

Memorandum

2/26/21

To: Westtown Township Planning Commission

From: John D. Snook, in coordination with Maggie Dobbs

Re: Storage Regulations

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

Text shown in track changes prior to our 2/17/21 meeting is now "accepted," with new changes indicated in track changes. Comments which have been resolved are deleted.

Definitions:

ACCESSORY USE OR STRUCTURE *[Existing definition]*

A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

~~**ACCESSORY STORAGE STRUCTURES**~~

~~Permitted Accessory Structures may be used for Indoor Storage as an Accessory Use. Indoor Storage structures or units comprising a principal use, including Self Storage Units or Structures shall be regulated as a commercial use. Temporary accessory storage structures including, for example, "pods," even while enclosed, shall be regulated as Outdoor Storage.~~

FUEL

Any material, as coal, oil, gas, wood, etc., burned to supply heat or power.

HAZARDOUS SUBSTANCES

Hazardous Substances means:

- A. Those substances listed in, defined in or regulated as hazardous, toxic, pollutants, contaminants or harmful to human health or the environment under any Environmental Law, including the following U.S. federal statutes and their Pennsylvania counterparts, as each may be amended from time to time, and all regulations thereunder: the Resource Conservation and Recovery Act ("RCRA"), the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), the Toxic Substances Control Act ("TSCA"), the Clean Water Act ("CWA"), the Safe Drinking Water Act, the Atomic Energy Act and the Clean Air Act ("CAA"); the Solid Waste Management Act, (35 P.S. §§ 6018.101 – 6018.1003), the Clean Streams Law ("CSL") (35 P. S. §§ 691.1-691.1001), the Municipal Waste

Commented [JS1]: Deleted definition; made sure pods, freezers, etc. are regulated as outside storage. Self storage facilities to be listed as a permitted use in C-2

Commented [MD2]: This acts less like a definition and more like a string of regulations impacting accessory uses. It may be more suitable to amend the accessory uses article to provide for these specific accessory use types as being permitted or not permitted under residential uses. The commercial use of a "self-storage facility" may actually be better off being added as a by-right (or conditional use/special exception) in the zoning districts where it will/should be permitted.

In sum: this isn't a useful definition. Use regulations articulated in this definition should be incorporated into the appropriate code sections instead.

Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101-4000.1904), the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101-6020.1305), the Low-Level Radioactive Waste Disposal Act (35 P. S. §§ 7130.101-7130.905), the act of July 13, 1988 (P. L. 525, No. 93) (35 P. S. §§ 6019.1-6019.6), known as the Infectious and Chemotherapeutic Waste Disposal Law, the Air Pollution Control Act (35 P. S. §§ 4001-4015), the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1-1396.19b), the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301- 3326), the Dam Safety and Encroachments Act (32 P. S. §§ 693.1-693.27), and any other State or Federal statutes or applicable rules and regulations relating to environmental protection or the protection of public health; and

- B. Petroleum and petroleum products, including crude oil and any fractions thereof; and
- C. Polychlorinated biphenyls, mold, methane, asbestos; and
- D. Any substances or materials that:
 - (1) Are or become defined as hazardous wastes, hazardous substances, pollutants, contaminants or toxic substances under any Environmental Law;
 - (2) Are defined by any applicable environmental law as toxic, explosive, corrosive, ignitable, infectious, radioactive, mutagenic or otherwise hazardous;
 - (3) The presence of which require investigation or response under any applicable environmental law;
 - (4) Constitute a nuisance, trespass or health or safety hazard to Persons or neighboring properties;
 - (5) Consist of underground or aboveground storage tanks, whether empty, filled or partially filled with any hazardous substance; or
 - (6) Contain, without limitation, asbestos, polychlorinated biphenyls, urea formaldehyde foam insulation, petroleum hydrocarbons, petroleum derived substances or wastes, crude oil, nuclear fuel, natural gas or synthetic gas.

HAZARDOUS WASTE

Any waste which consists in any part of a chemical, compound, mixture, substance or article designated by a federal agency, including the United States Environmental Protection Agency, commonwealth, county or township agency to be "hazardous," "toxic" or "dangerous," as those terms are defined by or pursuant to federal, state, county or local law.

