

**WESTTOWN TOWNSHIP**  
**PLANNING COMMISSION MEETING AGENDA**  
**Wednesday, June 5, 2024 – 7:00 pm**

Stokes Assembly Hall – Township Administration Building  
1039 Wilmington Pike, West Chester, PA

For general inquiries or questions about any of the items on this agenda, please contact the Township office either by phone (610) 692-1930 or via e-mail at [administration@westtown.org](mailto:administration@westtown.org).

Call to Order and Pledge of Allegiance

Adoption of Agenda

Approval of Minutes

Planning Commission Meeting May 8, 2024

Announcements

Public Comment – Non-Agenda Items

New Business

**1. Zoning Ordinance Considerations**

Several items have been brought to the Township's attention that the Planning Commission might consider looking into to address, including potential changes to the Outdoor Lighting requirements (§170-1514) and Accessory uses and structures (§170-1603).

**2. Brush, Grass and Weeds - Ordinance**

Several changes to Chapter 54, Brush, Grass and Weeds ordinance in conjunction with the draft ordinance amendments for managed meadow provisions under §170-1507 Landscaping and site design have been proposed to address a potential need for exemption of areas of natural vegetation from those requirements. Article IV Natural Features Protection standards are intended to afford appropriate levels of protection to those natural features that represent significant resource opportunities for the Township and its surrounding region.

Old Business

**1. Conditional Use Application – 1632 Associates LLC for Visual Arts Center**

On February 22, 2023, the applicant presented to the Planning Commission a proposal to construct a Visual Arts Center (VAC) at 1632 West Chester Pike. The property is a 3.8 acre parcel located in the R-3 Zoning District. The proposed VAC would be 2,750 square feet with entrances on West Chester Pike and Green Lane and parking. Standards for VACs are codified at § 170-802(G) of the Township Code. Since then, the applicant has granted several extensions. No revised materials were presented to the Township. A Board of Supervisors hearing on this application is tentatively scheduled for June 24, 2024.

**2. Official Map – Continued Discussion**

The Planning Commission will continue its discussion on considerations for the development of an Official Map and its potential features.

Public Comment

### Reports

1. Board of Supervisors Meeting June 3, 2024 – Brian Knaub/Joe Frisco
2. Environmental Advisory Council May 28, 2024 – Russ Hatton

### Adjournment

Next PC Meeting:

- **June 19 2024, 7:00 PM**

PC Representative at next Board of Supervisors Meeting:

- **Monday June 17, 2024, 7:30 PM** – Russ Hatton/Jack Embick

# WESTTOWN TOWNSHIP PLANNING COMMISSION MEETING MINUTES

Stokes Assembly Hall, 1039 Wilmington Pike  
Wednesday, May 8, 2024 – 7:00 PM

## **Present**

Commissioners Tom Sennett (TS), Jack Embick (JE), Russ Hatton (RH), Jim Lees (JL), Brian Knaub (BK), and Joseph Frisco (JF). Kevin Flynn (KF) was absent. Also present was Township Manager and Director of Planning & Zoning Mila Carter.

## **Call to Order and Pledge of Allegiance**

Mr. Embick called the meeting to order at 7:02 PM.

## **Adoption of Agenda (TS/JL) 5-0**

Mr. Sennett made a motion to adopt the agenda. Mr. Lees seconded. All were in favor of the motion.

## **Approval of Minutes (RH/JL) 4-0**

Mr. Hatton made a motion to adopt the meeting minutes from April 17, 2024. Mr. Lees seconded. The motion passed 4-0, with Mr. Sennett abstaining because he was not at the April 17 meeting.

## **Announcements**

1. Ms. Carter announced that the application for special exception for Bournelyf Special Camp at 1056 S. New Street was approved by the Zoning Hearing Board (ZHB).
2. Ms. Carter stated that the application for special exception to change the non-conforming use for 629 S. Chester Road has been withdrawn.
3. Ms. Carter has not received a response from the applicant of the conditional use application for the Visual Art Center at 1632 West Chester Pike, but an extension has been granted until the end of June, after which time a public hearing will need to be scheduled.
4. Mr. Hatton announced that Ms. Carter has accepted the position of Township Manager. Mr. Embick asked who the Zoning Officer will be. Ms. Carter stated that she will continue to serve as Zoning Officer until that position is filled.

## **Public Comment – Non Agenda Items**

There was none.

## **New Business**

### **1. Open Space Inventory and Conservation Design**

Mr. Embick welcomed Rachael Griffith, Sustainability Director with the Chester County Planning Commission (CCPC), to answer questions about open space analysis and recommendations, and to walk the group through the Conservation Subdivision Design Guide created by the County planners to help municipalities develop effective ordinances.

Ms. Griffith stated that for the past several years, the CCPC has partnered with area land trusts on the common goal of preserving open space in Chester County. The CCPC has worked on planning and policy tools that can be used by municipalities to promote the preservation of open space. She stated that the county compiled open space information for all 73 municipalities in Chester County, and presented the data for Westtown Township as of 2022. She encouraged the creation of an official township map to identify open space priorities and to use as the basis for future efforts to preserve those spaces.

Mr. Embick stated that the Township passed an open space tax in 2022, and is in the process of trying to acquire over 200 acres of Crebilly Farm. He stated that another 100 acres of Crebilly Farm have been eased. Mr. Embick asked if there would be any benefit adding Crebilly to the official map. Ms. Griffith said she would consult with Natural Lands, but said that she didn't see any compelling reason to adding it if the deal is likely to close by the end of the year.

Mr. Sennett questioned the figure that forty-one percent (41%) of residents in Westtown are within a 10-minute walk of open space, and asked how that number was determined. Ms. Griffith stated that Department of Conservation and Natural Resources (DCNR) derived that figure using a sidewalk analysis, but that she was not entirely sure of the methodology (e.g. what parks and open space were included). Mr. Sennett stated that he felt the figure was a gross exaggeration, given that Westtown Township is not a very walkable community. Mr. Sennett asked if the open space survey that the County prepared identifies the type of open spaces. Ms. Griffith stated that the survey does not consider the type of open space. Mr. Sennett pointed out that some open space indicated on the survey, such as Westtown School property, is not open to public use. Mr. Sennett also asked Ms. Griffith about methods of measuring open space use. Ms. Griffith stated that trail counters and parking lot surveys are generally used. Mr. Sennett stated that Oakbourne Park is used almost entirely by visitors who come by car.

Mr. Knaub asked if adopting an official township map designating land as a particular category gives a township any power over the landowner on how their land may be used. Ms. Griffith said she would refer that question to a solicitor.

Mr. Embick asked Ms. Griffith if she saw any way to safely create a walkable connection along Pleasant Grove Road between Oakbourne Park and Crebilly Farm. Ms. Griffith replied that such a connection might be a project to consider for a future Parks, Recreation, and Open Space Plan. She added that the Township might be able to secure a grant for a connection study. Ms. Carter noted that Pleasant Grove Road is a connector road, and that the right of way would allow for a trail on one side, but the problem would be crossing Route 202. Mr. Frisco suggested connecting Oakbourne Park and Tyson Park.

Mr. Embick asked how the PC could pull these opportunities together. Ms. Carter stated that once the Crebilly acquisition is completed, the Township would need to update its 2014 Parks, Recreation, and Open Space Plan to include the ongoing maintenance of Crebilly and the additional phases of the Oakbourne Park Master Plan. Ms. Carter stated that if making connections is a priority, then the Township could do a multi modal plan. She stated that it is all a matter of what the Township's priorities are.

Ms. Griffith stated that the CCPC is encouraging municipalities to do more frequent and more implementation-focused planning. Mr. Hatton suggested looking at smaller scale projects like creating a safe connection from Wild Goose Farm or Pleasant Grove to Oakbourne Park. Mr. Sennett agreed. Ms. Carter stated that the Township would need to work with PennDOT on a Wild Goose connection because S. Concord Road is state owned. Mr. Embick asked Ms. Carter if she would draw up an outline for that project. She stated she would prepare a rough plan of action for a future meeting, and added that the process would be relatively the same regardless of the neighborhood being connected to Oakbourne Park.

Mr. Sennett asked Ms. Griffith if she was aware of other municipalities in Chester County that are already built out that have successfully connected neighborhoods. Ms. Griffith replied that creating walkable connections in townships that are already built out are definitely more difficult and more expensive, but that it can be done.

Moving on to discussion about the Conservation Subdivision Design Guide, Mr. Embick stated that in his experience developers are generally unreceptive partners in conservation

design. He asked Ms. Griffith how a municipality can force developers to engage in the conservation process. Ms. Griffith stated that some municipalities require a site visit and sketch plan prior to submitting a formal design plan. She added that having an updated Parks, Recreation, and Open Space Plan was critical. Mr. Embick stated that because there are very few parcels remaining in Westtown Township left for development and developers are uncooperative, he wondered whether there was any point in keeping the Township's flexible development ordinance.

Ms. Griffith stated that the Conservation Subdivision Design Guide includes a model ordinance. She acknowledged that it is definitely not a "one size fits all" template, but said it has elements Westtown might want to consider, such as allowing development by right, instead of requiring the conditional use process, or eliminating the density bonus. Ms. Griffith directed the group to the County website for more information on the design guide. Mr. Embick asked Ms. Carter to investigate possible changes the Township's flexible development procedures that would encourage conservation design. Ms. Carter echoed Mr. Embick's point and promised to look into that.

### **Old Business**

#### **1. Official Map – Continued Discussion**

Given the time left in the meeting, Mr. Embick asked the members if they preferred to discuss the official map or attainable housing. The Commission agreed to table discussion of the map until later date. Ms. Carter said she will prepare a map showing existing and proposed trails, easements, and unprotected open space for the next meeting.

#### **2. Attainable Housing – Next Steps**

Mr. Sennett stated that in his opinion, the PC should not spend much time on the topic because Westtown does not have the infrastructure like public transportation and accessible retail that are necessary to support people who are seeking affordable and attainable housing. Mr. Frisco agreed. Ms. Carter stated that the Township could add provisions to its Zoning Ordinance to encourage attainable housing on a small scale. She suggested to reach out to the Westminster Presbyterian Church to follow up on their interest of the housing project on their land.

### **Public Comment**

There was none.

### **Reports**

1. Mr. Hatton briefly summarized the May 6 Board of Supervisors meeting.
2. Mr. Hatton also made the report from the April 30 Environmental Advisory Council meeting.

### **Adjournment (RH/JL) 6-0**

The meeting was adjourned at 8:42 PM.

Next PC Meeting:

- **May 22 2024, 7:00 PM**

PC Representative at next Board of Supervisors Meeting:

- **Monday May 20, 2024, 7:30 PM** – Jim Lees/Russ Hatton

Respectfully submitted,  
Mila Carter  
Planning Commission Secretary

# Memo

To: Westtown Township Planning Commission  
From: Liudmila Carter, Township Manager and Director of Planning & Zoning  
Date: May 31, 2024  
Re: Zoning Ordinance considerations for discussion

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The following items have recently come up that the Planning Commission might consider to looking into:

1. §170-1514 Outdoor Lighting – It has been brought to the Township’s attention that existing outdoor lighting regulations increase the potential for break-ins at commercial establishments. There were several attempted and successful break-ins at both Westtown Marketplace and Westtown Village in the past months. The raised concerns are the existing requirements to extinguish outdoor lighting fixtures between 11:00 p.m. and dawn to mitigate nuisance glare and sky-lighting consequences (§170-1514.D.3.(d)) and/or to reduce lighting for use after 11:00 p.m. or after the normal hours of operation by 75% from then until dawn (§170-1514.D.3(e)). Suggestions include but not limited to developing specific provisions for outdoor lighting in the C-1 Neighborhood and Highway Commercial and the C-2 Highway Commercial zoning districts, allowing for motion sensor lighting at the rear of the buildings, increasing the 75% allowance for brighter lights, and establishing a later timeframe for extinguishing the lights.
2. §170-1603 Accessory uses and structures – To provide for additional opportunities for diverse housing choices in the Township considering the predominance of detached single family homes and the low percentage of developable land in the Township, the Planning Commission might consider several enhancements to existing requirements for accessory dwelling units (ADUs). Suggestions include but not limited to allowing non-related persons to live in the ADUs, creation of two or more dwelling units within an existing single family detached dwelling, and permitting all or some ADUs by right.

The Commission’s feedback is requested.

**§ 170-1514. Outdoor lighting. [Amended 3-3-2003 by Ord. No. 2003-2 ]**

A. Purpose. The purpose is to require and set minimum standards for outdoor lighting to:

- (1) Provide lighting in outdoor public places where public health, safety and welfare are potential concerns during hours of darkness.
- (2) Protect drivers and pedestrians from the glare of nonvehicular light sources that shine directly into their eyes or reflect off surfaces and thereby impair safe traverse.
- (3) Protect neighbors and the night sky from direct glare and stray light from poorly aimed, placed, applied, maintained or shielded light sources.

B. Applicability.

- (1) Outdoor lighting shall be required for safety and personal security for uses that operate during hours of darkness where there is public assembly and traverse, including but not limited to the following uses: all residential developments, commercial, industrial, public-recreational and institutional.
- (2) Appropriate officers or agents of the Township may require that lighting be incorporated for other uses or locations, as they deem necessary.
- (3) The glare, light trespass and light pollution requirements herein contained apply to lighting in all above-mentioned uses, as well as, but not limited to, lighting for signage, architectural, site/landscape, recreational and residential uses and all jurisdictions, including public, private and municipal.

C. Definitions. As used in this section, the following terms shall have the meanings indicated:

CANDELA — Unit of luminous intensity of a source in a given direction.

FOOTCANDLE — A unit of illuminance equal to one lumen per square foot and measurable with an illuminance meter (footcandle or light meter).

FULL CUTOFF — A luminaire light distribution where zero candela intensity occurs at or above an angle of 90° above nadir. Additionally, the candela per 1,000 lamp lumens does not numerically exceed 100 (10%) at or above a vertical angle of 80° above nadir. This applies to all lateral angles around the luminaire.

GLARE — The sensation produced by luminances within the visual field, which are sufficiently greater than the luminance to which the eyes have adapted, and which causes annoyance, discomfort or loss in visual performance and visibility.

ILLUMINANCE — The quantity of light at a point on a surface measured in footcandles or lux. Horizontal footcandles are perpendicular to a horizontal surface. Vertical footcandles are perpendicular to a vertical surface.

LIGHT TRESPASS — Light emitted by a lighting installation, which extends beyond the boundaries of the property on which the installation is sited, and which is considered unwelcome or undesirable.

LUMEN — Unit of luminous flux, amount of light emitted from a source.

LUMINAIRE (LIGHT FIXTURE) — A complete lighting unit consisting of a lamp, or lamps and ballast (when applicable), together with the parts designed to distribute light.

LUMINANCE — The luminous intensity of a surface of a given projected area, in a given direction, and measurable with a luminance meter.

LUX — A unit of light intensity stated in lumens per square meter. There are approximately 10.7 lux per footcandle.

NON CUTOFF — A luminaire light distribution where there is no candela limitation in the zone above maximum candela.

D. Design criteria.

(1) Illuminance.

- (a) Lighting, where required by this chapter, shall have intensities and uniformity ratios in accordance with the current recommended practices of the Illuminating Engineering Society of North America (IESNA), unless deemed inappropriate or unnecessary by independent lighting consultants retained as experts by the Township. Such recommended practices are contained in the IESNA Lighting Handbook, RP-33-99 Lighting For Exterior Environments, RP-8-00 Roadway Lighting, and other IESNA Recommended Practices for specific activities such as sports lighting.
- (b) Future amendments to IESNA practices shall become a part of this chapter without further action of the Township.
- (c) Horizontal illuminances, or lighting levels, are measured at grade and are considered as maintained during the life of the lighting system in use.
- (d) Lighting uniformity ratios determine areas of insufficient or excessive illuminances. Uniformity ratios are given as average to minimum or maximum to minimum.
- (e) Examples of illumination levels for typical outdoor applications, as extracted from the IESNA RP-33-99 and RP-8-00 Recommended Practices, are presented below.



**Uniformity Ratios**

<b>Classification</b>	<b>Maintained Average Illumination Levels (Lux/Footcandles) (See Note 2)</b>	<b>(Average: Minimum) (Note 3)</b>	<b>(Maximum: Minimum)</b>
<b>Streets and roadways</b>			
Local commercial	9/0.9 average minimum 12.0/1.2 average maximum	6:1	
Local residential	4/0.4 average minimum 7/0.7 average maximum	6:1	
<b>Parking (Commercial/institutional, industrial/municipal use)</b>			
High activity (e.g., major athletic/civic/cultural events; fast food, etc.)	10/1 average minimum 20/2 average maximum	5:1	20:1
Medium activity (e.g., hospitals, community shopping centers, office parks, commuter lots, etc.)	5/0.5 average minimum 10/1 average maximum	5:1	20:1
Low activity (e.g., schools, churches, neighborhood shopping, multifamily developments, etc.)	2/0.2 average minimum 5/0.5 average maximum	5:1	20:1

**Uniformity Ratios**

<b>Classification</b>	<b>Maintained Average Illumination Levels (Lux/ Footcandles) (See Note 2)</b>	<b>(Average: Minimum) (Note 3)</b>	<b>(Maximum: Minimum)</b>
Sidewalks and bikeways	5/0.5 average minimum 20/ 2.0 average maximum	4:1	
Building entrances (Commercial/industrial/ institutional)	25/2.5 average minimum 50/ 5.0 average maximum	5:1	
Service station dispenser areas	50/5 average minimum 200/ 20 average maximum	5:1	
Car dealerships	20/2.0 average minimum 100/ 10 average maximum	5:1	

NOTES (Apply to all classifications):

- 1 Illumination levels are maintained horizontal at grade.
- 2 Maximum average illuminance levels are applicable to commercial areas with high nighttime pedestrian activities or areas with light (brightly illuminated) surroundings.
- 3 Uniformity ratios dictate the lowest illuminance allowable based on the average selected. For example, in high activity parking areas with two fc average, the minimum level would be 2/5 or .4 fc.

