

BOROUGH OF WEST CHESTER

The Code of the Borough of West Chester

Chapter 112. Zoning

Borough of West Chester Zoning Ordinance of 2021

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ARTICLE I. GENERAL PROVISIONS

§ 112-101 Title.

This Chapter shall be known as and may be cited as the "Borough of West Chester Zoning Ordinance of 2021."

§ 112-102 Compliance required; applicability.

No building or other structure or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, enlarged, or structurally altered unless in conformity with the regulations of this Chapter. However, this Chapter shall not require any change to any building, structure or use legally existing at the effective date of this Chapter or duly approved and/or under construction in compliance with existing laws prior to the effective date of this Chapter.

§ 112-103 Purpose.

- A. This Chapter is enacted for the purpose of promoting, protecting and facilitating the public health, safety, and general welfare of the Borough. As established in the Comprehensive Plan, this includes promoting community and economic vitality, ensuring environmental sustainability, preserving the historic character and pedestrian scale of the Borough, coordinating development in context with Borough scale and capacity, and strengthening community partnerships, particularly with West Chester University. Therefore, this Chapter has the following purposes:
- (1) Accomplish coordinated community and neighborhood development and planned density of population.
 - (2) Provide for the general welfare of residents, businesses, and property owners by protecting and guiding the development of amenity, convenience, governmental, economic, and social and cultural facilities.
 - (3) Guide the use of type and location of buildings, structures, streets, public grounds and other facilities.
 - (4) Encourage the conservation of energy through the use of planning and building practices that promote the effective use of renewable energy sources and sustainable building practices.
 - (5) Provide for the use of land as residential housing in the form of various dwelling types encompassing all basic forms of housing.
 - (6) Promote business development and retention, employment opportunities, and economic growth.
 - (7) Promote and facilitate the preservation of the Borough's cultural and historic sites and structures.
 - (8) Promote and facilitate the protection and restoration of the Borough's streams, wetlands, floodplains, and other natural resources.
 - (9) Lessen vehicular congestion and ensure safety on the streets, including pedestrian and bicyclist safety.
 - (10) Promote and facilitate the provision of adequate vehicle parking and loading space.
 - (11) Ensure safety from fire, flood, panic and other hazards to human health and property.
 - (12) Ensure adequate light, clean air, and clean water by protecting the air, land, and water of the Borough from pollution. Prevent exposure to noxious fumes, offensive noise, vibration, dust, odor, heat, glare, and other disturbances that impair the peaceful enjoyment of neighborhoods.
 - (13) Prevent the overcrowding of land.
 - (14) Facilitate the adequate provision of safe, reliable, and sufficient water supply, stormwater management, sewage disposal, transportation and recreational facilities.
 - (15) Encourage the most appropriate and compatible use of land and buildings throughout the Borough.
 - (16) Accommodate opportunities for development of a variety of nonresidential uses.

§ 112-104 Interpretation.

- A. In interpreting and applying the provisions of this Chapter, they shall be held to the minimum requirements for the promotion of the health, safety, morals and general welfare of the Borough. The provisions of any statute, other ordinance or regulation which impose greater restrictions than this Chapter shall be controlling. Conversely, the provisions of this Chapter shall be controlling when such provisions impose greater restrictions than those of any statute, other ordinance or regulation.
- B. To implement the purposes set forth in § 112-103, the Comprehensive Plan has been formulated. In accordance with the community development goals and objectives of the Comprehensive Plan, the interpretation of this Chapter's provisions shall be made with a view toward the following:
- (1) Promoting community and economic vitality in a manner that maintains a high quality of life, ensures adequate community facilities and services, and supports businesses and neighborhoods.
 - (2) Enhancing the economic vitality of the Borough by promoting enduring and sustainable commercial uses, especially in the Town Center District, that are compatible with the scale and small-town character of the community.
 - (3) Protecting and enhancing the small-town character of the Borough, through development and redevelopment in scale and proportion with the pattern of existing streets, streetscapes, blocks, lots and neighborhoods.
 - (4) Maintaining and enhancing the quality of life in the Borough by providing for safe, clean, attractive, and environmentally sustainable streets, streetscapes, parks, plazas, and public spaces for mobility, recreation, gathering, and the display of public art.
 - (5) Encouraging a sustainable future, including ecosystem restoration, energy conservation, and renewable energy generation; and utilization of renewable energy in buildings, developments, and neighborhoods.
 - (6) Promoting coordinated and well-planned development and redevelopment in context with Borough scale and capacity, directed to future enhancement area.
 - (7) Protecting and enhancing the historic and small-town, walkable character of the Borough. Ensure that development is in scale and in proportion, including height proportion, to existing buildings within and adjoining the district where it occurs. Ensure that Town Center District development contributes to and complements the historic character of the downtown.
 - (8) Instilling order and balance in the growth and development of the Borough by regulating the intensity, location and form of development in accordance with land use and environmental compatibility, with the availability of existing and planned utilities, community facilities and services, and with sound land use and environmental principles, planned density, and planned transportation.
 - (9) Maintaining and enhancing the traditional street grid and streetscape character of the Borough, through the continuation of interconnected streets and alleys, overall streetscape widths consistent with existing conditions, and normative building placement consistent with the predominant street walls of existing blocks.
 - (10) Encouraging the preservation, enhancement, maintenance, and rehabilitation of existing buildings, streets, streetscapes, blocks, and neighborhoods, and encouraging the adaptive reuse of existing viable, structurally sound buildings as an alternative to demolition.
 - (11) Promoting a variety of commercial uses in the Town Center District in order to maintain the economic vitality of the central business district of the Borough, especially on the ground floor of buildings within the Retail Overlay District.
 - (12) Ensuring a mix of uses in the Town Center District that serves Borough residents and the region including office, retail, service, civic, arts, cultural, entertainment and residential. Concentrations of uses that impose a high demand on public services, affect the small-town character of the community, or impact the peaceful enjoyment of neighborhoods shall be avoided.
 - (13) Encouraging the transition of the East Market and East Gay Street corridors to more pedestrian-oriented development that can relieve development pressure on the Town Center District.

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§ 112-104 Interpretation.

- (14) Encouraging the maintenance and enhancement of existing community facilities and services to address education, safety, health and leisure needs and promoting the provision of services to meet recreational, fire protection, police protection and other safety and emergency protection needs.
- (15) Providing for modern, environmentally sustainable infrastructure in support of public services for health and safety, mobility, environmental protection, and recreation to include fire and police, emergency services, transportation, sewage disposal, stormwater management, and solid waste management.
- (16) Maintaining a safe and efficient street system and encouraging the improvement and enhancement of streets and alleys, and overall circulation for both motorized and nonmotorized vehicles.
- (17) Promoting the maintenance, development, preservation and/or restoration of pedestrian circulation systems including sidewalks, crosswalks, paths, multiuse trails, and bicycle routes.
- (18) Maintaining existing on-street and off-street parking areas, and encouraging innovative approaches for new parking areas and structures, while promoting shared parking facilities, and accommodating the needs of residences, businesses, and institutions.
- (19) Encouraging the use of public transportation systems involving trains, buses, and other mass transit opportunities by providing for a safe, interconnected, balanced, and sustainable transportation system for the movement of people and goods. A balanced and sustainable system includes mobility choices and complete streets, minimizes congestion, and considers the health, environmental, land use, and place-making impacts of transportation choices.
- (20) Strengthening partnerships with West Chester University to collectively address a range of issues related to preserving quality of life in the Borough.
- (21) Encouraging collaboration and coordination of initiatives pertaining to planning, development, and redevelopment with the County, adjoining municipalities, West Chester University, and other stakeholders.
- (22) Maintaining and enhancing existing institutional uses for various educational, cultural, community service and recreational pursuits.
- (23) Providing a diversity of housing types, forms, and intensities, that are compatible with existing neighborhoods.
- (24) Promoting housing suitable for all ages, abilities, and incomes such that the vibrant diversity of the Borough can be maintained. Promote development of owner-occupied affordable housing through mechanisms such as community land trusts, density bonuses, and transferable development rights (TDRs).
- (25) Encouraging a diversity of opportunities for housing, commerce, community facilities, and recreation.
- (26) Promoting increased owner occupancy.
- (27) Protecting physical, natural, and biological resources associated with streams, wetlands, floodplains, areas of steep slope, woodlands, forests, and other related resources, in accordance with Article I, Section 27, of the Constitution of the Commonwealth of Pennsylvania, which states: "The people have the right to clean air, pure water, and the preservation of the natural, scenic, historic, and esthetic values of the environment."
- (28) Regulating development and disturbance in environmentally sensitive areas such as floodplains and steep slopes and improve management of sensitive areas to include mitigation measures such as riparian buffers and light-imprint stormwater management techniques.
- (29) Assuring the development and maintenance of existing and future utility systems to service all users and encouraging the development of additional supplies and/or capacities to serve future users.
- (30) Providing for safe, modern, and environmentally sustainable public utilities including water, gas, electric, telecommunications, sewer, and stormwater, ensuring that they are planned and developed in consideration of present and future needs while mitigating potentially adverse land use, aesthetic, and environmental impacts on the community.
- (31) Encouraging local and regional cooperation and collaboration with the provision, planning and continuity of recreational, library and police services.

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§ 112-105 Exemption.

- (32) Promoting the integration of the plans for: future land use and housing; transportation and circulation; community facilities and utilities; the Urban Center Revitalization Plan; and the Official Map.
- C. Insofar as such community development objectives are consistent with the purpose set forth in § 112-103 and with the aforesaid minimum requirements therefor, the provisions of this Chapter shall be interpreted, administered and applied in such manner as will facilitate attainment of said objectives.

§ 112-105 Exemption.

This Chapter shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

ARTICLE II. TERMINOLOGY

§ 112-201 Word usage.

Unless otherwise expressly stated or unless the context clearly indicates another meaning, the following words and phrases shall be construed throughout this Chapter to have the meanings indicated below:

- A. The present tense includes all other tenses; the singular includes the plural, and the plural includes the singular; the masculine gender includes the feminine and neuter; the word "used" includes the words "designed" or "arranged"; the word "occupied" includes the words "designed" or "intended to be occupied"; the word "shall" is always mandatory; and the word "may" is always permissive. The words "as amended from time to time" and the like, as applied to any statute, ordinance, code, regulation, plan or map, include replacements, supplements or restatements thereof; and reference to a particular Article, section or subsection which inherently refers to other Articles, sections or subsections includes all Articles, sections or subsections referred to.
- B. The word "Borough" means the Borough of West Chester, Chester County, Pennsylvania; the term "Borough Council" means the Borough Council of the Borough of West Chester; the term "Planning Commission" means the Planning Commission of the Borough of West Chester; and the term "Zoning Hearing Board" means the Zoning Hearing Board of the Borough of West Chester.
- C. The terms "such as," "including" and the like are intended to introduce matters which are illustrative of the meaning of the sentence, clause or phrase in which such terms appear without limiting or derogating from the general application of the sentence, clause or phrase in which such terms appear.

§ 112-202 Definitions.

For the purpose of this Chapter, the following words, terms and phrases have the meanings indicated herein. Words, terms and phrases used in this Chapter that are not defined in this Section 112-7 shall have their ordinary meanings or such as the context may imply.

ABANDONMENT

The cessation of a use of a property (land and/or structures) by the landowner with the intention of neither resuming the use nor transferring rights of the property to another person who will so use the property.

ABUTTING

Having property or district boundary lines in common.

ABUTTING OWNER

The owner of record of a parcel of land which is contiguous at any point to the parcel in question or which is contiguous to a section of street (public or private) on which the subject parcel has frontage, i.e., a parcel across from the subject parcel.

ACCESS

A way of approaching or entering a property or lot of record which must have direct access to a public street or highway or private street meeting public street standards. "Access" includes ingress, right to enter, and egress, right to leave.

ACCESSORY BUILDING

A type of accessory use structure which is subordinate to the principal permitted building on a lot.

ACCESSORY USE

A use conducted on the same lot as a principal permitted use to which it is related; and is clearly incidental and subordinate to and customarily found in connection with a particular principal permitted use of a lot.

ACCESSORY USE STRUCTURE; ACCESSORY STRUCTURE

Any building or other structure that is related to an accessory use and is located on the same lot as a principal permitted use, such as detached garages, sheds, fencing, walls, tennis courts, basketball courts, swimming pools, pavements and other stationary man-made structures.

ACCESSWAY

A strip of land which provides access, such as a street, an easement or a driveway.

ADAPTIVE REUSE

The development of a new use for an older building or for a building originally designed for a special or specific purpose which it no longer serves.

ADDITION

Any construction which increases the size of an existing building.

ADULT CABARET

A nightclub, bar, restaurant or similar commercial establishment which features:

- A. Persons who appear in a state of nudity or semi-nudity; or
- B. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- C. Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT ENTERTAINMENT CENTER

An establishment wherein live displays of the human body without a covering on specified anatomical areas are conducted, or a building used for presenting films, motion pictures, videos, slides or other displays, distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT MERCHANDISE STORE

- A. A commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:
 - (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas as defined in this Chapter; or
 - (2) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities as defined in this Chapter.
- B. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as adult merchandise stores. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult merchandise stores so long as one of its business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of specified sexual activities or specified anatomical areas as defined in this Chapter. An establishment which sells or rents textbooks or reference materials which depict or describe specified sexual activities or specified anatomical areas as defined in this Chapter shall not be considered an adult merchandise store.

ADULT MOTION-PICTURE THEATER

A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT THEATER

A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nudity, or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

ADVERSE IMPACTS

Results contributing to a harmful or degraded condition and/or producing harm or degradation. "Adverse impacts" may include harmful effects on surrounding land uses, such as the diminution of property values or the degradation of historical resources; land use which is contrary to the Comprehensive Plan and the intent of this Chapter; effects which may create a threat to the public health, safety and general welfare; and effects on physical and biological resources which will destroy flora and fauna, degrade water and air quality or create excessive soil erosion.

ADVERTISING SIGN

See "sign" and "sign, outdoor advertising billboard."

AFFORDABLE HOUSING

Housing (i.e., the total cost of rent and utilities) that does not cost more than thirty percent (30%) of a family's income, and is deemed affordable to those with a household income no greater than 80% of the Area Median Income as established by the U.S. Department of Housing and Urban Development. A development is considered an "Affordable Housing Development" where greater than Fifty Percent (50%) of the units are deemed affordable.

AGRICULTURAL OPERATION

An enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock and livestock products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities. The term includes an enterprise that implements changes in production procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry.

AGRICULTURAL USE OR AGRICULTURE

A principal use involving the cultivating of the soil, the raising and keeping of livestock and poultry and the harvesting of the products of the soil, including horticulture and forestry.

AIR RIGHTS

Rights to develop or use the space above a property.

ALLEY

Land over which there is a right-of-way, municipally or privately owned, serving as a secondary means of access to two or more lots. Alleys shall be those shown on a list and map of the same maintained by the Borough Manager.

ALTERATION

Any change or rearrangement in the structural parts of a building or structure or in the means of egress; any change to or in a building which would alter its use classification; an enlargement, whether by extending on a side or by increasing in height; or the moving of a structure from one location or position to another. See also "structural alteration."

ALTERNATIVES

Choices between or among two or more plans, layouts, approaches, solutions and/or results.

ANTENNA

Any system of wires, rods, discs, panels, flat panels, dishes, whips, or other similar devices used for the transmission or reception of wireless signals. An antenna may include an omnidirectional antenna (rod), directional antenna (panel), parabolic antenna (disc) or any other wireless antenna. An antenna shall not include tower-based wireless communications facilities as defined below.

ANTIQUES

Goods and objects, such as furniture, textiles, silverware, glass, jewelry and baskets, made in a former period and considered to be of value due to their quality, style, appearance or age.

APPLICANT

A landowner or developer, including heirs, successors, assigns and grantees, who has filed a complete application for subdivision and/or land development, as hereinafter defined, or complete application for a special exception, variance or conditional use.

APPLICATION FOR DEVELOPMENT

Every application, whether preliminary or final, which is required by the Borough to be filed and approved prior to the start of construction or development, including but not limited to an application for a building permit or a use and occupancy permit; applications for approval of a conditional use, subdivision plan or land development plan and applications to the Zoning Hearing Board for a special exception, variance, interpretation or other action

ARCADE

An establishment where more than three mechanical amusement devices are made available for use by patrons therein. See also public place of amusement.

ASSISTED LIVING FACILITY

Any premises in which food, shelter, assisted living services, assistance or supervision and supplemental health care services are provided for a period exceeding 24 hours for four or more adults who are not relatives of the operator, who require assistance or supervision in matters such as dressing, bathing, diet, financial management, evacuation from the residence in the event of an emergency or medication prescribed for self-administration. The facility must hold a valid assisted living residence license from the Pennsylvania Department of Human Services or successor agency.

AUTOMOTIVE REPAIR FACILITIES

Establishments engaged in furnishing automotive repair services to the general public. See also "garage, public."

AUTOMOTIVE SALES AND SERVICE

The use of any building, land area or other premises for the display and sale of new or used automobiles, panel trucks or vans, trailers or recreation vehicles, and including any warranty repair work and other repair service conducted as an accessory use.

AUTOMOTIVE SERVICE STATION

A building or place of business where gasoline and automobile accessories are dispensed directly to the general public and where automotive repair service may or may not be rendered.

BANK (FINANCIAL INSTITUTION)

An institution for lending, borrowing, exchanging, issuing and safeguarding money; an office or building used for such purposes.

BASEMENT

An enclosed area of a building partly or completely below grade. A basement shall be considered as a floor for the purpose of gross floor area measurement if the basement ceiling is five feet or more above the average ground level around the building.

BED-AND-BREAKFAST FACILITY

An accessory use converted or designed for the temporary lodging of transient guests

BENEFICIAL EFFECTS

Results contributing to an improvement in condition and/or producing a favorable result, such as making a use more compatible with the intent of this Chapter and the goals of the Comprehensive Plan and promoting the public health, safety and general welfare.

BERM

A mound of earth which serves purposes such as directing the flow of surface water runoff, preventing soil erosion or supporting plant materials and to aid in screening.

BILLBOARD SIGN

An off-premises sign constructed and maintained by a professional sign company or by the outdoor advertising industry on which advertisement space is leased for a fixed period of time.

BLOCK

An area of land surrounded by streets or surrounded by streets and alleys.

BLOCK FACE

All lots abutting one side of a street between the two nearest intersecting streets or one intersecting street and a street dead end.

BOARD OF HISTORICAL AND ARCHITECTURAL REVIEW

The Board, referred to as the "HARB," which conducts reviews of proposed building construction and/or alteration work within the Historic District and performs other duties as set forth in this Chapter.

BREWERY

A premise that manufactures and produces malt or brewed beverages as defined by the Pennsylvania Liquor Code and that is licensed as a manufacturer or limited brewery by the Pennsylvania Liquor Control Board.

BUFFER

An earthen mound, berm, fence, wall and/or buffer planting strip which is a barrier to visibility, glare, noise or airborne particles between lots or uses of land.

BUFFER AREA

A strip of required yard space adjacent to and within the boundary of a property or district, no less in width than is designated in this Chapter, which is landscaped for the full width and forms a continuous visual buffer to provide maximum protection and immediate visual screening to an abutting property, district or street. The required screen or buffer area shall be permanently maintained. Buffer areas shall be in accordance with this Chapter.

BUFFER PLANTING STRIP

A strip of land within the required buffer area which is landscaped with trees and shrubs and which is maintained in accordance with this Chapter and the applicable district regulations.

BUILDING

Any structure having a roof supported by enclosing walls or columns, contained within lot lines.

BUILDING AND STRUCTURE HEIGHT

See "height of building."

BUILDING AREA

The aggregate of the ground-level floor areas of the principal building and all accessory buildings. Such areas shall be computed by using outside building dimensions measured on a horizontal plane at ground level.

BUILDING CODE

Chapter 43, Building Construction, of the Code.

BUILDING COVERAGE

The amount of the lot area covered by buildings.

BUILDING, DETACHED

A building which has no wall in common with another building.

BUILDING LINE

The line parallel to the street line at a distance therefrom equal to the depth of the required front yard building setback line.

BUILDING, PRINCIPAL

A structure in which the primary use of a lot is conducted, designed to be conducted or intended to be conducted.

BUILDING, SEMIDETACHED

A building which has only one wall in common with an adjacent building.

BUILDING SETBACK LINE

The line bounding that portion of a lot not contained within the required front, side and rear yards and within which the principal building must be located.

BUILDING SETBACK LINE, FRONT YARD

The line established within a lot, measured from the street right-of-way and parallel thereto, defining the minimum distance in which no building may be constructed. In the case of an interior lot not fronting a street for its entire width, the building setback line shall be a line parallel to the street right-of-way, measured from the property interior line nearest the street, defining the minimum distance in which no building may be constructed.

BUILD-TO-LINE

A line with which the exterior wall of a building is required to coincide that runs parallel to the property line, as measured perpendicularly to the curb or edge of a street cartway, that enables the alignment of buildings on a block in order to maintain the traditional character of the streetscape of the Borough.

BULK

The term used to describe the size of buildings or other structures and their relationship to each other, to open areas such as yards and to lot lines and including:

- A. The size, including height and floor area of buildings or other structures.
- B. The relation of the number of dwelling units in a residential building to the area of the lot.
- C. All open areas in yard space relating to buildings and other structures.

CAFE I DISTRICT

An area within the Town Center District where restaurant-cafes are a permitted use subject to the regulations in this Chapter and Chapter 90A of the Code, which area is defined as the area bounded by Gay Street to the north, Matlack Street to the east, Market Street to the south and Darlington Street to the west, as well as the High Street corridor between Chestnut Street and Miner Street and the Market Street corridor between Darlington Street and New Street.

CAFE II DISTRICT

An area within the Town Center District where restaurant-cafes are a permitted use subject to the regulations in this Chapter and Chapter 90A of the Code, titled "Restaurant-Cafes," which area is defined as all areas of the Cafe I District and the High Street corridor between Miner Street and Dean Street and Church Street between Chestnut Street and Miner Street.

CALIPER

The diameter of a tree trunk measured at a point six inches (6") from the ground surface at the center of the base of the tree for all existing trees.

CARTWAY

The paved surface of a street available for vehicular traffic.

CAR WASH or CAR-WASHING FACILITY

A building or portion thereof where vehicles are cleaned manually or by using a conveyor, blower, steam-cleaning equipment, or other devices.

CENTER LINE OF STREET

A line in the center of a street which is equidistant from and parallel to the street lines.

CENTRAL BUSINESS DISTRICT

The portion of West Chester which lies within the Town Center District where retail stores or shops are clustered, along with restaurants and cafes and personal service shops, and which is formed by the areas which comprise the Retail Overlay District.

CERTIFIED HISTORIC DISTRICT

An historic district which has been delineated by the Borough of West Chester and certified for historical significance by the Pennsylvania Historical and Museum Commission in accordance with Pennsylvania Act No. 167.

CERTIFIED HISTORIC STRUCTURE

A building or structure identified by the Borough of West Chester and listed in the National Register of Historic Places or located within a registered historic district and certified by the Secretary of the Interior as being of historical significance to the district.

CERTIFIED REHABILITATION

Rehabilitation/construction plans and work which has been approved by the National Park Service in order to qualify for federal historic preservation tax incentives.

CHARITABLE USE

A use conducted by an organization which is classified as a charity by the Internal Revenue Service.

CHURCH

A building utilized for public divine worship. The term "church" shall also include temple, synagogue, mosque and other similar places of worship.

CLINIC

See "hospital."

CLUB or LODGE

A nonprofit social, professional or charitable organization characterized by the payment of dues, regular meetings and a constitution and bylaws. A building is used for club or lodge purposes when it serves as a meeting place for such organization and is not an adjunct to or operated by or in connection with a public tavern or other public place, although it may be used for recreational and/or dining facilities for the membership and their guests.

CLUSTER DEVELOPMENT

An arrangement of residential buildings that allows for grouping the buildings by reducing the area and bulk requirements for each lot while creating designated open space.

CO-LOCATION or CO-LOCATED

The mounting of one or more WCFs, including antennas, on an existing tower based WCF, or on any structure that already supports at least one non-tower WCF.

CODE

The Code of the Borough of West Chester, as codified and amended from time to time.

COMMERCIAL

A use of land or improvements thereto for the purpose of engaging in retail, wholesale or service activities for profit.

COMMERCIAL PARKING LOT

A parking facility, area or lot that is used as a commercial enterprise for the parking of motor vehicles and contains parking spaces leased to the general public or reserved for individuals by the hour, day, week or month. This definition shall not include storage of vehicles awaiting repair, pending insurance or legal action or awaiting demolition, vehicles stored for stripping of parts, or parcels containing an automobile sales and/or service use.

COMMUNITY FACILITIES

The services which provide for various community, educational, safety, leisure and like needs and the locations at which these services are provided. Typical community facilities include, but are not limited to, parks, recreation centers, libraries, museums, the Y.M.C.A., the Y.W.C.A., the West Chester Senior Center and the Salvation Army.

COMPREHENSIVE PLAN

The Borough of West Chester Comprehensive Plan, as may be amended from time to time, including maps, tables and text, which constitutes a policy guide for decisions, including but not limited to decisions regarding land use, circulation, community facilities and utilities within the Borough.

CONDITIONAL USE

A use which may be permitted by Borough Council in a zoning district only when specific standards and criteria are met.

CONDOMINIUM

Real estate, portions of which (including dwelling units) are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions in accordance with the Pennsylvania Uniform Condominium Act, 68 Pa.C.S. §3101 et seq., as amended and in accordance with the provisions of open space, streets or other development features of this Chapter.

CONSTRUCTION

All work necessary for the erection, alteration, structural alteration or exterior finishing of any building or structure or portion thereof, including the placement of a mobile home.

CONSTRUCTION OPERATION OR ACTIVITY

The erection, repair, renovation, demolition or removal, rehabilitation or other work performed for, to, on or with regard to any building or structure, including the excavation, filling and grading of lots in connection therewith or in preparation thereof.

CONSTRUCTION SITE

The total necessary land required for all buildings or uses within a unified development before a building permit may be issued.

CONTINUOUS VISUAL BUFFER

A visually impenetrable screen from the ground to a height of at least six feet created through the effective use of plant materials, fencing, walls and/or earthen berms.

