

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 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 or otherwise specifically designated dog park or dog exercise area established by a governmental entity, a homeowner's association, or a community organization, where the park 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 activities/training (e.g., "K-9"). During search and rescue and similar public service activities and training exercises, when the dog is accompanied by its owner or custodian, or by a qualified handler, provided that during training exercises, the owner, custodian, or handler has the express permission of the owner or occupant of the property on which the dog(s) 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, effective 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.

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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

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

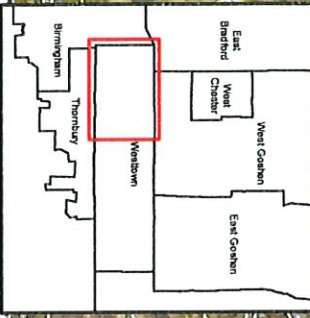
Mike T. Di Domenico
Mike T. Di Domenico, Vice Chair

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



APPENDIX A

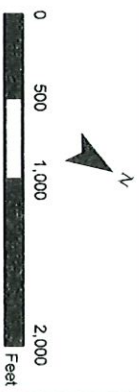
BRANDYWINE BATTLEFIELD SWATH IN WESTTOWN TOWNSHIP, CHESTER COUNTY, PA



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)



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.

Deleted: in correspondence to Westtown Township from

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

Deleted: as

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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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

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

Memorandum

December 22, 2020

To: Westtown Township Planning Commission

From: John D. Snook

Re: Ordinance Amendments re Flex Development and related concerns

Despite the length of this Memo, we should be able to review the actual proposed amendments briefly on Wednesday evening and Mila and I will make sure we can share the attachments on screen. Key issues and changes are indicated in the further attachment in “track changes” (red-line).

The key purpose of the attached set of amendments to the Flex Development and related provisions that we are considering is to improve upon the process and results of Flex Development, in relation to the scenic, historic, community development, and natural resource protection objectives fully incorporated into the 2019 Westtown Township Comprehensive Plan Update, adopted in March of 2019.

An earlier start at these efforts had been made. These amendments are built upon the base of amendments pertaining to Flex Development and related sections that were adopted in August of 2019 and then repealed in March of 2020, presumably due to a lawsuit or threat of lawsuit intended to make sure that there was no ability for the Township to apply the revised text to any application at that time.

Even prior to the August adoption, due to comments from the Chester County Planning Commission, from your Planning Commission, and from further review by Will Ethridge and me, we had uncovered additional recommended amendments relating to the same text. Those amendments were prepared in final format months ago, but never acted upon.

Recently, we have discussed yet further potentially important amendments at the Planning Commission, some resulting from the flurry of activity in the COVID era that have exposed certain ambiguities in the Zoning Ordinance.

Any lawsuit regarding any current on-going application is now entirely moot, as any further efforts on our behalf to perfect the Flex Development and related issues will clearly ONLY apply to future applications.

For better or for worse, in attempting to pull of these amendments into one cohesive and coherent package, I have encountered yet additional amendment needs. Many smaller format glitches turned up, probably due to the conversion of the text from one computer to another, I believe the final text of the original August, 2019 adoption came from Pat McKenna's office, possibly as a PDF, and then was converted to a Word Document, or a different Word format, prior to it being sent to me by Will Ethridge.

Unfortunately, I also uncovered additional glitches in the form of duplicative text in §170-904 and §170-905. These probably flew below the radar in the prior prepared amendments because they dealt with subparagraphs or portions thereof, that we otherwise did not specifically intend to amend at that time, but were discovered in my focus on determining the appropriate places for our more recent amendment discussion. I have removed duplicative text and moved pertinent text to the appropriate sections.

Nevertheless, I have pulled all of the August, 2019 amendments, the amendments prepared immediately thereafter, and those resulting from our recent discussion into a single proposed set of amendments, in the format of the August, 2019 amendments as proposed at that time.

The attached amendment document starts with the August, 2019 amendments shown in standard text, as these had previously been approved by the Planning Commission, the Chester County Planning Commission, the Solicitor, and the Board of Supervisors. Subsequent further amendments are indicated in "track changes." In Section 9 and (new) Section 10, I have deleted duplicative text that is presently in 170-904.E and in sections of 170-905, previously not proposed for amendment. In (new) Section 10 and in (new) Section 11, subpart 170-905 L, sections of 170-905 now included in the amendments, I have added in pertinent removed text from 170-904.E, as indicated in "track changes."

Yours, John