(2) Luminaire design.

- (a) Luminaire shall be of a type and design appropriate to the lighting application.
- (b) For lighting horizontal tasks such as roadways, sidewalks, entrance drives and

parking areas, luminaires shall meet IESNA full-cutoff criteria (no light output emitted above 90° at any lateral angle around the fixture).

- (c) Noncutoff luminaires may be approved by the Zoning Officer for historical post top luminaires, provided the source is less than 2,000 initial lumens.
  - (d) The use of floodlighting, spotlighting, wall-mounted fixtures, decorative globes and spheres and other fixtures not meeting IESNA full-cutoff criteria shall be permitted only with the approval of the Township, based upon applicability in retaining the rural character of the Township and achieving acceptable glare control.
  - (e) When requested by the Township, luminaires shall be equipped with or be modified to incorporate light directing and/or shielding devices such as shields, visors, skirts or hoods to redirect offending light distribution and/or reduce direct or reflected glare.
  - (f) NEMA-head fixtures, a/k/a "barn lights" or "dusk-to-dawn lights" shall not be permitted where they are visible from other uses, unless fitted with optical hardware to render them full cutoff.
- (3) Control of nuisance and disabling glare.
- (a) All outdoor lighting, whether or not required by this chapter on private, residential, commercial, industrial, municipal, recreational or institutional property, shall be aimed, located, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property.
  - (b) All outdoor luminaires shall be shielded in such a manner that no light is emitted above a horizontal plane passing through the lowest point of the light emitting element, so that direct light emitted above the horizontal plane is eliminated. All outdoor luminaires that illuminate the area under outdoor canopies shall comply with the requirement. Outdoor canopies include, but are not limited to, the following applications:
    - [1] Fuel island canopies associated with service stations and convenience stores.
    - [2] Exterior canopies above storefronts in shopping centers and malls.
    - [3] Exterior canopies above driveways and building entrances.
    - [4] Pavilions and gazebos.
  - (c) Floodlights and spotlights shall be so installed or aimed that they do not project their output into the windows of neighboring residences, adjacent properties, skyward or onto a public roadway. The use of searchlights or laser source lights for advertising or entertainment purposes is prohibited without a special permit.
  - (d) Unless otherwise permitted by the appropriate officers or agents of the Township,

e.g., for safety or security or all-night operations, lighting for commercial, industrial, public recreational and institutional applications shall be controlled by automatic switching devices such as time clocks or combination motion detectors and photocells, to permit extinguishing outdoor lighting fixtures between 11:00 p.m. and dawn, to mitigate nuisance glare and sky-lighting consequences.

- (e) Lighting proposed for use after 11:00 p.m., or after the normal hours of operation for commercial, industrial, institutional or municipal applications, shall be reduced by 75% from then until dawn, unless supporting a specific purpose and approved by the appropriate officers or agent of the Township.
- (f) All illumination for buildings and/or surrounding landscapes for decorative, advertising or aesthetic purposes is prohibited between 11:00 p.m. and sunrise, except that such lighting situated on the premises of a commercial establishment may remain illuminated while the establishment is actually open for business, and until one hour after closing.
- (g) Vegetation screens shall not be employed to serve as the primary means for controlling glare. Rather, glare control shall be achieved primarily through the use of such means as cutoff fixtures, shields and baffles and appropriate application of fixture mounting height, wattage, aiming angle and fixture placement.
- (h) In no case shall the intensity of illumination exceed 0.1 horizontal, and 0.1 vertical footcandles. Horizontal footcandles shall be measured at grade. Vertical footcandles shall be measured line-of-sight, five feet above grade at the property line.
- (i) Externally illuminated signs and billboards shall be lighted by fixtures mounted at the top of the sign and aimed downward. Such fixtures shall be automatically extinguished between the hours of 11:00 p.m. and dawn, except as specifically approved by appropriate officers or agents of the Township.
- (j) Mounting height. Lighting fixtures shall be mounted at a maximum total height of 20 feet above the ground, except such height shall be reduced to 16 feet within residentially used properties or within 200 feet of a residentially used lot, except for authorized institutional use. This height limitation shall not apply to lights needed for air safety, that solely are intended to illuminate a steeple or similar architectural feature, or that illuminate outdoor public recreation facilities.
- (k) For land development applications where lighting is required (i.e., zoning hearings, conditional use hearings), the credentials of the expert in outdoor lighting shall be described in writing. If the expert testimony is provided by more than one person, the credibility of each expert may be weighed by the Township.
- (l) Directional fixtures for such applications as facade, fountain, feature and landscape illumination shall be aimed so as not to project their output beyond the objects intended to be illuminated, shall be extinguished between the hours of 11:00 p.m. and dawn and shall not be in conflict with the Township's aim to maintain its rural character.

- (m) The use of white strobe lighting for tall structures such as smokestacks, chimneys and radio/communications/television towers is prohibited. No exterior luminaire shall have blinking, flashing or fluttering features.
  - (n) This subsection shall not restrict routine types of holiday lighting between November 15 and January 5, provided such lighting does not produce glare. No beacon light or nighttime strobe light shall be permitted. This subsection shall not restrict lights necessary to meet Federal Aviation Administration requirements.
  - (o) Outdoor lighting shall be limited to a maximum of 0.25 footcandles in the cases where one of the following situations exists:
    - [1] When a retail business is not open to the public;
    - [2] Public/private use of an area is not anticipated; and
    - [3] No other use is in operation.
  - (p) If the type of luminaire on an existing building is being replaced, or an entire light fixture is being replaced in kind, or a light fixture is being changed to a more intensive illumination, such light fixture shall comply with § 170-1514.
- (4) Installation.
- (a) Setbacks. Exterior light fixtures for principal nonresidential uses shall be set back a minimum of 10 feet from a lot line of a dwelling, except for lighting necessary to illuminate pedestrian walkways or vehicle ingress or egress points.
  - (b) Lighting fixtures shall not be mounted in excess of 20 feet above grade.
- (5) Permanent recreational and sports lighting and nighttime events. Subject to the conditions listed herein, permanent outdoor illumination for active recreational and sports facilities accessory to public, private, and parochial schools, universities and colleges and for passive non-recreational nighttime events shall be permitted when approved as a conditional use by the Westtown Township Board of Supervisors. **[Added 7-6-2009 by Ord. No. 2009-4 ]**
- (a) Permanent recreational and sports lighting shall be defined as recreational and sports lighting that is permanently installed in a fixed location and not portable and associated with nighttime events.
  - (b) Before a conditional use is granted for recreational and sports lighting and nighttime events, the applicant will conduct traffic and parking studies and report the results to Westtown Township to determine if parking, vehicle access and egress, pedestrian walkways, and site lighting are adequate for handling the most well-attended anticipated events. The studies shall be prepared by a qualified traffic consultant and shall enable the Township to identify traffic and/or parking problems associated with such events. The studies shall identify solutions and recommend improvements to mitigate adverse impacts of the lighted events, if any are found to exist.

- (c) An annual permit application shall be required to be submitted to the Township 45 days before the start of each sports and recreation year that a permanent recreational and sports lighting installation is proposed to be utilized. A permit fee schedule shall be established by resolution of the Board of Supervisors each year to cover all costs to the Township to include, but not limited to, the following:
- [1] Special police detail from the Westtown East Goshen Police Department to control traffic, parking and on-site security for any lighted event as determined by the Board of Supervisors based on type of event.
  - [2] Trash cleanup by Township Public Works employees on the roads and properties surrounding the campus as soon as possible after the lighted event as determined by the Board of Supervisors based on the type of event.
- (d) Granting of such a permit is conditioned upon the discretion of the Board of Supervisors which shall consider past compliance with the terms of this Subsection D(5) and (6), §§ 116-1 and 116-2 of Chapter 116, § 170-1506 of this chapter and with any subsequent ordinances related to noise and peace and good order.
- (e) All outdoor illumination as described in this subsection shall comply with the following standards and conditions:
- [1] Unless specifically modified herein, all other provisions in § 170-1514 shall apply.
  - [2] The maximum mounting height as measured from the finished grade of the playing field to the top of the highest fixture of recreational and sports lighting fixtures permitted by this subsection shall be as follows:
    - [a] Basketball: 20 feet.\*
    - [b] Field hockey: 70 feet.
    - [c] Football: 70 feet.
    - [d] Lacrosse: 70 feet.
    - [e] Little League Baseball:
      - [i] Two-hundred-foot radius: 60 feet.
      - [ii] Three-hundred-foot radius: 70 feet.
    - [f] Miniature golf: 20 feet.\*
    - [g] Soccer: 70 feet.
    - [h] Swimming pool aprons: 20 feet.\*
    - [i] Tennis courts: 20 feet.\*
    - [j] Track: 20 feet.\*

\*Lighting for this sport is subject to the non-sports/recreation lighting requirements elsewhere in § 170-1514.

- [3] Higher mounting heights for football, lacrosse and soccer, not to exceed 85 feet under any circumstances, may be considered by conditional use application when it can be demonstrated to the satisfaction of the Township that the higher mounting height is essential to meet or exceed the other requirements of this section while still controlling off-site glare, light trespass and daytime visibility of the light fixtures as viewed from off site.
- [4] The lighting shall be accomplished only through the use of full cutoff or fully shielded fixtures that employ suitable shielding. Such lighting shall be designed, installed, aimed, and maintained so that neither lamps (bulbs) nor primary reflecting surfaces shall be visible from any window of residential properties within a radius of 1,800 feet of the boundary of lighted field. The fixtures shall not present a hazard to drivers or pedestrians by projecting glare that impairs their ability to safely traverse streets, driveways, sidewalks, pathways and trails. The fixtures shall be mounted at an appropriate height, angle, and location to comply with the above conditions.
- [5] For a recreational or athletic sporting event, such as football, soccer, field hockey, or lacrosse, or marching band cavalcade, the sports lighting system may only be energized in conjunction with any of the following events, and no others:
  - [a] An event directly related to and under the control of the educational or sports program of the school, university or college where the lights are located; no private organizations may use the school, university or college facility for lighted events.
  - [b] A field practice for such event.
  - [c] A playoff or championship game.
- [6] For a recreational or athletic sporting event, such as football, soccer, field hockey, lacrosse or marching band cavalcade, utilization of the sports lighting system is subject to the following restrictions:
  - [a] A maximum of 30 lighted events per calendar year will be permitted on any one campus where permanent lighting is provided. Up to three additional lighted events shall be permitted each year for playoffs or championship games not part of the regular schedule of events.  
**[Amended 9-16-2019 by Ord. No. 2019-06 ]**
  - [b] The lights must be extinguished no later than 10:00 p.m.
  - [c] A school, university or college having been granted permission to illuminate a recreational facility may make formal application to the

Board of Supervisors to extend the curfew hour past 10:00 p.m., not to exceed four evenings annually. The Board's decision to allow or not allow an extension of operating hours of the sports lighting shall be based in part on consideration of potential adverse consequences to adjacent residential properties.

- [d] All light posts shall be set back at least 50 feet from the property boundary.
- [e] As a part of the process of seeking approval, the school, university or college proposing to use outdoor lighting as permitted herein shall submit a lighting plan and associated information to the Township in conformity with § 170-1514F(1). In addition, the applicant shall submit a visual impact plan that demonstrates to the satisfaction of the Township that ordinance light trespass and direct glare requirements have been met.
- [f] If for any school year the lights are used for more than the number of events allowed under this subsection, either per week or per year (or exceed the time limit allowed for the event), then the maximum number of allowable events for the next school year shall be decreased by the number of events which exceeded the maximum number allowable in the previous year.
- [g] If, for any reason, the number of violations described in § 170-1514D(5)(e)[6][f] exceeds five, the annual permit as required by § 170-1514D(5)(b) shall be revoked and no more lighted events may be held for the remainder of the year.
- [7] Golf driving ranges, racetracks, trap-shooting facilities and other sports necessitating the horizontal or near-horizontal projection of illumination shall not be artificially illuminated.
- [8] Illuminances for recreational and sports lighting shall be in accordance with and shall not exceed the values contained in the latest edition of IESNA RP-6, Recommended Practice for Sports and Recreational Area Lighting. Illuminances shall be based on Class II play.
- [9] The maximum luminance from any light source, including scoreboards, shall not exceed 2,000 cd/m<sup>2</sup> as viewed from any location off site.
- [10] Modifications to installed lighting systems in conformance with the provisions of this article that would result in higher aiming angles, greater direct glare and/or greater off-site light trespass shall require a permit.
- [11] The amount of spill light from a sports/recreation facility as measured on adjacent properties or properties separated from the property of the school with the lighted field only by a public road, utility property or easement, shall not exceed 0.2 footcandle, horizontal or vertical, at any height or location on that property.



- [12] The installation of permanent recreational and sports lighting shall be limited to one playing field on any one campus.
- [13] The entity on whose premises the sports/recreation facility is situated shall be responsible for monitoring and reporting. Records of usage of lighting systems shall be maintained for Township inspection and shall be submitted as part of the annual permitting application.
- [14] As a condition for installing permanent outdoor illumination for active recreational and sports facilities accessory to public, private, and parochial schools, universities and colleges, the Board of Supervisors shall require the applying institution to take all reasonable steps, as recommended by a sound engineer hired by the Township, to mitigate noise resulting from nighttime events and its impact on the neighborhoods nearby the lighted facility. These mitigative actions must allow the applying institution to comply with §§ 116-1 and 116-2 of Chapter 116, § 170-1506 of this chapter and with any subsequent ordinances related to noise and good order.
- [15] If a sound amplification system will be used in conjunction with nighttime events permitted by this Subsection D(5) and (6), the institution shall provide a fully distributed sound system consisting of highly directional speakers in close proximity to and aimed into the seating area providing uniform coverage throughout the seating. Speakers must be selected to minimize amplification outside of the seating areas. Coverage across the playing field, if necessary, can be provided using a similar distributed system approach. The system design and performance will be subject to review and approval by the Township's engineers/consultants before permanent operation is authorized.
- (6) Temporary/portable recreational and sports lighting and nighttime events. Subject to the conditions listed herein, temporary outdoor illumination for recreational and sports events for active recreational and sports facilities accessory to public, private, and parochial schools, universities and colleges and for passive nonrecreational activities shall be permitted when approved as a conditional use by the Township Board of Supervisors. No temporary lighting shall be approved for any institution that has been granted permanent lighting on the same campus under § 170-1514D(5). **[Added 7-6-2009 by Ord. No. 2009-4 ]**
- (a) Temporary/portable field lighting shall be defined as lighting capable of being moved from one location to another, whether moved on the same site or to another site, and is not permanently installed and aimed in a fixed position.
- (b) Temporary/portable recreational and sports lighting shall be allowed by permit issued following conditional use approval. In considering the application, the Board of Supervisors shall consider the applicant's past compliance with the terms of this § 170-1514, §§ 116-1 and 116-2 of Chapter 116, § 170-1506 of this chapter and with any Township ordinances related to and regulating noise. The approval shall be subject to those conditions imposed by the Board of Supervisors in the conditional use decision and to the following requirements:

- [1] All such lighting shall be extinguished no later than 9:30 p.m., regardless of overtimes or extra innings, except that the Township may grant permission to allow the shut-off time to be extended to 10:00 p.m. on a per-event basis when application is made and a justifiable special need is presented.
- [2] The permit application shall be submitted in writing to the Township as directed by the conditional use decision.
- [3] The permit application shall be signed by the owner of the field on which the temporary/portable lighting is to be employed or by the field owner's official designee.
- [4] The entity on whose premises the sports/recreation facility is situated shall be responsible for monitoring and reporting. Records of usage of lighting systems shall be maintained for Township inspection and shall be submitted as part of the annual permitting application.
- [5] A maximum of 20 lighted events per school year shall be permitted on any one campus where temporary/portable sports lighting has been allowed. Only the activities that conform to all of the following restrictions and all other terms of § 170-1514D(6) will not be counted toward the total permissible lighted events:
  - [a] The activity involves practice only and does not include games or contests between teams of different schools.
  - [b] The activity takes place only during the months of August, September, October and November.
  - [c] Lights for the activity are completely extinguished no later than 7:45 p.m.
- [6] Temporary/portable recreational and sports lighting shall not be operated simultaneously with permanent recreational and sports lighting on the same campus.
- [7] Individual lighting fixture heads shall be aimed in such a manner that their interior reflective surfaces and lamp shall not be directly visible to the extent of creating a nuisance as viewed from the interior of any residence within view of the sports recreation facility.
- [8] Electric generators powering the portable lighting fixtures shall be located sufficiently far from adjacent residential uses so fuel odors, engine noise and/or exhaust fumes do not create a nuisance to adjacent residential uses.
- [9] Permit application shall include an impact statement that details what specific steps will be taken to mitigate potential negative off-site impact and what steps will be taken to respond to potential complaints from neighbors.

E. Maintenance. Lighting fixtures and ancillary equipment shall be maintained so as always to meet the requirements.

## F. Plan submission.

- (1) For subdivision and land development applications where site lighting is required or proposed, lighting plans shall be submitted to the Township for review and approval and shall include:
  - (a) A site plan, complete with all structures, parking spaces, building entrances, traffic areas (both vehicular and pedestrian), vegetation that might interfere with lighting, and adjacent use that might be adversely impacted by the lighting. The plan shall contain a layout of all proposed fixtures by location and type.
  - (b) Isofootcandle plots for individual fixture installations, or 10 feet by 10 feet illuminance-grid plots for multifixture installations, which demonstrate compliance with the intensity and uniformity requirements as set forth in this chapter. Also, vertical footcandles at property line, five feet above finished grade and horizontal footcandles at grade, at property line.
  - (c) Description of the proposed equipment, including fixture catalog cuts, photometrics, glare reduction devices, lamps, on/off control devices, mounting heights, pole foundation details and mounting methods.
- (2) Appropriate officers or agents of the Township may elect, at their discretion, to require that lighting plans for other than subdivision and land development applications also be submitted to the Township for review and approval.
- (3) When requested by appropriate officers or agents of the Township, the applicant shall also submit a visual-impact plan or sections that demonstrates appropriate steps taken to mitigate on-site and off-site glare and to retain the rural character of the Township (i.e., topographic information or burms).
- (4) Postapproval alterations to lighting plans or intended substitutions for approved lighting equipment shall be submitted to the Township for review and approval.
- (5) Plan verification shall be submitted to the Township after the final installation to demonstrate compliance. The plan shall show light levels below typical poles, between poles and also horizontal and vertical illuminance at the property line in fifty-foot increments. Vertical levels shall be taken five feet above finished grade. The plan shall note the date and time measurements were taken.
- (6) Postinstallation inspection. The Township reserves the right to conduct a postinstallation nighttime inspection to verify compliance with the requirements of this chapter, and if appropriate, to require remedial action at no expense to the Township.