CONTRIBUTING RESOURCE(S)

A resource in an historic district or historic complex which, as filed with the National Register or the Bureau for Historic Preservation, supports the district's or complex's historical significance through location, design, setting, materials, workmanship, feeling and association.

CONVERSION

An alteration of a building, structure or land by change of use or by increasing dwelling units.

CORNER LOT

See "lot, corner."

CULTURAL USE

A use which includes art, drama, music, single screen film showings, dance, science and/or history in the form of a museum, theater, or like facility. Such use shall not include a dance club or night club or any adult entertainment uses such as adult theaters, adult motion-picture theaters, adult entertainment center or adult cabaret.

DAY-CARE CENTER

CHILD - A facility which exclusively provides supplemental parental care and supervision and/or instruction between the hours of 6:00 AM and 7:00 PM to seven or more children simultaneously, 15

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years of age or younger, who are not relatives of the caregiver, where tuition, fees or other forms of compensation are charged, and which holds a valid certificate of compliance (license) from the Pennsylvania Department of Human Services or successor agency. Such facility shall have an outdoor play area which shall be enclosed with fencing.

ADULT - A facility which provides or arranges for services to assist in meeting the needs, including personal care, social, nutritional, health and educational needs, of 4 or more adults who are not relatives of the facility operator, between the hours of 6:00 AM and 7:00 PM, where fees or other forms of compensation are charged, and which holds a valid license as an older adult daily living center from the Pennsylvania Department of Aging or successor agency. The term does not include a facility that provides services to persons whose needs are such that they can only be met in a long-term care facility on an inpatient basis receiving professionally supervised nursing care and related medical and other health services.

DECK

An open platform constructed of wood, metal, or composite or synthetic material attached to a principal building having no enclosing walls, roof or shelter from the weather.

DEMOGRAPHIC CHARACTERISTICS

Characteristics related to the distribution, density and vital statistics of populations.

DEMOLITION

The dismantling or tearing down of all or part of the exterior portion of a building or structure.

DENSITY

A measure of the number of dwelling units per acre calculated by dividing the total number of dwelling units on a lot by the lot area.

DESIGNATED OPEN SPACE

Areas allocated to meet the requirements for open space in the NC-1 District through the cluster development option, designed for the use or enjoyment of residents of the subdivision or land development in accordance with Article IV.

DESIGN PROFESSIONAL

(See REGISTERED DESIGN PROFESSIONAL)

DETERMINATION OF ELIGIBILITY (DOE)

The process wherein an historic resource is determined by the Secretary of the Interior as meeting National Register criteria, but not listed in the National Register.

DEVELOPER

Any landowner, equitable owner or authorized agent of such landowner, or tenant with permission of the landowner, who formally proposes or makes or causes to be made a subdivision, land development or any other development.

DEVELOPMENT

Any man-made change to improved or unimproved real estate, including but not limited to the construction or alteration of buildings or other structures, the placement of mobile homes, streets or other paving, utilities, filling, grading, regrading, excavation, mining, dredging or drilling operations and the subdivision of land; provided however, that the following shall not be considered as development: routine maintenance; incidental grading related to gardening, cultivation and the like; and minor structural alterations to a building.

DIRECTOR OF BUILDING, HOUSING AND CODE ENFORCEMENT

A Borough of West Chester official or designated representative whose duties include the administration of this Chapter.

DISPENSARY

A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, who holds a permit issued by the Department of Health (DOH) of the Commonwealth to dispense medical marijuana.

DISTILLERY; LIMITED DISTILLERY

A premise that manufactures, makes and distills alcohol or liquor from raw materials, blended or rectified, or any place wherein alcohol or liquor is produced by any method suitable for the production of alcohol and that is licensed as a manufacturer or limited distillery by the Pennsylvania Liquor Control Board.

DISTRIBUTED ANTENNA SYSTEMS (DAS)

Network of spatially separated antenna sites connected to a common source that provides wireless service within a geographic area or structure.

DORMITORY

A building that contains dwelling rooms that provide sleeping and living accommodations for students enrolled at a college or university, occasional college or university guests, participants in college or university-sponsored summer camps and members of its faculty or staff, provided that the dormitory is owned or managed by the college or university where the students are enrolled, or in the case of a college or university owned or operated by a governmental unit, the dormitory is owned or operated, or both, by an entity that was formed to promote the interests of, and is operated for the benefit of, that college or university.

[Added 4-18-2001 by Ord. No. 5-2001; amended 12-18-2002 by Ord. No. 11-2002]

DRIVEWAY

A private accessway for vehicles which connects a street to an alley or another street, or to a parking space, garage, dwelling or other building.

DWELLING

A building designed or modified for and occupied exclusively for residential purposes, excluding a hotel, rooming house, club or lodge, but including a mobile home.

DWELLING UNIT TYPES

One or more rooms in a building, designed for occupancy by one family for living purposes and having its own permanently installed cooking and sanitary facilities, with no enclosed space (other than vestibules, entrances or other hallways or porches) in common with any other dwelling unit. No dwelling unit shall have more than 50% of its exterior below the level of the exterior grade. A dwelling unit may be contained in any of the following structures:

- A. SINGLE-FAMILY DETACHED — A building designed for and occupied exclusively as a residence for only one family and having no party wall in common with an adjacent building.
- B. SINGLE-FAMILY DETACHED, MOBILE HOME — A transportable single-family detached dwelling unit intended for permanent occupancy, contained in one unit or in two units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations and is constructed as permitted in this Chapter, with the same, or equivalent, electrical, plumbing and sanitary facilities as for a conventional single-family detached dwelling. A mobile home shall include any addition or accessory structure, such as porches, sheds, decks or additional rooms, which is attached to it. A mobile home does not include recreational vehicles or travel trailers.
- C. SINGLE-FAMILY SEMIDETACHED — A building designed for and occupied exclusively as a residence for only one family and having one party wall in common with an adjacent building.
- D. SINGLE-FAMILY ATTACHED — A building designed for and occupied exclusively as a residence for only one family and having two party walls in common with an adjacent building, except for end units.

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E. TWO-FAMILY DETACHED — A building designed for and occupied exclusively as a residence for two families, with one family living wholly or partly over the other, and having no party wall in common with an adjacent building.

F. TWO-FAMILY SEMIDETACHED — A building designed for and occupied exclusively as a residence for two families, with one family living wholly or partly over the other, and having one party wall in common with an adjacent building.

G. TWO-FAMILY ATTACHED — A building designed for and occupied exclusively as a residence for two families, with one family living wholly or partly over the other, and having two party walls in common with adjacent buildings.

H. MULTIFAMILY — A building containing three or more dwelling units; including but not limited to triplex, quadraplex, and apartment buildings.

APARTMENT – A building containing three or more dwelling units separated by party walls, and which may have more than one dwelling unit from ground to roof, common outside accessways and hallways.

QUADRAPLEX- A building containing four dwelling units, each unit of which has open space on two nonparallel walls.

TRIPLEX - A building containing three or more dwelling units, each unit of which has an open space on at least one side.

EASEMENT

A right, privilege or other interest granted or reserved for the use of land for a particular purpose or to prevent the use of land for a particular purpose.

ECONOMIC AND FISCAL CHARACTERISTICS

Characteristics related to the expenditures and revenues in conjunction with the management of income of a household, private business, community, association and/or government.

EDUCATIONAL USE

Land or buildings used for the establishment and maintenance of a public or private college, secondary or elementary school or other educational institution for academic, moral or spiritual pursuits or the development of physical or manipulative skills, which is organized and existing under the laws of and, if required, licensed by the Commonwealth of Pennsylvania, excluding spas or similar commercial activities.

EFFECTIVE DATE

The effective date of this Chapter is August 23, 1966, except that, as to amendments, the effective date shall be the date when the particular amendment became or becomes effective.

EMERGENCY

A condition that:

- A. Constitutes a clear and immediate danger to the health, welfare, or safety of the public; or
- B. Has caused or is likely to cause facilities in the rights-of-way to be unusable and result in loss of the services provided.

EMERGENCY WORK

Any work performed for the purpose of preventing or mitigating the physical or mental trauma or property damage threatened or caused by an emergency.

ENFORCEMENT OFFICER

The Zoning Officer and/or his duly appointed assistants of the Borough who is hereby designated and authorized to enforce the provisions of this Chapter.

ENLARGEMENT

An addition to the floor area or increase in size of an existing structure, an increase in the area of a parcel which is occupied by an existing use or an increase in the intensity of a use as a result of increased

parking, traffic generation, sewage disposal system or other impacts on surrounding land uses, existing or zoned.

ENVIRONMENTAL CONTROLS

The performance standards set forth in this Chapter pertaining to environmental quality and environmental degradation.

ENVIRONMENTAL IMPACT ASSESSMENT REPORT

(See IMPACT ASSESSMENT REPORT)

ESCORT

A person who for consideration agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person. This definition shall not include individuals who provide care, support or companionship to the elderly, disabled or infirm.

ESCORT AGENCY

A person or business association that furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

ESTABLISHMENT

Any place or premises, whether public or private, where any person conducts any enterprise, occupation, vocation or business, whether or not for profit and whether temporarily or permanently located.

FAMILY

One or more individuals living together in a dwelling unit as a single nonprofit housekeeping unit, and doing their cooking on the premises, when said individuals are related by blood, marriage or adoption; or no more than four unrelated individuals living together as a single nonprofit housekeeping unit in a single-family dwelling and no more than two unrelated individuals living together as a single nonprofit housekeeping unit in a two-family or multifamily dwelling; or, by special exception granted by the Zoning Hearing Board, no more than three unrelated individuals living together as a single nonprofit housekeeping unit in a two-family or multifamily dwelling. This definition excludes occupants of a club, dormitory, fraternity, sorority house, lodge or rooming house, group quarters and a student home.

FAMILY DAY-CARE HOME

A building used principally as a residence by one adult caregiver, operated for profit or not for profit, in which child day care is provided, between the hours of 6:00 AM and 7:00 PM, at one time to four, five or six children who are not relatives of the caregiver. A family day-care home must hold a valid certificate of registration as a "family day care home" from the Commonwealth Department of Human Services, or successor agency, and must obtain a family day-care permit from the Borough Zoning Officer.

FCC

Federal Communications Commission.

FENCE

A freestanding and uninhabited structure consisting of materials such as wood, metal, plastic, wire, wire mesh, masonry or vegetation, or in combination with other materials, 2 1/2 feet high or higher, erected to secure or divide one property from another or part of a property from a remaining part, to assure privacy, to protect the property so defined or to enclose all or part of the property. A freestanding masonry wall shall be considered to be a fence.

FILL

Material, exclusive of structures, placed or deposited so as to form an embankment or raise the surface elevation of any portion of the land.

FLEA MARKET

An occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public.

FLEX SPACE

A building designed for one or more of the following uses and no others: office, assembly, warehousing/storage or light manufacturing. Each flex space building shall have no less than 30% of the building area used for office space. Warehousing, assembly or light manufacturing shall be a use which shall occupy no more than 70% of the building area.

FLOOR AREA

The sum of the gross livable areas of the several floors of a building or buildings, measured from the face of the exterior walls or from center lines of walls separating two buildings. In particular, floor area includes but is not limited to the following:

- A. Basement space, if it meets the requirements of a building story.
- B. Elevator shafts, stairwells and attic space, whether or not a floor has been laid, providing structural headroom of eight feet or more.
- C. Roofed terraces, exterior balconies, breezeways or porches, provided that over 50% of the perimeter of these is enclosed.
- D. Any other floor space used for dwelling purposes, no matter where located within the building.
- E. Accessory buildings, excluding space used for accessory off-street parking or used for loading berths.
- F. Any other floor space not specifically excluded, excluding space used for air-conditioning machinery or cooling towers and similar mechanical equipment serving the building and cellar space.

FOOD

Every substance intended for human consumption, whether in solid or liquid form, excluding any substance the sale of which is regulated by the Pennsylvania Liquor Control Board.

FORESTRY

The management of forests and timberlands for the purpose of encouraging maintenance and management of forested or wooded open space, when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any land development.

FRONT YARD

See "yard, front."

FUNERAL HOME

A building used for the preparation of the deceased for burial or cremation and the display of the deceased and ceremonies connected therewith before burial or cremation.

GARAGE, PRIVATE

A building accessory to a dwelling, for the storage of motor vehicles owned and used by the owner or tenant of the lot on which it is erected for a use which is necessary to the principal permitted use of the lot. A garage shall not provide for the storage of more than two motor vehicles unless the lot contains more than 1,250 square feet for each motor vehicle which is stored, nor shall it be used for the storage of more than two motor vehicles owned and used by others, regardless of the size of the lot.

GARAGE, PUBLIC

A building, not a private or storage garage, used solely for the storage, sale, service or repair of motor vehicles. See also "automotive sales and service," "automotive service station" and "automotive repair facilities."

GLARE

Distracting, blinding or harsh, uncomfortably bright light originating from or reflecting off of man-made objects such as lighting fixtures, automobiles, signs and structures.

GOVERNMENTAL USE

Nonresidential, county, state and/or federal governmental buildings and/or facilities designed and intended to be used or occupied by the county, state and/or federal government or designed or intended by such governmental entities for public use sponsored by such governmental entities.

GREEN SPACE; GREEN AREA

That portion of a tract or lot maintained or landscaped with shrubs, trees, ground cover, soil, mulch, grass, vegetable gardens and/or flowerbeds, but not including stone or gravel, and not occupied by any buildings, pavement or other impervious surfaces, except in the Town Center District, as provided for in this Chapter.

GROUND FLOOR

The floor of a building or structure that is closest in elevation to the elevation of the street and adjacent to the street that provides pedestrian and vehicular access to the building. For buildings that can be accessed from two streets (e.g., a primary street and an alley), the part a floor that is at a higher or lower elevation and is adjacent to the alley is not part of the ground floor.

GROSS DENSITY

See "density."

GROSS FLOOR AREA

The sum of the horizontal areas of all floors of a building, measured from the exterior face of exterior walls or from the center line of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, any space where the average floor-to-ceiling height is less than six feet, or any basement where the basement ceiling is less than five feet above the average ground level around the building.

GROUP HOME

A group of unrelated individuals who are handicapped persons, as defined in Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and who reside as a family in a dwelling unit. Such group of individuals shall have the right to occupy a dwelling unit in the same manner and to the same extent as any family as defined in this Chapter.

GROWER/PROCESSOR

A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, who holds a permit issued by the Department of Health (DOH) of the Commonwealth to grow and process medical marijuana.

HEIGHT OF A TOWER-BASED WCF

The vertical distance measured from the ground level, including any base pad, to the highest point on a tower-based WCF, including antennas mounted on the tower and any other appurtenances.

HEIGHT OF BUILDING OR STRUCTURE

The vertical distance measured from the average level of the finished grade along all the exterior walls of a building or structure to:

- A. The highest point of the roof in case of a flat roof.
- B. The mean height between eaves and ridge in the case of a pitched roof.
- C. The highest point of any structure which rises above the roofline and which floor area equals or exceeds 20% of the ground floor area of the building which supports it.

HISTORIC BUILDING, STRUCTURE OR SITE

Any building, structure or site that is officially recognized for its historic and/or architectural significance by the United States Department of the Interior, the Pennsylvania Historical and Museum Commission, the Chester County Historic Preservation Office or the West Chester Historical and Architectural Review Board or is designated as contributing to a National Register or Municipal Historic District.

HISTORIC CARRIAGE HOUSE

An accessory building that is shown on the Historic Carriage House Map adopted by the Borough and contained in the Appendix; or shown on the National Register of Historic Places; or considered to be

eligible for the National Register of Historic Places through a determination of eligibility (DOE); or of historic, architectural or cultural significance as determined by Borough Council upon application to and review by HARB.

HISTORIC DISTRICT (HARB DISTRICT)

Any area or district within the Borough of West Chester designated by ordinance of the Borough of West Chester pursuant to Pennsylvania Act No. 167 of 1961, as amended from time to time.

HISTORIC RESOURCE(S)

All buildings, sites, structures, objects and districts shown on the Borough of West Chester Historic Resources Map and sites, areas, structures, trails and/or routes which are valued due to their significance as examples and/or locations of events, customs, skills and/or arts of the past.

HISTORIC RESOURCES INVENTORY

An official list, appropriately documented, of historic resources in the Borough of West Chester and their classifications.

HOME OCCUPATION

An accessory use of a dwelling or a dwelling unit for any lawful activity normally conducted for pecuniary gain by a resident within a residential dwelling unit, located and conducted so as not to interfere with the quiet enjoyment of neighboring residential properties and which complies with the standards for home occupations set forth in this Chapter.

HOMEOWNERS' ASSOCIATION

A nonprofit organization composed of homeowners or property owners, planned and operated under approved rules and regulations for the purpose of serving the needs of residents through the maintenance of community-owned property. This term is synonymous with "property owners' association."

HORTICULTURE

The art and practice of propagating and cultivating plants for their produce or for ornament.

HOSPITAL

An institution providing primary health services and medical or surgical care to persons, some of whom are inpatients, suffering from illness, disease, injury, deformity and other physical or mental problems. When conducted as an integral part of the hospital, related accessory facilities, such as laboratories, outpatient facilities, training facilities or offices for doctors and other medical personnel affiliated with the hospital, may be an accessory use to the hospital.

HOTEL

A building without cooking facilities of any kind in the rooms, especially designed for the temporary lodging of transient persons. Such establishment shall provide customary hotel services such as maid service and the furnishing and laundering of linen. Eating and drinking facilities may be an accessory use to the hotel.

HOUSEHOLD PETS

Domestic animals normally considered to be kept in or in conjunction with a dwelling unit for the pleasure of the resident family, such as dogs, cats, small birds, gerbils and other similar pets normally sold by retail pet stores.

HOUSING FOR OLDER PERSONS

Housing qualifying for an exemption from the federal Fair Housing Act, including dwelling units provided under any state or federal program that the Secretary of the Department of Housing and Urban Development has determined to be designed and operated to assist elderly persons; dwelling units intended for and solely occupied by persons 62 years of age and older; or dwelling units intended and operated for occupancy by persons 55 years of age or older.

IMPACT

The power of an event or condition to produce changes in other conditions. In the context of impact exerted on the environment, changes which affect existing conditions and/or quality are of greatest concern.

IMPACT ASSESSMENT REPORT

An assessment which objectively describes, analyzes and documents both the beneficial and adverse environmental effects of a proposed subdivision and/or land development and the measures to be undertaken to mitigate adverse effects in accordance with the provisions set forth in this Chapter and the Subdivision and Land Development Ordinance.

IMPERVIOUS COVERAGE

The amount of the lot area covered by impervious surfaces which have materials that do not normally absorb rainfall, such as buildings, roofs, paved areas such as streets and parking lots, and paved walks and similar surfaces.

IMPROVEMENTS

Physical additions and changes to land, such as grading, paving, curbing, fire hydrants, water mains, sanitary sewers, storm sewers, storm drains, catch basins, culverts, sidewalks, monuments, crosswalks, bridges, earthworks, streetlights, wells, street trees and other plantings and other structures that may be necessary to produce usable and desirable land development.

INFRASTRUCTURE

The basic installations and facilities on which the continuance and growth of a community depend, such as roads, schools, electrical transmission facilities, transportation and communication systems and sewer and water systems.

INSTITUTIONAL USE

A use or activity that is public or quasi-public in nature that includes, but is not limited to, educational uses, hospitals, personal care homes, assisted living facility, skilled nursing facilities, religious uses, and certain nonprofit organizations catering to the public.

INTERIOR LOT

See "lot, flag or interior."

JUNKYARD

An area of land, with or without buildings, used for storage, outside a completely enclosed building, of used and discarded materials, including but not limited to wastepaper, rags, metal, building materials, house furnishings, machinery or vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition of the same.

KENNEL

An establishment where six or more dogs, cats or like domesticated animals more than one year old are kept, boarded, groomed, trained, raised or bred for compensation.

LABORATORY

A building or group of buildings which houses the facilities for scientific research, investigation, testing and experimentation, but not including the manufacture of products for sale, except as an accessory use.

LAND DEVELOPMENT

Any of the following activities:

A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:

(i) a group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure

(ii) the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

B. A subdivision of land.

Provided, however, the following shall be excluded from the term land development:

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- (i) the addition of an accessory building, including farm buildings on any lot or lots subordinate to an existing principal building, where such accessory building is 500 gross square feet or less in area and which does not require any alteration to vehicular ingress or egress; or
- (ii) the conversion of an existing single-family detached dwelling or single family semi-detached dwelling into not more than three residential units, unless such units are intended to be a condominium.

LAND DEVELOPMENT PLAN

A sketch, preliminary or final plan submitted in compliance with the requirements of the Borough of West Chester Subdivision and Land Development Ordinance, showing the provision for development of a tract of land. See also "subdivision plan."

LANDOWNER

The legal, beneficial or equitable owner or owners of land, including the holder of an option or contract to purchase, whether or not such option or contract is subject to any condition, a lessee if authorized under the lease to exercise the rights of the landowner, or another person having a proprietary interest in the land.

LANDSCAPED AREA

That portion of a tract or lot in which plantings have been installed in accordance with the provisions for landscaping in this Chapter. The landscaped area includes the buffer planting strip and those plantings which serve a functional and/or aesthetic purpose and are located around and between buildings, roads, parking areas, sidewalks, walkways, sitting areas, service or maintenance structures, courtyards and the like.

LANDSCAPING

The planting of trees, shrubbery, ground cover, turf grass and the like, including the maintenance and replacement thereof, for the control of erosion, retention of precipitation or surface water runoff, promotion of human comfort and welfare, screening of glare, baffling of noise, creation of shade, articulation of space, screening of parking and loading areas or for other functional or environmental reasons.

LANDSCAPING PLAN

A plan for the installation and maintenance of plantings, prepared according to the provisions of this Chapter.

LAUNDROMAT

An establishment providing washing, drying or dry-cleaning machines on the premises for rental use to the general public for family laundering or dry-cleaning purposes.

LIGHT INDUSTRIAL

Uses involving manufacturing or assembly of parts, equipment and machinery.

LIVESTOCK

Animals of any kind raised for sale, resale or agricultural field production. The keeping of one or more horses or ponies for noncommercial recreational purposes or for pleasure or the keeping of common household pets such as dogs, cats and the like for noncommercial purposes shall not be considered as the keeping of livestock.

LIVE-WORK UNITS

A use consisting of an office, artisan studio, or personal service shop on the first floor, and a dwelling unit or dwelling units on the second floor and above.

LOADING SPACE, OFF-STREET

A space in a building or on a lot which is accessible from the public street system for the temporary use of vehicles while loading or unloading merchandise, materials or passengers.

LONG-TERM EFFECTS

Results which are manifest for or extend over a long period of time.

LOT

A contiguous area of land, undivided by any street or private road or dedicated future street right-of-way. Such parcel shall be held in single and separate ownership and separately described by metes and bounds, the description of which is recorded in the office of the Recorder of Deeds of Chester County by deed description or is described by an approved subdivision plan recorded in the office of the Recorder of Deeds of Chester County.

LOT AREA

The area of land contained within the property lines of a lot, including the area of any easement, but excluding any area within an existing or designated future street or a transportation right-of-way.

LOT, CORNER

A lot abutting upon two or more intersecting streets or upon two parts of the same street at the point of an abrupt change in direction, forming an interior angle at the corner point of less than 135°.

LOT DEPTH

The distance along a straight line drawn from the midpoint of the front lot line to the midpoint of the rear lot line.

LOT, FLAG OR INTERIOR

Any lot which has limited frontage and connection to a street by means of an access strip of the required minimum lot width at the street line.

LOT LINE

A property boundary line shown on a recorded plan or described in a recorded deed. In the case of any lot abutting a street, the lot line for such portion of the lot as abuts such street shall be deemed to be the same as the street line and shall not be the center line of the street or any other line within the street right-of-way.

LOT LINE, FRONT

That boundary line of the lot parallel to the street line, provided that any portion of the lot which crosses the street line will have the street line as its front lot line. In the case of a corner lot, both street lines shall be deemed the front lot line.

LOT LINE, REAR

A lot line opposite and most distant from the front lot line. If the rear lot line is less than 10 feet in length or if the lot forms a point at the rear, the rear lot line shall be deemed to be a line 10 feet in length within the lot, between the side lot lines, parallel to and at the maximum distance from the front lot line. For a corner lot, of the two lot lines opposite the front lot lines, that which is most distant will be the rear lot line.

LOT LINE, SIDE

Any lot line which is not a street line or a rear lot line.

LOT, REVERSE-FRONTAGE

A lot extending between and having frontage on two generally parallel streets.

LOT SIZE

The lot area.

LOT WIDTH

The distance measured between the side lot lines at the required building setback line. When there is only one side lot line, as in the case of a corner lot, the lot width shall be measured between such lot line and the opposite lot line.

MANUFACTURED HOME PARK OR SUBDIVISION

A parcel or contiguous parcels of land under single ownership divided into two or more manufactured home lots for rent or sale, which has been planned and improved for the placement of manufactured homes for non-transient dwelling use and which consists of two or more manufactured home lots.

MESSAGE PARLOR

An establishment in which personal massages are offered to customers or clients but excluding any establishment or use therein which would be prohibited by the Pennsylvania Crimes Code.

MASS TRANSPORTATION

A public common carrier transportation system for trains, buses, jitneys and other like transit with established routes and fixed schedules for trains, buses, jitneys and other like transit.

MECHANICAL AMUSEMENT DEVICE

Any electronic or mechanical device, machine or apparatus which, upon the insertion of a coin, token or slug or other form of payment, operates or may be operated as a game or contest of skill or amusement of any kind or description and which contains no automatic payoff devices for the return of money or tokens or slugs or which makes no provision whatever for the return of money to the player. A mechanical amusement device is also any electronic or mechanical device, machine, apparatus or contrivance which is used, or which may be used as a game of skill and amusement wherein or whereby the player initiates, employs or directs any force generated by the machine. The term "mechanical amusement device" is also hereby defined to be and shall include each machine vending (visual) entertainment in return for the insertion or deposit therein of a coin or token or slug; provided, however, that this does not include coin-operated radios or television sets in private quarters.

MEDICAL CLINIC

A medical establishment offering outpatient medical or dental services operated by a physician or dentist who is licensed to practice in the Commonwealth of Pennsylvania.

