Officer or Zoning Officer may issue a warning to the owner of the dog. The warning shall be hand-delivered or sent by certified mail, return receipt requested, and shall include a copy of § 49-104 and a notice that a fine will be imposed for the second and all subsequent violations in accordance with § 49-106C.

§49-106 Violation and Enforcement Provision.

- A. Any person who violates or permits the violation of any provision of this Article, except § 49-104, shall, upon being found liable therefor in a criminal enforcement proceeding commenced by the Township before a District Justice, pay a fine for each such violation in an amount not less than \$50 and not more than \$200, plus all court costs, including reasonable attorney fees, incurred by the Township. No judgment shall be imposed until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of criminal procedure.
- B. Any person who is found liable for any second or subsequent offense for a violation of any provision of this Article, except § 49-104, shall, upon being found liable therefor in a criminal enforcement proceeding commenced by the Township before a District Justice, pay a fine for each such violation in an amount not less than \$200 and not more than \$600, plus all court costs, including reasonable attorney fees, incurred by the Township. No judgment shall be imposed until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of criminal procedure.

C. Violation of § 49-104.

1. Any person who violates or permits the violation of § 49-104 of this Article shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a District Justice, pay a fine in the following amounts, plus all court costs, including reasonable attorneys' fees, incurred by the Township:
 - (a) First violation in any calendar year: fine of \$25.
 - (b) Second violation in any calendar year: fine of \$50.
 - (c) Third and subsequent violations in any calendar year: fine of no less than \$100 and no more than \$600.
2. Each violation on any single day shall be considered a separate violation from any violation involving the same owner on any other day, including consecutive days.
3. No judgment shall be imposed until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure.

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

SECTION 3. All ordinances or parts of ordinances conflicting with any provisions of this ordinance are hereby repealed insofar as the same affects this ordinance.

SECTION 4. This amendment shall take effect and be in full force and effect five (5) days from and after the date of its final passage and adoption.

ENACTED AND ORDAINED by the Board of Supervisors of Westtown Township this ____ day of _____, 2021.

**WESTTOWN TOWNSHIP
BOARD OF SUPERVISORS**

Richard Pomerantz, Chair

Carol DeWolf, Vice Chair

Scott Yaw, Police Commissioner

Attest:

Jon Altshul, Township Manager

Memorandum

11/13/20

To: Westtown Township Planning Commission

From: John D. Snook

Re: Storage Regulations

Chapter 170, Zoning, Article XV, §170-1509, Storage

Storage is one of the issues on your list of potential amendments, but with only the note that it needs to specifically deal with residential properties, presumably as different from non-residential properties. Included below is the existing "Storage" section (170-1509) in the Westtown Zoning Ordinance, followed by a sample from Lower Mount Bethel Township, Northampton County ("LMB"), which I recently drafted for them in the context of a complete new Zoning Ordinance, and which specifically deals with residential properties. There is no "magic" about the sample; it is simply provided for purposes of discussion by the Planning Commission, to note both differences and things that are not part of the current Westtown ordinance but may be useful and pertinent.

§170-1509, Storage

The following standards shall apply to the storage of all man-made materials:

- A. Storage for periods in excess of 30 days shall be screened from view of any public right-of-way and any contiguous residential use. Screening shall consist of continuous evergreen plantings and/or include an architectural screen.
- B. No storage shall be permitted within the front yard of a lot.
- C. No merchandise, goods, articles, or equipment shall be stored, displayed, or offered for sale outside any building except seasonal articles which are too large or otherwise infeasible to be stored indoors. Such articles shall be stored adjacent to the principal building housing the commercial use, and shall be enclosed by either walls or opaque fencing designed to be architecturally compatible with the building. Such enclosure shall be at least six feet high. Any outdoor display area shall be considered sales floor area for purposes of computing building coverage and parking requirements.
- D. Any organic refuse and garbage shall be stored in tight, verminproof containers. On multifamily, commercial, or industrial properties, solid waste storage shall be centralized to expedite collection. Storage containers shall be enclosed on three sides with masonry walls and shall be architecturally screened.

Commented [JS1]: While the current Westtown section is entitled "Storage," it essentially deals with outdoor storage and should not be confused with self-storage facilities, for example, which are an indoor commercial use and probably should be dealt with specifically.

Commented [JS2]: Not all items stored are man-made. Note Subsection A.1 in the LMB sample which previously had said "man-made," but which wording was revised and expanded to include a more specific list and also exclude storage in connection with agriculture and timber harvesting which are protected uses by state regulation.

Commented [JS3]: The LMB sample does not provide a 30-day "grace period," although a violator, upon notice would typically be given 30 days to remove the violation if not immediately hazardous.

Commented [JS4]: The Westtown text does not include specific reference to otherwise applicable landscaping or screening regulations as the LMB sample does.

Commented [JS5]: Subsections A-F here are generally consistent with the LMB model, which goes further in separating out residential uses and as noted below.

Commented [JS6]: The LMB sample text does not specifically identify merchandise storage outdoors; this is something potentially beneficial in the existing Westtown text.