## G. Compliance monitoring.

- (1) Safety hazards.
  - (a) If appropriate officers or agents of the Township determine that a lighting installation created a safety or personal-security hazard, the person(s) responsible for the lighting shall be notified in writing and required to take remedial action.

- (b) If appropriate corrective action has not been effected within 30 days of written notification, the Township may commence legal action as provided in §§ 170-1514I and J below.
  - (2) Nuisance glare and inadequate illumination levels.
    - (a) When appropriate officers or agents of the Township determine that an installation produces unacceptable levels of nuisance glare, skyward light, excessive or insufficient illumination levels or otherwise varies from this chapter, the Township may give written notification to the person(s) responsible for the lighting and require appropriate remedial action.
    - (b) If appropriate corrective action has not been effected within 30 days of written notification, the Township may commence legal action.
- H. Nonconforming lighting. Any lighting fixture or lighting installation existing on the effective date of this chapter that does not conform with the requirements of this chapter shall be considered as a lawful nonconformance subject to the following:
  - (1) Unless minor corrective action is deemed by the Township to be an acceptable alternative, a nonconforming lighting fixture or lighting installation shall be made to conform with the applicable requirements of this chapter when:
    - (a) It is deemed by the Township to create a safety hazard;
    - (b) It is replaced, or relocated; or
    - (c) There is a change in use.
  - (2) Nonconforming lighting fixtures and lighting installations shall be made to conform with the requirements of this chapter or removed within two years after the effective date of this chapter.
- I. Modifications.
  - (1) For any use or activity subject to subdivision or land development review, modification(s) to the provisions of this § 170-1514 may be requested, which modification(s) may be granted at the discretion of the Board of Supervisors pursuant to the provisions of Chapter 149 of the Township Code.
  - (2) For any use or activity not subject to subdivision or land development review, where subject to application for approval of a conditional use, special exception, or zoning variance, modification(s) to the provisions of this section may be requested as part of such application.
  - (3) For any use or activity not otherwise subject to permit or approval as provided in Subsections I(1) or (2) above, modification(s) to the provisions of this section may be requested in the form of an application for grant of a special exception by the Zoning Hearing Board.
  - (4) In approving any application pursuant to Subsections I(2) or (3) above, the Zoning

Hearing Board or Board of Supervisors, as applicable, as a condition of approval of such application, may permit specific modification(s) to the provisions of this section subject to the following:

- (a) The Zoning Hearing Board or Board of Supervisors, as applicable, shall determine that the specific nature of the lawful use or activity, existing site conditions, and/or safety considerations warrant such modification(s); and
- (b) Permitted modifications shall be consistent with the purposes of this section.

**§ 170-1603. Accessory uses and structures. [Amended 3-3-2003 by Ord. No. 2003-2 ]**

Uses considered customarily accessory and incidental to any permitted use under this chapter shall include those generally provided for within the various zoning districts. In addition, the uses listed herein shall specifically be deemed accessory in accordance with the following terms:

**A. Accessory dwellings. [Amended 9-15-2008 by Ord. No. 2008-1 ; 5-21-2012 by Ord. No. 2012-5 ]**

- (1) Specific intent. In allowing opportunities for the creation of accessory dwelling units, it is the specific intent of this subsection to address directly the housing needs of small households to make more efficient use of the Township's existing building stock and infrastructure.
- (2) Standards for accessory dwellings. Where authorized as a special exception under the terms of this chapter, accessory dwellings may be created in accordance with the following standards:
  - (a) There shall not be more than one accessory dwelling unit created on any single-family residential lot.
  - (b) The accessory dwelling unit may be located in the principal dwelling or in a structure which is accessory to the principal dwelling and is located on the same single-family residential lot.
  - (c) One of the two dwelling units shall be occupied by the owner of the lot on which both dwelling units are located.
  - (d) The accessory dwelling unit shall be occupied only by members of the family of the occupants of the principal dwelling or those providing care or services to the occupants of the principal dwelling unit.
  - (e) The minimum size of an accessory dwelling shall be 500 square feet of gross habitable area. The accessory dwelling shall comprise not more than 35% of the gross habitable area of the principal dwelling prior to creation of the accessory dwelling. However, in no case shall the accessory dwelling exceed 1,200 square feet, not including any vehicle garage space.
  - (f) No other alterations to the exterior of the structure shall be permitted unless necessary for health or safety reasons. No exterior changes shall be made which, in the judgment of the Zoning Hearing Board, are not in conformance with the existing single-family character of the neighborhood.
  - (g) Except where an off-site sewage system is available, the applicant shall submit to the Township a permit for an on-site sewage disposal system issued by the Chester County Health Department, certifying that the sewage disposal facilities are adequate for the projected number of residents. Where the existing on-site system is found to be inadequate, by the Department, to serve the projected demand, no approval shall be given for the accessory dwelling unit until the system is improved to meet Health Department requirements and a permit is issued by the Department.

- (h) One off-street parking space shall be required for the accessory dwelling unit in addition to those required for the principal dwelling. The additional parking space shall not be located within any required yard area.
  - (i) To ensure compliance with this chapter, an architectural plan shall be submitted, accurately drawn to scale, indicating the location and size of the existing and proposed dwelling units, parking areas and any proposed exterior alterations.
  - (j) All accessory dwelling units in the Township shall be subject to the requirements of §§ 170-2004, 170-2005 and 170-2006 relating to use and occupancy permits.
- B. Uses accessory to agriculture.
- (1) Greenhouse.
  - (2) Display and sale of farm products, in accordance with the following:
    - (a) At least 50% of such products shall have been grown on the property on which they are offered for sale or by the family of the operator.
    - (b) Parking space for at least three cars shall be provided on the lot. Where building area exceeds 600 square feet, one additional parking space shall be provided for each additional 200 square feet of building area.
    - (c) Sale of farm products shall be conducted either from a temporary stand, dismantled at the end of the growing season, or from a permanent building, the location of which complies with all Township setback standards for that zoning district. Any temporary structure shall be set back at least 25 feet from the right-of-way line of the road.
    - (d) The use shall be on a lot or contiguous lot(s) of at least five acres in the R-1 District, provided that the lot requirements for creation of any new lot shall be met. If the lot is not five acres or more, the use may also occur on a lot that generates more than \$2,000 of annual agricultural revenue.
    - (e) The use may also include the sale of custom crafts as supplemental to the farm products.
    - (f) The applicant shall prove that any driveway location has suitable sight distances at entrances/exits to a public street.
  - (3) Keeping, breeding, and management of livestock and poultry, in accordance with § 170-1516 of this chapter.
  - (4) The following accessory uses are permitted for a malt production use as accessory and subordinate to agriculture on the same parcel(s) of land which is permitted for and being utilized for agriculture in the A/C Agricultural/Cluster Residential District, subject to the following standards in this Subsection B(4) herein, which shall control over other provisions set forth in § 170-1603B(2) and § 170-1609I(2): **[Added 9-6-2016 by Ord. No. 2016-5 ]**

- (a) Storage, processing and sale of malt and malt products whether or not the grain was grown on site subject to a maximum annual production/processing of 2,000 tons of malt. A report is required to be submitted to the Township on an annual basis confirming production output.
- (b) Malt tasting room on premises for the showcase, promotion, and sale of malt and malt products as well as any other farm products grown or produced on premises subject to the following:
  - [1] Tastings of malt beverages are permitted on the premises only in accordance with the Pennsylvania Liquor Control Board's (PLCB) regulations for beer tastings and subject to full compliance with all PLCB regulations including possessing a valid license.
  - [2] Seating must be available for at least 10 patrons in accordance with the regulations of the PLCB, not to exceed 50 indoor seats.
  - [3] Food must be available for patrons if there will be on-premises consumption of malt beverages in accordance with the regulations of the PLCB. To the extent food trucks are used, they shall be located at a predetermined location approved by the Township at the time of building permit.
  - [4] On-premises consumption may occur only between the hours of 10:00 a.m. and 12:00 midnight, subject to compliance with the Township Noise Ordinance after 10:00 p.m.
  - [5] Outside seating is permitted for no more than 25 seats.
  - [6] A permanent designated parking area devoted to servicing customers and/or visitors shall be provided proximate to the building used for the malt tasting room. Any additional new parking areas shall be reviewed by the Township at the time of building permit or land development, if applicable, for appropriate berming and/or screening if determined to impact surrounding residential properties in close proximity to same. The designated parking area shall be provided at a calculation of one space per five seats and shall be improved in accordance with § 170-1703B(l).
- (c) Retail area to sell packaged malt, malt products, and malt accessories including, but not limited to, shirts, hats, and glassware provided that the maximum floor area of a building or portion thereof devoted to retail sales shall be 1,000 square feet. Floor area devoted to retail sales shall include any area for customer's access and circulation, for the display of products including floor area devoted to counters, tables, display cases and similar purposes. Floor area not included in the area devoted to retail sales would include the malt tasting room, and the inside floor area for storage and processing of malt where customer access is restricted except for instructional tours related to the malt production process. No display of retail products outside the building or structure shall be permitted.
- (d) Applicant shall prove that any new driveway location utilized by patrons has suitable sight distance at the entrances/exits to a public street and shall be subject



to PennDOT approval, if applicable.

- (e) If applicable, any and all third-party permits are required to be submitted at the time of building permit.
- C. Uses and structures accessory to residential use. **[Amended 5-2-2005 by Ord. No. 2005-4 ; 6-3-2019 by Ord. No. 2019-01 ; 11-7-2022 by Ord. No. 2022-09 ]**
- (1) Private parking space.
  - (2) Barn, private stable or other shelter for animals (but not including, a kennel), in accordance with the terms of § 170-1516 of this chapter.
  - (3) Detached accessory structure such as private garage, greenhouse, garden shed, or similar structure. Accessory structures may be located only in side and rear yards. Setback standards for detached accessory structures shall be in accordance with standards set forth in § 170-1502.
    - (a) Size limits. The footprint of an accessory structure shall not exceed 50% of the footprint of the principal dwelling unit, or 1,000 square feet, whichever is less.
    - (b) Height limits. Accessory structures may not exceed the height of the principal dwelling or 20 feet, whichever is greater. Height shall be determined based on the definition of "height" per § 170-202.
    - (c) Permits required. Building permits are required for all accessory structures that are 250 square feet or larger and/or propose the installation of utilities. Zoning permits are required for all accessory structures under 250 square feet. Any wheels attached to a mobile structure must be removed prior to the issuance of any permits.
  - (4) Private recreational facilities, including above and in-ground swimming pools above 24 inches of water depth (permanent or temporary), spas/hot tubs, tennis courts, basketball courts, and other similar uses.
  - (5) Home occupation, in accordance with § 170-1605 of this chapter.
  - (6) Ham radio or television aerials, masts, or antennas; windmills and similar wind energy conversion systems. Such facilities shall comply with the height regulations of the applicable zoning district, except as provided through special exception under the terms of § 170-1504 of this chapter.
  - (7) Microwave antenna for satellite communication, in accordance with the terms of § 170-1604 of this chapter.
  - (8) Bed-and-breakfast facility, in accordance with the terms of § 170-1607 of this chapter.
  - (9) Vehicle repairs, provided that a residential lot in any residential district shall not be used for any of the following activities:
    - (a) To repair more than one motor vehicle per week that is not registered to a current resident of such lot or a person who is related to a resident of such lot;

- (b) Spray painting or structural body- or framework of a motor vehicle outside of an enclosed building; or
  - (c) Other motor vehicle repairs that are perceptible from another dwelling between the hours of 9:00 p.m. and 7:00 a.m.
- (10) Vehicle sales. No more than one motor vehicle or boat may be offered for sale on any lot at any one time unless the use is approved as a motor vehicle or boat sales use.

**§ 390-144. Accessory buildings; accessory structures; accessory dwelling units.**

A. Front-yard regulations for accessory buildings and structures.

- (1) Accessory buildings and structures (excluding accessory dwelling units and accessory agricultural buildings and structures) may be located within the front yard so long as the total ground floor area or building footprint is no greater than the total ground floor area or building footprint of the principal building on the lot. The minimum front-yard setback of the accessory building or structure shall be no less than the following:

	<b>Minimum Setback from Ultimate Right-of-Way of Existing Road/ Street (feet)</b>	<b>Minimum Setback from Ultimate Right-of-Way of New Road/ Street (feet)</b>
RC District		
Tier I Subdivision	150	100
Tier II Subdivision	150	100
Tier III Subdivision	75	50
Tier IV Subdivision	75	40
R-3 District		
Tier I Subdivision	125	100
Tier II Subdivision	125	100
Tier III Subdivision	75	40
Tier IV Subdivision	75	30
R-2 District		
Tier I Subdivision	125	100
Tier II Subdivision	125	100
Tier III Subdivision	75	30
Tier IV Subdivision	75	20

- (2) Accessory buildings and structures (excluding accessory dwelling units and accessory agricultural buildings and structures) may be located less than the above distances from the ultimate right-of-way of existing roads or streets only under the following conditions:
- (a) In no case shall accessory buildings or structures be situated less than the required minimum yard setback area allowed from the ultimate right-of-way of new or existing roads or streets for principal buildings or structures in the applicable district and design option.

- (b) Accessory buildings and structures shall be screened according to § 390-139B of this chapter.
  - (3) Accessory agricultural buildings and structures may be located within the front yard, but in no case shall the minimum front yard for the accessory building or structure be less than the distance allowed from the ultimate right-of-way of roads or streets for principal buildings or structures in the applicable district and design option.
  - (4) An accessory dwelling unit may be located in the front yard only when the accessory dwelling unit is situated within an existing building (existing as of the date of the enactment of this chapter) that is being converted into an accessory dwelling unit or where the accessory dwelling unit will be set back a minimum of 350 feet from the front property line of the parcel. Otherwise, accessory dwelling units must be located in the side yards, at least 15 feet behind the front facade of the primary dwelling unit, or located in the rear yard.
- B. Side-yard and rear-yard setbacks for accessory buildings and structures over 500 square feet. Side- and rear-yard setbacks for accessory buildings and structures larger than 500 square feet shall be the same as those for principal buildings.
- C. Side-yard setbacks for accessory buildings and structures under 500 square feet.
  - (1) RC and R-3 Districts.
    - (a) Tier I subdivision: five feet.
    - (b) Tier II subdivision: five feet.
    - (c) Tier III subdivision: five feet.
    - (d) Tier IV subdivision: five feet.
  - (2) R-2 District.
    - (a) Tier I subdivision: 10 feet.
    - (b) Tier II subdivision: 10 feet.
    - (c) Tier III subdivision: five feet.
    - (d) Tier IV subdivision: five feet.
- D. Rear-yard setbacks for accessory buildings and structures under 500 square feet.
  - (1) RC, R-3 and R-2 Districts.
    - (a) Tier I subdivision: 10 feet.
    - (b) Tier II subdivision: 10 feet.
    - (c) Tier III subdivision: five feet.
    - (d) Tier IV subdivision: five feet.

- E. Accessory dwellings. Where accessory dwellings, including but not limited to accessory apartments, carriage houses, tenant houses, or other accessory-dwelling-unit types, are permitted, the following provisions shall apply:
- (1) All accessory dwelling units shall be designed to harmonize with vernacular rural buildings in the Township's historic landscape.
  - (2) Except as specifically provided in this section, a maximum of one accessory dwelling unit shall be permitted on any lot that is less than 25 acres, provided that all performance standards of this chapter are met. Except as specifically provided in this section, there shall be permitted a maximum of two accessory dwelling units on any building lot containing 25 or more acres, provided all performance standards of this chapter are met. An accessory apartment within a principal dwelling and the conversion of an existing barn into accessory apartment shall be allowed on any size parcel.
  - (3) Unless otherwise specified in this chapter, the habitable floor area of the accessory dwelling units shall not exceed 1,800 square feet.
  - (4) The off-street parking requirements of this chapter shall apply to each accessory dwelling unit.
  - (5) All sewage disposal and water system connections shall be approved by the Chester County Health Department prior to the issuance of a building permit.
  - (6) Separate cooking and lavatory facilities shall be provided for each accessory dwelling unit.
  - (7) All accessory dwelling units shall comply with the Township Building Code.
  - (8) For accessory dwelling units detached and freestanding from the principal dwelling, the following additional requirements shall apply:
    - (a) Accessory dwelling units shall be set back a minimum of 10 feet from the principal dwelling.
    - (b) The owner(s) of the parcel must reside in one of the dwelling units on the parcel.
    - (c) The accessory dwelling unit shall use the same driveway as the primary dwelling unit, unless the Board determines, in its sole discretion, that better planning will be achieved through the use of a separate, additional driveway, due to the unique characteristics of the property.
  - (9) The following additional accessory dwelling types are permitted on all parcels (regardless of size), provided that the following additional requirements shall apply to specific accessory-dwelling-unit types:
    - (a) Accessory apartment within the principal dwelling:
      - [1] Only one accessory apartment shall be permitted per single-family dwelling.
      - [2] The maximum size shall not exceed 25% of the total habitable floor area of the principal dwelling.