MEDICAL MARIJUANA

Marijuana for certified medical use as legally permitted by the Commonwealth of Pennsylvania pursuant to Act 16.

MICROWAVE ANTENNA

A parabolic reflector, together with its pedestal and any other attachments and parts thereof, commonly referred to as a "dish-shaped antenna," used or intended to receive radio or electromagnetic waves from an overhead satellite.

MINERALS

Any aggregate or mass of mineral matter, whether or not coherent. The term includes, but is not limited to, limestone, dolomite, sand gravel, rock stone, earth, fill, slag, iron ore, zinc ore, vermiculite, clay, anthracite and bituminous coal, coal refuse, peat, crude oil and natural gas.

MINI SELF-STORAGE FACILITY

An establishment consisting of attached individual units used exclusively for the storage of goods, together with one office area for administrative support, provided that:

- A. No exterior storage shall be permitted on the premises.
- B. No storage of petroleum products, explosives, firearms, volatile or flammable chemicals or any other property or material which would materially increase the hazard or likelihood of fire, explosion or other casualty shall be permitted on the premises.
- C. No storage of foodstuffs, produce, or other perishables shall be permitted on the premises.
- D. No storage of pets or animals shall be permitted on the premises.
- E. No unit shall be used for any purpose other than the exclusive use for storage as permitted.

MINOR REPAIR

The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support or the removal or change of any required means of egress or rearrangement of parts of a structure affecting the exit way requirements; nor shall minor repairs include addition to, alteration of, replacement of or relocation of any standpipe, water supply sewer, drainage, drain

leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

MITIGATION

The act of precluding a potentially adverse effect and/or making a potentially adverse effect less severe through measures which will improve a condition and/or lessen the impact.

MOBILE HOME

See "dwelling unit, single-family detached, mobile home."

MOBILE HOME LOT

A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home which is leased by the mobile home park owner to the owner or occupants of the mobile home erected on the lot.

MOBILE HOME PARK

A parcel of land under single ownership which has been planned and improved for the placement of mobile homes for non-transient use and consists of two or more mobile home lots. See also "manufactured home park or subdivision."

MONOPOLE

A WCF or site that consists of a single pole structure, designed and erected on the ground or on top of a structure, to support communications antennas and connecting appurtenances.

MUFFLER or SOUND-DISSIPATIVE DEVICE

A device designed or used for decreasing or abating the level of sound escaping from an engine, machinery or like system.

MUNICIPAL USE

Any use conducted by West Chester Borough, an agency of the Borough or any authority created by the Borough for administrative buildings, equipment or material storage, public park or recreational areas, public sewage treatment and/or water supply collection, treatment, storage and/or distribution facilities, stormwater management facilities, public parking garages, public libraries or any similar use owned and operated by the Borough, an agency of the Borough or any authority created by the Borough. The definition of "municipal use" expressly excludes any use by any governmental agency or authority other than those of West Chester Borough.

NATIONAL REGISTER

The National Register of Historic Places, a list maintained by the Secretary of the Interior composed of buildings, sites, structures, objects and districts of national, state or local significance in American history, architecture, archaeology, engineering and culture.

NATIONAL REGISTER HISTORIC DISTRICT

Any area or district listed in the National Register of Historic Places as maintained by the National Park Service, United States Department of the Interior, such as the West Chester Downtown Historic District.

NO-IMPACT HOME-BASED BUSINESS

As defined by the Pennsylvania Municipalities Planning Code (MPC).

NOISE

Any sound which annoys or disturbs humans or animals, or which causes or tends to cause an adverse psychological or physiological effect on humans or animals.

NOISE DISTURBANCE

Any sound which endangers or injures the safety or health of humans or animals, endangers or injures personal or real property, disturbs the peace or creates a nuisance, in accordance with this Chapter.

NONCONFORMING

A condition or characteristic of a building, structure, lot, use or other activity or a property which does not conform to or comply with the provisions and requirements of this Chapter, where such condition or characteristic legally existed prior to the enactment or amendment of this Chapter.

NON-TOWER WIRELESS COMMUNICATIONS FACILITY (NON-TOWER WCF)

Wireless communications facilities other than tower-based wireless communications facilities.

NONTRANSIENT USE

A use which manifests itself for a period of not less than six consecutive months.

NUDE MODEL STUDIO

Any place where a person appears semi-nude or in a state of nudity or displays specified anatomical areas and is observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons who pay money or any form of consideration. "Nude model studio" shall not include a proprietary school licensed by the Commonwealth of Pennsylvania or an establishment within an educational use as defined in this Chapter.

NUDITY or STATE OF NUDITY

The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple or the showing of the covered male genitals in a discernibly turgid state.

NUISANCE

Anything that interferes with the use or enjoyment of property, endangers personal health or safety or is offensive to the senses.

NURSING HOME

A facility operated for the purpose of providing therein lodging, board and nursing care to sick, invalid, infirm, disabled or convalescent persons for compensation, provided that the facility has obtained proper governmental licensing, including a license from the Pennsylvania Department of Health or successor agency to provide skilled and intermediate nursing care as defined by 28 Pa. Code Section 201.3 or successor regulation . The term "convalescent home" is included in this definition.

OBSTRUCTION

Any wall, dam, wharf, embankment, levee, dike, pile, abutment, projection, excavation, rectification, culvert, building, fence, stockpile, refuse, fill, structure or matter in, along, across or projecting into any watercourse or flood-prone area which may impede, retard or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water or which is placed where the flow of water might carry the same downstream to the damage of health, safety and property.

OFFICE USE

A use in which business, clerical or professional activities are conducted. Office use includes professional office as defined in this Chapter.

OPEN SPACE

Natural or landscaped areas restricted in perpetuity to natural resource protection, conservation or recreation or used for noise and/or visual buffers or for other purposes as described in the open space provisions of this Chapter.

PARKING SPACE

A reasonably level space with a paved surface available for the parking of one motor vehicle, exclusive of passageways, driveways or other means of circulation or access. A "parking space" shall include either covered garage space or uncovered parking lot space which is directly accessible from a street or aisle in a parking lot.

PARTY WALL

A common shared wall between two separate buildings. For purposes of a single-family attached or single-family semidetached dwelling, the party wall must extend continuously from the foundation of the dwelling through the roof of the dwelling.

PAVED SURFACE

An impervious surface which manifests itself with materials such as concrete, asphalt, flagstone, brick, stone or like composition.

PEDESTRIAN-ORIENTED FRONTAGE

A building frontage devoted to uses which are sidewalk-oriented and physically and visually accessible by pedestrians from the sidewalk and which enhances pedestrian activities. Uses which compose pedestrian-oriented frontages include, but are not limited to, retail stores or shops, restaurants, cafes, and other uses with a landscaped plaza, landscaped courtyard, landscaped entrance court, sculpture garden, translucent window display area which showcases art, sculpture or like icons, and other civic-like space accessible to pedestrians. Pedestrian-oriented frontages are required for all buildings with first floor/ground floor frontage for all lots within the Retail Overlay District.

PERSON

Any individual, association, trust, partnership or corporation, including any members, directors, officers, employees, partners or principals thereof. Whenever used in any clause prescribing and imposing a penalty, "person" includes the members, trustees, partners, directors, officers, managers and supervisors, or any of them, of partnerships, associations, corporations or other forms of entity.

PERSONAL CARE HOME

A premises in which food, shelter and personal assistance or supervision are provided for a period exceeding 24 hours, for four or more adults who are not relatives of the operator, who do not require the services in or of a licensed long-term care facility, but who do require assistance or supervision in activities of daily living or instrumental activities of daily living.

PERSONAL SERVICE SHOPS

Businesses in the Town Center and Commercial Service Districts which offer personal services such as barber, beautician, shoe repair, dry cleaner, tailor, seamstress, laundromat, dressmaker, photographer, caterer, travel agent and massage therapist licensed by the Commonwealth pursuant to the Massage Therapy Law.

PRIME AGRICULTURAL LAND

Land used for agricultural purposes that contains soils of the first, second or third class as defined by the United States Department of Agriculture, Natural Resource and Conservation Services, and the Soil Survey of Chester and Delaware Counties.

PRINCIPAL BUILDING

See "building, principal."

PRINCIPAL FACADE

The facade of a building or structure along the street on which the building has frontage, excluding alleys and other rights-of-way. On a corner lot, the property owner shall select and declare which facade is the principal facade.

PRINCIPAL USE

The single dominant use or single main use of a lot; a use listed as a principal use in the Zoning District use regulations.

PRINCIPALLY ABOVE GROUND

Where at least 51% of the actual cash value of a structure, less land value, is above ground.

PROCESSING

A function involved in the manufacture of materials, goods or products in which they are not physically changed except for packaging or sizing.

PROFESSIONAL OFFICE

The office of a professional practitioner.

PROFESSIONAL PRACTITIONER

A trained and certified or licensed individual, such as a medical practitioner, lawyer, accountant or design professional.

PROJECT

A subdivision, a land development or any development involving the construction or alteration of buildings or other structures or the grading or excavation of land to accommodate a building, structure or use.

PUBLIC NOTICE

Notice published once each week for two successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.

PUBLIC PLACE OF AMUSEMENT

Any facility used for the purpose of providing, for a charge, recreation and/or amusement to the public. An arcade and bowling alley are examples of public places of amusement. Health clubs, spas and adult entertainment uses are not included in this definition.

PUBLIC RECREATION

Leisure-time activities, including but not limited to sports and entertainment, that are open to anyone without restriction, except for rules and standards of conduct and use.

PUBLIC RIGHT-OF-WAY

Any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned or controlled by a governmental entity.

PUBLIC SERVICE FACILITIES

Telephone, electric and cable television lines, poles, equipment and structures; water or gas pipes, mains, valves or structures; sewer pipes, valves or structures; pumping stations; telephone exchanges and repeater stations; and all other facilities, equipment and structures necessary for conducting a service by a government or utility service.

PUBLIC SEWAGE DISPOSAL SYSTEM

A system for the collection, conveyance, treatment (at a sewage treatment plant) and disposal of wastes from customers in compliance with prevailing federal, state and municipal regulations, operated by the Borough of West Chester, a public utility or municipal authority.

PUBLIC SPACE

An outdoor pedestrian gathering space or a streetscape.

PUBLIC STREET

Any land dedicated to public use or passage, including but not limited to streets, alleys, or other vehicular rights-of-way whether constructed, dedicated or proposed.

PUBLIC WATER SUPPLY SYSTEM

A system for water distribution and water supply which is owned, administered and operated by a public utility or municipal authority.

RAIL TRANSPORTATION

A form of mass transportation that involves train routes.

REAL PROPERTY

All land, whether publicly or privately owned, whether improved or not improved, with or without structures.

RECREATION, ACTIVE

Those recreational pursuits which require physical alteration to the area in which they are performed. Such areas are intensively used and include but are not limited to playgrounds, tennis courts, basketball courts, swimming pools and athletic fields.

RECREATIONAL FIELD SIGN

A sign affixed to the inside of a fence which is installed around a baseball field owned by the Borough.

RECREATIONAL VEHICLE

A vehicle or piece of equipment, whether self-powered or designed to be pulled or carried, intended primarily for leisure-time or recreational use or for travel. Recreational vehicles or units include travel trailers, truck-mounted campers, motor homes, folding tent campers and autos, buses or trucks adapted for vacation use and other vehicles not suitable for daily conventional family transportation. Snowmobiles, minibikes, all-terrain vehicles, go-carts and boat trailers are also deemed "recreational vehicles."

RECREATION, ACTIVE

Those recreational pursuits which require physical alteration to the area in which they are performed. Such areas are intensively used and include but are not limited to playgrounds, tennis courts, basketball courts, swimming pools and athletic fields.

RECREATION, PASSIVE

Recreational pursuits which can be carried out with little alteration or disruption in the area in which they are performed. Such uses include but are not limited to hiking, biking and picnicking.

REGISTERED DESIGN PROFESSIONAL

An individual who is registered or licensed to practice their respective design profession (such as an architect, engineer, landscape architect, surveyor or certified planner) in accordance with the statutory requirements of the professional registration laws of the Commonwealth of Pennsylvania.

REGISTERED HISTORIC DISTRICT

An historic district listed in the National Register of Historic Places or a state or local historic district whose status has been certified by the Secretary of the Interior and which is certified as meeting substantially all the requirements for National Register listing.

REHABILITATION

The process of returning a property to a state of utility through repair or alteration, which provides for a contemporary use while preserving those portions and features of the property which are significant to its historical, architectural and cultural values.

RELATED EQUIPMENT

Any piece of equipment related to, incidental to, or necessary for the operation of a tower-based WCF or non-tower WCF. By way of illustration, not limitation, "related equipment" includes generators and base stations.

RELIGIOUS USE

A nonprofit use of land or a building at which religious worship, ceremonies and related activities are held regularly by a group which practices the religion. Religious use may include a place of worship, convent, rectory, parish house or similar religious institution.

REPAIR

The replacement of existing construction with the same material for the purpose of maintenance only, but not including any addition, removal or modification in construction.

RESEARCH LABORATORY

An establishment for carrying on investigation in the natural, physical or social sciences or engineering and development as an extension of investigation with the objective of creating end products.

RESTAURANT

A place, building or part of a building where food and beverages are served or provided to the public.

RESTAURANT, LICENSED

A restaurant used for the purpose of furnishing food and alcoholic and non-alcoholic beverages to the public to be consumed on the premises and within the building and holding a valid Restaurant, Hotel or Eating Place license from the Pennsylvania Liquor Control Board. Restaurant, Licensed includes a tavern as defined in this Chapter.

RESTAURANT, UNLICENSED

A restaurant used for the purpose of furnishing food and non-alcoholic beverages to the public to be consumed on the premises and within the building.

RESTAURANT, PUB

The licensed premises or storage location of a brewery, brewery pub, limited distillery, and limited winery (as defined, licensed, and regulated by the Pennsylvania Liquor Code and Pennsylvania Liquor Control Board) that sells and serves alcoholic beverages and food for consumption on the premises at tables and chairs, including bar seats, in a restaurant setting.

RESTAURANT - CAFE

A restaurant used for the purpose of furnishing food and beverages to the public to be consumed on the premises and in an area on the sidewalk directly abutting and adjacent to and upon the same lot as a restaurant, licensed or unlicensed, or any area of the premises licensed by the Pennsylvania Liquor Control Board pursuant to regulations of the Board to conduct business on the above-mentioned premises.

RESTAURANT, DRIVE-IN

A building and adjoining parking area used for the purpose of furnishing food and beverages to the public for consumption on the premises outside the principal building while patrons remain seated in their parked vehicles.

RESTAURANT, FAST-FOOD

A restaurant used for the purpose of furnishing food and beverages to the public where customers place their orders at an inside service counter and where food is served for consumption either at eating areas within the building or is taken out for consumption away from the premises, which may include service and pick-up of food and beverages for off-premises consumption without the customer leaving the customer vehicle

RETAIL OVERLAY DISTRICT

The portion of the Town Center District, as shown on the Retail Overlay District Map, in which pedestrian-oriented frontage shall be created and maintained on the first floor/ground floor of buildings.

RETAIL STORE OR SHOP

An enterprise engaged in the sale of goods or merchandise to the general public, and the rendering of services incidental to such sale, for items such as antiques, books, beverages, confections, dry goods, flowers and plants, foodstuffs, gifts, garden supplies, hardware, household appliances, jewelry, notions, paint, periodicals, stationary, tobacco or wearing apparel, including a dispensary.

RIGHT-OF-WAY

A strip of land granted or reserved for public or private use or access.

ROAD

See "street."

ROOMING HOUSE

A dwelling providing lodging with or without meals, but including common cooking and sanitary facilities.

SANITARY SEWAGE

Any liquid waste containing animal or vegetable matter in suspension or solution or the water-carried waste resulting from the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers or any other source of water-carried man-made waste.

SANITARY SEWER

A sewer that conveys sewage or industrial wastes or a combination of both and into which storm-surface and ground waters or unpolluted industrial wastes are not intentionally admitted.

SCREEN

Plant materials, fencing, walls and/or earthen berms to aid in the concealment of a building, structure, street, or other feature

SCREEN PLANTING

The plantings which are used in a buffer planting strip or other landscaping arrangement to create a continuous visual buffer.

SECONDARY EFFECTS

The results of an indirect or non-immediate influence of one entity or condition upon another.

SECONDARY STREET

See "street, secondary."

SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

Standards used by the Secretary of the Interior, as administered by the National Park Service, when determining if a rehabilitation project qualifies as a certified rehabilitation pursuant to the Tax Reform Act of 1986.

SEMI-NUDE

The state of dress in which specified anatomical areas are not entirely concealed.

SEPTIC TANK

A watertight receptacle that receives the discharge of sewage from a building, sewer or part thereof and is designed and constructed so as to permit settling of solids from this liquid, digestion of the organic matter and discharge of the liquid portion into a disposal area.

SEPTIC TANK FILTER FIELD

A system of open-jointed pipes intended to distribute septic tank effluent into the ground for absorption and evaporation.

SETBACK

See "building setback line."

SEWAGE

The total of organic waste and wastewater generated by residential, industrial, commercial, institutional or other establishments.

SEWER

Any pipe or conduit used to collect and carry away sewage or stormwater runoff from the source to treatment plants and to a receiving stream or other drainageway.

SEWERAGE

A system of sewers and appurtenances for the collection, transportation, pumping, treating and disposing of sewage and sanitary waste.

PUBLIC SEWERAGE DISPOSAL SYSTEM/ PUBLIC SEWER

See public sewage disposal system.

SEXUALLY ORIENTED BUSINESS

Includes adult entertainment center, adult merchandise store, adult cabaret, adult motion-picture theater, adult theater, escort agency, massage parlor and nude model studio.

SHOPPING CENTER

An integrated group of commercial establishments planned, constructed, operated and managed in a unified manner, where customer and employee parking are provided on site and provision for the delivery of goods is separated from customer access.

SHORT-TERM EFFECTS

Results which occur immediately or within a short period of time, such as a week or month.

SIDEWALK

A paved or surfaced level area, used as a pedestrian walkway, which parallels and is separate from the cartway of the street.

SIDEWALK SALE

A seasonal or occasional sale held on the sidewalk or other structure along the front or side of a particular store or establishment where goods are offered for sale to the public, typically at a discounted price.

SIGHT DISTANCE

A line of unobstructed vision from a point three and one-half (3 ½) feet above the center line of a street to the nearest point on the top of an object twenty-four (24) inches high on the same center line.

SIGN

Any permanent or temporary structure or part thereof or any device attached, painted or represented directly or indirectly on a structure or other surface that shall display or include any letter, word, insignia, flag or representation used as or which is in the nature of an advertisement, announcement, visual communication or direction or is designed to attract the eye or bring the subject to the attention of the public. Flags of any governmental unit or branch or of any charitable or religious organization, interior signs not visible from a public right-of-way or adjoining property and cornerstones built into or attached to a wall of a building shall not be construed to be signs.

SIGN, ACCESSORY

Any sign which specifically relates to the permitted use of the premises on which said sign is erected and which serves as a further description of products available or services provided.

SIGN AREA

Includes all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself. Where the sign consists of individual letters or symbols attached to a surface, building, wall or window, the "area" shall be considered to be that of the smallest rectangle or other shape, including the sign background, which encompasses all of the letters and symbols.

SIGN, BANNER

A sign which is permitted to promote special community events for a temporary period of time as provided for herein.

SIGN, BANNER/ADVERTISING

An advertising banner, cloth or sign of similar character, suspended or hung on a property, which is a temporary sign.

SIGN, CHANGEABLE-COPY

A sign with characters or letters that can be changed or rearranged either manually or through electronic means through the display area of the sign, being comprised of elements such as liquid crystal diodes (LCD), light-emitting diodes (LEDs), fluorescent bulbs or lamps, plasma, or other digital illuminated display.

SIGN, FLASHING

A sign, the illumination of which is not kept constant in intensity at all times when in use and which exhibits sudden or marked changes in lighting effects. Illuminated signs which alternately indicate the time, temperature or date information shall not be considered to be "flashing signs."

SIGN, FREESTANDING

See "sign, pole."

SIGN, GROUND

Any sign supported by uprights or braces placed upon the ground and not attached to any building or any sign which emerges directly from the ground surface, such as a masonry or decorative masonry sign.

SIGN, ILLUMINATED

A sign designed to provide artificial light directly, or through transparent or translucent material, from a source of light within such sign, such as backlighting, or a sign with illumination derived from an external artificial source so arranged that no direct light is projected from such artificial source to areas other than the immediate sign being illuminated.

SIGN, MARQUEE

Includes any hood or awning of permanent construction projecting from the wall of a building above an entrance and extending over a pedestrian walk or other way.

SIGN, OFF-PREMISES

A sign which directs attention to a business, commodity, service, entertainment or other use or activity conducted, sold or offered at a location other than the premises on which the sign is located, but excluding recreational field signs.

SIGN, ON-PREMISES

A sign relating in its subject matter to the premises on which it is located or to products, accommodations, services or activities on the premises.

SIGN, PARALLEL

See "sign, wall."

SIGN, PERMANENT

A sign permanently affixed or intending to be permanently affixed to the exterior of a building.

SIGN, POLE

A sign that is mounted on or suspended from a freestanding pole, column or other support located in or upon the ground surface.

SIGN, PROJECTING

A sign which is attached directly to the wall of a building which extends more than 12 inches beyond the edge of any wall or surface to which it is affixed.

SIGN, REAL ESTATE

A sign pertaining to the sale or lease of the premises on which the sign is located.

SIGN, ROOF

Any sign erected, constructed and maintained wholly upon or over the roof of any building with the principal support on the roof.

SIGN, SIDEWALK

An A-frame sign or sign of similar character which is placed upon sidewalks and is not permanently affixed to any structure.

SIGN, TEMPORARY

Any sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without frames, intended to be displayed for a period of no more than 60 days in a calendar year; provided, however, that the sign may not be continuously displayed from one calendar year to the next calendar year if such display would result in the sign being continuously displayed for more than 60 consecutive days.

SIGN, WALL

A sign which is mounted to a wall or other vertical building surface, not extending more than 12 inches beyond the edge of any wall or other surface to which it is affixed.

SIGN, WINDOW

A temporary or permanent sign which is oriented to the public right-of-way, is legible to persons in vehicles and is located on the outside or inside of a window to direct attention to an activity conducted on the same lot.

SINGLE AND SEPARATE OWNERSHIP

The ownership of property by any person, which ownership is separate and distinct from that of any adjoining property. Ownership shall be considered separate and distinct where lots have been separately described as such, by metes and bounds, in a recorded deed or conveyance prior to the enactment of this Chapter and have continued since the date to be so separately described in all subsequent recorded deeds of conveyance.

SINGLE-FAMILY ATTACHED, DETACHED OR SEMIDETACHED DWELLING

See "dwelling unit."

SITE

A tract or parcel of land or combination of contiguous lots or parcels of land.

SITE RESTORATION

Measures taken following completion of land disturbance activities which will stabilize the land surface and minimize exposure to possible erosion or sedimentation.

SOUND

An oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristics of such sound, including duration, intensity and frequency.

SPECIAL EXCEPTION

A use which may be permitted by the Zoning Hearing Board in a zoning district only when specific standards and criteria are met.

SPECIFIED ANATOMICAL AREAS

Human genitals, pubic region, anus, buttocks, female breast(s) below a point immediately above the top of the areola or human male genitals in a discernibly turgid state, even if completely covered.

SPECIFIED SEXUAL ACTIVITIES

Any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
- B. Sex acts, actual or simulated, including intercourse, oral copulation, masturbation or sodomy; or
- C. Excretory functions as part of or in connection with any of the activities set forth in Subsections A and B above.

SPRING

A place where, without the agency of man, water flows from a rock or soil upon the land or into a body of surface water.

STABLE

Any building, structure or portion thereof which is used, in whole or in part, for the shelter or care of sheep, goats, horses or cattle.

START OF CONSTRUCTION or START OF SUBSTANTIAL IMPROVEMENT

The date of issuance of a building permit, provided that the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The "actual start" means either the first placement of permanent construction on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns or any work beyond the state 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 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.

STEALTH TECHNOLOGY

Camouflaging methods applied to wireless communications towers, antennas and other facilities which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.

STEEP SLOPE

Those areas of land where the natural grade is fifteen percent (15%) and greater. Slopes shall be measured as the change in elevation over the horizontal distance between consecutive contour lines and expressed as a percent. For the purpose of application of Borough subdivision regulations, slope shall be measured over three (3) or more two (2) foot contour intervals (six [6] cumulative vertical feet of slope). All slope measurements shall be based on contour intervals determined by detailed topographic survey using aerial photogrammetry or actual field survey and shall be signed and sealed by a registered surveyor or engineer licensed to practice in the Commonwealth of Pennsylvania. Slopes created during land disturbance or land development activity, when authorized by the Borough pursuant to Chapter 97 of the Borough Code, are not considered steep slopes for the purposes of regulating steeply sloped areas.

STORAGE

The deposit of goods, materials or products intended for future use or disposition, including a warehouse or distributorship.

STORY

That part of a building located between the upper surface of a floor and the floor or roof next above. The first story of a building is the lowest story having 75% or more of its wall area above grade level. A half-story is a story under a gable, hip or gambrel roof, the wall plates of which on at least two exterior walls are not much more than two feet above the floor.

STREET

A right-of-way intended for the general public use to provide means of circulation for vehicles and pedestrians, furnishing access to abutting lots. The word "street" includes the words "road," "highway", "avenue", "boulevard," "lane" and "alley".

STREET LINE

The right-of-way line of a street where it crosses a lot; the dividing line between a lot and the street.

STREET, PRIMARY

A street which serves as the principal means of vehicular travel to provide access to the front yard of abutting properties.

STREET, SECONDARY

A street which serves as a subordinate means of vehicular travel to provide access to the side yard or rear yard of abutting properties, such as an alley.

STREET WALL

The wall or walls of a building at the edge of the street right-of-way adjoining a sidewalk, or approved vertical architectural or landscape features such as Piers, Fences, Pergolas, Arbors, Colonnades, or other similar vertical features at least three feet, six inches (3' 6") in height in lieu of a building wall.