E. Flammable and combustible liquids, solids, or gases shall be stored in accordance with the Township Fire Code.[1] There shall be no storage of hazardous waste anywhere within the Township, including temporary storage in a parked vehicle. Hazardous waste shall be as defined in Pa. Act 97-1980, the Solid Waste Management Act (35 P.S. § 6018.101 et seq.), or any subsequent amendment or revision thereto.

[1] Editor's Note: See Ch. 87, Fire Prevention.

F. Any establishment which furnishes carts or mobile baskets as an adjunct to shopping shall provide definite locations within the required parking areas for storage of said carts. Each designated storage location shall be clearly marked for storage of shopping carts. Signs indicating the storage locations shall not be considered as regulated by the provisions of Article XVIII.

§170-1509, Outdoor Storage. Sample from Lower Mount Bethel Township

A. General Requirements

1. Outdoor storage of products, materials, equipment, machinery, or supplies other than those accessory to a permitted agricultural use or timber harvesting operation shall be screened from view of public rights-of-way and adjacent residential uses. Screen landscaping shall be in accordance with Section ____.
2. All organic refuse or garbage shall be stored in tight, vermin-proof containers. In multiple family, commercial and industrial developments, garbage storage shall be centralized to expedite collection and enclosed on three (3) sides by an architectural screen or plantings.
3. No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground, except the following where permitted by the fire marshal and where enclosed within an approved safety fence, compatible with the architectural and landscaping style employed on the lot. Permitted liquid storage tanks shall be enclosed by a moat or berm to contain potential spillage.
 - a. Tanks or drums of fuel connected directly with and located and operated on the same lot as the devices or appliances they serve.
 - b. Tanks or drums for storage of not more than three hundred (300) gallons of fuel oil or gasoline or diesel fuel, provided such tanks are located no closer than twenty-five (25) feet to any lot line.
4. No materials or wastes shall be deposited upon a lot in such form or manner that they may contaminate a stream or watercourse, or otherwise

Commented [JS7]: The LMB model specifies "outdoor storage."

Commented [JS8]: Highlighted sections or portions of sections below, or as specifically noted, go further than or otherwise differ from the Westtown text.

Commented [JS9]: This subsection is more specific than the Westtown text yet includes certain exclusions and does not define "hazardous" or reference the fire code as does the Westtown text.

render such stream or watercourse undesirable as a source of water supply or recreation, or which will destroy aquatic life, be allowed to enter any stream or watercourse.

5. No vehicles without current license plates shall be stored outside on any lot.

B. Residential Outdoor Storage

1. Recreational Vehicles.

a. Not more than one recreational vehicle, including travel trailers and water craft, shall be parked or stored on any residential property, except in a carport or enclosed building or to the rear of the rear-most wall of the dwelling where screened from view from any public road or neighboring residential property, provided, however, that such equipment may be parked anywhere on residential premises for a period not to exceed forty-eight (48) hours.

b. No such equipment shall be used for dwelling purposes on a residential lot for more than seven days per quarter.

2. No storage shall be permitted within the front yard of any residential lot. In the case of a reverse-frontage or corner lot where more than one yard is considered a front yard, storage may be permitted beyond the minimum front yard setback in no more than one such front yard.

C. Non-Residential Outdoor Storage

For all non-residential uses, storage of materials, equipment or vehicles, but not including parking and similar activities, shall be carried on within a building, except that outdoor storage for a permitted agricultural, industrial or commercial use may be authorized where all of the following conditions are met:

1. The agricultural, industrial or commercial use involved traditionally employs long-term outdoor storage of materials or products (e.g., lumber yard).

2. Such storage is needed for the successful operation of the use, and the proposed site is suitable for outdoor storage.

3. The applicant can demonstrate that indoor storage is not practical.

4. The standards described in Section _____, Access and Traffic Control, herein, shall be met.

Commented [JS10]: Note that residential properties are also subject to all of the provisions in subsection A above but not to the specific provisions for non-residential properties in subsection C below.

5. The materials stored shall not exceed eight (8) feet in height and the storage area shall comply with setback and impervious coverage requirements, measured as if the storage area, when full up to eight (8) feet in height, were an accessory structure.
6. The storage shall comply with any applicable condition of a prior plan approval.
7. The storage area shall be located to the side or rear of the property behind the front building line of any principal structure.
8. The storage area shall be screened from view from any public right-of-way or any residential use or zoning district by buildings, walls or an effective landscape screen, as set forth in Section ____ of this Ordinance.
9. Any establishment which furnishes shopping carts as an adjunct to shopping shall provide definite areas within the building and parking area for storage of said carts. Each designated storage area shall be enclosed by a barrier at least six (6) inches higher than the parking area surface, and shall be clearly marked for storage of shopping carts. All shopping carts shall be stored indoors, or otherwise secured during non-operating hours.

Commented [JS11]: This subsection goes further than the current Westtown text in dealing with **indoor and** outdoor storage of shopping carts. The Westtown text excludes signage for shopping carts from otherwise applicable sign regulations, which LMB does not.