- [3] Accessory apartments shall contain individual entrances.
  - [4] Required parking spaces shall be incorporated into existing facilities so as to avoid the creation of a second parking area on the lot.
- (b) Accessory apartments in existing barns:
- [1] For existing barns (i.e., those in existence as of the date of the enactment of this chapter), there shall be no impervious coverage limitation for such accessory apartments, provided that the impervious coverage of the existing barn does not increase beyond 1,000 square feet due to the inclusion of the accessory apartment.
  - [2] Additional apartments up to four in number may be allowed by conditional use in existing barns.
- (c) Accessory dwelling units in historic resources. Accessory dwelling units shall be permitted in historic resources, in compliance with § 390-191 of this chapter, irrespective of any minimum lot size, maximum impervious coverage or maximum habitable floor area requirements set forth in this section (provided that the impervious coverage of the historic resource is not increased beyond 1,000 square feet due to the conversion of the historic resource to an accessory dwelling unit).
- (10) The following additional accessory dwelling types are permitted on all parcels of five acres or less, provided that the following requirements shall apply to specific accessory-dwelling-unit types.
- (a) Accessory dwelling in a freestanding building existing as of the date of adoption of this chapter (on parcels of five acres or less):
- [1] Such dwellings shall be located in the side or rear yard areas only.
  - [2] Such accessory dwellings shall have a maximum impervious coverage of 1,000 square feet. To the extent that the footprint of an existing freestanding building is (or must be) expanded in order to accommodate a proposed accessory dwelling unit, the same shall be subject to the regulations set forth below at Subsection E(11) of this section. Units shall have a maximum height of 25 feet or two-story equivalent (whichever is lesser), unless the unit is placed in an existing building (in which case, the height of the existing building may not be increased).
  - [3] Required parking spaces shall be incorporated into existing facilities so as to avoid the creation of a second parking area on the lot.
  - [4] Accessory dwellings in such existing freestanding buildings may be owned in a condominium form of ownership, in conformance with state law, and sold as a condominium to a third party, subject to the applicant obtaining any necessary approvals pursuant to Chapter 315, Subdivision and Land Development, of the West Vincent Township Code.
- (b) Accessory dwelling in a freestanding buildings not existing as of the date of

adoption of this chapter (on parcels of five acres or less). Accessory dwellings shall not be permitted in freestanding buildings not in existence as of the date of the adoption of this chapter (on parcels of five acres or less in area).

(11) For parcels in excess of five acres, the following additional accessory dwelling types are permitted, provided that the following requirements shall apply to specific accessory-dwelling-unit types.

(a) Accessory dwelling in a freestanding building:

[1] Such dwellings shall be located in the side or rear yard areas only.

[2] The buildings in which such dwellings are located shall have a maximum impervious coverage of 1,000 square feet. In the event that there is an attached garage servicing the building in which the accessory dwelling unit is situated, the impervious coverage of the accessory-dwelling-unit building and the attached garage shall have an aggregated maximum impervious coverage of 1,600 square feet. In the event that the accessory dwelling unit is on the second floor of a garage, and the habitable floor area of the accessory dwelling unit is greater than, or coterminous with, the floor area devoted to use as a garage, a freestanding building housing an accessory dwelling unit may have a maximum impervious coverage of 1,000 square feet. Units shall have a maximum height of 25 feet or two-story equivalent (whichever is lesser) unless the unit is placed in an existing building (in which case, the height of the existing building may not be increased).

[3] Required parking spaces shall be incorporated into existing facilities so as to avoid the creation of a second parking area on the lot.

[4] Accessory dwellings in freestanding buildings may be owned in a condominium form of ownership, in conformance with state law, and sold as a condominium to a third party, subject to the applicant obtaining any necessary approvals pursuant to Chapter 315, Subdivision and Land Development, of the West Vincent Township Code.

(12) Tenant houses. Where a property is an active agricultural operation and has 50 or more contiguous acres, one tenant house may be allowed by conditional use for every 25 acres for tenancy by workers for the agricultural operation or for family members of the owner of the parcel. If there is a request for more than one tenant house on a property, multifamily units will be encouraged. Each tenant house shall have a maximum impervious coverage of 2,500 square feet.

**§ 399-91. Accessory dwellings. [Amended 3-17-1998 ; 3-27-2002 ]**

- A. Specific intent. In allowing opportunities for creation of accessory dwelling units within existing single-family detached dwellings or authorized existing accessory structures, it is the specific intent of this section to address directly the needs of extended families. Through the standards in this section, the Township seeks to balance the desires of extended families to provide a discrete residence for a family member with the need to protect the existing residential character of the surrounding neighborhood.
- B. Standards for accessory dwellings. Where authorized as a special exception under the terms of this chapter, accessory dwellings may be created in accordance with the following standards. Where permitted as a use by right under the terms of this chapter, an accessory dwelling shall be subject to the terms of Subsection C, below. **[Amended 7-16-2014 by Ord. No. 02-2014 ]**
- (1) There shall not be more than one accessory dwelling unit created on any single-family residential lot.
  - (2) An accessory dwelling may be occupied by not more than two persons. A single occupant or, in the case of two occupants, one of the two, must be related by blood, marriage, or adoption to the owner of the principal residence.
  - (3) One of the two dwelling units shall be occupied by the owner of the lot on which both proposed dwelling units are to be located.
  - (4) The floor area of an accessory dwelling unit shall not be less than 500 square feet and shall not be more than 800 square feet.
  - (5) Where an accessory dwelling is proposed to be located within a primary single-family dwelling, the property must have minimum gross and net lot areas not less than those required for a single-family detached dwelling in the zoning district in which it is located.
  - (6) Where an accessory dwelling is proposed to be located within an accessory structure, such structure must comply with the following standards:
    - (a) The accessory structure must exist on the same lot as a single-family detached dwelling.
    - (b) The lot containing the accessory structure must have a minimum gross area of not less than 1.5 acres and a minimum net lot area of not less than 45,000 square feet, or the minimum gross and net lot area required in the applicable zoning district, whichever requirement is larger.
  - (7) Changes to existing structures.
    - (a) Where a single-family detached dwelling is proposed to contain an accessory dwelling unit, the structure may be expanded as necessary to accommodate the

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1. Editor's Note: Former Subsection B(6)(a), regarding accessory structure setback, was repealed 12-20-2018 by Ord. No. 07-2018. This ordinance also renumbered former Subsections B(6)(b) and B(6)(c) as Subsections B(6)(a) and B(6)(b), respectively.



dwelling unit, subject to the limitation on maximum square footage for such accessory dwelling unit as stipulated in Subsection B(4), above. No such expansion shall be located, in whole or in part, in any front yard. **[Amended 3-7-2013 by Ord. No. 02-2013 ]**

- (b) Where an accessory structure is proposed to contain an accessory dwelling unit, changes to the existing structure that are deemed necessary to accommodate the dwelling unit (e.g., removal of garage doors, addition of windows or doors) may be approved by the Zoning Hearing Board as a condition of any special exception it may grant for the accessory dwelling unit.
  - (c) No exterior changes, including expansion of the structure, shall be made which, in the judgment of the Zoning Hearing Board, are not in conformance with the existing single-family character of the neighborhood. **[Amended 3-7-2013 by Ord. No. 02-2013 ]**
  - (d) The applicant shall submit architectural plans for the accessory dwelling unit and shall provide documentation of the structural integrity of the existing structure in terms of its suitability for adding the accessory dwelling unit.
- (8) Where a community sewage system is available to serve the property, the accessory dwelling shall be connected to and served by such system. Where a community sewage system is not available, the applicant shall submit to the Township a permit issued by the Chester County Health Department for an on-site sewage disposal system. Such permit shall certify that the sewage disposal facilities are adequate for the projected number of residents. Where the existing on-site system is found by the Health Department to be inadequate to serve the projected demand, no approval shall be given for the accessory dwelling until the system is improved to meet the Health Department requirements and a permit is issued by the Department.
- (9) One off-street parking space shall be required for the accessory dwelling unit, in addition to those utilized by the principal dwelling. The additional parking space shall not be located within any required yard area. The Zoning Hearing Board, in its consideration of a special exception, may waive or modify this provision upon evidence from the applicant that the occupant or occupants of the accessory dwelling unit will not generate the need for an additional parking space.
- (10) To ensure compliance with this chapter, an architectural plan shall be submitted as part of the application for special exception, accurately drawn to scale, indicating the location and size of the existing and proposed dwelling units and parking areas, and any proposed exterior alterations.
- (11) Upon the approval by the Zoning Hearing Board of a special exception, the applicant shall execute, acknowledge and deliver to the Recorder of Deeds for Chester County for recording, a memorandum of the decision of the Zoning Hearing Board. Such memorandum shall be in a form approved by the Township, and shall contain the following: the name of the owner(s), and street address (as the same appears on the tax records); the current deed reference and tax parcel of the subject property; any conditions or restrictions imposed by the decision of the Zoning Hearing Board; a

statement that such conditions are intended to be a covenant running with the land. A true and correct copy of such memorandum stamped by the Recorder of Deeds shall be filed with the Township prior to the issuance of a certificate of use and occupancy. **[Added 7-21-2004 by Ord. No. 04-03<sup>2</sup>]**

- (12) A use and occupancy permit shall be required prior to the occupancy of an accessory dwelling unit. The permit form, as provided by the Township, and accompanying required fee shall be submitted by the property owner. An application to renew the permit shall be submitted annually prior to the intended continuation of occupancy. It shall be unlawful for the accessory dwelling unit to be occupied beyond the operative period of a permit. The accessory dwelling unit shall be subject to inspection by the Zoning Officer prior to issuance of the initial use and occupancy permit and then at least once every three years thereafter while the dwelling unit is occupied, on or about the date of initial occupancy. The Zoning Officer shall also inspect the accessory dwelling unit whenever there is a change in ownership of the property. Whenever there is a change in occupancy of the accessory dwelling unit, an inspection of the dwelling unit and issuance of a use and occupancy permit must precede the new occupant residing in the dwelling unit. **[Amended 3-7-2013 by Ord. No. 02-2013 ]**
- C. An accessory dwelling unit permitted as a use by right shall comply with the following standards: **[Added 7-16-2014 by Ord. No. 02-2014 ]**
- (1) There shall be no more than one accessory dwelling unit created on any single-family residential lot.
  - (2) The accessory dwelling shall be located within the existing single-family detached dwelling and shall not be located in an accessory structure.
  - (3) The accessory dwelling may be occupied by not more than two persons. A single occupant, or, in the case of two occupants, one of the two, must be related by blood, marriage, or adoption to the owner of the principal residence.
  - (4) One of the two dwelling units shall be occupied by the owner of the single-family dwelling in which the accessory dwelling unit is to be created.
  - (5) The minimum floor area of the accessory dwelling unit shall not be less than 500 square feet.
  - (6) Changes to the existing single-family dwelling.
    - (a) The exterior of a single-family detached dwelling proposed to contain an accessory dwelling unit may be altered to add windows and/or doors necessary in the design and construction of the accessory dwelling unit. Such windows and doors may be added only to the side or rear walls of the structure.
    - (b) No other alterations to the exterior of the structure shall be permitted unless necessary for health or safety reasons, as determined by the Zoning Officer.

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2. Editor's Note: This ordinance also provided for the renumbering of former Subsection B(11) as B(12).

- (c) The applicant shall submit architectural plans for the accessory dwelling unit and shall provide documentation of the structural integrity of the single-family dwelling in terms of its suitability for adding the accessory dwelling unit.
- (7) The accessory dwelling unit shall be connected to and served by a community sewage system.
- (8) A use and occupancy permit shall be required prior to the occupancy of the accessory dwelling unit. The permit form, as provided by the Township, and accompanying required fee shall be submitted by the property owner. An application to renew the permit shall be submitted annually prior to the intended continuation of occupancy. It shall be unlawful for the accessory dwelling unit to be occupied beyond the operative period of the permit. The accessory dwelling unit shall be subject to inspection by the Zoning Officer prior to issuance of the initial use and occupancy permit, and then at least once every three years thereafter while the dwelling unit is occupied, on or about the date of initial occupancy.

# Memo

To: Westtown Township Planning Commission  
From: Liudmila Carter, Township Manager and Director of Planning & Zoning  
Date: May 31, 2024  
Re: Ordinance Amendments – Exemption of Natural Features

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Enclosed is a redlined document with proposed draft ordinance language to amend Section 170-1507, Landscaping and site design, under Article XV General Regulations, in an effort to exempt landscaping areas that have been converted from traditional grass lawn into managed meadow from the Property Maintenance Code, which prohibits grass in excess of 10 inches. The Planning Commission has previously reviewed the proposed language and provided a favorable recommendation to the Board of Supervisors. The Board tabled the proposed changes until the Planning Commission has addressed their comments, including whether or not exempting natural features from compliance with the Property Maintenance Code might be needed. Therefore, the further discussion on the managed meadow provisions is on hold until there is a recommendation from the Planning Commission on the proposed changes to Chapter 54, Brush, Grass and Weeds (enclosed).

The Township Code includes Article IV Natural Features Protection, which maintenance related requirements are summarized below.

- **Floodplain Regulations** (§170-401) – As per zoning definition, floodplain is “a relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; an area subject to the unusual and rapid accumulation or runoff of surface waters from any source.” Activities specifically prohibited in areas subject to floodplain regulations include clear-cutting of trees, or the clearing of vegetation, except where such clearing is necessary
- **Wetlands** (§170-403) – As per zoning definition, wetlands are “those areas inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions; or as further defined and delineated by the United States Army Corps of Engineers, the United States Environmental Protection Agency, or the Pennsylvania Department of Environmental Protection.” As per stormwater management definition, wetlands are “those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, fens, and similar areas. As per subdivision and land development definition, wetlands are “those areas

inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands are also those areas defined and regulated by the Department of Environmental Protection, United State Army Corps of Engineers, and the United States Department of Fish and Wildlife.

- **Woodlands and other vegetation** (§170-404) – As per definition, woods is “Any land area of at least 0.25 acre with a natural or naturalized ground cover (excluding manicured turf grass) and that has an average density of two or more viable trees per 1,500 square feet with a DBH of six inches or greater and where such trees existed at any time within three years of the time of land development application submission of the proposed project. The land area to be considered woods shall be measured from the outer driplines of the outer trees.” When it comes to these areas, the Code requires that except in conjunction with routine property maintenance, disturbance to the healthy, well-stocked woodlands and vegetation, other than woodlands, providing wildlife food and cover or visual amenity shall be minimized. Additionally, disturbance or removal of vegetation occupying environmentally sensitive areas shall be undertaken only when necessary and on a limited, selective basis to minimize the adverse impacts of such actions. Furthermore, there are additional vegetated area maintenance standards for all districts (where applicable), including that grassed areas shall be controlled to a maximum height of 12 inches during the growing season with exemptions for such areas as floodplains, meadow, wildflower meadow, berry patch, hedgerow, agriculture and areas undergoing a directed process of natural succession.
- **Riparian buffers** – As per stormwater management definition, riparian buffer is “an area of land adjacent to a body of water and managed to maintain vegetation to protect the integrity of stream channels and shorelines, to reduce the impact of upland sources of pollution by trapping, filtering, and converting sediments, nutrients, and other chemicals, and to supply food, cover and thermal protection to fish and other aquatic species and wildlife.” There are no specific maintenance requirements for riparian buffer areas, however, §170-407 requires that where the majority of existing trees and shrubs are removed from areas between a perennial creek and a distance of 75 feet from the top bank of such creek, new trees and shrubs shall be planted and maintained that will have the same or better impact upon controlling erosion and filtering pollutants from runoff.

The Commission’s feedback is requested.

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

# Chapter 54

## Brush, Grass and Weeds

**[HISTORY: Adopted by the Board of Supervisors of the Township of Westtown 4-5-1965 by Ord. No. 65-1. Amendments noted where applicable.]**

### GENERAL REFERENCES

Property maintenance — See Ch. 126.

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### § 54-1 Nuisances prohibited.

**[Amended 11-18-2013 by Ord. No. 2013-2]**

A. Between the dates of May 1 and September 30 of any year, no person, firm, corporation or other entity owning or occupying any land within the Township of Westtown shall allow any grass, weeds or other vegetation whatsoever, which is not normally considered edible or planted and maintained for some useful or ornamental purpose, to grow or remain upon such land uncontrolled, to cause any unpleasant or obnoxious odor, to conceal any filthy deposit, to provide a place for the accumulation of garbage or rubbish, to produce any obnoxious pollen or seed, or to provide a breeding place for insects. Any such grass, weeds or vegetation growing upon any land in the Township in violation of the provisions of this section is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness, comfort and general welfare of the citizens of the Township.

(1) Areas of natural vegetation that support important beneficial purposes to include preservation of floodplains, wetlands, riparian buffers, wildlife habitat, scenic vistas or similar ecological attributes that promote the health, safety, cleanliness, comfort and general welfare of the citizens of the Township are exempt from this Section.

B. Bamboo is a group of perennial evergreens in the true grass family (Poaceae) and typically can be categorized as either a "clumping" or "running" type. Certain of the more than 1,450 species of running bamboo can be invasive and can grow to 40 feet in height. The Board of Supervisors has, therefore, determined that bamboo species, including, but not limited to, Bambuseae, Phyllostachys and Pseudosasa, including Common Bamboo, Golden Bamboo and Arrow Bamboo, shall be declared to be a nuisance and shall be maintained only as follows: **[Amended 10-18-2021 by Ord. No. 2021-09]**

- (1) Bamboo shall not be planted, maintained or otherwise be permitted to exist within 40 feet of the edge of the pavement or traveled portion of any public roadway in the Township; and
- (2) Bamboo planted or growing on a property shall not be permitted to encroach or grow upon adjoining or neighboring properties, including public property and Township rights-of-way, and shall not spread beyond the property lines of the property where it has been planted, grown, or permitted to remain.