JUNKYARD OR SALVAGE YARD

An area of land, with or without buildings, which is used for the storage, outside a completely enclosed building, of used and discarded materials, including but not limited to: waste paper, rags, metal, building materials, house furnishings, machinery, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale, or other use or disposition of the same. The deposit or storage on a lot of two or more unlicensed, wrecked, or disabled vehicles, or the major parts thereof, shall be deemed a junkyard.

SELF STORAGE UNITS OR STRUCTURES FACILITIES

Self Storage Units or Structures are Indoor Storage facilities, whether one or more in a single structure, or single, or multi-story, or with or without individual outside access, usually made available for rent to individuals ~~and are regulated as a principal commercial use where permitted.~~

STORAGE

A. Indoor Storage - Storage of permitted materials, subject to Chapter 87, Fire Prevention, in a permanently enclosed structure, either within a principal building or an accessory structure, in accordance with the standards of §170-1603 Accessory uses and structures, as applicable.

B. Outdoor Storage - Storage of permitted materials in a semi-enclosed structure or completely in the open in accordance with the standards of §170-1509.

C. Underground Storage - Storage of any tanks or other structures underneath the ground's surface as regulated by all applicable standards required by federal or state agencies, Chester County or Westtown Township.

VEHICLE

~~Something used as an instrument of conveyance. It can include any conveyance used for transporting passengers or things by land, water, or air.~~

WAREHOUSING WAREHOUSE

Commented [JS3]: Definition deleted; instead, individual vehicle types are listed where regulated.

Commented [JS4]: See Maggie's comment below; we probably should keep the definition, amended as suggested, because the term "warehouse" is used once elsewhere in the ordinance (170-1705, parking) but not in any district listings as Maggie notes.

Commented [MD5R4]: The existing definition is a verb, but shouldn't we be defining uses? Where would you want to cross reference this? The usage of this term is limited to just the definitions, it's not used elsewhere, nor is it a permitted commercial use in the C-1 or C-2 districts.

~~The~~ A commercial structure used for the temporary storage of goods and materials within a building, generally for subsequent distribution to other locations and not involving retail activities.

§170-11A01.A, Add the following:

(1) Self Storage Facilities.

§170-11A01.C, Add the following:

(2) Junkyard or Salvage Yard in accordance with §170-1620.

§170-1509, Outdoor Storage

A. General Requirements

1. There shall be no storage of Hazardous Waste as defined in § 170-201 anywhere within the Township, ~~including temporary storage in a parked vehicle.~~
2. There shall be no storage of Hazardous Substances as defined in § 170-201 anywhere within the Township, except where permitted subject to state or federal regulation or as otherwise provided herein.
3. No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground or below ground, except where permitted in accordance with applicable state or federal regulation and in accordance with Chapter 87 of the Township Code, Fire Prevention. In the case of above ground storage, materials shall be 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~~ means to contain potential spillage.
 - a. Tanks or drums of fuel which are 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, provided such tanks are located no closer than twenty-five (25) feet to any lot line.
 - ~~b.c.~~ Portable storage tanks less than ~~x~~ gallons
4. Outdoor storage, for periods in excess of 30 days except where linked to a permitted activity (e.g., construction, etc.) ~~with~~ under a specifically defined building permit duration, or as otherwise provided herein, of products,

Commented [JS6]: Need to establish size limit and still awaiting input from Fire Companies

materials, equipment, machinery, or supplies shall be screened from view of public rights-of-way and adjacent residential uses or zoning districts. Screening ~~landscaping~~ shall be effected through fences or walls or landscaping in accordance with § 170-1508. Screening shall not apply to storage accessory to a permitted agricultural use, nursery or garden center, or active timber harvesting operation, or where otherwise permitted for a specific commercial use, or solid waste not included in the definition of Hazardous Waste in § 170-201.

Commented [JS7]: Why do we want to exclude solid waste storage from screening?