STRUCTURAL ALTERATION

Any change in or addition to the supporting or structural members of a building or other structure, such as the bearing walls, fire separation walls, partitions, columns, beams or girders; or any change which could convert an existing building or other structure into a different structure or adapt the structure to a different use or which, in the case of a nonconforming building or other structure, would prolong the life of such building or owner structure.

STRUCTURE

Any man-made object or improvement having an ascertainable stationary location on land or in the water, whether or not affixed to the land.

STUDENT

An individual who is enrolled or has made application and been accepted at a university, college or trade school and is taking at least six credit hours per semester and whose primary occupation is as a student or who is on a semester or summer break from studies at a college, university or trade school. The term "student" shall apply to both undergraduate and graduate students alike.

STUDENT HOME

A living arrangement for at least two students to a maximum of four students (as defined in this Chapter) unrelated by blood, marriage, or legal adoption. Student homes shall not include dormitories.

STUDENT HOUSING

Housing for students in the form of a dormitory, fraternity house, sorority house or rooming house.

SUBDIVISION

The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, conveyance or other transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or residential dwellings, are not included in this definition.

SUBDIVISION PLAN

A sketch, preliminary or final plan submitted in compliance with the Borough of West Chester Subdivision and Land Development Ordinance, showing the provision for the subdivision of a tract of land. See also "land development plan."

SUBSTANTIAL IMPROVEMENT

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure had been damaged and is being restored, before the damage occurred. A substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing state or municipal health, sanitary or safety codes which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or the Pennsylvania Inventory of Historic Places.

SUBSTANTIALLY CHANGE

A. Any increase in the height of a wireless support structure by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, except that the mounting of the proposed wireless communications facility may exceed the size limits set forth herein if necessary to avoid interference with existing antennas; or

B. Any further increase in the height of a wireless support structure which has already been extended by more than 10% of its originally approved height or by the height of one additional antenna array.

SURFACE RUNOFF; SURFACE WATER RUNOFF; STORMWATER RUNOFF

That part of the precipitation that passes over the surface of the land without first passing beneath the surface.

SWIMMING POOL

Any permanent pool not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than one and one-half (1 1/2) feet.

SWIMMING POOL, PUBLIC OR SEMIPUBLIC

Any swimming pool other than a private swimming pool, including publicly and privately owned pools open to the general public and pools owned and operated in conjunction with membership organizations, hotels and other similar uses.

TAVERN

An establishment which serves alcoholic beverages for on-premises consumption and which is licensed by the Pennsylvania Liquor Control Board.

TEMPORARY STRUCTURES

Tents, membrane structures and other construction erected for a period of less than 180 days.

TOWER-BASED WIRELESS COMMUNICATIONS FACILITY (TOWER-BASED WCF)

Wireless communications facilities that include the installation of a structure that is used for the purpose of supporting one or more antennas, including but not limited to self-supporting lattice towers, guy towers, monopoles, utility poles and light poles. DAS hub facilities shall be considered to be tower-based WCFs.

TRACT

A lot or one or more contiguous lots assembled for the purpose of development.

TRAVEL TRAILER

A portable vehicular structure, built on a chassis and designed as a temporary dwelling for travel, recreation, vacation and other short term uses.

UNIFIED INSTITUTIONAL DEVELOPMENT

A unified development which contains multiple institutional uses built or developed on a single block which utilize common architectural and design principles and share common vehicular and pedestrian access and parking.

UNIFIED MIXED-USE DEVELOPMENT

A use on land with frontage on Market Street, Gay Street, Strasburg Road, Downingtown Pike, or Hannum Avenue, which provides Affordable Housing in combination with community facilities and/or neighborhood amenities, as defined in this Section 112-7.

USE

An activity or the specific purpose for which land or a building or other structure is designed, arranged, intended, or improved or for which it is or may be occupied or used.

VARIANCE

Permission, approval or authorization granted by the Zoning Hearing Board to modify or deviate from the exact provisions of this Chapter, as applied to a specific property.

WAREHOUSE

A building used primarily for the storage of goods and materials, distinct from ordinary on-site storage connected with retail enterprise and from ministorage.

WATERCOURSE

A permanent or intermittent stream, brook, creek or channel or ditch for water, whether natural or man-made.

WBCA

Pennsylvania Wireless Broadband Collocation Act (53 P.S. § 11702.1 et seq.).

WEST CHESTER DOWNTOWN HISTORIC DISTRICT

A historic district listed on the National Register of Historic Places.

WHOLESALE USE

Establishments or places of business primarily engaged in selling merchandise to retailers to industrial, commercial, institutional, or professional business users or to other wholesalers or acting as agents or brokers and who buy or sell merchandise to such individuals or companies.

WINERY; LIMITED WINERY

A premises that manufactures and produces wine as defined by the Pennsylvania Liquor Code and that is licensed as a winery or limited winery by the Pennsylvania Liquor Control Board.

WIRELESS

Types of transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.

WIRELESS COMMUNICATIONS FACILITY (WCF)

The antenna, nodes, control boxes, towers, poles, conduits, ducts, pedestals, electronics and other equipment used for the purpose of transmitting, receiving, distributing, providing or accommodating wireless telecommunication services.

WIRELESS COMMUNICATIONS FACILITY APPLICANT (WCF APPLICANT)

Any person that applies for a wireless communication facility building permit, zoning approval and/or permission to use the public right-of-way (ROW) or other Borough-owned land or property.

WIRELESS SUPPORT STRUCTURE

A freestanding structure, such as a guyed or self-supporting monopole or tower, electrical transmission tower, water tower or other structure not classified as a wireless support structure, including but not limited to buildings, light poles, utility poles, traffic signals and other similar structures that could support the placement or installation of wireless telecommunications facilities if approved by the Borough.

WOODLAND

An area of vegetation in which the dominant plants are trees that are indigenous to such area.

YARD

An open area on a lot extending along a lot line and inward from such line. The minimum dimension of a required "yard" shall be as provided for each district and shall measure as the shortest distance between the lot line and a line parallel to such line.

YARD, FRONT

A yard abutting a street line of a primary street extending the full width of the lot along the front lot line of such yard and extending in depth from the front lot line to the building setback line. In the case of a corner lot, the yards extending along all streets are "front yards," and the remaining yards shall include a rear yard, opposite the street on which the principal building is generally faced, and a side yard opposite the other street. For lots fronting three (3) streets, all yards abutting a street shall be considered a front yard. The remaining yard shall be either a rear yard or a side yard determined by the position of the principle building façade.

YARD, REAR

A yard extending the full width of the lot along the rear lot line and extending in depth from the rear lot line to the building setback line.

YARD, SIDE

A yard extending the full depth of the lot along the side lot line and extending in width from such side lot line to the building setback line.

ZERO LOT LINE

The location of a building on a lot in such a manner that one of the sides of the building is located directly on the lot line.

ARTICLE III. ZONING DISTRICTS

§ 112-301 Establishment of districts, compliance required.

- A. The Borough is divided into different districts, each with a specified purpose and intent to implement the purpose of this Chapter and the goals and objectives of the Comprehensive Plan.
- B. Whenever federal- or state-owned property is included in one or more zoning districts, it shall be subject to the provisions of this Chapter only insofar as permitted by the Constitution and laws of the United States of America and the Commonwealth of Pennsylvania.
- C. Every parcel of land and every building or other structure in the Borough, except as otherwise provided by law or by this Chapter, shall be subject to the provisions specified for the district in which it is located.
- D. A building may be erected or used, and a lot may be used or occupied only for the uses permitted by right, accessory uses, conditional uses which adhere to explicit standards and criteria and the uses permitted by special exception, when approved, in the zoning district in which the building or lot is located. No other use shall be permitted unless the Borough Council approves an amendment to this Chapter either permitting another use in the zoning district or rezoning the lot to permit another use.
- E. Unless specifically provided otherwise in this Chapter, only one principal use shall be permitted on a lot.

§ 112-302 Districts enumerated - Zoning Map.

- A. For the purpose of this Chapter, the Borough is divided into the following classes of zoning districts:

Base Zoning Districts

NC-1	Neighborhood Conservation District 1
NC-2	Neighborhood Conservation District 2
NC-3	Neighborhood Conservation District 3
MU	Mixed Use District
TC	Town Center District
CS	Commercial Service District
IS	Institutional District
ID	Industrial District

Overlay Zoning Districts

HO-60	60 ft. Height Option Overlay District
HO-75	75 ft. Height Option Overlay District
CU	Cultural Use Overlay District
PO	Professional Office Overlay District
ROD	Retail Overlay District
GU	Government Use Overlay District
IU	Institutional Use Overlay District
TRANS	Transportation Corridor Overlay District

CHAPTER 112 - ZONING ORDINANCE
§ 112-303 Rules for interpreting district boundaries.

B. Zoning Map, Overlay Districts Map & Resource Protection Map.

1) The locations and boundaries of the zoning districts are depicted on the following maps which collectively form the Zoning Map of the Borough of West Chester and are on file in the Borough Manager's and Zoning Officer's offices.

- (a) Zoning Map.
- (b) Overlay Districts Map.
- (c) Resource Protection Map

2) The locations and boundaries of historic and natural resources protected by the Zoning Ordinance are depicted on the Resource Protection Map.

3) The Zoning Map, Overlay Districts Map and Resource Protection Map and all notations, references and other data shown thereon are incorporated by reference in this Chapter as if fully described and set forth herein.

§ 112-303 Rules for interpreting district boundaries.

The boundaries between districts are, unless otherwise indicated, either primarily lot lines or the center lines of streets, rights-of-way or watercourses or such lines extended or lines parallel thereto. Where the boundaries of a single district are indicated as including directly opposite sides of a street, right-of-way or watercourse for any portion of its length, the district so indicated shall be construed to apply to the entire bed of such street, right-of-way or watercourse lying within such portion of its length. Where uncertainty exists as to the location of any said boundaries as shown on the Zoning Map, the following rules shall apply:

A. Where a district boundary is indicated as approximately following the center line of a street, right-of-way or watercourse, such center line shall be construed to be such boundary.

B. Where a district boundary is indicated as approximately following a lot or other property line as of the effective date of this Chapter, such lot or property line shall be construed to be such boundary.

C. Where a district boundary divides a lot or runs through undivided property, the location of such boundary, unless specified by figures on the Zoning Map, shall be determined by the use of the scale appearing on said map.

D. Where dimensions are shown on the Zoning Map between a street and a district boundary, they shall indicate that the district boundary runs parallel to the street line at a distance therefrom equivalent to the number of feet so indicated, unless otherwise specified. Where scaled distances do not agree with such figures, the dimensions shall control.

E. Where physical features existing on the ground vary with those shown on the Zoning Map or in other circumstances not covered by Subsections **A** through **D** above, the Borough Council shall interpret the district boundaries.

§ 112-304 Permitted Uses

A. Principal Uses

The uses listed below are permitted by-right in the zoning districts as designated below.

PRINCIPAL USES	ZONING DISTRICT							
	NC-1	NC-2	NC-3	MU	TC[1]	CS	ID	IS
1. Automotive repair						X	X	
2. Automotive sales and service facilities						X		
3. Automotive service stations						X	X	
4. Bank					X			
5. Billboard signs						X		
6. Brewery							X	
7. Car wash facilities						X		
8. Clubs or lodges						X		

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§ 112-304 Permitted Uses

PRINCIPAL USES	ZONING DISTRICT							
	NC-1	NC-2	NC-3	MU	TC[1]	CS	ID	IS
9. Commercial parking lots						X		
10. Community facilities					X			
11. Day-care, adult								X
12. Day-care centers								X
13. Distillery							X	
14. Dormitory								X
15. Educational uses				X				X
16. Flex space				X				
17. Grower/processor							X	
18. Hospital								X
19. Housing for the elderly								X
20. Laboratories							X	
21. Light industrial				X			X	
22. Live-work unit				X				
23. Manufacturing							X	
24. Medical Clinic								X
25. Mini storage							X	
26. Multi-family			X		X	X		
27. Municipal uses	X	X	X	X	X	X	X	X
28. Nursing homes								X
29. Offices				X	X	X	X	
30. Personal service shops					X	X		
31. Processing							X	
32. Public place of amusement				X				
33. Public service facilities						X		
34. Rail freight terminals							X	
35. Religious uses					X			X
36. Restaurant, licensed					X			
37. Restaurant, unlicensed					X	X		
38. Restaurant, Fast-food						X		
39. Restaurant-café, limited to Café I, Café II Dist.					X			
40. Restaurant, Pub [2]					X	X		
41. Retail stores, shops					X	X	X	
42. Single-family attached		X	X	X	X			
43. Single-family detached	X	X	X	X	X			
44. Single-family semi-detached		X	X	X	X			
45. Student home			X	X				
46. Two-family attached		X	X	X	X			
47. Two-family detached		X	X	X	X			
48. Two-family semidetached		X	X	X	X			
49. Unified Mixed-Use Development						X		
50. Warehousing							X	
51. Wholesale						X		
52. Winery							X	

[1] Residential uses not permitted on first floor in the TC district.

[2] Must meet Standards and Criteria for Pub Restaurants listed in §112-914.

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§ 112-304 Permitted Uses

B. Accessory Uses

ZONING DISTRICT

ACCESSORY USES	NC-1	NC-2	NC-3	MU	TC	CS	ID	IS
1. Accessory Uses and Structures	X	X	X	X	X	X	X	X
2. Historic carriage house adaptive reuse	X	X	X		X	X	X	X
3. Home occupation	X	X	X					
3. Family day care home	X	X						

C. Conditional Uses

The uses listed below are permitted as a principal use by Conditional Use in the zoning districts as designated below. Such uses shall comply with the applicable regulations within the underlying zoning district as well as the conditional use standards set forth in this Zoning Ordinance.

ZONING DISTRICT

CONDITIONAL USES	NC-1	NC-2	NC-3	MU	TC	CS	ID	IS
1. Agricultural	X			X				
2. Automotive sales/service					X			
3. Clubs, lodges					X			
4. Indoor theaters, no adult rated theaters					X			
5. Retail stores, shops				X				
6. Student home reconstruction		X		X				
7. Restaurant, Pub (see §112.914)							X	
8. Any use not specifically permitted in any zoning district, & which is not inherently objectionable.								X

D. Special Exception

The uses listed below are permitted as a principal use by Special Exception in the zoning districts as designated below. Such uses shall comply with the applicable regulations within the underlying zoning district as well as the special exception standards as set forth in this Zoning Ordinance.

ZONING DISTRICT

SPECIAL EXCEPTION USES	NC-1	NC-2	NC-3	MU	TC	CS	ID	IS
1. B&B facilities	X	X		X				
2. Conversion of exist building to multi-family		X		X				
3. Child day-care centers		X		X	X	X		
4. Educational Use				X	X	X		
5. Funeral homes					X	X		
6. Hotel					X			
7. Industrial use involving hazardous/toxic materials								X
8. Junkyards								X
9. Mini storage; wholesale storage						X		
10. Mobile home park				X				
11. Nursing homes, Housing for Older Persons				X				
12. Public places; amusement / arcades						X		
13. Religious uses	X	X	X	X		X		
14. Rooming houses				X				
15. Sexually oriented uses							X	
16. Shopping centers							X	
17. Skilled nursing facility, co-personal care	X			X				
18. Student home in dwelling other than multi-family				X				
19. Student home in SF detached	X	X		X				
20. Student housing								X
21. Taverns							X	
22. Warehouse							X	

CHAPTER 112 - ZONING ORDINANCE
§ 112-304 Permitted Uses

E. Overlay Districts Uses

OVERLAY ZONING DISTRICTS [1]

Principal Uses	HO-60	HO-75	CU	PO	ROD	GU	IU[2]	TRANS[3]
1. Assisted living facilities							X	
2. Educational uses							X	
3. Governmental Use						X		
4. Housing for the older persons							X	
5. Indoor motion-picture theaters	X	X			X			
6. Nursing home							X	
7. Personal care homes							X	
8. Personal service shops	X	X			X			
9. Religious uses							X	
10. Restaurant-café					X			
11. Restaurant, licensed	X				X			
12. Restaurant, unlicensed	X	X						
13. Retail stores, shops	X	X			X			
Conditional Uses								
1. Cultural Use			X					
2. Professional Office				X				

Notes:

[1] These uses are in addition to those permitted in the underlying Zoning District.

[2] Institutional Use Overlay District - In addition to all uses permitted in the NC-2 Zoning District.

[3] Transportation Corridor Overlay District - All uses permitted in the underlying Zoning Districts.

§ 112-305 General Design Standards

A. Zoning Districts

The following General Design Standards are required in all NC-Neighborhood Conservation Districts, TC-Town Center District, CS-Commercial Service District, MU-Mixed Use District and all Overlay Districts.

- 1) When an Alley serves as the Principal Street Address for a lot, new buildings shall be oriented to front the Alley. However, if an existing street on an existing block serves as the Principal Street Address, at least one or more buildings on the lot shall be oriented to front on the existing street, and additional buildings may utilize an Alley for the primary access to the building.
- 2) Front yard is a required dimension based on existing setbacks (aka build-to line) unless otherwise specified in the zoning district.
- 3) Main building entrance and facade must front a street, not an alley. When an alley serves as the principal street address for a lot, new buildings may be oriented to front the alley.
- 4) No parking in the front yard
 - a) Lots with alleys: vehicular access/parking is required from alley.
 - b) Lots without alleys: garage/parking shall be in the rear yard or setback at least 20' from the front building façade.

B. Streets and Sidewalks

- 1) New one-way streets shall be at least 30 feet wide and new two-way streets shall be at least 40 feet wide.
- 2) On-street parking is required.
- 3) New sidewalks
 - a) In residential districts sidewalks shall match existing adjacent sidewalk/planting strips. When no adjacent sidewalk exists, sidewalk width shall be no less 4 ½ feet with a planting strip/tree lawn between the sidewalk and the curb least 3-feet wide.
 - b) In commercial districts sidewalk width shall be no less than as specified in Chapter 97 (SALDO) with tree-wells adjacent to the curb.
- 4) Street trees shall be planted between the sidewalk and curb (tree lawn) in residential districts and in tree wells in commercial districts.

CHAPTER 112 - ZONING ORDINANCE

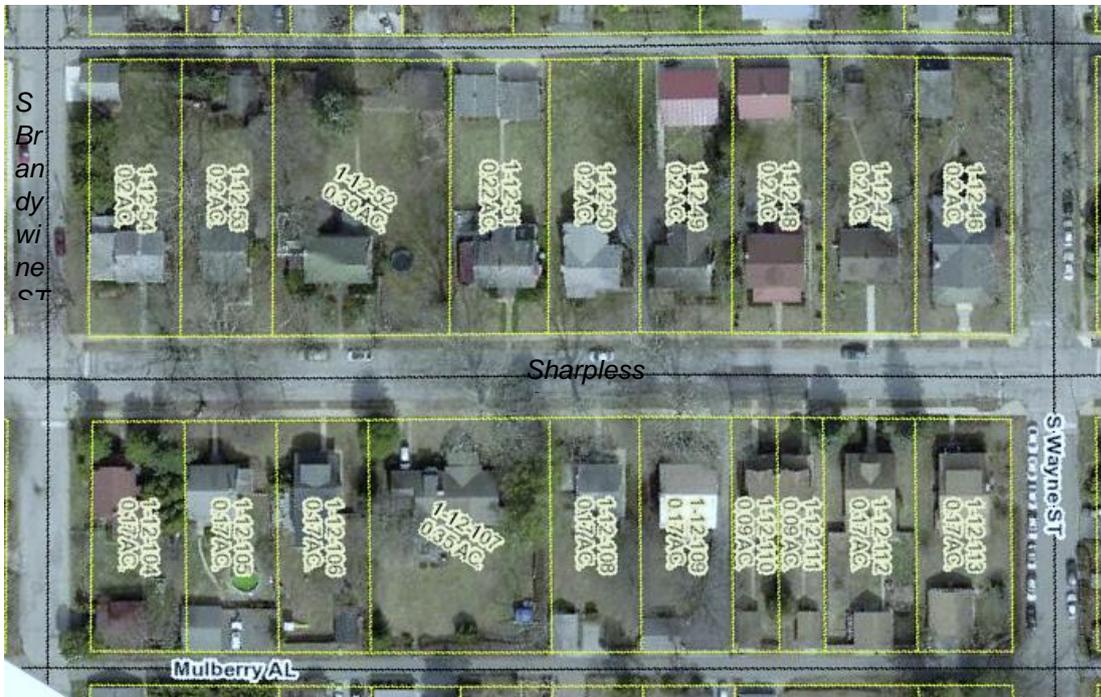
C. Median Lot Size

1) Where specified that the Minimum Lot Size is to equal the Median (i.e., middle) Lot Size, it shall be calculated as median (middle) value of all lots on a Block Face.

Additional considerations:

- a) All lots on a Block Face shall be used in calculating the Median Lot Size, including lots with side yards fronting the Block Face – such as may be the case with corner lots.
- b) When a Block Face has fewer than three (3) existing lots, the Block Face on the opposite side of the street shall be used to calculate the Median Lot Size.
- c) When a Block Face includes a parcel with multiple dwelling units, the overall average area per dwelling unit shall be assigned as the Lot Size for each unit and included with the other Block Face lots in calculating the Median Lot Size.
- d) When a Block Face has an even number of lots, the Median Lot Size shall equal the average of the middle two lots. (This can also be calculated using a spread-sheet median value function.)

2) The example below uses the lot sizes shown for the 400 block of Sharpless Street as on the Chester County, PA Geographic Information System Database, which is accessed on the ChescoViews website -- <https://arcweb.chesco.org/cv3/>



SHARPLESS STREET - 400 BLOCK

North Side			South Side		
Lot#	Acres	SF	Lot#	Acres	SF
46	0.20	8,712	113	0.17	7,405
47	0.20	8,712	112	0.17	7,405
48	0.20	8,712	111	0.09	3,920
49	0.20	8,712	110	0.09	3,920
50	0.20	8,712	109	0.17	7,405
51	0.22	9,583	108	0.17	7,405
52	0.39	16,988	107	0.35	15,246
53	0.20	8,712	106	0.17	7,405
54	0.20	8,712	105	0.17	7,405
			104	0.17	7,405
Median Lot Size	8,712		Median Lot Size	7,405	

§ 112-306 NC-1 Neighborhood Conservation District

The NC-1 District is designed to encompass the lower-density neighborhoods of the Borough which comprise single-family detached residences. Most of the NC-1 District includes areas that are essentially built out and the primary development objective is to maintain the existing neighborhood qualities and streetscape characteristics. Existing development patterns and densities shall be used as a guide to regulate new development.

USES See §112-304 for Permitted Uses. Only one Principal Use is permitted.

DIMENSIONAL REQUIREMENTS

Detached Dwelling Units

Lot Area, minimum per dwelling unit	Median value of lots on the Block Face
Lot Width, minimum	60 feet
Build-to line/front yard	match existing adjacent setbacks
Side yard, minimum	15 feet minimum
- Accessory Structures	5 feet
Rear yard, minimum	35 feet
- Accessory Structures	5 feet
Height, maximum	35 feet
Impervious coverage:	
- Lots over 20,000 sq.ft.	30% maximum
- Lots 12,000 to 20,000 sq.ft.	35% maximum
- Lots less than 12,000 sq.ft.	50% maximum
Building coverage:	
- Lots over 20,000 sq.ft.	15% maximum
- Lots 12,000 to 20,000 sq.ft.	20% maximum
- Lots less than 12,000 sq.ft.	30% maximum

§ 112-307 NC-2 Neighborhood Conservation District

The NC-2 District is designed to encompass the moderate- to high-density neighborhoods of the Borough which comprise mixed types of residences, including single-family and two-family detached, single-family and two-family semidetached and single-family attached. District includes areas that are essentially built out and the primary development objective is to maintain the existing neighborhood qualities and streetscape characteristics. Existing development patterns and densities shall be used as a guide to regulate new development.

USES

See §112-304. Permitted Uses. Only one Principal Use is permitted.

DIMENSIONAL REQUIREMENTS

Residential Uses

Lot Area, minimum per dwelling unit	Median value of lots on the block face
Lot Width, minimum	
- Detached	40 feet
- Semi-Detached	30 feet
- Attached	20 feet
Build-to line/front yard	match existing adjacent setbacks
Side yard, minimum	existing adjacent, 10 feet minimum
- Accessory Structures	5 feet
Rear yard, minimum	20 feet
- Accessory Structures	5 feet
Height, maximum	35 feet
Impervious coverage	
- Lots over 5,000 sq.ft.	50% maximum
- Lots between 5,000 & 4,000 sq.ft.	70% maximum
- Lots less than 4,000 sq.ft.	80% maximum
Building coverage:	
- Lots over 5,000 sq.ft.	35% maximum
- Lots between 5,000 & 4,000 sq.ft.	45% maximum
- Lots less than 4,000 sq.ft.	45% maximum

§ 112-308 NC-3 Neighborhood Conservation District

The NC-3 District is designed to encompass the high-density neighborhoods of the Borough which comprise mixed types of residences. The district includes areas that are essentially built out, and the primary development objective is to maintain the existing neighborhood qualities and streetscape characteristics. Existing development patterns and densities shall be used as a guide to regulate new development.

USES

See §112-304 for Permitted Uses.

DIMENSIONAL REQUIREMENTS

Lot Area, minimum per dwelling unit	2,500 square feet
Lot Width, minimum	
- Detached	40 feet
- Semi-Detached	30 feet
- Attached	20 feet
- Apartment building	80 feet
Build-to line/front yard	match existing adjacent setbacks
Side yard, minimum	existing adjacent, 10 feet minimum
- Apartment building	20 feet
- Accessory Structures	5 feet
Rear yard, minimum	20 feet
- Accessory Structures	5 feet
Height, maximum	35 feet, apartment 55 feet
Impervious coverage, maximum	70%
Building coverage, maximum	50%

§ 112-309 TC Town Center District

The Town Center District is designed to accommodate uses appropriate to the Central Business District, especially within the Retail Overlay District, and to provide regulations to ensure that the scale and character of the historic and retail commercial environment is maintained. The District is also designed to include regulations to encourage the provision of pedestrian amenities and protect the character of adjoining residential zoning districts. The District is not intended to accommodate commercial uses which are more appropriate for the Commercial Service District and entail high-volume traffic turnover, large parking areas and/or outdoor storage and display areas.