### § 54-2 Responsibility of owners and occupants.

**[Amended 8-6-2001 by Ord. No. 2001-5; 11-18-2013 by Ord. No. 2013-2]**

A. The owner of any premises which is vacant or occupied by the owner and the occupant of any premises occupied by other than the owner thereof shall remove, trim, cut or otherwise control all grass, weeds or other vegetation growing or remaining upon such owned or occupied premises in violation of the provisions of § 54-1A of this chapter. It shall be the duty of all owners and occupiers of lands owned or

occupied by them to keep the same in good order and to keep all fields, yards, lots and other open areas mowed and trimmed and the same shall be mowed once before June 15 and again before October 1 of each and every year.

- B. Property owners or occupants of properties containing bamboo in violation of the prohibition set forth in § **54-1B(1)** of this chapter shall remove and abate the growth of the bamboo within 40 feet of the edge of the pavement or the traveled portion of a public road within the Township and shall keep the same in good order and free of bamboo at all times. [**Amended 10-18-2021 by Ord. No. 2021-09**]
- C. Property owners who plant, grow, or permit bamboo to remain on their property are herein considered to be "bamboo owners" and shall be required to take such measures as are reasonably expected to prevent bamboo from encroaching or growing onto adjoining or neighboring properties. Such measures shall include, but are not limited to, regular removal of new bamboo growth, and/or installation of sheathing comprised of metal, plastic, or other material impenetrable by bamboo at a sufficient depth and height within the property line or lines where the bamboo is planted or is growing to prevent such growth or encroachment upon adjoining or neighboring properties. [**Added 10-18-2021 by Ord. No. 2021-09**]
- (1) In the event that bamboo growing on a property encroaches or grows onto an adjoining or neighboring property that is owned or held on behalf of the Township, the Township shall notify the bamboo owner, in writing, that the bamboo has invaded the Township property and require the removal of such bamboo from the Township property.
- (2) In the event that the property owner does not remove or contract for the removal of the bamboo from the Township property, or does not make an arrangement with the Township for removal of such bamboo within 30 days from the date the Township first provided notice pursuant to the above, the Township, at its discretion, may remove or arrange for the removal of such bamboo from the Township property and the property owner shall be liable and responsible to the Township for all costs incurred in removing the bamboo from the Township property.

**§ 54-3 Notice; failure to comply; work to be done by Township.**  
[**Amended 11-18-2013 by Ord. No. 2013-2**]

The Supervisors of the Township or their duly authorized agents are hereby authorized to give notice by personal service or by United States mail directed to the last known address of the owner or occupant, as the case may be, of any lands whereon bamboo, grass, weeds or other vegetation is growing or remaining in violation of the provisions of §§ **54-1** and **54-2** of this chapter and directing such occupant or owner to remove, mow, cut or trim such bamboo, grass, weeds or vegetation so as to conform to the requirements of this chapter. The owner or occupant shall conform to the directions of the notice within five days after the issuance thereof. In the event that any person, firm, corporation or other entity so notified shall neglect, fail or refuse to comply with such notice within the period of time stated therein, the Township or its authorized agents may remove, trim, cut or mow such bamboo, grass, weeds or other vegetation, and the cost of such removal, trimming, cutting or mowing, together with the additional penalty provided by law, may be collected by the Township from such person, firm, corporation or other entity in the manner provided by law, including the placing of a municipal lien on the offending property.

**§ 54-4 Violations and penalties.**  
[**Amended 10-18-2021 by Ord. No. 2021-09**]

Any person who violates or permits a violation of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a Magisterial District Justice, pay a fine of not more than \$600, plus all court costs, including reasonable counsel fees, incurred by the Township in the enforcement of this chapter. No judgment shall be imposed until the date of the determination of the 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. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

DRAFT



ARTICLE IV  
**Natural Features Protection**

**§ 170-400. Statement of intent.**

The standards and requirements in this article are intended to afford appropriate levels of protection to those natural features within Westtown Township that represent significant resource opportunities to the Township and its surrounding region or which, when subject to undue disturbance, may constitute threats to public health, safety, and welfare. The Township considers adherence to these standards a basic prerequisite to any land development or disturbance otherwise authorized under this chapter or other regulations, and has designed the balance of this chapter to work in harmony with the terms of this article. The Township reserves the right to hire professionals, at the expense of the land owner or developer, to assess adherence to these standards.

**§ 170-401. Floodplain Regulations. [Amended 11-4-1996 by Ord. No. 96-17 ; 10-16-2006 by Ord. No. 2006-3 ; 9-5-2017 by Ord. No. 2017-3 ]**

- A. Statutory authorization. The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Board of Supervisors of the Township does hereby order as follows.
- B. Intent. The intent of this section is to:
- (1) Promote the general health, welfare, and safety of the community.
  - (2) Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
  - (3) Minimize danger to public health and safety by protecting water supply, sanitary sewage disposal, and natural drainage.
  - (4) Protect the quality and quantity of surface and subsurface water supplies adjacent to and underlying floodplain areas.
  - (5) Contribute to the protection of stream waters against sedimentation; the prevention of stream bank erosion; the maintenance of cool water temperatures; and the preservation of fish and wildlife habitats, through the protection of trees and other riparian vegetation.
  - (6) Maintain the scenic and aesthetic character of the streams and stream valleys, consistent with the goals of the Westtown Township Comprehensive Plan.
  - (7) Reduce financial burdens imposed on the community, its governmental units, and its residents by preventing the unwise design and construction of development in areas subject to flooding.
  - (8) Fulfill the responsibility of the Township as a trustee of the people's right to clean air,

pure water, and the preservation of the natural, scenic, historic and aesthetic values of the environment pursuant to Article I, Section 27 of the Pennsylvania Constitution.

- (9) Comply with federal and state floodplain management requirements.
- C. Applicability. Provisions of all other codes, ordinances, and regulations shall be applicable insofar as they are consistent with the provisions of this chapter and Westtown Township's need to minimize the hazards and damage resulting from flooding. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere subject to floodplain regulations unless a permit has been obtained from the floodplain administrator.
- D. Establishment of floodplain regulations. Floodplain regulations shall be applicable to those areas of Westtown Township, Chester County, which are classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) for Westtown Township, Chester County, Pennsylvania, as prepared by the Federal Emergency Management Agency (FEMA), dated September 29, 2017, or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study, and the Soil Survey of Chester and Delaware Counties, as prepared by the United States Department of Agriculture, Soil Conservation Service. The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Westtown Township and declared to be a part of this section. Floodplain regulations shall be comprised of three subareas, as follows:
- (1) Floodway Area (F1): An area identified as the "floodway" as established in the Flood Insurance Study referenced above and shown on the accompanying Flood Insurance Rate Map as Zone AE. The term shall also include floodway areas which have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the Flood Insurance Study. The floodway area is required to carry and discharge the waters of the base flood elevation without increasing the water surface elevation at any point more than one foot above existing conditions.
  - (2) Flood-Fringe Area (F2): An area identified as an AE Zone in the Flood Insurance Study referenced above and shown on the accompanying Flood Insurance Rate Map, where a floodway has been delineated.
    - (a) AE Area without floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined. No encroachments, including fill, new construction, substantial improvements, or other development shall be permitted in a floodway or an AE Zone without floodway, unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed development, together with all other existing and anticipated development, would not result in an increase in flood levels within the entire community during the occurrence of the base flood discharge.
  - (3) General Floodplain Area (F3): An area subject to inundation by the base flood, where a

detailed study has not been performed, but where a base flood elevation boundary has been approximated by the Flood Insurance Study and shown as Zone A on the Flood Insurance Rate Map referenced above. Where the specific base flood elevation cannot be determined for this area using other sources of data such as the U.S. Army Corps of Engineers, Floodplain Information Reports, U.S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical concepts, studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Township.

(4) Revisions, amendments, and modifications.

(a) The delineation of areas subject to floodplain regulations may be revised, amended and modified by the Westtown Township Board of Supervisors in compliance with the National Flood Insurance Program when:

[1] There are changes through natural or other causes.

[2] Changes are indicated by future detailed hydrologic and hydraulic studies.

[3] Where studies or information provided by a qualified agency or person documents the need for such revision.

(b) Additionally, as soon as practicable, but not later than six months after the date such information becomes available, the Township shall notify FEMA of the changes to the special flood hazard area by submitting technical or scientific data.

E. Boundary dispute. Should a dispute concerning any boundary subject to floodplain regulations arise, an initial determination shall be made by the Zoning Officer. Any party aggrieved by this decision may appeal to the Zoning Hearing Board under the provisions of Article XXI of this chapter. The burden of proof shall be on the appellant.

F. Administration.

(1) Designation of the floodplain administrator. The Zoning Officer is hereby appointed to administer and enforce this ordinance and is referred to herein as the floodplain administrator. The floodplain administrator may: (A) Fulfill the duties and responsibilities set forth in these regulations, (B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or (C) Enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the Township of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 CFR 59.22.

(a) In the absence of a designated floodplain administrator, the floodplain administrator duties are to be fulfilled by the Township Engineer.

- (2) Permits required. A permit shall be required before any construction or development is undertaken in areas subject to floodplain regulations.
- (3) Duties and responsibilities of the floodplain administrator.
  - (a) The floodplain administrator shall issue a permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
  - (b) Prior to the issuance of any permit, the floodplain administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
  - (c) In the case of existing structures, prior to the issuance of any development/permit, the floodplain administrator shall review the proposed cost of improvements or repairs and the preimprovement market value of the structure, so that a substantial improvement/substantial damage determination can be made, in accordance with FEMA's Substantial Improvement/Substantial Damage Desk Reference.
  - (d) In the case of existing structures, prior to the issuance of any development/permit, the floodplain administrator shall review the history of repairs to the subject building, so that any cumulative substantial damage concerns can be addressed before the permit is issued.
  - (e) During the construction period, the floodplain administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.
  - (f) In the discharge of his/her duties, the floodplain administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this ordinance.
  - (g) In the event the floodplain administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the floodplain administrator shall revoke the permit and report such fact to the Board for whatever action it considers necessary.
  - (h) The floodplain administrator shall maintain in perpetuity, or for the lifetime of the structure, all records associated with the requirements of this section including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.

- (i) The floodplain administrator is the official responsible for submitting a biennial report to FEMA concerning community participation in the National Flood Insurance Program as requested.
  - (j) The responsibility, authority and means to implement the commitments of the floodplain administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in the floodplain ordinance as the floodplain administrator/manager.
  - (k) The floodplain administrator shall consider the requirements of 34 Pa. Code and the 2009 IBC and the 2009 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.
- (4) Application procedures and requirements.
- (a) Application for such a permit shall be made, in writing, to the floodplain administrator on forms supplied by Westtown Township. Such application shall contain the following:
    - [1] Name and address of applicant.
    - [2] Name and address of owner of land on which proposed construction is to occur.
    - [3] Name and address of contractor.
    - [4] Site location including address.
    - [5] Listing of other permits required.
    - [6] Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
    - [7] A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
  - (b) If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for permits shall provide all the necessary information in sufficient detail and clarity to enable the floodplain administrator to determine that:
    - [1] All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this section and all other applicable codes and ordinances;
    - [2] All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
    - [3] Adequate drainage is provided so as to reduce exposure to flood hazards;
    - [4] Structures will be anchored to prevent floatation, collapse, or lateral

movement;

- [5] Building materials are flood-resistant;
  - [6] Appropriate practices that minimize flood damage have been used; and
  - [7] Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
- (c) Applicants shall file the following minimum information plus any other pertinent information as may be required by the floodplain administrator to make the above determination:
- [1] A completed permit application form.
  - [2] A plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 100 feet or less, showing the following:
    - [a] North arrow, scale, and date;
    - [b] Topographic contour lines, if available;
    - [c] The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
    - [d] The location of all existing streets, drives, and other accessways; and
    - [e] The location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
  - [3] Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
    - [a] The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
    - [b] The elevation of the base flood;
    - [c] Supplemental information as may be necessary under 34 Pa. Code, the 2009 IBC or the 2009 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.
  - [4] The following data and documentation:
    - [a] Detailed information concerning any proposed floodproofing measures and corresponding elevations.
    - [b] If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.

- [c] Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development subject to floodplain regulations (see § 170-401D) when combined with all other existing and anticipated development, will not cause any increase in the base flood elevation.
  - [d] A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood. Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.
  - [e] Detailed information needed to determine compliance with § 170-401I, Activities specifically prohibited when subject to floodplain regulations, including:
    - [i] The amount, location and purpose of any materials or substances referred to in § 170-401I which are intended to be used, produced, stored or otherwise maintained on site.
    - [ii] A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in § 170-401I during a base flood.
  - [f] The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
  - [g] Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.
- (d) Applications for permits shall be accompanied by a fee, payable to the municipality based upon the estimated cost of the proposed construction as determined by the floodplain administrator.
- (5) Review of application by others. A copy of all plans and applications for any proposed construction or development subject to floodplain regulations to be considered for approval may be submitted by the floodplain administrator to any other appropriate agencies and/or individuals (e.g., planning commission, municipal engineer, etc.) for review and comment.
- (6) Changes. After the issuance of a permit by the floodplain administrator, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the floodplain administrator. Requests for any such change shall be in writing, and shall be submitted by the applicant to floodplain administrator for consideration.
- (7) Placards. In addition to the permit, the floodplain administrator shall issue a placard, or

similar document, which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the permit, the date of its issuance, and be signed by the floodplain administrator.

- (8) Start of construction. Work on the proposed construction or development shall begin within 180 days after the date of issuance of the development permit. Work shall also be completed within 12 months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the floodplain administrator. The issuance of development permit does not refer to the zoning approval.
  - (a) The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
  - (b) Time extensions shall be granted only if a written request is submitted by the applicant, who sets forth sufficient and reasonable cause for the floodplain administrator to approve such a request and the original permit is compliant with the ordinance and FIRM/FIS in effect at the time the extension is granted.
- (9) Enforcement and penalties. Any person who fails to comply with any or all of the requirements or provisions of this article or who fails or refuses to comply with any notice, order of direction of the floodplain administrator or any other authorized employee of the Township shall be subject to the procedures, enforcement action, fines and/or penalties as set forth within Chapter 170, Articles XXI and XXIII, of the Township's Zoning Ordinance.
- (10) Appeals.
  - (a) Any person aggrieved by any action or decision of the floodplain administrator concerning the administration of the provisions of this article may appeal to the Zoning Hearing Board as specifically provided for in Chapter 170, Article XXI, of the Township Zoning Ordinance. Such appeal must be filed, in writing, within 30 days after the decision, determination or action of the floodplain administrator.
  - (b) Upon receipt of such appeal, the Zoning Hearing Board shall consider the appeal in accordance with the Municipalities Planning Code and Article XXI of the Township Zoning Ordinance.



- (c) Any person aggrieved by any decision of the Zoning Hearing Board may seek relief therefrom by appeal to court, as provided by the laws of this state including the Pennsylvania Flood Plain Management Act.

G. Uses permitted in floodways area (F1).

- (1) The following uses (exclusive of buildings and paving) are permitted in the floodway area. However, within any floodway area (F1), no new construction, development, use, activity, or encroachment shall be permitted unless the effect of such development on flood heights is fully offset by accompanying stream improvements which have been approved by all appropriate local and/or state authorities. When a landowner or developer proposes to offset the effects of development in the floodway area by construction of stream improvements, he/she shall submit a hydrologic and hydraulic analysis performed in accordance with standard engineering practice which fully evaluates the effects of such construction. The report shall use the base flood as herein defined as the basis of analysis. All adjacent communities and the Pennsylvania Department of Community and Economic Development shall be notified by the landowner and/or developer by certified mail of all such intended activities prior to any alteration or relocation of a watercourse and shall submit copies of such notification to the Federal Emergency Management Agency. In addition, the landowner and/or developer shall assure the Township, in writing, that the flood-carrying capacity within the altered or relocated portion of the water course in question will be maintained.
  - (a) Agricultural uses, such as general farming, pasture, orchard, grazing, outdoor plant nurseries, and truck farming. Such activities should be conducted in accordance with a plan approved by the Chester County Conservation District and recognized soil conservation practices approved by the Township.
  - (b) Selective cutting of trees provided further that desirable mature shade trees are not totally eliminated, that particular attention is paid to retaining such trees within 25 feet of any stream bank, and that no such trees growing within or upon a stream bank shall be removed unless dead, diseased, or damaged and threatening the stability of the bank.
  - (c) Recreational uses, such as park, camp, picnic grounds, golf course, golf driving range, archery ranges, hiking and riding trails, fishing areas, game farm, fish hatchery, wildlife sanctuary, nature preserve and swimming areas.
  - (d) Passive open space uses, including private yard area.
  - (e) Construction of crossings of the floodway area by railroads, roads, bridges, and utility transmission lines that would not result in any increase in the flood level during the occurrence of the base flood.
  - (f) Sealed water supply wells and water pipe lines.
  - (g) Storm and sanitary sewer outlets, which shall take the shortest route across the area subject to floodplain regulations to the point of discharge.
- (2) The following shall not be placed or caused to be placed in the designated floodway

area: fences (except that which are necessary and appurtenant to agricultural uses and are either designed to permit the automatic entry and exit of floodwaters or collapse during flood events to permit the unimpeded flow of floodwaters), other matters which may impede, retard or change the direction of the flow of water or that will catch or collect debris carried by such water, or that are placed where the natural flow of the stream or floodwaters would carry the same downstream to the damage or detriment of either public or private property adjacent to the floodplain. The placement of mobile homes shall not be permitted in any designated floodway area.