5. All permitted organic refuse or garbage ~~permitted~~ shall be stored in tight, vermin-proof containers. In multi-~~ple~~-family, commercial, and industrial developments, solid waste storage shall be located so as centralized to expedite collection and enclosed on three (3) sides by masonry walls or opaque fencing.
6. No storage and no materials or wastes shall be deposited upon a lot or allowed to accumulate in such form or manner where not in compliance with the Pa. Clean Streams Law, 35 P.S. §§ 691, et seq., the Pa. Solid Waste Management Act, 35 P.S. §§ 6018.101, et seq., the Pa. Air Pollution Control Act, 35 P.S. §§ 4000, et seq., and any other applicable local, state or federal law, and any applicable rules and regulations.
7. No storage shall be permitted which constitutes disposal under applicable local, state or federal law.
8. No vehicles including but not limited to motor vehicles, trailers, and motorized water craft without applicable current license plates and/or registration, shall be stored outside on any lot.
- ~~8-9.~~ No permitted vehicle shall be parked such that it overhangs into the public right-of way.
- ~~9-10.~~ No storage shall be permitted which threatens or causes release of polluting substances or materials, contaminants, hazardous substances, etc. or other similar irritants into the environment; or otherwise causes pollution or environmental degradation.
- ~~10-11.~~ No outdoor storage shall be permitted of human or animal remains, ~~etc.~~
- ~~11-12.~~ No storage shall be permitted within access rights-of-way, or on drainage areas, culverts, stormwater management structures, floodways or other environmentally sensitive areas.
- ~~12-13.~~ No storage is permitted if the storage is likely to cause, or causes, a nuisance, or otherwise threatens to adversely affect public health, safety and welfare.

B. Residential Outdoor Storage

All outdoor storage on residential lots shall comply with the general standards above and the following:

1. Recreational Vehicles.

a. ~~Not more than one~~ **No recreational vehicles**, 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 ~~or side 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~~ **seventy-two (72)** hours.

Commented [JS8]: Section 170-1700.D states, "No motor home, travel trailer, boat, or boat trailer shall be parked within any front yard."

Commented [MD9]: These are open-air – do we want them to just be covered by a car port or should it be in an enclosed building like an attached or detached garage or other accessory structure?

Commented [JS10R9]: I think carports are OK since they need to be within the yard areas since they are structures.

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

Commented [MD11]: Consecutive or non-consecutive?

Commented [JS12R11]: I would say consecutive unless you think that is too liberal

2. Temporary accessory storage **units**-structures including, ~~for example, "pods" or~~ **dumpsters or modular storage units** may be permitted in the front yard or driveway ~~or an approved parking space directly along the frontage of the subject property~~ for not more than 60 days, except ~~that a longer period may be permitted~~ where linked to a permitted activity (e.g., construction, etc.) ~~withunder~~ a specifically defined **building permit** duration.

3. Except as provided in subsections 170-1509.B.1 and 2 above, 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, where screened from view of public rights-of-way and adjacent residential uses or residential zoning districts.

4. Outdoor storage of construction equipment or materials, where not required for on-site construction pursuant to a valid construction permit or for normal property maintenance, shall not be permitted.

5. **Appliances and household furniture that are not designated for exterior use are prohibited in front yards, open front porches, and open carports.**

Commented [JS13]: This seems to me to reach a bit too far, given all the front yard provisions and screening provisions.

Commented [MD14R13]: I would generally agree – I would want to double check the property maintenance code though to make sure people can't be dumping things like tires and old washing machines on their lawns for years at a time.

Commented [JS15R13]: Maybe just exclude them in front yards?

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, timber harvesting, industrial, or commercial use may be authorized where the general standards above are complied with and 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. 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.
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 or permit approval.
7. Any establishment which furnishes shopping carts as an adjunct to shopping shall provide definite designated 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 to wholly contain/corral the carts from exiting the designated area,~~ and shall be clearly marked for storage of shopping carts. All shopping carts shall be stored indoors, or otherwise secured during non-operating hours.
- 7.8. Except where otherwise specifically permitted, including seasonal displays and shopping cart storage, all storage areas shall be located to the side or rear of the property behind the front building line of any principal structure.