USES

See §112-304 For Permitted Uses.

DIMENSIONAL REQUIREMENTS

Lot Area, minimum	2,500 square feet
Lot Width, minimum	20 feet
Build-to line/front yard	match existing adjacent setbacks
Side yard, minimum	existing adjacent, 5 feet minimum
Rear yard, minimum	5 feet
Height, maximum	45 feet
Impervious coverage, maximum	95%
Building coverage, maximum	90%

DESIGN STANDARDS.

- 1) Due to limited space available in the Town Center District, the required green areas may be computed using the following alternatives in lieu of plantings in the ground:
 - a) Sidewalk or courtyard planters may be utilized. The square footage of the top of the planters and 1/2 of the visible surface area of the planter may be computed.
 - b) Trellis or latticework against a building which supports evergreen vines or espaliered shrubs or trees may be utilized. The total square footage of evergreen plant materials affixed to such structures may be computed.
 - c) An overhead pergola or latticed canopy within a courtyard or in another space outside of the required yard setbacks may be utilized. One-fourth of the square footage of such structure may be computed, provided that such structure supports ornamental vines for at least 1/4 of its surface area.
 - d) Unit pavers, including brick, flagstone and grasscrete, may be utilized. The total square footage of such pavers may be computed. The surface area of existing brick and flagstone pavers may be computed, provided that such pavers are in good condition as determined by the Zoning Officer.
- 2) All lighting, signage, fencing, pavements, storage, traffic and other environmental controls shall be in accordance with the provisions of this Chapter.
- 3) All construction in the Historic (HARB) District shall be in accordance with this Chapter.
- 4) Additional design standards within the Retail Overlay District shall be as follows:
 - a) No more than 35 feet of continuous street wall shall be created for any new building. Any building which is wider than 32 feet shall have a recess or projections of a minimum of three inches at intervals no greater than 35 feet, in the form of a pilaster, column, fenestration or like-type vertical articulation.

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§ 112-309 TC Town Center District

- b) Except for buildings in the Town Center, HO-60 Overlay which exceed 45 feet up to a maximum height of 60 feet, a continuous street wall shall be created along the sidewalk frontage, except for a first-floor break in the street wall that may be created for a deck parking structure, where such break in the street wall does not exceed 24 feet in width.
- c) No surface parking lot shall be permitted.
- d) Any parking provided on site shall be placed to the rear of buildings and accessed off an alley or from an existing curb cut.
- e) No new curb cuts shall be permitted.
- f) No building shall be a windowless box. Building openings and windows shall constitute no less than 30% of all exterior walls fronting on a primary street (not including alleys and service streets).
- g) No building shall have opaque windows along a primary street, except for spandrel panels at floor lines.
- h) All offices, banks and financial institutions, community facilities, and governmental uses in the Retail Overlay District shall provide a pedestrian-oriented frontage in the form of a landscaped entrance area, or window display area which serves as an art gallery or other like display space accessible to pedestrians.

§ 112-310 CS Commercial Service District

The Commercial Service District is designed to accommodate commercial uses which are highway oriented and are located on the outskirts of the Town Center District along Strasburg Road, Downingtown Pike, Hannum Avenue and Market and Gay Streets east of the Historic (overlay) District. The CS District is designed to provide uses which are readily accessible by and directly related to vehicular traffic, such as automotive service stations, automotive parts stores, automotive sales and service facilities, fast-food restaurants and the like. As such, the district regulations require off-street parking to accommodate the users of this highway-oriented environment. The district is also designed to provide areas for adult entertainment uses along a public highway that are not in the same neighborhoods or in close proximity to residential areas, schools or churches. The district shall also allow for a Unified Mixed-Use Development on parcels that have frontage on Market Street, Gay Street, Strasburg Road, Downingtown Pike, or Hannum Avenue, within the CS Commercial Service District, where meeting specific criteria to support Affordable Housing in combination with community facilities and/or neighborhood amenities.

USES See §112-304 for Permitted Uses

DIMENSIONAL REQUIREMENTS

Lot Area, minimum	7,500 square feet
Lot Width, minimum	75 feet
Build-to line/front yard	10 feet from curb
Side yard, minimum	existing adjacent, 5 feet minimum
Rear yard, minimum	10 feet
Height, minimum/maximum	35/45 feet
Impervious coverage, maximum	85%
Building coverage, maximum	60%

Design Standards

- 1) Whenever a CS District abuts a residential district, a buffer planting strip shall be installed along any *abutting* side or rear lot line. The buffer planting strip shall be a minimum of eight feet in width. Whenever opaque fencing or walls of four to six feet in height are used, the width of the buffer planting strip may be reduced to four feet.
- 2) Separation requirement for sexually oriented businesses. A sexually oriented business shall not be located within 400 feet of another sexually oriented business, church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities, a public or private school, child day-care center or public park. The distance between the two uses shall be measured by the shortest distance between the lot on which the proposed sexually oriented business will be located and the lot or lots which contain the uses identified hereinabove. **[Added 3-18-2009 by Ord. No. 2-2009]**

§ 112-311 ID Industrial District

The Industrial District is designed to accommodate uses which involve manufacturing, warehousing, storage and the like in nonresidential areas of the Borough. The district is also designed to provide safeguards to protect the character of adjoining residential districts.

USES

See §112-304 for Permitted Uses.

DIMENSIONAL REQUIREMENTS

Lot Area, minimum	40,000 square feet
Lot Width, minimum	100 feet
Build-to line/front yard	20 feet from curb
Side yard, minimum	20 feet
- Adjacent to residential use	30 feet
Rear yard, minimum	10 feet
Adjacent to residential district or use	30 feet
Height, maximum	60 feet
Impervious coverage, maximum	85%
Building coverage, maximum	50%

Where the ID District is adjacent to a residential district or use, parking and loading facilities shall be prohibited in the minimum yard setbacks

Other Minimum Setbacks:

- 1) For accessory structures less than 20 feet in height, the minimum setback shall be 25 feet, where the ID District is adjacent to a residential district or use, the minimum setback shall be 50 feet.
- 2) For parking and loading facilities, the minimum setback shall be 15 feet, except that where the ID District is adjacent to a residential district or use, the minimum setback shall be 25 feet.

Design Standards

- 1) Whenever an ID District abuts a residential district, a 10-foot buffer planting strip shall be installed along any abutting side or rear lot line.
- 2) Manufacturing activities shall be restricted to completely enclosed buildings.
- 3) Any outdoor storage of equipment and materials shall be screened by a six-foot-high opaque fence.
- 4) Land utilized for junkyards shall be completely screened by opaque fencing at least six feet in height which shall conceal all stored materials; therefore, the height of such materials shall not exceed the height of the fence. Such fencing shall be set back from all lot lines for a minimum distance of 10 feet, except where it adjoins a residential zoning district, where the minimum setback distance shall be 35 feet.

SPECIAL PLAN APPROVAL PROCEDURES.

Whenever the proposed use does not involve a subdivision and/or a land development, the following shall apply:

- A. A plot plan of the property drawn to a scale of no greater than one-inch equals 50 feet shall be submitted. Such plan shall display all existing and proposed conditions such as topography, vegetation, floodplains, buildings, structures, access, fencing, signs, parking areas, loading areas, landscaping and the like.

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§ 112-311 ID Industrial District

- B. A statement of the proposed industrial activities contemplated for the site, including information such as the type of use, traffic and trip generation, storage requirements, number of employees and hours of operation.
- C. Fire-protection measures to be utilized for review by the Fire Department.
- D. Plans for the collection, treatment, storage and/or disposal of potentially hazardous materials, solid or liquid wastes.

§ 122-312 IS Institutional District

The Institutional District is designed to accommodate uses that traditionally provide healthcare and nursing, educational, religious services, care of minors and similar services and to ensure the compatibility between such uses and adjoining land uses.

USES

See §112-304 for Permitted Uses

DIMENSIONAL REQUIREMENTS

Lot Area, minimum	100,000 square feet
Lot Width, minimum	150 feet
Build-to line/front yard	75 feet
Side yard, minimum	50 feet
- Parking adjacent to residential use	30 feet
Rear yard, minimum	75 feet
Height, maximum	40 feet
Impervious coverage, maximum	75%
Building coverage, maximum	40%

Whenever the IS District abuts a residential district or use, a buffer planting strip shall be installed at a minimum width of 20 feet along any side or rear lot line. The buffer planting strip along any front lot line shall be a minimum of 10 feet in width.

§ 112-313 MU Mixed Use District

The Mixed-Use District is designed to promote the development of residential, office, and light industrial uses as a transition from industrial to residential development in the southeast portion of the Borough.

USES

See §112-304 for Permitted Uses.

DIMENSIONAL REQUIREMENTS

Lot Area, minimum	2,500 square feet
Lot Width, minimum	20 feet
Build-to line/front yard	10 feet from curb
Side yard, minimum	10 feet
Rear yard, minimum	10 feet
Height, maximum	45 feet, 60 feet Conditional Use
Impervious coverage, maximum	95%
Building coverage, maximum	90%

Design Standards

- A. All green areas shall be in accordance with the special regulations for landscaping set forth in this Chapter.
- B. Manufacturing activities shall be restricted to completely enclosed buildings.
- C. All lighting, signage, fencing, pavements, storage, traffic and other environmental controls shall be in accordance with the provisions of this Chapter.
- D. Buildings and uses related to offices, light industrial, and manufacturing shall not create adverse impacts on adjoining residential development with respect to noise, glare, vibration, dust, odor, or other nuisances.
- E. Any outdoor storage of equipment and materials shall be screened by a six-foot high opaque fence
- F. Parking for all buildings shall be to the rear or side of buildings, not in front of buildings, except for on-street, curbside parking.

ARTICLE IV. OVERLAY DISTRICTS

§ 112-401 HO-60 Height Option Overlay District

Standards to increase height to a maximum of 60 feet in the HO-60 Height Option Overlay District.

- A. A proposed building, structure or part thereof in excess of 45 feet and up to 60 feet within the HO-60 Overlay District as shown on the Zoning Map and Height Option Overlay Map and the parcel the building is constructed on shall comply with the standards set forth in this § 112- 401.
- B. In order to increase the height of a building, other structure or any portion thereof from 45 feet up to 60 feet, the following standards and criteria shall be met:
- (1) Building uses.
- (a) First floor/ground floor use. Except for buildings which are used as public parking garages which are permitted as governmental uses or municipal uses, the first floor/ground floor of all buildings shall:
- [1] Be used to promote a continuation and continuity of retail shops and stores, restaurants, personal service shops, indoor motion-picture theaters, lobbies and reception spaces, and, where applicable, comply with the provisions of the Retail Overlay District within the Town Center District as set forth in this Chapter.
- [2] Not be used for funeral homes.
- (b) Parking.
- [1] If parking is located in or under the building, any access driveway leading to such parking shall not be wider than 24 feet in width.
- [2] If parking is located in or under the building, the parking facility and access driveway leading to such parking facility shall not be greater than 50% of the building frontage, except for public parking garages which are permitted as governmental uses or municipal uses.
- (2) Lighting.
- (a) All lighting shall have a shield or diffuser to prevent trespass glare and visibility of the light source from a public street and alley.
- (b) No lighting shall have any blinking, flashing, pulsing or other moving lights or other illuminating device or beacon which has a changing light intensity, brightness or color.
- (c) All lighting shall be in accordance with the latest standards of the Illuminating Engineering Society of North America (IES).
- (3) Pedestrian amenities and public art.
- (a) Pedestrian plazas, courtyards, entrance courts, outdoor cafe spaces, brick sidewalks of at least six feet in width, benches, arbors, pergolas, fountains, low stone walls and the like shall be used to promote a human scale and greater attractiveness to the proposed development. Such features shall be computed as part of the applicable minimum green area requirements set forth in this Chapter.
- (b) All required street trees along the building frontages shall be of a caliper of at least 3½ inches. All such trees shall be limbed-up to have a clear area free of branching above the sidewalk of at least seven feet and shall be subject to approval of the Borough Tree Commission and the Borough Council.
- (c) All required street trees shall be selected from a list of species approved by the West Chester Borough Tree Commission and the West Chester Borough Urban Forester. The list of approved street trees is available at the Borough offices, Department of Building, Housing, and Code Enforcement.
- (d) The applicant shall be required to incorporate public art into the design of the building or as part of the outdoor pedestrian space. The public art shall conform to general guidelines established

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§ 112-401 HO-60 Height Option Overlay District

by the Borough's Public Art Commission, which are available at the Borough offices, Department of Building, Housing, and Code Enforcement. The applicant shall meet with the Public Art Commission for review of and recommendations on the specific type and location of public art proposed by the applicant. The Public Art Commission shall advise Borough Council whether or not the proposed public art complies with the guidelines.

(4) Conservation performance standards.

- (a) All new buildings over 45 feet shall be designed, constructed and maintained, at a minimum, to earn and comply with the GOLD certification level based on the standards for such certification included in the document attached hereto as Appendix A, titled West Chester Sustainable Certification Program, which is hereby adopted as part of the Zoning Ordinance and incorporated herein by reference.

(5) Architectural design standards.

- (a) The following architectural design standards shall be met for buildings where the height of the building is proposed to be over 45 feet up to 60 feet:

[1] The Design Guidelines for the West Chester Historic District, July 2002, as may be amended from time to time, shall be used for elements, including but not limited to: massing, scale, proportion, rhythm, building materials, roofs, building placement, building width, windows and streetscapes.

[2] If a new building has a flat roof, then it shall have a wraparound parapet wall sufficient in height to screen the building's mechanical and other rooftop equipment from view from public streets.

[3] All rooftop mechanical equipment and structures shall be screened from view from public streets.

[4] The HO-60/HO-75 Supplementary Design Guidelines, which are attached to this Chapter as an appendix, shall apply.

- (b) Within the Retail Overlay District, not less than 35% of the street wall of the building shall abut the street line. The remaining street line shall incorporate a combination of architectural and landscape elements such as, but not limited to, columns, piers, fences, hedges, pergolas, low walls, street trees and other pedestrian amenities and public art as provided in this Section 112-401.

- (c) The maximum building coverage shall be 85%.

(6) Historic preservation standards.

- (a) The applicant shall make every effort to retain existing contributing resources located on the subject property and incorporate them into the new use of that property. The applicant shall demonstrate this effort to the Borough Council as part of land development approval.

[1] A "contributing resource" is defined as being a resource that is listed as contributing, as defined by the National Register of Historic Places Standards, in the West Chester Borough Historic Resource Inventory of 2003, as amended, and that is shown to be a contributing resource on the accompanying Historic Resource Inventory Map.

[2] A "noncontributing resource" is defined as being a resource that is listed as noncontributing, as defined by the National Register of Historic Places Standards, in the West Chester Borough Historic Resource Inventory of 2003, as amended, and that is shown to be a noncontributing resource on the accompanying Historic Resource Inventory Map.

- (b) If permission is granted to demolish a contributing resource by Borough Council, then, unless otherwise required by another code of the Borough, no resources shall be demolished until the building permits for new construction and financing for the entire project are secured and documented and the following is completed and filed, when appropriate, with the Borough Council:

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§ 112-402 HO-75 Height Option Overlay District

- [1] A full historic documentation of the resources and the property shall be prepared by the applicant according to the Historic American Building Survey (HABS) guidelines and provided to the HARB and Borough Council with a copy to the Chester County Historical Society (CCHS) and a letter to the Pennsylvania Historical and Museum Commission (PHMC) informing it that such documentation is available; and
 - [2] A plaque or marker shall be provided by the applicant relating the history of the resources. The plaque or marker shall contain accurate information about the history of the resources which has been approved by HARB and the Borough Council and shall be placed at a location on the site that is recommended by HARB and approved by Borough Council.
- C. All applications for buildings with a building height over 45 feet and up to 60 feet shall include the following additional materials:
- (1) A written report that describes the intent of the architectural design of the proposed building(s) and the manner in which the proposed building(s) have a context-sensitive fit into the historic block, streetscape and neighborhood of the development.
 - (2) Plans, conceptual building elevations, diagrams, photographs and other data sufficient to demonstrate compliance with the standards set forth in this §112-401.
 - (3) An Impact Assessment Report (§ 112-905) to address mitigation measures pertaining to such impacts as traffic, infrastructure, environmental resources, contributing resources and historic resources.

§ 112-402 HO-75 Height Option Overlay District

Standards to increase height to a maximum of 75 feet in the HO-75 Height Option Overlay District.

- A. Any proposed building, structure or part thereof in excess of 35 feet and up to 75 feet or any portion thereof within the HO-75 Overlay District and the parcel the building is constructed on shall comply with the standards set forth in this § 112- 402.
- B. In order to increase the height of a building, other structure or any portion thereof from 35 feet up to 75 feet, the following standards and criteria shall be followed:
- (1) Building uses.
 - (a) First floor/ground floor use. Except for buildings which are used as public parking garages which are permitted as governmental uses or municipal uses, the first floor/ground floor of all buildings shall:
 - [1] Be used to promote a continuation and continuity of retail shops and stores, restaurants, personal service shops, indoor motion-picture theaters, lobbies and reception spaces; and
 - [2] Not be used for funeral homes.
 - (b) Parking.
 - [1] If parking is located in or under the building, any access driveway leading to such parking shall not be wider than 24 feet in width.
 - [2] If parking is located in or under the building, the parking facility and access driveway leading to such parking facility shall not be greater than 50% of the building frontage, except for public parking garages which are permitted as governmental uses or municipal uses.
 - (2) Lighting.
 - (a) All lighting shall have a shield or diffuser to prevent trespass glare and visibility of the light source from a public street and alley.
 - (b) No lighting shall have any blinking, flashing, pulsing or other moving lights or other illuminating device or beacon which has a changing light intensity, brightness or color.
 - (c) All lighting shall be in accordance with the latest standards of the Illuminating Engineering Society of North America (IES).

(3) Parking.

(a) Parking shall be provided in accordance with this Chapter.

(4) Signage. The sign regulations in this Chapter shall apply to all buildings which exceed 35 feet, except that:

(a) For buildings from 35 feet up to 75 feet in height, the size of a wall sign or projecting sign shall not exceed 15% of the total wall area of the building or 10% of the total wall area of the building for illuminated signs, provided that, in either case, no wall sign shall exceed 64 square feet.

(b) Ground signs and pole signs shall not exceed 40 square feet in area.

(5) Pedestrian amenities.

(a) Pedestrian plazas, courtyards, entrance courts, outdoor cafe spaces, brick sidewalks of at least six feet in width, benches, arbors, pergolas, fountains, low stone walls and the like shall be used to promote a human scale and greater attractiveness to the proposed development. Such features shall be computed as part of the minimum green area requirement set forth in this Chapter.

(b) All required street trees along the building frontages shall be of a caliper of at least 3½ inches. All such trees shall be limbed-up to have a clear area free of branching above the sidewalk of at least seven feet and shall be subject to approval of the Borough Tree Commission and the Borough Council.

(c) All required street trees shall be selected from a list of species approved by the West Chester Borough Tree Commission and the West Chester Borough Urban Forester. The list of approved street trees is available at the Borough offices, Department of Building, Housing, and Code Enforcement.

(6) Conservation performance standards.

(a) All new buildings over 35 feet shall be designed, constructed and maintained, at a minimum, to earn and comply with the GOLD certification level based on the standards for such certification included in the document attached hereto as Appendix A, titled West Chester Sustainable! Certification Program, which is hereby adopted as part of the Zoning Ordinance and incorporated herein by reference.

(7) Architectural design standards. The following architectural design standards shall be met for buildings where the height of the building is proposed to be over 35 feet up to 75 feet:

(a) The Design Guidelines for the West Chester Historic District, July 2002, as may be amended from time to time, shall be used for elements, including but not limited to: massing, scale, proportion, rhythm, building materials, roofs, building placement, building width, windows and streetscapes.

(b) If a new building has a flat roof, then it shall have a wraparound parapet wall sufficient in height to screen the building's mechanical and other rooftop equipment from public streets.

(c) All rooftop mechanical equipment and structures shall be screened from view from public streets.

(d) The HO-60/HO-75 Supplementary Guidelines, which are attached to this Chapter as an appendix, shall apply.

(8) Historic preservation standards.

(a) The applicant shall make every effort to retain existing contributing resources located on the subject property and incorporate them into the new use of that property. The applicant shall demonstrate this effort to the Borough Council as part of land development.

[1] A "contributing resource" is defined as being a resource that is listed as contributing, as defined by the National Register of Historic Places Standards, in the West Chester Borough Historic Resource Inventory of 2003, as amended, and that is shown to be a contributing resource on the accompanying Historic Resource Inventory Map.

CHAPTER 112 - ZONING ORDINANCE
§ 112-403 Cultural Use Overlay District

[2] A "noncontributing resource" is defined as being a resource that is listed as noncontributing, as defined by the National Register of Historic Places Standards, in the West Chester Borough Historic Resource Inventory of 2003, as amended, and that is shown to be a noncontributing resource on the accompanying Historic Resource Inventory Map.

(b) If permission is granted to demolish a contributing resource by Borough Council, then, unless otherwise required by another code of the Borough, no resources shall be demolished until the building permits for new construction and financing for the entire project are secured and documented and the following is completed and filed, when appropriate, with the Borough Council:

[1] A full historic documentation of the resources and the property shall be prepared by the applicant according to the Historic American Building Survey (NABS) guidelines and provided to the HARB and Borough Council with a copy to the Chester County Historical Society (CCHS) and a letter to the Pennsylvania Historical and Museum Commission (PHMC) informing it that such documentation is available; and

[2] A plaque or marker shall be provided by the applicant relating the history of the resources. The plaque or marker shall contain accurate information about the history of the resources which has been approved by HARB and the Borough Council and shall be placed at a location on the site that is recommended by HARB and approved by Borough Council.

C. All applications for buildings with a building height over 35 feet and up to 75 feet shall include the following additional materials:

(1) A written report that describes the intent of the architectural design of the proposed building(s) and the manner in which the proposed building(s) has a context-sensitive fit into the historic block, streetscape and neighborhood of the development.

(2) Plans, conceptual building elevations, diagrams, photographs and other data sufficient to demonstrate compliance with the standards set forth in this § 112-905.

(3) An impact assessment report which is prepared in accordance with this Chapter to address mitigation measures pertaining to such impacts as traffic, infrastructure, environmental resources, contributing resources and historic resources.

§ 112-403 Cultural Use Overlay District

The boundaries of the CU Overlay District are depicted on the Overlay Districts map.

A. Purpose. The purpose of this district is to allow the adaptive reuse of certain buildings and structures located in the NC-2 District and the Town Center District for certain cultural uses which promote the arts, drama, music, dance, science and history.

B. Uses. In addition to the underlying uses which are permitted in the NC-2 District and in the Town Center District, an existing building which is located in the West Chester Downtown Historic District as identified and listed in the National Register of Historic Places Inventory may be adaptively reused for a cultural use by conditional use subject to compliance with the regulations of this § 112-403 and other applicable provisions of this Chapter.

C. Design standards for the adaptive reuse of an existing building in the Cultural Use Overlay District.

(1) Lighting.

(a) All lighting shall have a shield or diffuser to prevent trespass glare and visibility of the light source from a public street and alley, or neighboring residential property.

(b) No lighting or signage shall have any blinking, flashing, pulsing or other moving lights or other illuminating device or beacon which has a changing light intensity, brightness or color.

(2) Parking. The number of existing on-site parking spaces shall be maintained. No additional parking shall be required unless the existing building is enlarged by a building addition, in which case one parking space shall be added for every 850 square feet of additional floor area.

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§ 112-404 Professional Office Overlay District

- (3) Landscaping. Any part or portion of the lot which is not used for buildings, structures, loading and parking spaces, driveways and sidewalks shall be planted with an all-season ground cover.
- (4) Pedestrian amenities. Sidewalks in accordance with Chapter 97 of the Borough Code shall be maintained along the street frontage of the property.
- (5) Signs. The sign regulations in this Chapter shall apply except that:
 - (a) A building with a cultural use may have one projecting sign not to exceed 32 square feet in area. The sign may be two-sided and may be illuminated, either inside or outside; however, the illumination cannot be blinking, flashing or moving in any fashion.
 - (b) A cultural use may have one ground sign not to exceed 32 square feet in area.

§ 112-404 Professional Office Overlay District

- A. Professional Offices are permitted in the Professional Office Overlay District as follows:
 - (1) In the NC-1 district, conversion of an existing building to professional offices is permitted in accordance with this section.
 - (2) In the NC-2 district, professional offices shall be limited to the conversion of existing buildings for office use with a maximum of two dwelling units. Construction of new office buildings shall be prohibited; provided, however, that any professional office which may become damaged or destroyed by fire or otherwise shall be reconstructed in the form it existed prior to such occurrence so as to re-create the character of the building. Alterations and additions shall be in complete conformance with the applicable area and bulk regulations.
- B. All plans for conversions to professional office use shall be accompanied by a landscaping plan and an impact assessment report in accordance with this Chapter.
- C. The following area and bulk regulations shall apply to a professional office in a designated Professional Office Overlay District:
 - (1) NC-1 underlying zoning district:
 - (a) Minimum lot area: two acres.
 - (b) Minimum lot width at building line: 150 feet.
 - (c) Minimum front yard: 50 feet.
 - (d) Minimum depth of rear yard: 50 feet.
 - (e) Minimum width of side yard: 50 feet.
 - (f) Maximum building coverage: 25%.
 - (g) Maximum impervious coverage: 55%.
 - (h) Minimum green area: 40%.
 - (2) NC-2 underlying zoning district: Area and bulk regulations shall be those for the NC-2 District.
- D. Parking - 1 for every 750 square feet of gross floor area in the TC and Professional Office Overlay Districts; in any other district, 1 for every 350 square feet of floor area.
- E. Signs - Signs for uses in the Professional Office Overlay District. Sign shall not exceed 12 square feet.

§ 112-405 Retail Overlay District (ROD)

- A. The portion of the Town Center District, as shown on the Retail Overlay District Map, in which pedestrian-oriented frontage shall be created and maintained on the first floor/ground floor of buildings.
- B. Use regulations within the Retail Overlay District – See §112-304.
- C. The use regulations for the Retail Overlay District (ROD) shall apply to the first 35 feet in depth of the first floor/ground floor of buildings located in the ROD, as shown on the Overlay District Map.