- H. Uses permitted in flood-fringe area (F2) and general floodplain area (F3).
- (1) The following uses are permitted in the flood-fringe (F2) and general floodplain area (F3).
    - (a) Uses permitted within the floodway area as provided in Subsection E above.
    - (b) Sewage treatment plants and pumping stations when constructed to prevent flooding of the facilities.
    - (c) Placement of recreational vehicles, provided that when subject to floodplain regulations recreational vehicles shall:
      - [1] Be on the site for fewer than 180 consecutive days; and
      - [2] Be fully licensed and ready for highway use, i.e., on its wheels or jacking system and attached to the site by quick-disconnect utilities and security devices with no permanently attached additions.
  - (2) No development or use of land shall be undertaken when the effect of such development or use of land, when combined with all other existing and anticipated development, would increase the water surface elevation at any point above the base flood elevation unless the effect of such development on flood heights is fully offset by accompanying stream improvements which have been approved by all appropriate local and/or state authorities. When an owner and/or developer proposes to offset the effects of development by construction of stream improvements or to install fill or alter or relocate a watercourse, he/she shall submit an engineering study prepared by a registered professional engineer which fully evaluates the effects of such construction. The report shall use the base flood elevation as herein defined as the basis of analysis. All adjacent communities and the Pennsylvania Department of Community and Economic Development shall be notified by the developer by certified mail of all such intended activities prior to any alteration or relocation of a watercourse and the developer shall submit copies of such notification to the Federal Emergency Management Agency. In addition, the developer shall assure the Township, in writing, that the flood-carrying capacity within the altered or relocated portion of the watercourse in question will be maintained.
  - (3) All uses, activities, and other developments shall be undertaken in strict compliance with the floodproofing and related provisions contained herein, and in all other applicable codes, ordinances and regulations.

- (4) No new construction or development shall be located within the area measured 75 feet landward from the top-of-bank of any watercourse.
- I. Activities specifically prohibited in areas subject to floodplain regulations. Any use or activity not authorized as a permitted use under the terms of Subsections G and H above shall be prohibited in areas subject to floodplain regulations. In particular, the following activities, whether proposed in conjunction with a permitted use or otherwise, shall not occur in any area subject to floodplain regulations:
- (1) Clear-cutting of trees, or the clearing of vegetation, except where such clearing is necessary:
    - (a) To prepare land for a use permitted by Subsections G and H above, or by action of the Zoning Hearing Board. Where clear-cutting is proposed in conjunction with the site of a stormwater management basin, such clear-cutting shall be authorized only when in accordance with an approved plan for development which the basin is to serve;
    - (b) As a reforestation measure; or
    - (c) As a means to eliminate dead, diseased, or hazardous tree stands. Where a clear-cutting operation is deemed permissible for one of the above reasons, it shall be consistent with the terms of a woodland management plan approved by the Board of Supervisors. Under no circumstances shall a clear-cutting operation be conducted within 25 feet of a stream.
  - (2) Sod farming.
  - (3) Storage of any material which, if inundated, would float, or of any flammable or toxic material or any other material which, if inundated or otherwise released to the stream, would degrade or pollute the stream, or cause damage if swept downstream.
  - (4) Toxic chemicals.
    - (a) Storage of, and the construction, enlargement or expansion of any structure which would be used for the production, storage, or maintenance of, a supply of the following toxic chemicals which are dangerous to human or animal life:
      - [1] Acetone.
      - [2] Ammonia.
      - [3] Benzine.
      - [4] Calcium carbide.
      - [5] Carbon disulfide.
      - [6] Celluloid.
      - [7] Chlorine.

- [8] Hydrochloric acid.
  - [9] Hydrocyanic acid.
  - [10] Magnesium.
  - [11] Nitric acid and oxides of nitrogen.
  - [12] Petroleum products (gasoline, fuel oil, etc.).
  - [13] Phosphorus.
  - [14] Potassium.
  - [15] Sodium.
  - [16] Sulfur and sulfur products.
  - [17] Herbicides or pesticides (including insecticides, fungicides and rodenticides).
  - [18] Radioactive substances, insofar as such substances are not otherwise regulated.
  - [19] Any other dangerous materials or substances regulated by the appropriate federal or state agencies.
- (b) Further, any substantial improvement to an existing structure which will be used for the production or storage of any such materials or substances, or which will be used for any activity requiring the maintenance of a supply (more than 110 gallons or other comparable volume or any amount of radioactive substances) of any such materials or substances on the premises, shall be prohibited.
- (5) Installation of individual or community on-lot sewage disposal systems.
  - (6) The construction, enlargement, or expansion of mobile homes, mobile home parks, mobile home subdivisions, manufactured homes, or manufactured home parks or subdivisions.
  - (7) The construction, enlargement, or expansion of hospitals (public or private).
  - (8) The construction, enlargement, or expansion of nursing homes (public or private).
  - (9) The construction, enlargement, or expansion of jails or prisons.
  - (10) Junkyard.
- J. Nonconforming structures and uses subject to floodplain regulations. Nonconforming structures and uses of land subject to floodplain regulations shall be regulated under the provisions of Article XIX of this chapter, but the following additional regulations also shall apply.
- (1) Existing nonconforming structures or uses located in the floodway area (F1) shall not be expanded or enlarged.

- (2) The modification, alteration, repair, reconstruction, or improvement of any kind to a nonconforming structure or use in a floodway area (F1) and the modification, expansion, enlargement, alteration, repair, reconstruction, or improvement of any kind to a nonconforming structure or use located in a flood-fringe area (F2) or general floodplain area (F3) must be authorized as a special exception by the Zoning Hearing Board under the provisions of Article XX of this chapter. In considering such special exceptions, the Zoning Hearing Board shall apply the following standards and criteria:
- (a) The modification, alteration, repair, reconstruction or improvement of any structure in the floodway area (F1) shall be permitted only where the rise in flood heights caused by the proposed development is fully offset by accompanying improvements.
  - (b) The proposed change is consistent with the spirit, purpose, and intent of this chapter.
  - (c) The proposed use is feasible and suitable in relation to the land use capabilities of the property in question, particularly its capabilities in terms of a suitable water supply, drainage, sewage disposal, topography, soil conditions, and ecological consideration.
  - (d) The proposed change will serve the best interests of the Township, the convenience of the community, where applicable, and the public welfare.
  - (e) The adequacy of sanitation and public safety provisions, where applicable, is assured and a certificate of adequacy or permit for sewage and water facilities has been obtained from the Chester County Health Department or other appropriate governmental agencies required herein or deemed advisable by the Zoning Hearing Board.
  - (f) If improvements to the floodway area (F1), or any filling or alterations to the elevation of the ground in the floodway area (F1), flood-fringe area (F2) or general floodplain area (F3), or any alterations or relocations of any perennial stream are contemplated, the Zoning Hearing Board shall determine that the developer has complied with the provisions of Subsections E and F, above, with regard to the effect of such filling or alterations on base flood elevations and has notified in writing, by certified mail, all adjacent communities which may be affected by such alterations and has submitted copies of such notification to the Township, the Pennsylvania Department of Community and Economic Development, and the Federal Emergency Management Agency and has, in addition, obtained a permit from the Pennsylvania Department of Environmental Protection Regional Office.
  - (g) Any modification, alteration, repair, reconstruction, expansion, or improvement of any kind to a nonconforming structure or use located in the floodway area to an extent or amount less than 50% of its market value shall be elevated and/or floodproofed to the greatest extent possible.
  - (h) Any modification, alteration, repair, reconstruction, expansion, or improvement of any kind to a nonconforming structure or use, regardless of location within areas

subject to floodplain regulations, to an extent or amount of 50% or more of its market value shall be undertaken only in full compliance with the provisions of this and any other applicable ordinances.

- (i) All structures shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum obstruction effect upon the flow and height of floodwater.
  - (j) Any structure or site listed in or determined eligible for the National Register of Historic Places (NRHP) undergoing repair or rehabilitation that would constitute a "substantial improvement" as defined in this chapter shall comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the NHRP or the State Inventory of Historic Places shall be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements shall be the minimum necessary to preserve the historic character and design of the structure.
  - (k) Nonconforming structures and uses shall be undertaken in strict compliance with the floodproofing and related provisions contained herein, and in all other applicable federal, state and local codes, ordinances and regulations, including those of the Pennsylvania Department of Environmental Protection and the Chester County Conservation District.
- (3) If an existing manufactured home has incurred substantial damage as a result of a flood, the home must:
- (a) Be elevated on a permanent foundation such that the lowest floor is elevated 1 1/2 feet or more above the base flood elevation; and
  - (b) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- K. Alteration or relocation of watercourses. Any alteration or relocation of any perennial stream required for the construction or conduct of permitted uses subject to floodplain regulations, including nonconforming uses, and any of the aforesaid modifications, alterations, or relocations required in order to gain access across land subject to floodplain regulations shall be designed and constructed in accordance with the following:
- (1) The developer shall submit a copy of a notification prepared, in writing, by certified mail to the Federal Emergency Management Agency, the Pennsylvania Department of Community and Economic Development, and to adjacent communities which may be affected by modifications to the elevation of ground in a floodplain, or alterations or relocations of streams.
  - (2) The developer shall submit a copy of a permit from the Pennsylvania Department of Environmental Protection Regional Office, for the modifications to the grade or alterations or relocations to the stream, or evidence from the said Pennsylvania Department of Environmental Protection Regional Office that such a permit is not required.

- (3) Proposed fills shall meet the following minimum standards. Plans submitted under the provisions of this subsection shall be subject to the review and approval of the Board of Supervisors according to procedures set forth in Chapter 149, Subdivision of Land.
    - (a) Fill shall consist of soil or rock materials only. Sanitary landfills shall not be permitted.
    - (b) Fill material shall be compacted to provide the necessary stability and resistance to erosion, scouring, or settling.
    - (c) Fill slopes shall be no steeper than one vertical on three horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the Zoning Officer.
    - (d) Fill shall be used only to the extent to which it does not adversely affect adjacent properties.
    - (e) Care shall be taken to prevent erosion and sedimentation due to proximity to the stream. The Township Engineer shall approve the proposed erosion/sedimentation control methodology.
  - (4) Modifications to the floodplain or stream courses shall be undertaken in strict compliance with the floodproofing and related provisions contained herein, and in all other applicable federal, state and local codes, ordinances and regulations, including those of the Pennsylvania Department of Environmental Protection and the Chester County Conservation District.
- L. Special requirements for subdivisions and land development. All subdivision proposals and land development proposals containing at least 50 lots or at least five acres, whichever is the lesser, in identified floodplain areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a conditional letter of map revision (CLOMR) and letter of map revision (LOMR). Submittal requirements and processing fees shall be the responsibility of the applicant.
- M. Installation of utility facilities subject to floodplain regulations. Where utility lines or on-site facilities are required to be installed or replaced in an area subject to floodplain regulations, the following minimum standards shall apply:
- (1) Water facilities. All new or replacement water facilities, whether public or private, shall be designed to minimize or eliminate infiltration of floodwaters into the system, and be located and constructed to minimize or eliminate flood damages.
  - (2) Sanitary sewer facilities. All new or replacement sanitary sewer facilities, and private package sewage treatment plants (including all pumping stations and collector systems, whether public or private) shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into the floodwaters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

- (3) Drainage. Storm drainage facilities, whether public or private, shall be designed to convey the flow of stormwater runoff in a safe and efficient manner.
  - (4) All other new or replacement public or private utilities and facilities shall be designed to minimize or eliminate infiltration of floodwaters into the system, and be located and constructed to minimize or eliminate flood damages.
- N. Minimum floodproofing standards. Where a special exception has been requested under the provisions of Subsection H above, in which it is anticipated that a structure or use will be modified, altered, repaired, reconstructed, expanded or improved in any way, when a sewage treatment plant or pumping station is contemplated under the provisions of Subsection F above, or where a special exception or variance is granted under the provisions of Subsection L below, the following minimum standards shall apply to floodproofing:
- (1) Within any floodway area (F1), flood-fringe area (F2) or general floodplain area (F3), the lowest floor (including basement) of any new or improved residential structure shall be not less than 1 1/2 feet above the base flood elevation. Any nonresidential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards. There should be a statement submitted with the permit application and a statement submitted with the as-built floodproofing certificate prior to the issuance of the certificate of occupancy.
  - (2) If fill is used to raise the finished surface of the lowest floor to the base flood elevation, such fill shall extend beyond a structure for a sufficient distance to provide acceptable access. For residential structures, fill shall extend laterally 15 feet beyond the building line from all points. For nonresidential structures, fill shall be placed to provide access acceptable for intended use. At-grade access, with fill extending laterally 15 feet beyond the building line, shall be provided to a minimum of 25% of the perimeter of a nonresidential structure.
  - (3) For all new construction and substantial improvements, fully or partially enclosed areas below the lowest floor (excluding basements) located within the floodplain which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement shall be designed and constructed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by a registered professional engineer and must meet or exceed the following minimum criteria:
    - (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area installed on two separate walls.
    - (b) The bottom of all openings shall be no higher than one foot above grade.



- (c) Openings may be equipped with screens, louvers, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
- (4) All air ducts, large pipes and storage tanks located at or below the base flood elevation shall be firmly anchored to resist flotation.
- (5) Depending on the type of structure involved, the following information shall also be included in the application and maintained on record by the Zoning Officer:
  - (a) For structures to be elevated to the base flood elevation:
    - [1] A plan showing the size of the proposed structure and its relation to the lot where it is to be constructed.
    - [2] A determination of elevations of the existing ground, proposed finished ground, lowest floors, to be certified by registered professional engineer, surveyor or architect.
    - [3] Plans showing the method of elevating the proposed structure, including details of proposed fills, pile structures, retaining walls, foundations, erosion protection measures, etc. These plans shall be prepared by a registered professional engineer or architect.
    - [4] Plans showing the methods used to protect utilities (including sewer, water, telephone, electric, gas, etc.) from flooding to the base flood elevation at the building site.
  - (b) For structures to be floodproofed to the base flood elevation (nonresidential structures only):
    - [1] A registered professional engineer or architect shall develop the structural design, specifications, and plans showing details of all floodproofing measures, and showing the size of the proposed structure and its relation to the lot where it is to be constructed. The plan must include a determination of elevations of existing ground, proposed finished ground, lowest floors and floodproofing limits.
    - [2] A certificate prepared by the registered professional engineer or architect who prepared the plans in § 170-401F(4), above, that the structure in question, together with attendant utility and sanitary facilities, is designed so that:
      - [a] Below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water.
      - [b] The structure will withstand the hydrostatic, hydrodynamic, buoyant impact and other forces resulting from the flood depths, velocities, pressures, and other factors associated with the base flood elevation.
    - [3] A certificate must be provided to the Township which includes the specific elevation (in relation to mean sea level) in North American Vertical Datum of 1988 to which the structures are floodproofed to be maintained with the

## Township Zoning Officer.

- (6) Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:
- (a) The structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
  - (b) Floor area shall not exceed 200 square feet.
  - (c) The structure will be located on the site so as to cause the least obstruction to the flow of floodwaters.
  - (d) Power lines, wiring, and outlets will be at least 1 1/2 feet above the base flood elevation.
  - (e) Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc., are prohibited.
  - (f) Sanitary facilities are prohibited.
  - (g) Lateral movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
    - [1] A minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space.
    - [2] The bottom of all openings shall be no higher than one foot above grade.
    - [3] Openings may be equipped with screens, louvers, etc., or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
  - (h) If a variance is granted, a signed declaration of land restriction (nonconversion agreement) shall be recorded on the property deed prior to issuance of the certificate of occupancy.
  - (i) The storage of hazardous materials in accessory structures is prohibited.

## O. Hardships.

- (1) When the provisions of this § 170-401 are deemed by the applicant to be unreasonable or to create a substantial hardship, the applicant shall have a right to:
- (a) In the case of applications for permitted uses under Subsections G or H, above, make an appeal to the Zoning Hearing Board in accordance with the provisions of Article XXI of this chapter.
  - (b) In the case of an appeal to the Zoning Hearing Board for a special exception under

the provisions of Subsection J, above, supply additional testimony and evidence to the Zoning Hearing Board as part of his request for relief from such hardship.

- (2) All decisions on such appeals shall adhere to the following criteria:
- (a) Any person aggrieved by any action or decision of the floodplain administrator concerning the administration of the provisions of this section may appeal to the Zoning Hearing Board. Such appeal must be filed, in writing, within 30 days after the decision, determination or action of the floodplain administrator.
  - (b) The Zoning Hearing Board shall not grant a variance or special exception for any construction, development, use or activity within an area subject to floodplain regulations that would cause any increase in the base flood elevation.
  - (c) The Zoning Hearing Board shall grant special exceptions only upon a showing of good and sufficient cause; a determination that failure to grant the appeal would result in exceptional hardship to the applicant; and a determination that the granting of an appeal will not result in increased flood heights, additional threats to public safety, extraordinary public expense, creation of nuisance, fraud on or victimization of the public or conflict with existing local laws or ordinances.
  - (d) The Zoning Hearing Board shall grant a special exception only upon determination that it is the minimum necessary to afford relief, considering the flood hazard. In the case of requirements for floodproofing, the highest feasible class of floodproofing as defined by floodproofing regulations promulgated by the U.S. Army Corps of Engineers, shall be provided.
  - (e) The Zoning Hearing Board shall not grant a special exception for new construction and substantial improvements of residential structures within Zones AE and A as shown on the Flood Insurance Rate Map having the lowest floor (including basement) 1.5 feet above base flood elevation.
  - (f) The Zoning Hearing Board shall notify the applicant in writing over the signature of the Chairman of the Zoning Hearing Board that the issuance of a decision to allow construction of a structure below the base flood elevation will result in increased premium rates for flood insurance; and such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with a record of all decisions as required in Subsection O(2)(g) below.
  - (g) The Zoning Hearing Board shall maintain a record of all decisions including justification for their issuance and report such decisions issued in its annual report submitted to the Federal Emergency Management Agency.
  - (h) No special exception or variance shall be granted for any requirement pertaining to developments which may endanger human life [as described in § 170-401I(4), (6), (7), (8), and (9) of this chapter], hospitals, nursing homes, jails/prisons or manufactured home parks in accordance with the Pennsylvania Flood Plain Management Act, P.L. 851, No. 166 of 1978, as amended.
  - (i) Upon receiving an application for a special exception or variance, the Zoning

Hearing Board shall, prior to rendering a decision thereon, require the applicant to furnish such of the following material as is deemed necessary by the Board:

- [1] Plans in triplicate drawn to scale showing the nature, location, dimensions and elevation of the lot and existing and proposed uses; photographs showing existing uses and vegetation; soil types and other pertinent information.
  - [2] A series of cross-sections at twenty-five-foot intervals along the lot shoreline, showing the stream channel and elevation of adjoining land areas to be occupied by the proposed uses, and high water information. Cross-sections shall be field-run topography based on a known USGS benchmark.
  - [3] Profile showing the slope of the bottom of the channel.
  - [4] Specifications for building materials and construction, floodproofing, filling, dredging, grading, storage, and water supply and sanitary facilities.
  - [5] Computation of the increase, if any, in the height of the base flood which would be attributable to any proposed uses.
  - [6] A deed notation or lease notation, to be placed on record to run with the land, which notation shall contain the following provision: "This lot is entirely (partially) within an area subject to floodplain regulations as defined by Article IV of the Westtown Township Zoning Ordinance."
- (j) In considering any application for a special exception or variance, the Zoning Hearing Board may request at the hearing the testimony of any Township Board, Commission, or technical advisor concerning the extent to which the proposed use would diminish the capacity of areas subject to floodplain regulations to store and absorb floodwaters, to moderate flood velocities, and to accommodate sediment; be subject to flood damage; cause erosion and impair the amenity of areas subject to floodplain regulations; or adversely affect the area contiguous to areas subject to floodplain regulations as well as areas downstream; or on any other pertinent aspect of the case.
- (k) In all proceedings before the Zoning Hearing Board, including application for special exception from the provisions of this section, the burden of proof shall be on the applicant to show that the use required will be in general conformity with the objectives of this section, that proper safeguards will be observed, and that the use will not be injurious to the public health, safety, and general welfare.
- (l) The applicant shall demonstrate that the use will be in accordance with all applicable federal, state and local agency codes, ordinances and regulations including those of the Pennsylvania Department of Environmental Protection and the Chester County Conservation District, and that permits will be obtained from these agencies as a condition of receiving a building or construction permit from Westtown Township for the work identified in the application to the Zoning Hearing Board.
- (m) Upon receipt of such appeal the Zoning Hearing Board shall consider the appeal in

accordance with the Municipal Planning Code and any other local ordinance.