Potential Text dealing with Generators:

The following is drawn from sample text provided by Maggie Dobbs:

Backup Generators. Permanent backup generators, used only on a temporary emergency basis, shall be permitted in all zoning districts as an accessory use, subject to the following:

- (1) Generators may only be installed where meeting all yard area requirements or, where no yard area requirements apply, within five feet of the structure they serve.
- (2) No modifications may be made to a generator's manufacturer-installed noise reduction mechanisms.
- (3) **[Note: Add requirement for automatic shutoff]**

1620 Junkyard or Salvage Yard. [Add new subsection to Article XVII]

A junkyard or salvage yard operation shall comply with the following standards:

- A. No part of the operation shall be located on lands with greater than fifteen (15) percent slope or within any identified floodplain area or located such that contaminants from the operation can seep or flow into a stream or other body of water.
- B. The maximum lot coverage including parking, storage, buildings, other structures, and any other impervious surface shall not exceed fifty (50) percent.
- C. The junkyard operation including all storage shall be set back a minimum one hundred (100) feet from any abutting residential use or residential zoning district. Otherwise all applicable zoning district yard area setbacks shall apply.
- D. The perimeter of the junkyard operation including all storage shall be enclosed by a fence at least ten (10) feet in height. The fence shall be opaque except where an effective and complete visual landscape screen pursuant to § 170-1508 is maintained on the outside of the fence.
- E. All vehicles associated with the operation of the junkyard shall be parked within the fenced enclosure.
- F. No garbage or other solid waste, and no paper, rubbish, rags or other flammable articles or materials shall be stored on the premises for longer than one week.
- G. The manner of storage and arrangement of junk, and the drainage facilities of the premises shall be such as to avoid the accumulation of stagnant water upon the

premises. Outdoor storage shall be conducted to control mosquito propagation during warm weather to the extent practicable.

H. All junk kept, stored, or arranged on the premises shall at all times be kept, stored and arranged within the junkyard in a neat and orderly manner in keeping with the standards of the trade. Storage piles shall not exceed ten (10) feet in height.

I. There shall be provided at least a fourteen (14) foot wide accessway which shall be clear and free at all times to provide for access to all parts of the premises for firefighting and other safety or emergency purposes. No portion of the premises shall be more than twenty-five (25) feet from such an accessway.

J. No burning shall be permitted on the premises. Any junkyard shall have available in proper working condition, equipment that will control, contain, and suppress fires or other hazards.

K. Waste generated by the salvage or junkyard operation shall be managed in accordance with all applicable regulations. Except as provided hereunder, no storage of explosive, radioactive, toxic, highly flammable or otherwise hazardous materials shall be permitted.

1. Automotive fluids (including gasoline, oil, antifreeze, brake, transmission fluids, and similar fluids), freon, and other flammable or toxic substances shall be removed from any junk or other items stored on the premises and shall be properly containerized and stored. Such materials shall not be released into the air or deposited on or into the ground or watercourses and shall be either used, transported and disposed of, or recycled in accordance with applicable regulations.

2. Automotive batteries shall be removed from junked vehicles and properly stored until they are either used, disposed of, or recycled.

3. Removal of such fluids, batteries, and other hazardous materials shall take place on an impervious surface where they can be properly contained without danger of spilling or being transported into the ground.

L. Where whole or processed tires are stored outdoors, each waste tire pile shall meet the following requirements:

1. Individual tire storage piles shall not cover a surface area of greater than one-thousand (1,000) square feet.

2. Firebreak corridors of at least fifty (50) feet in width shall be maintained on all sides of tire piles. No point in the pile shall be more than twenty-five

(25) feet from a firebreak. Firebreaks may include accessways and shall be kept free from obstructions that could limit access in the event of an emergency. Vegetation within the firebreak corridor shall be maintained below six (6) inches in height.

M. Any activity or operation within the junkyard likely to generate significant noise or vibration, including but not limited to the crushing of vehicles or other material, shall be limited to the hours of 7:00 a.m to 5:00 p.m.