§ 112-406 Government Use Overlay District

- A. Use regulations within the Government Use Overlay District – See §112-304.
- B. In the Government Use (GU) Overlay District, the conditional use standards for the height of any building or structure in the Town Center, HO-60 Overlay District shall be modified. The following regulations shall apply in the GU District:
- C. The following area and bulk regulations shall apply to a governmental use
 - (1) Minimum lot area: 4,000 square feet.
 - (2) Minimum lot width at building line: 50 feet.
 - (3) Minimum front yard: 10 feet.
 - (4) Minimum depth of rear yard: 10 feet.
 - (5) Minimum width of side yard: 10 feet.
 - (6) Maximum building coverage: 85%.
 - (7) Maximum impervious coverage: 90%.
 - (8) Minimum green area: 10%.

§ 112-407 Institutional Overlay District

- A. Purpose. The purpose of the Institutional Overlay (IU) District is to recognize that certain institutional uses such as personal care homes, assisted living facilities, skilled nursing facilities, housing for the elderly, educational uses and religious uses exist in the NC-2 District and can be maintained without disturbing the quiet enjoyment of the residential neighborhood. The IU Overlay District allows various institutional uses to be maintained and if necessary redeveloped using the entire District as the applicable tract for purposes of determining area and bulk requirements and parking.
- B. Uses. In addition to the underlying uses which are permitted in the NC-2 District, a unified institutional development may be permitted by right in the Institutional Overlay District subject to compliance with the area and bulk regulations of this § 112- 407 and other applicable provisions of this Chapter.
- C. Area and bulk regulations. The following area and bulk regulations shall apply to a unified institutional development.
 - (1) Minimum gross tract area: four acres.
 - (2) Minimum tract width at the street line: 100 feet.
 - (3) Minimum setbacks from streets.
 - (4) Any building face to tract exterior street right of way: 15 feet.
 - (5) Maximum building coverage: 40%.
 - (6) Maximum impervious coverage: 65%.
 - (7) Minimum green area: 30%.
 - (8) Maximum building height: 45 feet.
- D. Design standards for a unified institutional development.
 - (1) Applicants seeking a building permit or land development approval for all proposed buildings and structures within the Institutional Overlay District shall provide conceptual architectural plans and sufficient documentation to demonstrate compliance with the architectural design standards herein. The plans and documentation shall be submitted with the building permit application (if land development approval is not necessary) and with the preliminary land development plans if land development approval is required.
 - (a) Articulation of building facades. Building facades which front on a public street shall be articulated to create an interplay between light and shadow, express the rhythm of architectural bays, reduce the scale of building masses, and exhibit a high level of craftsmanship.

Architectural documentation submitted to the Borough for review shall include shadow projections created by facade articulations.

- (b) All building facades which front on a public street shall have horizontal and/or vertical offsets in conformance with the standards below.
 - [1] Architectural elements such as plinths, water tables, scarcements, blinds, expressed sills, expressed lintels, relief arches, and cornices shall be used to create horizontal and/or vertical offsets.
 - [2] Within the first 12 vertical feet of a facade measured from the finished floor elevation of the ground level of a building, the maximum area of an uninterrupted individual wall surface plane, without horizontal and/or vertical offsets and/or a change in surface material, shall not exceed 350 square feet.
 - [3] Within the first 12 vertical feet of the finished floor elevation of the ground level of a building, the maximum length of a facade without windows, glass display windows or glass storefronts shall not exceed 100 horizontal feet.
- (c) Building facades which front on a public street shall be articulated through the use of three or more of the following architectural elements: colonnades, arcades, porticos, pediments, friezes, cornices, canopies, pilasters, piers or blinds.
 - [1] The constituent components of columns, pilasters and piers such as bases, plinths and capitals shall be expressed architecturally through changes in surface planes, surface profiles, materials, surface textures, and/or finishes.
- (d) Building facades which front on a public street and are composed of masonry walls shall be articulated and display a level of craft and tectonic expression through the use of masonry coursing to express architectural elements. Masonry walls shall be articulated through the use of three or more of the following design elements:
 - [1] Quoins corner.
 - [2] Soldier courses.
 - [3] Sailor courses.
 - [4] Diagonal bonds.
 - [5] Corbelling.
 - [6] Contrasting material colors and textures.
 - [7] Accent material courses.
- (e) Fenestration patterns shall be accentuated through the expression of two or more of the following design elements:
 - [1] Window sills.
 - [2] Window heads.
 - [3] Lintels.
 - [4] Window molding.
 - [5] Mullions.
 - [6] Muntins.
- (f) Primary building entrances. Primary building entrances shall be clearly defined with architectural elements and shall include at least one of the following:
 - [1] Portico.
 - [2] Pediment.
 - [3] Architrave.

[4] Architectural canopy.

[5] Porch.

(g) Rooflines.

[1] Variations in building rooflines shall be provided.

[2] Buildings with flat roofs shall have parapets of sufficient height to screen HVAC equipment for view from the public right-of-way.

[3] No facade parapet shall exceed 100 feet in length without having at least two vertical changes in height. Each change in height shall be no less than 18 inches.

[4] No facade parapet shall exceed 200 feet in length without having at least four vertical changes in height. Each change in height shall be no less than 24 inches.

[5] Buildings which have sloped roofs, faux sloped roofs, or mansard roofs shall have variations in ridge heights.

[6] No roof ridge shall exceed 110 feet in length without having at least one vertical change in height. The change in height shall be no less than 12 inches.

[7] The incorporation of gables and dormers which are subordinate to the primary roof slope is encouraged.

(h) Building materials. Building materials should contribute to reinforcing the character and identity of the existing neighborhood.

[1] No facade wall shall be composed of the following materials:

(a) Generic concrete masonry units (CMU) that do not have a distinct architectural grade surface or color finish.

(b) Precast concrete panels shall not be used on the facade.

(c) Cast-in-place concrete surfaces that do not have a distinct architectural grade finished surface or color finish.

(d) Metal panels with a highly reflective surface finish.

(e) Aluminum siding.

[2] The use of highly reflective or mirrored surface glass is prohibited.

[3] All brick units shall be a minimum of 3 5/8 inches thick.

(i) Predominant building colors. The predominant colors of building materials and finishes, including roofs, shall be subtle, low-intensity, and have a low reflective value. High-intensity, fluorescent, and/or reflective material finishes are prohibited. Building trim, doors, window frames and similar architectural details may be finished with higher-intensity accent colors.

(2) All preliminary land development plans shall be accompanied by a landscaping plan which shall be approved by Council as part of land development.

(3) All rooftop mechanical equipment and structures shall be screened from view of adjacent properties and shall be operated in compliance with Chapter 73 of the Borough Code, Noise Disturbance.

(4) Parking shall be provided as follows: one off-street parking space shall be provided for every employee in the maximum shift for every use in the unified institutional development. The minimum size for individual parking spaces located within the development, excluding accessways for vehicles, shall be nine feet by 18 feet in size, and the minimum size for handicapped-accessible spaces shall be as required by applicable code. Up to 40% of the individual parking spaces provided on a tract within the IU Overlay District may be reduced to a minimum size of 7.5 feet by 16 feet, so long as said parking areas are clearly designated as compact spaces.

§ 112-408 Transportation Corridor Overlay District

Purpose. The purpose of the Transportation Corridor Overlay (TRANS) District is to promote the continued use of the SEPTA right-of-way for mass transportation use, especially for rail transportation.

Applicable districts. The Transportation Corridor Overlay District shall apply to the ID, MU and TC Districts, as shown in the Overlay Districts Map

Special design and development standards.

- A. No development with buildings shall be permitted within the TC District that would prevent the operation of rail transportation or other mass transportation.
- B. No development with parking lots, fences, gates, walls, driveways, curbs, or other like structures or barriers shall be permitted within the TC District that would prevent the operation of rail transportation or other mass transportation.
- C. All grade crossings of rail transportation or other mass transportation with streets shall be protected with signals and lights to control traffic movement and to ensure safety when trains or other vehicles cross over streets.

ARTICLE V. RESOURCE PROTECTION STANDARDS

The Resource Protection Map is included and incorporated as part of the Zoning Ordinance. The map identifies National Register Historic Districts, the local town center historic district administered by the West Chester Historical and Architectural Review Board, the Historic Carriage House inventory as identified in the 2000 West Chester Comprehensive Plan, borough parks and the FEMA Flood Hazard area with 1% chance of flooding.

§ 112-501 Floodplain.

All floodplain regulations have been established and adopted by the Borough pursuant to the Borough's Floodplain Ordinance, which is available on the Borough's website and available to the public for review at Borough Hall. (The Floodplain regulations are set forth in §112-503 below.)

§ 112-502 Historic Resources.

All projects shall respect the historic integrity of the Borough's historic resources.

- A. Downtown Historic District (HARB). The district boundary was originally established using the boundaries of the Downtown National Register Historic District. The boundaries were subsequently expanded to include the 200 block of West Market Street and the unit block of North New Street. All projects in the Downtown Historic District are under the purview of the Historic and Architectural Review Board (HARB). Both the district and the HARB were created by ordinance according to the provisions of the Pennsylvania Historic District Act 167 of 1961. (The Historic District regulations are set forth in §112-504 below.)

B. National Register Historic Districts

There are three Historic Districts listed on the National Register of Historic Places, which is administered by the National Park Service. Projects that include income-producing historic resources within this district may be eligible for an investment (income) tax credit. With the exception of the Downtown National Register Historic District, which is entirely within the local HARB District, there is no specific local design review for projects in these districts. However, all applicants are encouraged to respect the historic and architectural integrity of historic resources in these districts.

- (1) Downtown Historic District. This district is within the HARB District and includes most of the town center business district.
- (2) West Chester (Boundary Increase) Historic District. This district was established as an expansion of the Downtown Historic District, which it surrounds but technically does not include.
- (3) West Chester State College Quadrangle Historic District. This was the first National Register Historic District established in the borough.

- C. Historic Carriage House Inventory. This inventory of historic carriage houses was prepared as part of the 2000 West Chester Comprehensive Plan. It was developed using the 1909 Sandborn Insurance Maps for West Chester to map historic carriage houses and then field verified to photograph and document those that survived. These carriage houses are eligible to be developed as part of the Historic Carriage House Adaptive Reuse provisions of this ordinance. (The Historic Carriage House Regulations are set forth in §112-505 below.)

§ 112-503 Floodplain Regulations

§ 112-503.1 Statutory authorization.

The General Assembly 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.

§ 112-503.2 General provisions.

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- A. 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 by protecting the water supply and natural drainage.
 - (4) Reduce financial burdens imposed on the community, its governmental units, and its residents by preventing excessive development in areas subject to flooding.
 - (5) Comply with federal and state floodplain management requirements.
- B. Applicability. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the identified floodplain area of the Borough unless a permit has been obtained from the floodplain administrator.
- C. Abrogation and greater restrictions. The provisions of this Section supersede any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Section, the more restrictive shall apply.
- D. Warning and disclaimer of liability.
- (1) The degree of flood protection sought by the provisions of this Section is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Section does not imply that areas outside any identified floodplain areas, or that land uses permitted within such areas, will be free from flooding or flood damages.
 - (2) This Section shall not create liability on the part of the Borough or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made thereunder.

§ 112-503.3 Administration.

- A. Designation of the floodplain administrator.
- (1) The Zoning Officer is hereby appointed to administer and enforce this Section 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 Borough 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.
 - (2) In the absence of a designated floodplain administrator, the floodplain administrator duties are to be fulfilled by the Borough Manager.
- B. Permits required. A permit shall be required before any construction or development is undertaken within any identified floodplain area of the Borough.
- C. Duties and responsibilities of the floodplain administrator.
- (1) The floodplain administrator shall issue a permit (as hereinafter described) only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this Section and all other applicable codes and ordinances.
 - (2) 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

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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 United States Clean Water Act, Section 404, 33 U.S.C. § 1344. No permit shall be issued until this determination has been made.

- (3) In the case of existing structures, prior to the issuance of any permit, the floodplain administrator shall review the proposed cost of improvements or repairs and the pre-improvement 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.
- (4) 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.
- (5) 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 article.
- (6) 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 Borough Council for whatever action it considers necessary.
- (7) The floodplain administrator shall maintain in perpetuity, or for the lifetime of the structure, all records associated with the requirements of this article, including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.
- (8) 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.
- (9) 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 this Section as the floodplain administrator/manager.
- (10) 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.

D. Application procedures and requirements.

- (1) Application for a permit shall be made, in writing, to the floodplain administrator on forms supplied by the Borough. Such application shall contain the following:
 - (a) Name and address of applicant.
 - (b) Name and address of owner of land on which proposed construction is to occur.
 - (c) Name and address of contractor.
 - (d) Site location, including address.
 - (e) Listing of other permits required.
 - (f) 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.
 - (g) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- (2) 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:
 - (a) All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this Chapter and all other applicable codes and ordinances;

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- (b) All utilities and facilities, such as sewer, gas, electrical and water systems, are located and constructed to minimize or eliminate flood damage;
 - (c) Adequate drainage is provided so as to reduce exposure to flood hazards;
 - (d) Structures will be anchored to prevent flotation, collapse, or lateral movement;
 - (e) Building materials are flood-resistant;
 - (f) Appropriate practices that minimize flood damage have been used; and
 - (g) Electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
- (3) 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:
- (a) A completed permit application form.
 - (b) 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:
 - [1] North arrow, scale, and date;
 - [2] Topographic contour lines, if available;
 - [3] The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
 - [4] The location of all existing streets, drives, and other accessways; and
 - [5] 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.
 - (c) Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
 - [1] The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
 - [2] The elevation of the base flood;
 - [3] 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.
 - (d) The following data and documentation:
 - [1] Detailed information concerning any proposed floodproofing measures and corresponding elevations.
 - [2] If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.
 - [3] Documentation, certified by a registered professional engineer or architect, to show that the effect of any proposed development within a floodway area will not increase the base flood elevation at any point.
 - [4] Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area/District without floodway, when combined with all other existing and anticipated development, will not increase the base flood elevation more than one foot at any point within the community.
 - [5] 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.

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- [6] Detailed information needed to determine compliance with subsequent provisions of this article governing storage of materials and development which may endanger human life, including:
 - [a] The amount, location and purpose of any dangerous materials or substances referred to in subsequent sections of this Section 112-503 which are intended to be used, produced, stored or otherwise maintained on site.
 - [b] A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances, as listed in subsequent sections of this article, during a base flood.
- [7] The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
- [8] 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.

(4) Applications for permits shall be accompanied by a fee, payable to the Borough, based upon the estimated cost of the proposed construction as determined by the floodplain administrator.

- E. Review of application by others. A copy of all plans and applications for any proposed construction or development in any identified floodplain area 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.
- F. 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 the floodplain administrator for consideration.
- G. 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.
- H. Start of construction.
 - (1) Work on the proposed construction or development shall begin within 180 days after the date of issuance of the 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 a development permit does not refer to the zoning approval.
 - (2) The "actual start of construction" means either the first placement of permanent construction of a structure on a site, such as the pouring of the 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.
 - (3) 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.

- I. Enforcement and penalties. Any person who fails to comply with any or all of the requirements or provisions of this Section 112-503 or who fails or refuses to comply with any notice, order of direction of

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the floodplain administrator or any other authorized employee of the Borough shall be subject to the procedures, enforcement action, fines and/or penalties as set forth in this Chapter.

J. Appeals.

- (1) 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. Such appeal must be filed, in writing, within 30 days after the decision, determination or action of the floodplain administrator.
- (2) Upon receipt of such appeal, the Zoning Hearing Board shall consider the appeal in accordance with the Municipalities Planning Code and this Chapter.
- (3) 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.

§ 112-503.4 Identification of floodplain areas.

A. Identification.

(1) The identified floodplain area shall be:

- (a) Any areas of the Borough of West Chester, classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated September 29, 2017, and issued by the Federal Emergency Management Agency (FEMA), or the most recent revision thereof, including all digital data developed as part of the flood insurance.

(2) The above-referenced FIS and FIRMs, and any subsequent revisions and amendments, are hereby adopted by the Borough and declared to be a part of this Chapter.

B. Description and special requirements of identified floodplain areas. The identified floodplain area shall consist of the following specific areas:

(1) The Floodway Area shall be those areas identified in the FIS and the FIRM as floodway and which

(2) represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those special flood hazard areas where no floodway has been identified in the FIS and FIRM.

- (a) Within any Floodway Area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the Borough during the occurrence of the base flood discharge.

- (b) Within any Floodway Area, no new construction or development shall be allowed unless the appropriate permit is obtained from the Department of Environmental Protection's regional office.

(3) The AE Area/District 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.

- (a) The AE Area adjacent to the 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 and a floodway has been delineated.

- (b) The 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.

[1] No encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted in an AE Zone without floodway unless it has been

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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 of more than one foot within the entire community during the occurrence of the base flood discharge.

[2] No new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse unless the appropriate permit is obtained from the Department of Environmental Protection's regional office.

- (4) The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other federal, state, or other acceptable sources shall be used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.
 - (5) The AO and AH Area/District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by one-percent-annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.
 - (6) In the absence of an identified floodplain area as delineated by FEMA, or in the case where certain areas were not included with the scope of the FIS, the identified floodplain area, at a minimum, shall include a presumption that land adjoining any watercourse as defined by the Pennsylvania Department of Environmental Protection's Chapter 105 regulations and/or as shown on the most recent United States Geological Survey quadrangle, or that land adjoining any ponds or lakes with an area of one acre or more, where said land is within 50 feet of the banks thereof. The applicant shall have the right to rebut this presumption by submission of a site-specific flood study using generally accepted methodology to demonstrate that the calculated floodplain adjacent to such watercourse is narrower than the fifty-foot presumption.
 - (7) In lieu of the above various methods and studies, the Borough may require the applicant to determine the elevation 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 methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Borough. In the absence of any of the above data or documentation, the Borough may require elevation of the lowest floor to be at least three feet above the highest adjacent grade.
- C. Changes in identification of area. The identified floodplain area may be revised or modified by the Borough Council where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the special flood hazard area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six months after the date such information becomes available, the Borough shall notify FEMA of the changes to the special flood hazard area by submitting technical or scientific data.
- D. Boundary disputes. Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Borough, and any party aggrieved by this decision or determination may appeal to the Borough Zoning Hearing Board. The burden of proof shall be on the appellant.
- E. Jurisdictional boundary changes. Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the Borough shall review flood hazard data affecting the lands subject to boundary changes. The Borough shall adopt and enforce floodplain regulations in areas subject to annexation or corporate boundary changes which meet or exceed those federal regulations, as set forth in 44 CFR 60.3.

§ 112-503.5 Technical provisions.

A. General.

- (1) Alteration or relocation of watercourse:

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- (a) No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Borough and until all required permits or approvals have first been obtained from the Department of Environmental Protection's regional office.
 - (b) No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood-carrying capacity of the watercourse in any way.
 - (c) In addition, FEMA and the Pennsylvania Department of Community and Economic Development shall be notified prior to any alteration or relocation of any watercourse.
- (2) When the Borough proposes to permit the following encroachments: any development that causes a rise in the base flood elevations within the floodway; or any development occurring in Zones A1-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or alteration or relocation of a stream (including, but not limited to, installing culverts and bridges), the applicant shall (as per 44 CFR 65.12):
- (a) Apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.
 - (b) Upon receipt of the FEMA Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and/or revised floodway reflecting the post-project condition.
 - (c) Upon completion of the proposed encroachments, the applicant shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.
- (3) Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this article and any other applicable codes, ordinances and regulations.
- (4) Within any identified floodplain area, no new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse.
- (5) Uses permitted by right. The following uses are permitted within the identified floodplain area, provided they are conducted in accordance with the Clean Streams Law of Pennsylvania, Act 347 of 1937, as amended, the rules and regulations of the Pennsylvania Department of Environmental Protection, all other applicable provisions of this article, and other local, state and federal regulations:
- (a) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.
 - (b) Public and private recreational uses and activities such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking trails, wildlife and nature preserves, fish hatcheries and fishing areas.
 - (c) An area comprising no more than 3/4 of the required minimum lot area for any lot contiguous to the floodway, provided that no buildings or septic tank filter fields shall be placed within 50 feet of the floodway boundary line.
 - (d) Accessory uses customarily incidental to any of the foregoing, except parking and other impervious surfaces as provided in this section.
- (6) Special exception uses. The following uses may be permitted within the identified floodplain area upon the issuance of a special exception by the Zoning Hearing Board, as provided in this Section 112-503 and Article XI of this Chapter, provided they are conducted in accordance with the provisions of the Clean Streams Law of Pennsylvania, Act 347 of 1937, as amended, the rules and regulations of the Pennsylvania Department of Environmental Protection, all other applicable provisions of this Chapter, and other local, state and federal regulations. In issuing any special exception approval, the Zoning Hearing Board shall evaluate the application to insure compliance

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with this § 112-503.5, and may attach such reasonable conditions and safeguards, in addition to those expressed in this article, as it may deem necessary for the following uses:

- (a) Parking and other impervious uses accessory to uses permitted by right.
- (b) Utilities and public facilities and improvements, including railroads, streets, bridges, transmission lines and pipelines, sealed water supply wells and water pipelines.
- (c) Water-related uses and activities, including marinas, docks, wharves and piers.
- (d) Temporary uses such as circuses, carnivals and similar activities.
- (e) Storm and sanitary sewer outlets which take the shortest route across the district to the point of discharge.
- (f) Dams, culverts, impoundment basins and soil and sedimentary control structures.

B. Elevation and floodproofing requirements. Within any identified floodplain area, any new construction or substantial improvements shall comply with the following provisions:

(1) Residential structures.

- (a) In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation.
- (b) In A Zones, where there are no base flood elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including the basement) elevated up to, or above, the regulatory flood elevation determined in accordance with this Section.
- (c) In AO Zones, any new construction or substantial improvement shall have the lowest floor (including the basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.
- (d) The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC), or the latest edition thereof adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 Pa. Code (Chapters 401-405, as amended) shall be utilized, where they are more restrictive.

(2) Nonresidential structures.

- (a) In AE, A1-30 and AH Zones, any new construction or substantial improvement of a nonresidential structure shall have the lowest floor (including the basement) elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that the space enclosed below the regulatory flood elevation:
 - [1] Is floodproofed so that the structure is watertight, with walls substantially impermeable to the passage of water; and
 - [2] Has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (b) In A Zones, where no base flood elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including the basement) elevated or completely floodproofed up to, or above, the regulatory flood elevation determined in accordance with this Section 112-503.
- (c) In AO Zones, any new construction or substantial improvement shall have its lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.
- (d) 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 United States 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

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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.

- (e) Any nonresidential structure that will be floodproofed must submit the following to the floodplain administrator along with the nonresidential floodproofing certificate and prior to the issuance of the certificate of occupancy:
- [1] An inspection and maintenance plan detailing the annual maintenance of floodproofed components, ensuring that all components will operate properly under flood conditions. Components that must be inspected include, at a minimum:
- [a] Mechanical equipment such as sump pumps and generators;
 - [b] Flood shields and closures;
 - [c] Walls and wall penetrations; and
 - [d] Levees and berms (as applicable).
- [2] A flood emergency operation plan detailing the procedures to be followed during a flooding event, which must include information pertaining to how all components will operate properly under all conditions, including power failures. The design professional must produce the plan. An adequate plan must include the following:
- [a] An established chain of command and responsibility with leadership responsibilities clearly defined for all aspects of the plan.
 - [b] A procedure for notification of necessary parties when flooding threatens and flood warnings are issued. Personnel required to be at the building should have a planned and safe means of ingress and should have no other emergency response duties during a flood event. Alternates should be assigned in the event that the primary persons responsible are unable to complete their assigned duties under the plan.
 - [c] A list of specific duties assigned to ensure that all responsibilities are addressed expeditiously. The locations of materials necessary to properly install all floodproofing components must be included in the list.
 - [d] An evacuation plan for all personnel or occupants—both those without duties for the flood emergency as well as those with duties for implementing the plan. All possible ingress and egress routes must be identified.
 - [e] A periodic training and exercise program to keep personnel and occupants aware of their duties and responsibilities. Training drills should be held at least once a year and should be coordinated with community officials.
- (f) The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC), or the latest revision thereof, as adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 Pa. Code (Chapters 401-405, as amended) shall be utilized, where they are more restrictive.
- (3) Space below the lowest floor.
- (a) Fully enclosed space below the lowest floor (excluding basements) 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 allow for the automatic entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.
 - (b) 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 installed on two separate walls.

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[2] The bottom of all openings shall be no higher than one foot above grade.

[3] Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(4) Historic structures. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this article must comply with all ordinance requirements that do not preclude the structure's continued designation as an historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic Places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

(5) Accessory structures. 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 have a low damage potential.

(d) The structure will be located on the site so as to cause the least obstruction to the flow of floodwaters.

(e) Power lines, wiring, and outlets will be elevated to the regulatory flood elevation.

(f) Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc., are prohibited.

(g) Sanitary facilities are prohibited.

(h) The structure shall be adequately anchored to prevent flotation, collapse, and 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.

(i) For accessory structures that exceed 200 square feet in area (footprint) and that are below the base flood elevation, a variance is required. 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.

(j) Storage of hazardous or dangerous materials, as hereinafter described, in accessory structures is prohibited.

C. Design and construction standards. The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

(1) Fill. Within any identified floodplain area, the use of fill shall be prohibited. No variance shall be granted.

(2) Drainage facilities. Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall ensure proper drainage along streets and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

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- (3) Water and sanitary sewer facilities and systems:
- (a) All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of floodwaters.
 - (b) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
 - (c) No part of any on-site waste disposal system shall be located within any identified floodplain area except in strict compliance with all state and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
 - (d) The design and construction provisions of the UCC and FEMA No. 348, "Protecting Building Utilities From Flood Damages" and "The International Private Sewage Disposal Code" shall be utilized.
- (4) Other utilities. All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.
- (5) Streets. The finished elevation of all new streets shall be no more than one foot below the regulatory flood elevation.
- (6) Storage. All materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal, or plant life, and not otherwise listed as prohibited by this article, shall be stored at or above the regulatory flood elevation or floodproofed to the maximum extent possible.
- (7) Placement of buildings and structures. All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of floodwater.
- (8) Anchoring:
- (a) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
 - (b) All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.
- (9) Floors, walls and ceilings:
- (a) Wood flooring used at or below the regulatory flood elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
 - (b) Plywood used at or below the regulatory flood elevation shall be of a marine or water-resistant variety.
 - (c) Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are water-resistant and will withstand inundation.
 - (d) Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other water-resistant material.
- (10) Paints and adhesives:
- (a) Paints and other finishes used at or below the regulatory flood elevation shall be of marine or water-resistant quality.
 - (b) Adhesives used at or below the regulatory flood elevation shall be of a marine or water-resistant variety.
 - (c) All wooden components (doors, trim, cabinets, etc.) used at or below the regulatory flood elevation shall be finished with a marine or water-resistant paint or other finishing material.
- (11) Electrical components:

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(a) Electrical distribution panels shall be at least three feet above the base flood elevation.