- (n) Any person aggrieved by any decision of the Zoning Hearing Board may seek relief therefrom by appeal to court, as provided by the laws of this state, including the Pennsylvania Flood Plain Management Act.

### **§ 170-402. Steep Slope Conservation District.**

A. Intended purposes. The purposes of this section are as follows:

- (1) To promote the public health, safety and welfare by the protection of steep slope areas and by encouraging the retention of open space located and designed so as to constitute a harmonious and appropriate part of the physical development of Westtown Township.
- (2) To permit only those uses of steep slope areas which are compatible with the conservation of natural conditions and which maintain stable soil conditions by minimizing disturbances to vegetative ground covers and restricting the regrading of steep slope areas.
- (3) To limit soil erosion and the resultant destruction of the land, siltation of streams, and damage to the property of individuals.
- (4) To protect low-lying areas from flooding by limiting the increase in stormwater runoff caused by grading of sloped areas, changes of ground cover, or the erection of structures.
- (5) To maintain the ecological integrity and habitat value of steeply sloped areas, i.e., indigenous vegetation and wildlife, which could be adversely affected by otherwise permitted disturbances.
- (6) To allow the continuing replenishment of groundwater resources and the maintenance of springs.

B. General provisions.

- (1) Compliance. No area within the Steep Slope Conservation District shall hereafter be used without full compliance with the terms of this section and other applicable regulations.
- (2) Steep Slope Conservation District overlay concept. The Steep Slope Conservation District shall be deemed an overlay on any zoning district(s) now or hereafter enacted to regulate the use of land in Westtown Township.
  - (a) The Steep Slope Conservation District shall have no effect on the permitted uses in the underlying zoning district, except where said uses are intended to be located within the boundaries of the Steep Slope Conservation District, as defined herein, and said uses are in conflict with the permitted uses set forth in this section.
  - (b) In those areas of the Township where the Steep Slope Conservation District applies, the requirements of the Steep Slope Conservation District shall supersede the requirements of the underlying zoning district(s).

- (c) Should the Steep Slope Conservation District boundaries be changed as a result of legislative or administrative actions or judicial decision, the zoning requirements applicable to the area in question shall revert to the requirements of the underlying zoning district(s) without consideration of this section.
  - (d) For any parcel or any part thereof on which the Steep Slope Conservation District is an overlay, should the underlying zoning classification(s) be changed as a result of legislative or administrative actions or judicial decision, such change(s) in classification shall have no effect on the boundaries of the Steep Slope Conservation District, unless an amendment to said boundaries was included as part of the proceedings from which the subsequent change(s) originated.
- (3) Preservation of other restrictions. It is not intended by this section to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section imposes greater restrictions, the provisions of this section shall prevail.
- (4) Municipal liability. Any determination that a proposed use complies with this chapter, or any approval of a subdivision or land development plan, or any issuance of a building permit within or near the Steep Slope Conservation District shall not constitute a representation, guarantee, or warranty of any kind by the Township, or by any official or employee thereof, of the practicability or safety of the proposed use and shall create no liability upon the Township, its officials or employees. This chapter does not imply that areas outside the Steep Slope Conservation District boundaries or land uses permitted within said District will always be totally free from the adverse effects of erosion, or other effects of nearby steep slopes.
- C. Designation and interpretation of district boundary.
- (1) The Steep Slope Conservation District consists of two areas which are delineated and defined as follows: **[Amended 5-20-1996 by Ord. No. 96-5 ]**
- (a) Prohibitive slope. Prohibitive slopes are those of greater than 25% delineated and measured over a six-foot or greater difference in vertical elevation, as based on a site survey or on the United States Geological Survey Topographic Maps of the Regional Base Map Series of 1973 for the West Chester Quadrangle (i.e., sloping more than 25 feet vertical over a distance of 100 feet horizontal), where such slope exists over any continuous horizontal distance of 50 feet or more, as measured parallel to the contour lines.
  - (b) Precautionary slope. Precautionary slopes are those of 15% to 25% delineated and measured over a six-foot or greater difference in vertical elevation, as based on a site survey or on the United States Geological Survey Topographic Maps of the Regional Base Map Series of 1973 for the West Chester Quadrangle (i.e., sloping 15 to 25 feet vertical over a distance of 100 feet horizontal), where such slope exists over any continuous horizontal distance of 50 feet or more, as measured parallel to the contour lines.
- (2) Accurate topography shall be shown. If a more detailed topographic survey has not been completed, see the topographic mapping of the Chester County Department of

## Computing and Information Services. [Amended 3-3-2003 by Ord. No. 2003-2 ]

- (3) Boundary interpretation and appeals procedure.
- (a) Each application for construction or land disturbance within the Steep Slope Conservation District shall be submitted in accordance with § 170-402E(1) below. Any area of the Steep Slope Conservation District that falls within the subject lot or lots shall be interpolated and shown on the site plan required under § 170-402E(1)(a) through shading of such area or areas. The site plan shall contain a certification by the registered professional engineer or surveyor having prepared the plan as to the accuracy of the slopes as depicted on the plan. Areas shown as less than 10% slope may be based on United States Geological Survey information. Any area shown as 10% or greater slope shall be delineated on the basis of an actual field survey of the topography of the site.
  - (b) Where the exact location of the boundaries of the district in relation to a given parcel is in question, the applicant's site plan may be supplemented by a topographic survey of the property and any other documentation deemed pertinent. The Township Engineer shall evaluate all such material submitted and shall make a written report of the results of his determination, a copy of which shall be provided to Board of Supervisors.
  - (c) Any party aggrieved by any such determination of the Township Engineer or other decision or determination under this section may appeal to the Zoning Hearing Board. The party contesting the location of the district boundary shall have the burden of proof in case of any such appeal.

## D. Permitted uses.

- (1) Standards applicable to all uses within the steep slope conservation district.
- (a) All grading shall be minimized, and no grading shall be undertaken within any area of the Steep Slope Conservation District except where approved in conjunction with a use permitted under the terms of this section.
  - (b) Finished slopes of all cuts and fills shall not exceed 33%, unless the applicant can demonstrate that steeper slopes can be stabilized and maintained adequately.
- (2) Uses permitted in areas of prohibitive slope. The following are the only uses permitted as of right in areas of prohibitive slope. Such uses also shall be in compliance with the base zoning district, and shall not involve the erection of buildings, construction of streets, installation of sewage disposal systems, or permanent removal of topsoil.
- (a) Parks and outdoor recreational uses, consistent with the goals of watershed protection.
  - (b) Logging and woodcutting, where such activity is limited to highly selective removal of trees. Maximum precautions shall be taken to avoid destruction of or injury to understory brush and trees.
  - (c) Grading for the minimum portion of a driveway necessary to access a single-family

dwelling when it can be demonstrated that no other routing which avoids slopes exceeding 20% is feasible.

- (d) Yard area of any permitted building, so long as such building is itself not within the prohibitive slope area. The yard area may not be disturbed by grading or clearing.
- (3) Uses permitted in areas of precautionary slope; lot area; impervious coverage. **[Amended 5-20-1996 by Ord. No. 96-5 ; 3-3-2003 by Ord. No. 2003-2 ]**
- (a) In areas of precautionary slope, the same uses shall be allowed as provided in the underlying zoning district.
  - (b) All grading of precautionary slope shall be conducted in a manner that minimizes alteration of the landscape, that maximizes preservation of natural vegetation and that avoids erosion.
  - (c) The Zoning Officer may require that the applicant for activity within areas of over 15% slopes submit an erosion and sedimentation control plan for review and approval by the Chester County Conservation District and/or Township Engineer, and/or submittal and approval of a stormwater management plan by the Township Engineer.
    - [1] The Zoning Officer shall place conditions upon any permit to incorporate mitigation measures to ensure compliance with this chapter and state regulations and to provide for stable slopes, based upon any review of the Township Engineer or Conservation District. If such reviews are required, the applicant shall be required to fund the costs of such reviews.
    - [2] The procedures and standards contained in § 170-402E shall also apply.
  - (d) Any vegetation removal shall be conducted in a selective manner that minimizes erosion.
  - (e) Any road or driveway shall be designed in a manner that minimizes alteration of slopes over 15%. To the maximum extent feasible, roads and driveways shall follow the natural topography to minimize cuts and fills.
  - (f) If the total of all area(s) of precautionary slopes on a lot exceed 25% of the total area of a lot, then no more than 50% of the precautionary slopes on that lot shall be disturbed, graded or modified.
  - (g) Alteration shall not occur in areas of natural springs. Alteration shall be minimized around other important groundwater resource features.
- E. Administration. Administration of this section is governed by Article XX of this chapter. In addition, the following requirements shall apply: **[Amended 5-20-1996 by Ord. No. 96-5 ; 3-3-2003 by Ord. No. 2003-2 ]**
- (1) Application procedures. Before a permit is issued for any construction or land disturbance activity on land within or affecting the Steep Slope Conservation District,



the following material, in full or in pertinent parts, shall be submitted for review by the Township Engineer:

- (a) An earthmoving plan of the property which indicates existing grades with contour lines at two-foot intervals. Proposed grades within the area of any proposed activity, disturbance, or construction also shall be shown. All areas within the Steep Slope Conservation District shall be shaded accordingly.
- (b) A site plan indicating existing and proposed structures, other impervious surfaces, storm drainage facilities, and retaining walls. The site plan also shall locate and identify existing vegetation and ground cover within areas of prohibitive and precautionary slopes, as well as proposed landscaping material to be installed.
- (c) Architectural plans, elevations, and sections.
- (d) A statement, signed and sealed by a registered architect or engineer, explaining the building methods to be used in overcoming foundation and other structural problems created by slope conditions, preserving the natural watersheds, and preventing soil erosion and excessive surface water runoff to neighboring properties and/or streets.
- (e) Plan, profile, and typical cross sections of any proposed street, emergency access, or driveway, with the seal of a registered professional engineer thereon.
- (f) A statement, signed by the owner or future occupant at the time of subdivision, land development, or building permit application, that there is a full understanding of any difficulties associated with access stemming from steep slopes.

No approval or building permit shall be authorized by the Zoning Officer without the Township Engineer's review of this material and his recommendation thereon.

**§ 170-403. Wetlands; soils with seasonally high water table.**

- A. Soils with seasonally high water table. No on-site sewer system, or any portion thereof, shall be constructed or located on or within any soil area where the seasonal high water table, according to the Soil Survey of Chester and Delaware Counties (Soil Conservation Service, 1063), is within one foot of the ground surface.
- B. Wetlands. **[Amended 3-3-2003 by Ord. No. 2003-2 ]**
  - (1) Wetlands shall be determined to exist when indicated by one or more of the following:
    - (a) The National Wetlands Inventory Maps, as prepared by the U.S. Fish and Wildlife Service;
    - (b) Hydric soils, as depicted in the Soil Survey of Chester and Delaware Counties; and

- (c) The existence of hydrophytic vegetation or hydrologic conditions, as determined by on-site investigations.
- C. Should the existence of wetlands be indicated as per the requirements of § 170-403B(1) above, a wetlands delineation shall be performed by a licensed professional engineer, hydrogeologist, soil scientist, or similarly qualified professional experienced in wetlands ecology, the selection of such at the discretion of the applicant. Plans shall be submitted to the Township for review which show the delineation and indicate any disturbance of wetlands anticipated. The qualifications of the consultant performing the delineation shall be submitted with such plans. Further, unless it is clearly evident in such plans that no disturbance to the designated wetlands is anticipated, the delineation performed shall be submitted to the appropriate regulatory agencies, including but not limited to the US Army Corps of Engineers and the Pennsylvania Department of Environmental Protection (PADEP) for boundary confirmation and/or requisite wetlands permits. All potential impacts on wetlands shall conform to applicable regulations, as amended. **[Amended 3-3-2003 by Ord. No. 2003-2 ]**
- D. Should the Township conclude per the requirements of § 170-403B(1) that wetlands exist on the site, contrary to the applicant's findings, the Township shall, at its discretion, request that either the Corps of Engineers or PADEP verify the Township's findings and perform a delineation. In the event such agencies verify the Township's findings, the applicant will be required to secure any required wetlands permits, unless the applicant's activity clearly will not impact existing wetlands. **[Amended 3-3-2003 by Ord. No. 2003-2 ]**
- E. Where wetlands exist and disturbance permits and/or mitigation activities are required, final plan approval or granting of applicable permits from the Township shall be contingent upon the applicant receiving all necessary permits from the PADEP. **[Amended 3-3-2003 by Ord. No. 2003-2 ]**

#### **§ 170-404. Existing vegetation; management practices.**

- A. Conservation of woodlands and other vegetation.
- (1) Except in conjunction with routine property maintenance, disturbance to the following shall be minimized:
- (a) Healthy, well-stocked woodlands. In instances where disturbance or tree cutting is unavoidable or considered desirable in accordance with sound forest management practice, an effort shall be made, with consultation from a qualified professional, to retain as much of the woodland as possible, of a size and configuration which would promote its growth and natural regeneration.
- (b) Vegetation, other than woodlands, providing wildlife food and cover or visual amenity. This may include, but not necessarily be limited to, single or groups of specimen trees, hedgerows, and other vegetation not considered as woodland.
- (2) Disturbance or removal of vegetation occupying environmentally sensitive areas shall be undertaken only when necessary and on a limited, selective basis to minimize the adverse impacts of such actions. This shall include but not necessarily be limited to

vegetation performing important soil stabilizing functions on floodplains, stream and pond banks, and sloping lands.

B. Protection of vegetation from mechanical injury and grading change.

- (1) All woody vegetation to be retained within 25 feet of a building site, parking area, or other proposed improvement shall be protected from equipment damage by snow fencing or other effective barriers.
- (2) Heavy equipment operators shall minimize damage to existing tree trunks and root systems by not driving heavy equipment within the area circumscribed by the drip line of any tree. In addition, roots shall not be cut or disturbed within the area circumscribed by the dripline of any tree.
- (3) Tree trunks and exposed roots damaged during construction shall be protected from further damage by fencing or other structural barrier. Treatment of damaged areas shall be dictated by the nature of the injury, e.g., damaged bark shall be cut back to a point where the bark is intact and tight to the tree, exposed roots shall be cleaned up and covered with topsoil.
- (4) Trees shall not be used for roping, cables, signs, or fencing. Nails and spikes shall not be driven into trees.
- (5) The area around the base of existing woody vegetation shall be left open. No impervious cover, storage of equipment, materials, debris, or fill shall be allowed within the dripline of any existing tree.
- (6) Grade changes to occur at any location on the property shall not result in an alteration to soil or drainage conditions which would adversely affect existing vegetation to be retained following site disturbance, unless adequate provisions are made to protect such vegetation and its root systems.

C. Protection of vegetation from excavations.

- (1) When digging trenches for utility lines or similar uses, disturbance to the root zones of all woody vegetation shall be minimized.
- (2) If trenches must be excavated in the root zone, all disturbed roots shall be cut as cleanly as possible. The trench shall be backfilled as quickly as possible, avoiding soil compaction.

