

ORDINANCE NO. – 2019

BOROUGH OF WEST CHESTER

CHESTER COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE BOROUGH OF WEST CHESTER, CHESTER COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE BOROUGH OF WEST CHESTER, SPECIFICALLY CHAPTER 94, TITLED, “STORMWATER MANAGEMENT” SECTION 94-202 TO DEFINE A “HIGH TUNNEL” AND SECTION 94-106.C TO EXEMPT CERTAIN HIGH TUNNEL FACILITIES FROM THE REQUIREMENTS OF THE ORDINANCE.

BE IT ENACTED AND ORDAINED, and it is hereby enacted by authority of the Council of the Borough of West Chester, as follows:

SECTION 1. Chapter 94 of the West Chester Borough Code, titled “Stormwater Management”, Section 94-202 titled, “Definitions”, shall be amended to include the following definition:

High Tunnel – A structure which meets the following:

1. is used for the production, processing, keeping, storing, sale or shelter of an agricultural commodity as defined in section 2 of the Act of December 19, 1974 (P.L. 973, No. 319), known as the “Pennsylvania Farmland and Forest Land Assessment Act of 1974,” or for the storage of agricultural equipment or supplies; and
2. is constructed with all the following:
 - a. has a metal, wood or plastic frame;
 - b. when covered, has a plastic, woven textile or other flexible covering; and
 - c. has a floor made of soil, crushed stone, matting, pavers or a floating concrete slab.

SECTION 2. Chapter 94 of the West Chester Borough Code, titled “Stormwater Management”, Section 94-106.C(5), titled, “Exemptions and modified requirements” shall be amended by adding a new subparagraph (c) as follows:

C. Exemptions for Specific Activities

5. Agricultural Related Activities –

- c. High Tunnels (as defined in §94-202), if:
 - i. the High Tunnel or its flooring does not result in an impervious area exceeding 25% of all structures located on the owner’s total contiguous land area; and

- ii. the High Tunnel meets one of the following:
 - (1) the High Tunnel is located at least 100 feet from any perennial stream or watercourse, public road or neighboring property line;
 - (2) the High Tunnel is located at least 35 feet from any perennial stream or watercourse, public road, or neighboring property line and located on land with a slope not greater than 7%; or
 - (3) the High Tunnel is supported with a buffer or diversion system that does not directly drain into a stream or other watercourse by managing stormwater runoff in a manner consistent with the requirements of this Ordinance.”

SECTION 3. SEVERABILITY. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts hereof. It is hereby declared as the intent of Council of the Borough of West Chester that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

SECTION 4. REPEALER. All Ordinances or parts of Ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

SECTION 5. EFFECTIVE DATE. This Ordinance shall become effective upon enactment as provided by law.

ENACTED AND ORDAINED THIS _____ DAY OF _____, 2019.

ATTEST:

**COUNCIL FOR THE BOROUGH
OF WEST CHESTER**

Michael A. Perrone, Secretary

By: _____
Diane C. LeBold, President

APPROVED THIS _____ DAY OF _____, 2019.

Dianne T. Herrin, Mayor

NOTICE IS GIVEN that on **Wednesday, _____ at 7:00 p.m.**, prevailing time, Council for the Borough of West Chester, Chester County, Pennsylvania, will hold a public hearing as part of the regularly scheduled public meeting at the Borough of West Chester's municipal building located at 401 East Gay Street, West Chester, Pennsylvania, to consider the adoption of, and if approved, Borough Council will adopt amendments to the Borough Code. The Ordinance has the following title and summary:

AN ORDINANCE OF THE BOROUGH OF WEST CHESTER, CHESTER COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE BOROUGH OF WEST CHESTER, SPECIFICALLY CHAPTER 94, TITLED, "STORMWATER MANAGEMENT" SECTION 94-202 TO DEFINE A "HIGH TUNNEL" AND SECTION 94-106.C TO EXEMPT CERTAIN HIGH TUNNEL FACILITIES FROM THE REQUIREMENTS OF THE ORDINANCE.

The full text of the Ordinance is available for inspection without charge at the Borough of West Chester administrative offices located at 401 East Gay Street, West Chester, Pennsylvania, Monday through Friday from 8:30 a.m. to 5:00 p.m. A copy of the full text of the Ordinance may be obtained for a charge not greater than the cost thereof. In addition, a certified copy of the proposed Ordinance is also on file and available for inspection by members of the public at the offices of the *Daily Local News* by calling (215) 648-1066 and the Chester County Law Library, Chester County Justice Center, Suite 2400, 201 West Market Street, West Chester, Pennsylvania 19380.

Kristin S. Camp, Esquire
Borough Solicitor

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