(b) Separate electrical circuits shall serve lower levels and shall be dropped from above.

(12) Equipment:

(a) Water heaters, furnaces, air-conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the regulatory flood elevation and shall be anchored to resist flotation, collapse, and lateral movement.

(b) Ductwork shall be elevated to or above the regulatory flood elevation or floodproofed to remain water-resistant.

(13) Fuel supply systems. All gas and oil supply systems shall be designed to prevent the infiltration of floodwaters into the system and discharges from the system into floodwaters. Additional provisions shall be made for the drainage of these systems in the event that floodwater infiltration occurs.

(14) Uniform Construction Code coordination. The standards and specifications contained in 34 Pa. Code (Chapters 401-405), as amended and not limited to the following provisions, shall apply to the above and other sections and subsections of this article, to the extent that they are more restrictive and supplement the requirements of this article.

(a) International Building Code (IBC) 2009, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania: Sections 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

(b) International Residential Building Code (IRC) 2009, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania: Sections R104, R105, R109, R322, Appendix E, and Appendix J.

D. Development which may endanger human life. Within any identified floodplain area, any structure of the kind described below shall be prohibited. If a variance is obtained in accordance with the required criteria, then the following provisions apply:

(1) In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances; or will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or will involve the production, storage, or use of any amount of radioactive substances shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life.

(a) Acetone.

(b) Ammonia.

(c) Benzene.

(d) Calcium carbide.

(e) Carbon disulfide.

(f) Celluloid.

(g) Chlorine.

(h) Hydrochloric acid.

(i) Hydrocyanic acid.

(j) Magnesium.

(k) Nitric acid and oxides of nitrogen.

(l) Petroleum products (gasoline, fuel oil, etc.).

(m) Phosphorus.

- (n) Potassium.
- (o) Sodium.
- (p) Sulphur and sulphur products.
- (q) Pesticides (including insecticides, fungicides, and rodenticides).
- (r) Radioactive substances, insofar as such substances are not otherwise regulated.

(2) Within any Floodway Area, any structure of the kind described above shall be prohibited. Where permitted by variance within any identified floodplain area, any new or substantially improved residential structure of the kind described in the section above, shall be elevated to remain completely dry up to at least 1 1/2 feet above base flood elevation and built in accordance with the Technical provisions of this Section as set forth in this article.

(3) Where permitted by variance within any identified floodplain area, any new or substantially improved nonresidential structure of the kind described in the section above shall be built in accordance with the Technical provisions of this Section and including the following:

- (a) Elevated, or designed and constructed to remain completely dry up to at least 1 1/2 feet above base flood elevation; and
- (b) Designed to prevent pollution from the structure or activity during the course of a base flood.

Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations" (United States Army Corps of Engineers, June 1972, as amended March 1992), or with some other equivalent watertight standard.

E. Special requirements for subdivisions and development. All subdivision proposals and 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.

F. Special requirements for manufactured homes:

- (1) Within any identified floodplain area, manufactured homes shall be prohibited. If a variance is obtained, then the provisions below shall apply.
- (2) Where permitted within any identified floodplain area by variance, all manufactured homes, and any improvements thereto, shall be:
 - (a) Placed on a permanent foundation;
 - (b) Elevated so that the lowest floor of the manufactured home is at least 1 1/2 feet above base flood elevation; and
 - (c) Anchored to resist flotation, collapse, or lateral movement.
- (3) Equipment requirement:
 - (a) Water heaters, furnaces, air-conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the regulatory flood elevation and shall be anchored to resist flotation, collapse, and lateral movement.
 - (b) Ductwork shall be elevated to or above the regulatory flood elevation or floodproofed to remain water-resistant.

(4) Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 "International Residential Building Code" or the U.S. Department of Housing and Urban Development's "Permanent Foundations for

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Manufactured Housing," 1984 Edition, draft or latest revision thereto, and 34 Pa. Code Chapters 401-405 shall apply.

- (5) Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC or the latest revision thereto as adopted by the Commonwealth of Pennsylvania, and 34 Pa. Code, as amended, where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the proposed unit's(s') installation.

G. Special requirements for recreational vehicles. Within any identified floodplain area, recreational vehicles shall be prohibited. If a variance is obtained in accordance with required criteria, then the following provisions apply:

- (1) Recreational vehicles in Zones A, A1-30, AH and AE must either:
- (a) Be on the site for fewer than 180 consecutive days; and
 - (b) Be fully licensed and ready for highway use; or
 - (c) Meet the permit requirements for manufactured homes.

§ 112-503.6 Activities requiring special permits.

A. General. In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any identified floodplain area unless a special permit has been issued by the floodplain administrator under the authority of the Borough:

- (1) The commencement of any of the following activities; or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:
- (a) Hospitals.
 - (b) Nursing homes.
 - (c) Jails or prisons.
- (2) The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision or substantial improvement to an existing manufactured home park or manufactured home subdivision.

B. Application requirements for special permits. Applicants for special permits shall provide five copies of the following items:

- (1) A written request including a completed permit application form.
- (2) A small-scale map showing the vicinity in which the proposed site is located.
- (3) 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) Topography based upon the North American Vertical Datum (NAVD) of 1988, showing existing and proposed contours at intervals of two feet;
 - (c) All property and lot lines, including dimensions, and the size of the site expressed in acres or square feet;
 - (d) The location of all existing streets, drives, other accessways, and parking areas, with information concerning widths, pavement types and construction, and elevations;
 - (e) The location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man-made features affecting, or affected by, the proposed activity or development;
 - (f) The location of the floodplain boundary line, information and spot elevations concerning the base flood elevation, and information concerning the flow of water, including direction and velocities;
 - (g) The location of all proposed buildings, structures, utilities, and any other improvements; and

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- (h) Any other information which the municipality considers necessary for adequate review of the application.
- (4) Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:
- (a) Sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate;
 - (b) For any proposed building, the elevation of the lowest floor (including the basement) and, as required, the elevation of any other floor;
 - (c) Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood;
 - (d) Detailed information concerning any proposed floodproofing measures, including the flood emergency operation plan and the inspection and maintenance plan;
 - (e) Cross-section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths;
 - (f) Profile drawings for all proposed streets, drives, and vehicular accessways, including existing and proposed grades; and
 - (g) Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.
- (5) The following data and documentation:
- (a) Certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;
 - (b) Certification from a registered professional engineer that the proposed construction has been adequately designed to protect against damage from the base flood;
 - (c) A statement, certified by a registered professional engineer, which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a base flood, including a statement concerning the effects such pollution may have on human life;
 - (d) A statement certified by a registered professional engineer, which contains a complete and accurate description of the effects the proposed development will have on base flood elevation and flows;
 - (e) A statement, certified by a registered professional engineer, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the base flood elevation and the effects such materials and debris may have on base flood elevation and flows;
 - (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;
 - (h) Any other applicable permits, such as, but not limited to, a permit for any activity regulated by the Department of Environmental Protection under Section 302 of Act 1978-166; and
 - (i) An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a base flood.
- C. Application review procedures. Upon receipt of an application for a special permit by the floodplain administrator, the following procedures shall apply in addition to those required as part of the floodplain permitting process set forth in the Administration section of this Section:

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- (1) Within three working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Borough Planning Commission and the Borough Engineer for review and comment.
- (2) If an application is received that is incomplete, the Borough shall notify the applicant, in writing, stating in what respect the application is deficient.
- (3) If the Borough decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.
- (4) If the Borough approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community and Economic Development, by registered or certified mail, within five working days after the date of approval.
- (5) Before issuing the special permit, the Borough shall allow the Department of Community and Economic Development 30 days after receipt of the notification by the Department to review the application and decision made by the Borough.
- (6) If the Borough does not receive any communication from the Department of Community and Economic Development during the thirty-day review period, it may issue a special permit to the applicant.
- (7) If the Department of Community and Economic Development should decide to disapprove an application, it shall notify the Borough and the applicant, in writing, of the reasons for the disapproval, and the Borough shall not issue the special permit.

D. Special technical requirements.

- (1) In addition to the Technical provisions, previously set forth in this Section, the following minimum requirements shall also apply to any proposed development requiring a special permit. If there is any conflict between the preceding Technical provisions, and those set forth below, or in any other code, ordinance, or regulation, the more restrictive provision shall apply.
- (2) No application for a special permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:
 - (a) Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:
 - [1] The structure will survive inundation by waters of the base flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the BFE.
 - [2] The lowest floor (including basement) will be elevated to at least 1 1/2 feet above base flood elevation.
 - [3] The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the base flood.
 - (b) Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.
- (3) All hydrologic and hydraulic analyses shall be undertaken only by professional engineers, or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Borough and the Department of Community and Economic Development.

§ 112-503.7 Existing structures in identified floodplain areas.

- A. Existing structures. The provisions of this article do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions in the following section shall be applicable to such improvements in the identified floodplain area.

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- B. Improvements. The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:
- (1) No expansion or enlargement of an existing structure shall be allowed within any Floodway Area/District that would cause any increase in BFE.
 - (2) No expansion or enlargement of an existing structure shall be allowed within AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one foot at any point.
 - (3) Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of 50% or more of its market value shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this article.
 - (4) The above activity shall also address the requirements of the 34 Pa. Code, as amended, and the 2009 IBC and the 2009 IRC, or most recent revision thereof as adopted by the Commonwealth of Pennsylvania.
 - (5) Within any Floodway Area/District, no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection's regional office.
 - (6) Within any AE Area/District without floodway, no new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection's regional office.

§ 112-503.8 Variances.

- A. General. If compliance with any of the requirements of this Section would result in an exceptional hardship to a property or prospective builder, developer or landowner, the Borough Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements.
- B. Variance procedures and conditions.
- (1) Requests for variances shall be considered by the Zoning Hearing Board in accordance with the procedures contained in Article XI of this Chapter, and the following:
 - (a) No variance shall be granted for any construction, development, use, or activity within any Floodway Area/District that would cause any increase in the BFE.
 - (b) No variance shall be granted for any construction, development, use, or activity within any AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one foot at any point.
 - (c) No variances shall be granted for a proposed accessory structure that exceeds 600 square feet in size. A signed nonconversion agreement is required as a condition of receiving the variance.
 - (d) Except for a possible modification of the regulatory flood elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by special permit or to development which may endanger human life, as set forth in preceding sections of this Section
 - (e) If granted, a variance shall involve only the least modification necessary to provide relief.
 - (f) In granting any variance, the Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this article.
 - (g) Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that:
 - [1] The granting of the variance may result in increased premium rates for flood insurance.
 - [2] Such variances may increase the risks to life and property.
 - (h) In reviewing any request for a variance, the Zoning Hearing Board shall consider, at a minimum, the following:
 - [1] That there is good and sufficient cause.

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[2] That failure to grant the variance would result in exceptional hardship to the applicant.

[3] That the granting of the variance will:

[a] Neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense.

[b] Nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.

(i) A complete record of all variance requests and related actions shall be maintained by the Zoning Hearing Board. In addition, a report of all variances granted during the year shall be included in the annual report to FEMA.

(2) Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-percent annual chance flood.

§ 112-503.9 Definitions.

A. General. Unless specifically defined below, words and phrases used in this Section shall be interpreted so as to give this article its most reasonable application.

B. Specific definitions. As used in this Section, the following terms shall have the meanings indicated:

ACCESSORY USE OR STRUCTURE

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

BASE FLOOD

A flood which has a one-percent chance of being equaled or exceeded in any given year (also called the "one-hundred-year flood" or "one-percent-annual-chance flood").

BASE FLOOD DISCHARGE

The volume of water resulting from a base flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).

BASE FLOOD ELEVATION (BFE)

The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a one-percent or greater chance of being equaled or exceeded in any given year.

BASEMENT

Any area of the building having its floor below ground level on all sides.

BUILDING

A combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.

DECLARATION OF LAND RESTRICTION (NONCONVERSION AGREEMENT)

A form signed by the property owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these regulations, certain enclosures below the lowest floor of elevated buildings and certain accessory structures. The form requires the owner to record it on the property deed to inform future owners of the restrictions.

DEVELOPMENT

Any man-made change to improved or unimproved real estate, including, but not limited to, the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of

utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD

A temporary inundation of normally dry land areas.

FLOOD INSURANCE RATE MAP (FIRM)

The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS)

The official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

FLOODPLAIN AREA

A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

FLOODPROOFING

Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

HIGHEST ADJACENT GRADE

The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURES

Any structure that is:

- (1) Listed individually on the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior; or
 - (b) Directly by the Secretary of the Interior in states without approved programs.

IDENTIFIED FLOODPLAIN AREA

This term is an umbrella term that includes all of the areas within which the community has selected to enforce floodplain regulations. It will always include the area identified as the special flood hazard area on the Flood Insurance Rate Maps and Flood Insurance Study, but may include additional areas identified by the community.

LOWEST FLOOR

The lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood-resistant, partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable nonelevation design requirements of this Section.

MANUFACTURED HOME

A structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

MANUFACTURED HOME PARK OR SUBDIVISION

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION

Structures for which the start of construction commenced on or after September 29, 2017, and includes any subsequent improvements to such structures. Any construction started after July 5, 1977, and before September 29, 2017, is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

NEW MANUFACTURED HOME PARK OR SUBDIVISION

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

PERSON

An individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.

POST-FIRM STRUCTURE

A structure for which construction or substantial improvement occurred after December 31, 1974, or on or after the community's initial Flood Insurance Rate Map (FIRM) dated July 5, 1977, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

PRE-FIRM STRUCTURE

A structure for which construction or substantial improvement occurred on or before December 31, 1974, or before the community's initial Flood Insurance Rate Map (FIRM) dated July 5, 1977, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

RECREATIONAL VEHICLE

A vehicle which is:

- (1) Built on a single chassis;
- (2) Not more than 400 square feet, measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck;

- (4) Not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOOD ELEVATION

The base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of 1 1/2 feet. The freeboard safety factor also applies to utilities and ductwork.

SPECIAL FLOOD HAZARD AREA (SFHA)

An area in the floodplain subject to a one-percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or AH.

SPECIAL PERMIT

A special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks/subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of, a floodplain.

START OF CONSTRUCTION

Includes substantial improvement and other proposed new development and means the date the permit was issued, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within 12 months after the date of issuance of the permit unless a time extension is granted, in writing, by the floodplain administrator. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of a 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 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.

STRUCTURE

A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

SUBDIVISION

The division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development. The subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall be excluded from this definition.

SUBSTANTIAL DAMAGE

Damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% or more of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT

Any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

UNIFORM CONSTRUCTION CODE (UCC)

The statewide building code adopted by the Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, the code adopted the International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable to state floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

VIOLATION

The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

§ 112-504 Historic and Architectural Review Board (HARB)

§ 112-504.1 Legislative authority.

- A. The West Chester Historic District has been established in accordance with the provisions of an Act entitled "An Act Authorizing Counties, Cities, Boroughs, Incorporated Towns and Townships To Create Historic Districts Within Their Geographic Boundaries; Providing for the Appointment of Boards of Historical Architectural Review; Empowering Governing Bodies of Political Subdivisions To Protect the Distinctive Historical Character of These Districts and To Regulate the Erection, Reconstruction, Alteration, Restoration, Demolition or Razing of Buildings Within the Historic Districts."
- B. The Act was adopted by the General Assembly as Act No. 167 of the Commonwealth of Pennsylvania and approved by the Governor of the Commonwealth of Pennsylvania on the 13th day of June 1961, and was amended by the General Assembly as Act No. 24 on the 23rd day of April 1963.

§ 112-504.2 Purpose.

The West Chester Historic District is created for the following purposes:

- A. To protect those portions of the Borough of West Chester which reflect the cultural, economic, social, political and architectural history of the Borough, the state and the nation.
- B. To awaken or reinforce in our people an interest in our historic past.
- C. To promote the use and reuse of the West Chester Historic District for the culture, education, pleasure and general welfare of the people of the Borough, the state and the nation.
- D. To advocate an interest in civic beauty through the encouragement of appropriate settings and continued construction of buildings in general harmony with respect to style, form, color, proportion, texture and material between buildings of historic design and those of more modern design.
- E. To strengthen the economy of the Borough by stabilizing and improving property values within the Historic District.

§ 112-504.3

Terms used in this Section 112-504 are defined in Article II of this Chapter.

§ 112-504.4 General provisions.

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- A. The West Chester Historic District is shown on the Resource Protection Map. The provisions of this Section 112-504 shall be applied to all land, buildings and structures which are viewed or may be viewed from a public way within the boundaries of the West Chester Historic District.
- B. The West Chester Historic District shall be considered as an overlay to various districts as shown on the Zoning Map.
- C. Interpretation of boundaries.
- (1) Boundaries indicated as approximately following the center lines of streets or alleys shall be construed to follow such center lines.
 - (2) Boundaries indicated as approximately following lot lines shall be construed as following such lines.
 - (3) Boundaries indicated as parallel to or extensions of features indicated above shall be so construed. Distances not specifically indicated on the map shall be determined by the scale of the map.
 - (4) Where topographical or man-made features existing on the ground are at variance with those shown on the map or in other circumstances not covered by the above, the Borough Council shall interpret the boundaries of the district.
- D. Projects that the Secretary of the Interior, as administered by the National Park Service, has approved as certified rehabilitation are deemed approved and need not be reviewed according to the provisions of this article, provided that:
- (1) Copies (one each) of the Part 1, Evaluation of Significance, and Part 2, Description of Rehabilitation Work, applications, along with evidence of their approval from the National Park Service, are submitted to the Building Inspector; and
 - (2) The project is proposed to be completed as stated in the Part 2 application.
- E. No permanent sign or other structure within the West Chester Historic District may be constructed, altered or otherwise changed, in whole or part, nor may the exterior architectural character of any structure be altered until after an application for a building permit has been fully reviewed by the Historical and Architectural Review Board (HARB), recommended for a certificate of appropriateness by the HARB and approved by the Borough Council.
- F. If any proposal for construction, alteration or other change in the West Chester Historic District involves subdivision or land development approval by the Borough Council, all approvals therefor shall be obtained prior to application for building permits and HARB review.
- G. No structure within the West Chester Historic District may be demolished or removed, in whole or in part, until after the application for a building and/or demolition permit has been reviewed by the HARB and approved by the Borough Council.
- H. Uses of properties within the West Chester Historic District shall be in accordance with the zoning district in which the land and/or buildings are situated.
- I. Evidence of the approval required above shall be a certificate of appropriateness issued by the Borough Council. The certificate shall be a statement signed by the President of the Council stating that the application for the proposed work is approved.
- J. Any person requesting a permit under this Section shall be entitled to a hearing on such request before the HARB.
- K. Nothing in this article shall be construed to prevent the routine maintenance or repair of any exterior elements of any building or structure, nor shall anything in this article be construed to prevent the

construction, reconstruction, alteration or demolition of any such elements which the Borough Council shall certify as required for public safety.

- L. The HARB may determine that minor changes to buildings need not undergo the same level of scrutiny as major changes to buildings. Examples of minor changes might include such items as repainting, repointing of stone and reconstruction of steps or a roof.

§ 112-504.5 Applicability.

It is the intent of this Section that the requirements contained herein shall only pertain to construction, reconstruction, restoration, rehabilitation, alteration, razing or demolition on sites located within the West Chester Historic District (and other historic districts as may be established by amendment or ordinance of the Borough of West Chester). This includes but is not limited to cleaning methods, such as sandblasting or solvent washdown; the application of nonstructural surface textures or veneers, such as stucco or siding; replacement of similar types of windows, doors and other minor building elements; the alteration of decorative elements, such as cornices or trim; and other work affecting the visual appearance of a building within the district which can be seen from a public street or way.

§ 112-504.6 Powers and duties of Building Inspector.

- A. The Building Code Official shall issue a permit for the construction, alteration, restoration, demolition or razing of a building, in whole or in part (which shall include replacement of windows and other major architectural features on the exterior of a building or dwelling), in the Historic District only after the proposal is found to be in accordance with this Chapter and the Subdivision and Land Development Ordinance and the Borough Council has issued a certificate of appropriateness. Upon receipt of a written disapproval by the Borough Council, the Building Inspector shall disapprove the application for a permit and so advise the applicant.
- B. The Building Code Official is authorized to issue a permit for the construction, alteration or restoration of a building in the Historic District if evidence is presented that the project is an approved certified rehabilitation as defined herein and approved pursuant to this Section 112-504. Approved certified rehabilitation projects need not be reviewed by the HARB or the Borough Council.
- C. Upon receipt of an application for a building permit for work to be done in the West Chester Historic District, the Building Code Official shall act in accordance with the documented procedures, except as those procedures are necessarily modified by the following requirements:
- (1) The Building Code Official shall inform the applicant of the specific requirements for the issuance of a building permit, including application procedures and materials to be submitted as set forth herein, within the West Chester Historic District and of the time and place of the meeting and/or hearing before the HARB at which he/she may appear to explain the application.
 - (2) The Building Code Official shall forward to the Chairman of the HARB a copy of the application for a building permit, together with copies of the documents and materials filed by the applicant.
 - (3) The Building Code Official shall maintain a record of all such applications and final dispositions of the same, which shall be in addition to and appropriately cross-referenced to other records.
- D. The Building Code Official shall have the power to institute any proceedings at law or in equity necessary for the enforcement of this article in the same manner as in his/her enforcement of any other provision of the Zoning Ordinance.

§ 112-504.7 Historical and Architectural Review Board.

- A. Establishment, composition, appointment and terms of members.
- (1) The Historical and Architectural Review Board, hereinafter also referred to as the "HARB," is hereby established, to be composed of not fewer than seven members, appointed by the Borough Council, one of whom shall be a registered architect, one a licensed real estate broker, one a member of the Planning Commission and one a Building Inspector, and the remaining members shall have a

knowledge of and an interest in the preservation of the West Chester Historic District. A majority of the members must be residents of the Borough of West Chester.

- (2) The position of any member of the HARB appointed in his/her capacity as a registered architect, a licensed real estate broker, a member of the Planning Commission or the Building Inspector who ceases to be so engaged shall be automatically considered vacant.
- (3) The initial terms of the members of the HARB shall be as follows: one member shall be appointed to serve until the first day of January following the effective date of this Chapter, two members shall be appointed to serve until the first day of the second January thereafter; two members shall be appointed to serve until the first day of the third January thereafter; and two members shall be appointed to serve until the first day of the fourth January thereafter. The Borough Council shall appoint their successors on the expiration of their respective terms to serve for periods of three years. An appointment to fill a vacancy shall be only for the unexpired portion of the term.
- (4) The HARB shall elect its own Chairman, Vice Chairman and Secretary and create and fill such other offices as it may determine. Officers shall serve annual terms and may succeed themselves. The HARB may make and alter bylaws and regulations to govern its procedures consistent with the ordinances of the Borough of West Chester and the laws of the Commonwealth of Pennsylvania.
- (5) Any member may be removed from the HARB for cause, by a majority vote of the Borough Council.

B. Duties and powers of the HARB.

- (1) The HARB shall give counsel to the Borough Council regarding the advisability of issuing a certificate of appropriateness, to be executed at a public meeting of the latter. The HARB'S recommendation to the Borough Council shall be in the form of a written report.
- (2) The HARB shall keep on file up-to-date maps of the following:
 - (a) The location of historic buildings, structures and sites as defined in this Chapter.
 - (b) Historic districts established by this Chapter and amendments as may be adopted by the Borough.
- (3) A majority of the HARB shall constitute a quorum, and action taken at any meeting shall require the affirmative vote of a quorum.
- (4) The members of the HARB shall serve without compensation but may be reimbursed for direct expenses.
- (5) The HARB shall make an annual report to the Borough Council, which should include but not be limited to an accounting of expenditures, justification for the appropriation of funds for the upcoming year, a record of actions taken by the HARB in the preceding year and any recommendations for changes to this article.
- (6) The HARB shall hold a regularly scheduled monthly public meeting, provided that there is business to conduct, and shall record minutes and transmit them to the Borough Council.
- (7) The HARB shall hold any additional public meetings and hearings as necessary to execute its powers and duties as required by this article or the laws of the Commonwealth of Pennsylvania.

C. In addition to the above, upon specific authorization by the Borough Council, the HARB may be empowered to engage in the following activities:

- (1) To conduct a survey of buildings for the purpose of determining those of historic and/or architectural significance, pertinent facts about them and any action to be undertaken in coordination with the Planning Commission and/or other appropriate groups and to maintain and periodically revise the

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detailed listings of historic sites and buildings and data about them, appropriately classified with respect to national, state or local significance and to period or field of interest.

- (2) To propose, from time to time as deemed appropriate, the establishment of additional historic districts and revisions to existing Historic District boundaries.
- (3) To cooperate with and advise the Borough Council, the Planning Commission or other Borough agencies in matters involving historically and/or architecturally significant sites and buildings, such as appropriate land usage, parking facilities and signs, as well as adherence to lot dimensional regulations and minimum structural standards.
- (4) To cooperate with and enlist assistance, from time to time, from the National Park Service, the National Trust for Historic Preservation, the Pennsylvania Historical and Museum Commission, the Chester County Historical Society, the Chester County Historic Preservation Office and other agencies, public and private, concerned with historic sites and buildings.

§ 112-504.8 Pre-application review procedure.