D. Vegetated area maintenance standards for all districts.

- (1) Intent of regulations. It is the intent of these regulations that, within or adjacent to predominantly residential areas, property owners shall not permit vegetation to become overgrown to the point of becoming unsightly and/or unhealthy. At the same time, plants that are grown for a useful or ornamental purpose, fields in agricultural use, and areas of significant natural value should not be subjected to excessive, unnecessary, or hindering standards of maintenance.
- (2) Terms of management. Where applicable [as determined by Subsection D(3) and (4)

below], the following practices for the control of vegetation on properties within Westtown Township shall be adhered to:

- (a) On developed properties, grassed areas shall be controlled to a maximum height of 12 inches during the growing season.
  - (b) Mowing shall be timed for the most effective control of the specific vegetation (e.g., ragweed and Canada thistle to be mowed in midsummer before flower buds are set).
  - (c) Selective control of noxious vegetation, as defined, may be practiced by means other than mowing. Selective control shall include the following, in order of preferred method: hand pulling, mechanical removal, burning, trimming; use of herbicides shall be the least preferable means of control. No method shall be used which would completely strip vegetation off the soil.
- (3) Conditions of applicability.
- (a) Except as exempted under Subsection D(4) below, the terms of this section shall apply to:
    - [1] Any lot within a subdivision or land development in which average lot size is two acres or less; or
    - [2] Any preexisting lot of two acres or less, whether or not created through a prior subdivision.
  - (b) Lots shall be considered established, for purposes of this section, upon final approval by the Township and recording in the office of the Recorder of Deeds of Chester County.
- (4) Exemptions from the terms of this section.
- (a) Character of the lot: uses, existing vegetation. The terms of this section, where otherwise applicable, may be waived when a lot, or portion thereof, exhibits one or more of the following uses and/or vegetative characteristics:
    - [1] Floodplain (as delineated in § 170-401 of this chapter) or marsh;
    - [2] Meadow, wildflower meadow, berry patch;
    - [3] Hedgerow;
    - [4] Agriculture, including land left fallow for up to one year; and
    - [5] Areas undergoing a directed process of natural succession.
  - (b) Character of abutting uses.
    - [1] The terms of this section may be waived where:
      - [a] None of the lands abutting or across a road from the lot are being put to development uses (residential, institutional, commercial, industrial); or

[b] All abutting developed lands are owned by (and occupied by no one other than) the party owning the lot in question, and/or abutting landowners waive enforcement of the terms of this section against the lot.

[2] The waivers in Subsection D(4)(a) and (b) above shall not apply to that portion of the lot within 50 feet of an existing road surface, said portion still requiring vegetation control as per § 170-404D(2) above.

(5) Enforcement.

(a) Interpretation, administration, and enforcement of the terms of this section shall be the responsibility of the Westtown Township Zoning Officer. Any appeal from his decision shall be handled in accordance with the terms of Article XXI of this chapter.

(b) In evaluating the applicability of these requirements and exemptions, the Zoning Officer shall, as he/she deems necessary, consult with the Township Engineer or other organizations or individuals with conservation expertise. Such consultation shall, to the maximum extent possible, involve the affected landowner, and shall be conducted for the purpose of attaining the greatest consistency with the stated intent of these regulations.

E. This § 170-404 shall not apply to forestry that meets the requirements of § 170-408. **[Added 3-3-2003 by Ord. No. 2003-2 ]**

F. Subdivision and land development. See also the tree preservation and replacement requirements in § 149-924D of the Township Code. **[Added 3-3-2003 by Ord. No. 2003-2 ]**

**§ 170-405. Agriculturally suited soils conservation.**

A. In any use or development of a tract where permanent open space is to be created and/or retained, the landowner or applicant shall, whenever possible and in conjunction with other applicable ordinances, include in such open space those agriculturally suited soils whose acreage, configuration, and location offer future opportunity for agricultural use.

B. In the siting of individual structures on lots, areas of agriculturally suited soils should be left free of structures or paving whenever possible, to allow opportunities for gardens and other agricultural uses.

**§ 170-406. Topsoil retention.**

A. Permission to remove required. No person shall excavate or otherwise remove topsoil for sale or for use other than on the premises from which the topsoil shall be taken, except in connection with the construction or alteration of a building on such premises in conjunction with an approved plan, and excavation or grading incidental thereto, without first having procured permission therefor from the Board of Supervisors.

B. Application.

- (1) The Board of Supervisors shall not consider any application for the removal of topsoil from the premises for sale or otherwise unless and until the owner of the premises shall first file with the Zoning Officer an application requesting such permission, together with a map of the premises prepared by a registered surveyor, showing the contour lines and proposed contour grades resulting from such intended removal of topsoil in relation to the topography of the premises, and the proposed contour lines, proposed grades, and an estimate of the amount of topsoil in cubic yards to be removed, shall be subject to the inspection and approval of the Board of Supervisors.
  - (2) An erosion and sedimentation control plan and erosion control permit approved by the Chester County Conservation District must accompany the application for the removal of topsoil from the premises.
  - (3) No such permission for topsoil removal shall be issued until such map plan and permit has been filed, and until the proposed contour lines and grades have been approved by the Board of Supervisors.
- C. Review procedure. A hearing before the Board of Supervisors shall be granted to an applicant for permission to remove topsoil within 30 days after the applicant request such a hearing. The Board of Supervisors in considering and reviewing the application and in arriving at its decision shall be guided and take into consideration the public health, safety or general welfare and particular consideration shall be given to the following factors.
- (1) Soil erosion by water and wind.
  - (2) Drainage.
  - (3) Soil fertility.
  - (4) Lateral support slopes and grades of abutting streets and lands.
  - (5) Land values and land uses.
  - (6) Such other factors that may relate to the public health, safety or general welfare.
- D. If after examining the application and the map provided for in § 170-406B(2) of this chapter, and after the hearing in the event a hearing is requested by the applicant, and the Board of Supervisors is of the opinion that the proposed topsoil removal will not create conditions inimical to the public health, welfare or safety, and will not result in the creation of any sharp declivities, pits or depressions, topsoil erosion or fertility problems, depressed land values, nor create any drainage, sewerage problems or other conditions of danger, permission to remove the topsoil shall be granted.
- E. Conduct of operation:
- (1) If permission to remove the topsoil shall be granted, the owner or person in charge shall so conduct the operations that there shall be no sharp declivities, pits or depressions and in such a manner that the area shall be properly leveled off, cleared of debris, and graded to conform with the contour lines and grades as approved by the Board of Supervisors.
  - (2) The topsoil removal operations shall not be permitted within 60 feet of a property line.

- (3) The owner of the premises or the person in charge of the removal of topsoil, when permission has been duly granted, shall not remove from the premises the top layer of arable soil to a depth of six inches, but such top layer of arable soil to a depth of six inches shall be set aside for retention on the premises, and shall be respread over the premises when the rest of the soil has been removed, pursuant to levels and contour lines approved by the Board of Supervisors.
- (4) The soil removal operation may not take place during the months of December, January, and February.
- (5) Dust and mud on public roads resulting from the topsoil removal operation shall be removed or controlled within 24 hours of notice by the Township to the owner or person in charge.
- (6) All areas where topsoil has been stored, or removed and respread shall be reseeded with an appropriate ground cover within 30 days.

F. Permit required:

- (1) No excavation shall be made and no topsoil shall be removed under the provisions of this chapter unless a permit therefor shall have been first obtained as provided herein, and no excavation shall be made and no topsoil shall be removed except in conformity with the provisions of this section and Chapter 149, Subdivision and Land Development. At the time of application, a fee to the order of the Township shall be paid by the applicant for the permit for removal of the topsoil from the premises. Said fee shall be as provided for in § 170-2304 of this chapter.
- (2) In the event of refusal of the topsoil removal permit the fee paid by the applicant shall be refunded, except that all monies and costs incurred by the Township for engineering surveys and reports, inspection fees and legal fees shall be retained by the Township and balance remaining shall be refunded to the applicant, together with a statement of the costs and expenses incurred by the Township in the processing of said application.

- G. Guarantees. The Board of Supervisors shall require a guaranty in the form of a bond or escrow funds, to be provided prior to issue of the permit for removal of topsoil from the premises. The bond or funds shall be furnished under such conditions and form with surety as shall be approved by the Board to guarantee the operation pursuant to the application and map, Erosion and Sedimentation Control Plan, and § 170-406D of this chapter. The amount of the bond shall not be less than \$10,000.

**§ 170-407. Setback from perennial creek. [Added 3-3-2003 by Ord. No. 2003-2 ; amended 5-2-2005 by Ord. No. 2005-4 ]**

- A. No new principal or accessory building or use, parking or commercial or industrial storage area shall be located within a minimum of 75 feet from the top bank of a perennial creek.
- B. Where the majority of existing trees and shrubs are removed from areas between a perennial creek and a distance of 75 feet from the top bank of such creek, new trees and shrubs shall be planted and maintained that will have the same or better impact upon controlling erosion and filtering pollutants from runoff.

**§ 170-408. Forestry. [Added 3-3-2003 by Ord. No. 2003-2 ]**

- A. Forestry, as defined by § 170-201, shall be permitted by right in all zoning districts. These provisions in § 170-408 shall only apply to the removal of trees for use as firewood or wood products that are unrelated to any current or prospective development of land or buildings. Tree cutting as part of current or prospective development shall be regulated by § 170-404. The cutting down of trees of less than six inches trunk diameter is not regulated by this § 170-408. For the purposes of this section, all trunk diameters shall be measured at 3.5 feet above the ground level.
- B. On any lot, a maximum of 10% of the trees of six inches or more trunk diameter may be cut down in any calendar year without a zoning permit.
- C. On any lot, if more than 10% of the trees of six inches or more trunk diameter are proposed to be cut down in any calendar year, then a Township zoning permit shall be required. This § 170-408 shall not regulate Christmas tree farms. If such forestry involves more than one acre of forested land, then the following additional requirements shall apply:
- (1) The applicant shall submit a written forest management plan prepared by a professional forester that shows that the land will be managed according to accepted professional standards to result in the long-term productivity of the forest and that shows and describes the extent of tree cutting. The forestry shall comply with the management plan.
  - (2) The applicant shall submit and comply with a soil and sedimentation control plan. This plan shall include, but not be limited to, measures to address creek and wetland crossings and logging roads.
  - (3) Clearcutting shall be prohibited, except for areas that need to be cleared to construct a use or structure that has received Township approval.
  - (4) A minimum of 20% of the forest cover (canopy) shall be kept and residual trees shall be well distributed.
- D. No cutting down of live trees shall occur within a street right-of-way without a Township permit, except for forestry conducted by Penn DOT or its contractors or public utilities.
- E. In any forestry operation, the majority of trees with trunks located within 20 feet of a lot line or street right-of-way shall not be cut down or otherwise killed.
- F. Debris from any forestry operation shall be removed, except as otherwise provided for in the forest management plan.



The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

§ 170-201 **Definitions.**

**MANAGED MEADOW**

An area intentionally planted or maintained with herbaceous plant material primarily composed of native species. A managed meadow shall be kept free of species identified in the most recent Noxious Weed Control Law and Invasive Plants List adopted by the Pennsylvania Department of Agriculture. Both are incorporated herein by reference.

§ 170-1507 **Landscaping and site design.**

- A. Any portion of a lot, site, or tract which is not used for buildings or structures, loading or parking spaces and aisles, or other impervious surfaces or designated storage areas shall be planted with an all-season ground cover. A major objective for such ground cover shall be to prevent soil erosion and sedimentation off the site.
- B. Any use or activity proposed as part of a subdivision or land development shall further comply with the requirements for shade trees, street trees, and other landscaping components stipulated in Chapter 149, Subdivision and Land Development.
- C. There shall be no plantings, ground cover or other objects placed within the road right-of-way above 18 inches in height.

D. Managed Meadows may be used as all-season groundcover to satisfy the requirements of Subsection (A).

(1) Plantings that meet the definition of Managed Meadows are specifically excluded from the definition of “nuisance” in Chapter 54, Brush, Grass and Weeds, and “weeds” in Chapter 126, Property Maintenance, of the Westtown Township Code. Whether plantings meet the definition of Managed Meadows is within the sound discretion of the municipality.

(2) Managed meadows shall only be permitted within the side or rear yards.

(3) Managed meadows shall not be permitted within 10 feet of public rights of way, sidewalks, trails, pedestrian routes, parking areas, fences or property lines.

(4) Managed meadows shall not be permitted within 25 feet of buildings or structures.

(5) Managed meadows shall be mowed at least once per year and are kept free of woody species.

(6) Managed meadows shall not be permitted within any clear sight triangle.

(7) Upon request by the Township, the owner of managed meadow shall provide a plan with details on the composition of the meadow, including list of plantings, their location and approximate quantity, and ongoing measures for managing invasive plant species within the meadow area.



West Chester  
Borough

East Bradford  
Township

West Goshen  
Township

# Future Land Use with Township and Institutional Properties

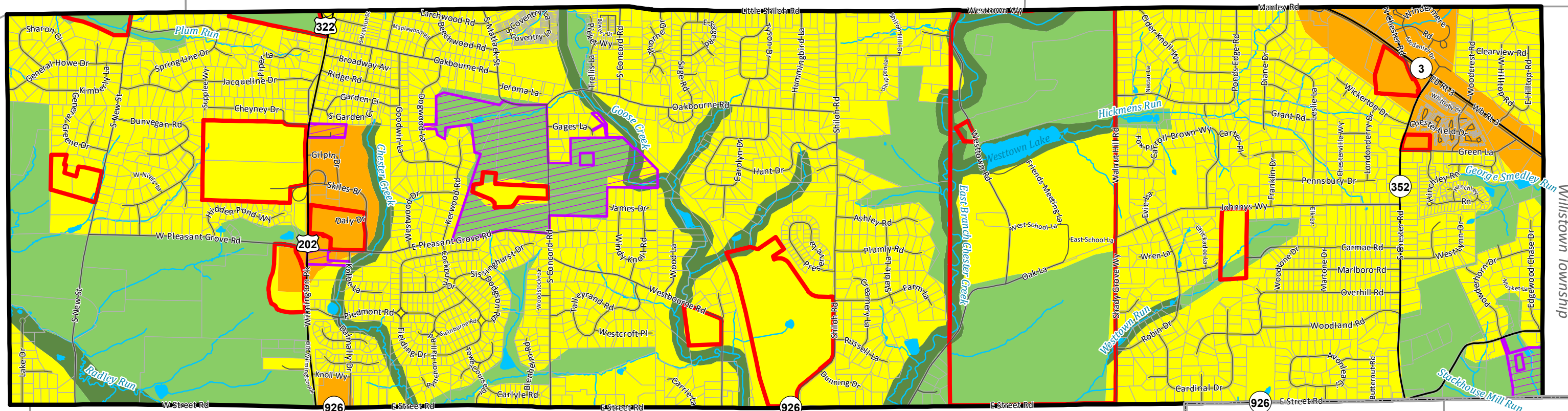
## Westtown Township Chester County, Pennsylvania

0 0.2 0.4 0.6 0.8  
Miles



**Disclaimer:** This map is for illustrative purposes only and does not constitute a valid survey.  
Map created: December 17, 2018  
Last revised: April 8, 2022

East Goshen Township



Thornbury Township  
(Delaware County)

Edgmont  
Township

Thornbury Township  
(Chester County)

Thornbury Township  
(Delaware County)

Birmingham  
Township

DELAWARE COUNTY  
CHESTER COUNTY

### Legend

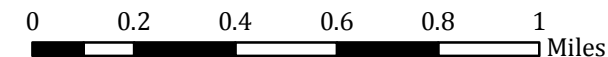
- County boundary
- Township boundary
- Adjacent municipalities
- Major roads
- Minor roads
- Tax parcels
- Streams
- Bodies of water
- Institutional properties
- T-District (Township Facilities)
- Foci Greenway
- Foci Open Space
- Foci Neighborhood Conservation
- Foci Mixed Use



West Chester  
Borough

# Protected & Unprotected Open Space

Westtown Township  
Chester County, Pennsylvania

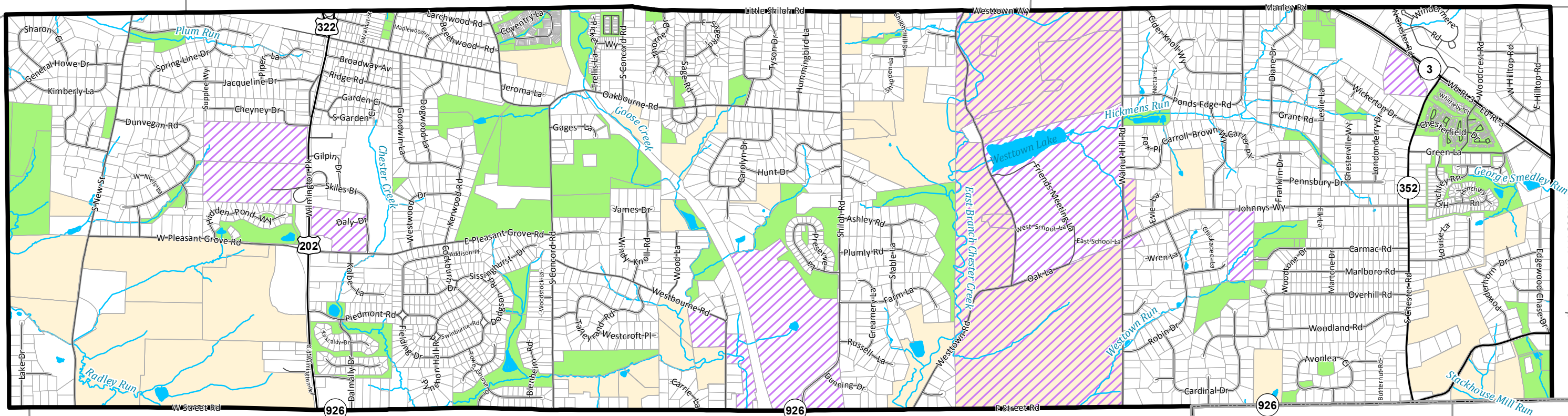


Disclaimer: This map is for illustrative purposes only and does not constitute a valid survey.  
Map revised: December 17, 2018

East Bradford  
Township

West Goshen  
Township

East Goshen Township



Willistown Township

Thornbury Township  
(Delaware County)

Edgmont  
Township

Thornbury Township  
(Chester County)

Birmingham  
Township

Thornbury Township  
(Delaware County)

## Legend

- County boundary
- Township boundary
- Adjacent municipalities
- Major roads
- Minor roads
- Tax parcels
- Streams
- Bodies of water
- Protected Lands
- School Properties
- Unprotected and potentially developable parcels

DELAWARE COUNTY  
CHESTER COUNTY