- A. Prior to the preparation of working drawings and specifications or calling for proposals or bids from contractors and/or developers, owners or agents may prepare preliminary scale drawings and outline specifications, including color samples for outside work, for review and informal discussion with the HARB. The purpose of this review shall be to acquaint the developer, owner or agent with standards of appropriateness of design that are required of his/her proposed development.
- B. The pre-application review shall not require formal application but does require notice to be given to the Building Inspector and subsequent notification -to the Chairman of the HARB at least seven working days before the date of the meeting at which the preliminary drawings are to be discussed. Ten copies of all documents shall be submitted to the Building Inspector, who shall forward one copy to the Chairman of the HARB.
- C. In the case of very minor projects involving repairs or alterations to existing buildings, the HARB, if preliminary drawings and other data are sufficiently clear and explicit, may recommend to the Zoning Officer that a building permit be issued after approval by a majority of members attending the review session at which the proposal is presented. The HARB will inform Borough Council of any action by memo directed to the appropriate subcommittee of Counsel.

§ 112-504.9 Review by Historical and Architectural Review Board.

- A. Upon determination by the Building Code Official and the HARB that a complete application for a building permit for the erection, reconstruction, alteration, restoration, rehabilitation, demolition or razing of a building or buildings or other structures in the Historic District has been filed, the HARB shall review the permit application at its regularly scheduled public meeting or at a special hearing, to take place within 45 days of the date of the filing of the complete application, to consider the counsel which it will give to the Borough Council. The applicant for the permit shall be advised of the time and place of said hearing and shall be invited to appear to explain his/her reasons therefor. Additional hearings, if necessary, shall be scheduled within 30 days of each other, unless mutually agreed otherwise by the HARB and the applicant.
- B. Within 45 days of the occurrence of the final hearing upon an application for a permit for the erection, reconstruction, alteration, restoration, rehabilitation, demolition or razing of a building or buildings or other structures in the Historic District, the HARB shall recommend to the Borough Council the approval or denial of the certificate of appropriateness.
 - (1) In cases where the issuance of a certificate of appropriateness is recommended, the HARB shall forthwith transmit a written report to the Borough Council stating the basis upon which such a recommendation for approval was made. If the HARB shall fail to transmit such report within 45 days after the occurrence of the final hearing concerning an application for a permit, the application shall be forwarded to Borough Council with no recommendation, except where mutual agreement has been made for an extension of the time limit.

- (2) In the case where relatively minor changes in the applicant's plans and specifications will meet the HARB's conditions for recommendation for approval, the HARB may recommend conditional approval for the issuance of a certificate of appropriateness. A written report to the Borough Council (copied to the applicant) shall clearly state these conditions. If the applicant decides to make these changes, he/she shall so notify the HARB and the Borough Council, in writing, prior to the next regularly scheduled meeting of the Borough Council.
- (3) In the case of a recommendation not to issue a certificate of appropriateness, the HARB shall transmit a written report to the Borough Council within 45 days after the occurrence of the final hearing, stating the reasons therefor. The report shall state the reasons for a recommendation for disapproval and the changes necessary to obtain approval. The applicant shall be informed, in writing, of the HARB's decision and of the reasons for the recommendation for disapproval.
- C. In any case involving the demolition or partial demolition of a structure, before granting or denying approval, the HARB may call upon the Borough Engineer, at the expense of the applicant, to provide it with a report on the state of repair and stability of the structure under consideration.
- D. If the applicant intends to refile revised plans to remedy the defects which led to the recommendation for disapproval, the same review period and procedure set forth above shall apply.
- E. Upon determination by the Building Inspector that a complete application for a permanent sign has been filed at least seven working days prior to the regularly scheduled HARB meeting, the Building Inspector shall forward one copy thereof to HARB and one copy thereof to the Borough Council. The HARB shall review such permit application at its next regularly scheduled public meeting or at a hearing specially convened, which meeting or hearing, in any event, shall occur within 40 days of the date of the filing of the complete application. The applicant for the permit shall be advised of the time and place of the meeting or hearing and shall be invited to explain the reasons for the application. The HARB shall, as soon as reasonably practicable following the conclusion of the meeting or hearing and in any event prior to the next regularly scheduled meeting of the Borough Council, issue a written recommendation which shall state, at a minimum, "recommended for the issuance of a certificate of appropriateness," "not recommended for the issuance of a certificate of appropriateness" or "recommended for a certificate of appropriateness with modifications as set forth." The written report shall be forwarded to the applicant and the Borough Council. In the event that the HARB fails to meet to consider the application within 40 days of the completed application, or following the conclusion of a timely scheduled meeting or hearing the HARB fails to forward its written report to the Borough Council or to issue its recommendation prior to the next regularly scheduled meeting of the Borough Council, the application shall be forwarded to the Borough Council with no recommendation and considered by the Borough Council at the next regularly scheduled Borough Council meeting following the expiration of the forty-day period from the filing of the completed application. At such time, the Borough Council may determine to recommend a certificate of appropriateness, not recommend a certificate of appropriateness or recommend a certificate of appropriateness with modifications as set forth. The applicant shall be informed, in writing, of the decision of the Borough Council.

§ 112-504.10 Application for a building permit.

- A. Ten copies of all drawings and plans for the proposed major alterations, additions or changes and for new construction of buildings or property use shall be submitted. The drawings and plans shall be prepared by a design professional and shall include:
- (1) Plans and exterior elevations, drawn to scale, with sufficient detail to show, as it relates to exterior appearances, the architectural design of the buildings, including proposed materials, textures and colors and dimensions.
- (2) Plot or site plans, drawn to scale not smaller than one inch equals 50 feet, showing adjoining property lines and adjacent streets from which the proposed activity may be viewed and all improvements affecting appearances, such as walls, walks, terraces, landscaping, accessory buildings, parking, signs, lights and other elements.

- (3) A location map, using the Borough Zoning Map, drawn at a scale not smaller than one inch equals 200 feet, indicating the general location of the site in relation to nearby roads and properties.
- B. Photographs required with an application for the demolition of an existing structure. Every application for a permit to demolish an existing structure shall be accompanied by a set of legible black-and-white or color photographs showing all sides of the building under consideration and any interiors which relate its state of disrepair or substantiate the need for demolition and photographs showing the contiguous properties and the relationship of the building to them.
- C. Photographs required with an application for repair, alterations, and/or additions to existing structures. Every application for repair, alterations and/or additions to existing structures shall be accompanied by a set of legible black-and-white or color photographs showing all sides of the structure and photographs showing the adjacent properties and the relationship of the building to them.
- D. Photographs required with an application for new construction. Every application for new construction shall be accompanied by a set of legible black-and-white or color photographs showing the construction site and its relationship to the properties contiguous to it. The direction of the photograph shall be noted for each view and shall be keyed into the plot plan or site plan.
- E. All of the above-mentioned materials shall be filed at least 10 working days prior to the regularly scheduled HARB meeting with the Building Code Official, who shall forward them to the Chairman of the HARB. The Chairman of the HARB shall determine if the application is complete and shall notify the applicant of the date of the HARB review meeting or hearing.

§ 112-504.11 Evaluation criteria.

- A. The HARB may recommend against the issuance of a certificate of appropriateness for the erection, reconstruction, alteration, rehabilitation, demolition, partial demolition or removal of any structure within the Historic District which, in the HARB's opinion, would be detrimental to the district and against the public interests of the Borough.
- B. In determining the counsel to be presented to the Borough Council concerning the issuing of a certificate of appropriateness authorizing a permit for the erection, reconstruction, alteration, restoration, rehabilitation, demolition or razing of all or a part of any building within the Historic District, the HARB shall consider the following relative to existing buildings:
- (1) The significance of the building to the historic and architectural integrity of the Historic District.
 - (2) The development history of the building and its components and the historic period most represented in its existing condition.
 - (3) The historic period or periods the applicant proposes to use as the exterior appearance objective.
 - (4) The quality of the documentation used by the applicant to substantiate the proposed exterior appearance objective.
- C. The Board shall also consider the degree to which the proposed work complies with the most-current version of the Standards for Rehabilitation of the United States Department of the Interior in making a decision relative to the appropriateness of the proposal whenever rehabilitation work is proposed. The following standards shall be used:
- (1) Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure or site and its environment. (The use regulations of the principal zoning district shall apply.)
 - (2) The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

- (3) All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
 - (4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
 - (5) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
 - (6) Deteriorated architectural features shall be repaired, rather than replaced, wherever possible. In the event that replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
 - (7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
 - (8) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.
 - (9) Wherever possible, new additions or alterations to structures shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.
- D. The HARB shall also consider the most current version of the Guidelines for Rehabilitating Historic Buildings of the United States Department of the Interior in making its decision relative to the appropriateness of the proposal.
- E. Any architectural guidelines for construction in the Historic District which are published by the HARB to further the description of exterior architectural design criteria shall be approved by resolution of the Borough Council.
- F. In addition to those criteria above for existing buildings which are considered applicable by the HARB, the following shall be evaluated for new construction:
- (1) The extent to which the proposed construction conforms to existing building setbacks and yard widths predominant within the block where the proposed construction is proposed.
 - (2) The relationship to buildings in the immediate area with respect to height, width and materials.
 - (3) The degree to which the proposed construction respects the established street/sidewalk level character of the Historic District and the immediate area.
 - (4) The degree to which the proposed building's various floors are defined with window openings rather than an unbroken opaque facade.
- G. Relative to demolition, the HARB shall evaluate:
- (1) The extent to which the building constitutes an immediate threat to the public health, safety and welfare.

- (2) The significance of the building to the historic and architectural integrity and the economic vitality of the Historic District.
- (3) The extent to which the applicant demonstrates that the building has no economic use.
- (4) The extent to which the building's deterioration and loss of economic use has been the result of the applicant's actions.
- (5) The efforts made by the applicant to successfully market the building.
- (6) The proposed construction after demolition and its impact on the integrity of the Historic District.

§ 112-504.12 Findings and report by Historical and Architectural Review Board.

- A. The HARB, according to the provisions of this Section 112-504, shall submit to the Borough Council, within 45 days of the final hearing or before its next regularly scheduled meeting, a report containing its recommendations regarding the issuance of a certificate of appropriateness of the proposed construction, alteration or demolition within the Historic District
- B. The report shall describe the following and reference any relevant application materials submitted in accordance with this Section 112-504:
 - (1) The exact location of the property in question.
 - (2) A list of adjacent/surrounding structures, stating their general exterior architectural characteristics.
 - (3) Proposed landscape work, such as tree removal, additional plantings, grading and access roads.
 - (4) Proposed construction, reconstruction, restoration, rehabilitation, alteration, razing or demolition work.
 - (5) The finished height and width of any proposed construction or alterations.
 - (6) The extent to which the proposed work meets the various evaluation criteria contained in §112-504.11.
 - (7) The opinion of the HARB, including any dissent, as to the appropriateness of the proposed work and the recommendation regarding the issuance of a certificate of appropriateness by the Borough Council.
 - (8) If the recommendation of the HARB is for disapproval or conditional approval, the reasons for disapproval or conditional approval and changes in the applicant's plans which are necessary to meet the HARB approval.

§ 112-504.13 Procedures by Borough Council; approval.

- A. Upon receipt of the report from the HARB, the Borough Council shall consider at its next regularly scheduled or special meeting the question of issuing to the Building Inspector a certificate of appropriateness authorizing a permit for work covered by the application. The applicant shall be advised by the Building Inspector of the time and place of the meeting at which his/her application shall be considered. The applicant shall have the right to attend this meeting and comment on his/her application.
- B. In determining whether or not to issue a certificate of appropriateness, the Borough Council shall consider the HARB report and the same criteria used by the HARB as set forth in this Section 112-504.
- C. If the Borough Council approves the application, it shall issue a certificate of appropriateness authorizing the Building Code Official to issue a building permit for the work covered.
- D. If the Borough Council disapproves the application, it shall do so in writing, and copies shall be given to the Building Code Official, the applicant and to the Pennsylvania Historical and Museum Commission. The disapproval shall set forth the reasons therefor and shall indicate the reasons for disapproval and changes in the applicant's plans which are necessary to meet the HARB approval.
- E. In either case, the Borough Council shall notify the applicant within 10 days of its meeting at which the application was considered, unless mutually agreed otherwise.

- F. When a certificate of appropriateness has been issued, a copy thereof shall be transmitted to the Building Inspector, who shall, from time to time, inspect the work approved by such certificate. All work not in accordance with such certificate shall constitute a basis for the issuance of a cease-and-desist order.

§ 112-505 Historic Carriage House Regulations

- A. The purpose of the historic carriage house regulations is to promote the adaptive reuse of historic carriage houses as a dwelling unit, an accessory dwelling unit, an office, or an artisan studio, as provided in this Section.
- B. Parcels or lots with historic carriage houses are located in the NC-1, NC-2, and TC Zoning Districts, as shown on the Resource Protection Map.
- C. The following regulations shall apply to the adaptive reuse of historic carriage houses. Compliance with these regulations shall be determined by the Zoning Officer prior to the issuance of a building permit.
- (1) A dwelling may be created in a historic carriage house as a separate dwelling unit on the same lot with the dwelling that is a principal permitted use.
 - (2) An office, as a minor home occupation as defined in this Chapter may be created in a historic carriage house unless the historic carriage house is located in the TC District outside the ROD District, in which case it may be a permitted principal use.
 - (3) An artisan studio may be created in the historic carriage house for the production of arts or crafts, such as painting, sculpture, stained glass, pottery, and the like, as a minor home occupation as defined in this Chapter unless the historic carriage house is located in the TC District, in which case it may be a permitted principal use.
- D. Accessory uses.
- (1) Parking. The Zoning Officer shall determine the number of off-street parking spaces that are required for the conversion of an historic carriage house into the uses which are permitted in this section. In making such determination, the Zoning Officer shall consider the number of existing off-street parking spaces on the lot which may be used for both the principal dwelling and the adaptive reuse of the carriage house, the specific use proposed and the number of people who are expected to occupy the carriage house.
- E. Standards and criteria.
- (1) The historic carriage house shall not be subdivided from the principal parcel. Therefore, all parcels with historic carriage houses may have up to two uses on the lot, including the principal permitted use or dwelling, as well as the use within the historic carriage house.
 - (2) (Reserved)
 - (3) No sign for an historic carriage house use shall exceed two square feet in area.
 - (4) All historic carriage houses shall be landscaped with shrubbery, hedges, ground covers, flowers, vines, trellises, window boxes and other like treatments to complement the historic setting, unless the Zoning Officer determines landscaping is not necessary to complement the historic setting or screen adjacent properties.
 - (5) No lighting shall be placed or installed so as to create trespass glare off the property.
 - (6) No student home shall be permitted in an historic carriage house.
 - (7) All renovations of an historic carriage house must comply with the most recent architectural design guidelines for construction in the Historic District as adopted by resolution of the Borough Council.
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 - (8) Applicant shall submit a copy of the building permit application and design plans for any proposed renovation to the historic carriage house to HARB for review and recommendation prior to issuance of the building permit. HARB shall submit written comments to Zoning Officer on the proposed design of the renovations and its compatibility with the adopted design guidelines. If necessary, the applicant shall amend its building permit application to comply with design guidelines of this Section.

ARTICLE VI. PARKING AND LOADING REGULATIONS

§ 112-601 Intent.

The intent of these regulations is as follows:

- A. To provide uniform regulations for parking and loading within the Borough of West Chester.
- B. To address the critical need for parking and loading space, to lessen congestion and to aid in a more orderly flow of traffic.
- C. To promote the allocation of parking and loading space to improve conditions related to safety and convenience.

§ 112-602 General regulations and design standards.

- A. Each building, structure or use established, erected, enlarged or altered in any district shall provide and satisfactorily maintain off-street parking space in accordance with § 112-603 and all other regulations pertaining to parking.
- B. Changes in use; alterations to buildings; construction of new buildings for all zoning districts except the Town Center District.
 - (1) Change in use. In all zoning districts except the Town Center District, whenever the use of a building changes, the number of parking spaces which shall be provided for the new use shall be based upon the applicable criteria without counting the number of parking spaces that existed on the lot prior to the change in use.
 - (2) Addition to existing buildings. In all zoning districts except in the Town Center District, whenever an existing building is enlarged by a building addition, the number of new parking spaces which shall be required for the building addition shall be based on the use and floor area of the addition, or in the case where additional dwelling units are added, the number of additional dwelling units created without counting the number of parking spaces that existed on the lot prior to the building addition.
 - (3) Demolition and construction of a new building. In all zoning districts except the Town Center, whenever an existing building is demolished in whole or in part, and a new building (or portion thereof) is erected in its place, the number of new parking spaces which shall be required shall be based on the use and floor area of the new building (or portion thereof).
- C. Town Center parking regulations.
 - (1) Change in use. In the Town Center District, whenever the use of a building changes, no new off-street parking spaces shall be required; provided, however, that if the use of a building in the Town Center District is changed to provide five or more dwelling units, off-street parking shall be provided for each dwelling unit in accordance with the applicable criteria without counting the number of parking spaces that existed on the lot prior to the change in use.
 - (2) Addition to existing buildings. In the Town Center District, whenever an existing building is enlarged by a building addition, no new off-street parking spaces shall be required; provided, however, that if the addition to the building in the Town Center District provides five or more new dwelling units, off-street parking shall be provided for each new dwelling unit in accordance with the applicable criteria without counting the number of parking spaces that existed on the lot prior to the building addition.
 - (3) Demolition and construction of a new building. In the HARB Overlay District only, whenever an existing building is demolished in whole or in part, and a new building (or portion thereof) is erected in its place, no new off-street parking spaces shall be required; provided, however, that if the use of the new building in the HARB Overlay District provides five or more dwelling units, off-street parking shall be provided for each dwelling unit in accordance with the applicable criteria. In the portions of the Town Center District which are not included in the HARB Overlay District, if an existing building is demolished in whole or in part and a new building (or portion thereof) is erected in its place, off-street parking shall be provided for the new building or part thereof in accordance with the applicable criteria.

- D. Whenever an off-street parking area has a required capacity for two or fewer motor vehicles, such parking area shall be constructed in accordance with criteria as set forth in Chapter 97, Subdivision and Land Development.
- E. No parking area shall be used for any use that interferes with its availability for the parking need it is required to serve.
- F. Continuing character of obligation. All required parking facilities shall be provided and maintained so long as the use exists which the facilities were designed to serve.
- G. Unless otherwise approved for lots in the Town Center District pursuant to the applicable criteria, required off-street parking spaces shall be on the same lot as the principal use.
- H. Two or more uses may provide for required parking in a common parking lot if the total space provided is not less than the sum of the spaces required for each use individually, unless otherwise specifically set forth herein.
- I. All parking areas and accessways shall be built and maintained to provide safe and orderly access at all times from a street, alley or other approved accessway.
- J. Every parking area shall be designed so that its use does not constitute a nuisance, hazard or unreasonable impediment to traffic.
- K. Parking in front of building.
- (1) Parking spaces shall not be located within any front yard areas, except in the Industrial District, where parking in the front yard may be permitted as a special exception by the Zoning Hearing Board, provided that it does not comprise more than 50% of the front yard areas.
- L. Except for properties in the TC-Town Center District and the NC-2 Neighborhood Conservation District, all parking spaces and access drives shall be at least five feet from any lot line, except for common driveways.
- M. For the purpose of servicing any property held under single and separate ownership, entrance and exit drives crossing the lot line along a street shall be limited to two along the frontage of any single street, and their center lines shall be placed at least 80 feet apart. On all corner properties, such drives shall be spaced a minimum of 60 feet, measured at the curb line, between the center line of any entrance or exit drive and the street line of the street parallel to said access drive.
- N. All artificial lighting used to illuminate any parking space or spaces shall be so arranged and shielded that no direct rays from such lighting shall fall upon any neighboring property. The angle for any such lighting shall not exceed 30° from the source to the ground plane.
- O. All off-street parking areas which have three or more parking spaces shall be designed in compliance with the following regulations:
- (1) Such parking area shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring any other motor vehicle to be moved, except in the case of a single-family dwelling.
- (2) Such parking area shall not be built or maintained to permit parked vehicles to back into a public street in order to leave a parking space, except in the case of a single-family or two-family dwelling.
- P. In addition to the requirements set forth under §112-602.R, the following shall apply whenever an off-street parking area has a required capacity for three or more motor vehicles:
- (1) Any such parking area shall be screened and landscaped in accordance with this Chapter.
- (2) Any such parking area shall be physically separated from any street by a raised-concrete or other approved curb, except where entrance or exit drives cross street lines.
- Q. Parking shall be designed in accordance with the requirements of §97-28 of the Subdivision and Land Development Ordinance.

§ 112-603 Parking space requirements.

- A. Off- street parking shall be provided to meet the demand of the proposed land uses. The Applicant shall calculate the demand based on accepted standards, such as those published in the Institute of Transportation Engineer's Parking Generation Reports. Mixed-use projects shall provide parking according to a shared parking analysis that projects parking needs based on the peak hour of parking demand. For example, a building with first-floor retail and office space and upper-floor residential may be able to adjust total parking demand to address the time difference in peak demand for each use. This analysis shall be based on accepted methodologies, such as the Urban Land Institute Shared Parking Study. The number of off-street parking spaces provided will be determined by the Borough based on the information supplied by the Applicant and such other information and studies as the Borough shall determine relevant.
- B. Notwithstanding Section A above, all single family dwellings shall provide two (2) off-street parking spaces per dwelling unit.

§ 112-604 Commercial parking lots.

- A. A conforming or legally nonconforming parking facility, area or lot which has a minimum of 100 parking spaces may be used as a commercial parking lot.
- B. Where a commercial parking lot is located on land which is also used for another permitted use, parking spaces may be utilized for commercial parking as follows:
- (1) Where the number of required parking spaces is based in whole or in part on a religious use, up to 80% of all parking spaces on the lot may be utilized for commercial parking weekdays between 7:00 a.m. and 5:00 p.m. prevailing time.
 - (2) In all instances, where the number of parking spaces exceeds the number required for all uses on the property, the excess spaces may be utilized for commercial parking at any time.

§ 112-605 Off-lot parking in the Town Center District.

The parking spaces required for a multifamily use in the Town Center District may be located on a different lot, subject to the following:

- A. The owner of the multifamily use shall own the lot or lots to be used for off-lot parking.
- B. The lot or lots to be used for off-lot parking shall be adjacent to the lot on which the multifamily use is located or be directly across the street from such lot.
- C. The owner of the multifamily use must submit a site plan showing the location of the off-lot parking area and the number of spaces to be provided on such lot.
- D. The owner of the multifamily use shall record a written declaration that so long as the multifamily use continues, the lot used for off-lot parking shall be used for that purpose and no other.

§ 112-606 Screening and landscaping.

Screening and landscaping shall be provided as set for the in this Section

- A. Screening between any parking area and the street line shall be effective at the time of occupancy, subject to the following provisions:
- (1) All off-street parking areas which provide more than three parking spaces shall be screened from any abutting residential property.
 - (2) Effective screens may be accomplished through the use of the following: plant materials, fencing or walls and/or mounding through the use of earthen berms.
 - (3) The area for planting, fencing, walls or earthen berms shall not extend beyond the street line.
 - (4) When planting screens are employed, the following shall apply:
 - (a) A buffer planting strip shall be provided. It shall be a minimum of eight feet in width.
 - (b) The type of plant materials to be used shall be subject to review and approval of the Borough Council, upon recommendation of the Tree Commission.

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§ 112-606 Screening and landscaping.

- (c) Planting screens shall be of sufficient height and sufficient density to constitute a visual buffer five feet in height at the time of planting. The spacing of plant materials shall be subject to review and approval of the Borough Council.
 - (d) Trees and shrubs shall be typical of their species and variety; have normal growth habits, well-developed, densely foliated branches and vigorous, fibrous root systems; be free from defects and injuries; and be free from diseases and insect infestations.
 - (e) Any tree or shrub which dies within one year of planting shall be replaced. Any tree or shrub which, within one year of planting or replanting, is deemed, in the opinion of an agent authorized by the Borough, not to have survived or grown in a manner characteristic of its type shall be replaced.
 - (f) Whenever fencing or walls are employed, they shall be no less than six feet in height and subject to the height restrictions of this Chapter.
 - (g) Whenever earthen berms are employed, they shall be no less than four and one-half (4 1/2) feet in height and subject to the height restrictions in this Chapter.
- B. Landscaping within any parking area which provides more than three parking spaces shall be subject to the following provisions:
- (1) Parking areas shall be landscaped to reduce wind and air turbulence, heat and noise and the glare of automobile lights, to reduce the level of carbon dioxide, to provide shade, to ameliorate stormwater drainage problems and to provide for an attractive setting.
 - (2) Each parking area shall have one properly-mulched shade tree of two-and-one-half-inch to three-inch caliper, for every five parking spaces. Shrubs, ground covers and other plant materials shall be used to complement the trees.
 - (3) The type of plant materials to be used shall be subject to review and approval of the Borough Council and shall be of a quality as specified in this section.
 - (4) The landscaping and planting areas shall be reasonably dispersed and grouped throughout the parking area, except where there are more than 20 parking spaces, in which case the following shall apply:
 - (a) Landscaped islands shall be provided at the end of each parking bay. Such islands shall be a minimum of eight feet in width and 18 feet in length. Such islands shall be provided to enhance the appearance of the parking area and to control access and movement within the parking area.
 - (b) All planting islands and planting beds within a parking area shall be surfaced with ground covers and/or dwarf shrubs and shall not be grassed. Stone mulch may be used in conjunction with ground covers and shrubs but shall not constitute more than 25% of the area of any planting bed. Such islands shall be grade separated to protect and preserve the plant material.
- C. All landscaping shall also be in accordance with the provisions for landscaping in Article XVI.

ARTICLE VII. SIGN REGULATIONS

§ 112-701 Intent.

The intent of these sign regulations is to:

- A. Provide general standards for all signs within the Borough and specific standards for signs in each zoning district.
- B. Establish procedures for the review and approval of sign permit applications.
- C. Regulate the location, size, construction, erection, alteration, use and maintenance of signs.
- D. Protect the safety and general welfare of the community through the proper use and design of structures for outdoor advertising and graphic communication purposes.
- E. Promote the use of well-crafted signs in harmony with the architectural and historical character of the Borough.

§ 112-702 Scope and applicability; restrictions and standards.

A. Scope and applicability.

- (1) Any sign hereafter erected, altered, rebuilt, enlarged, extended, relocated or maintained in the Borough of West Chester shall conform to the provisions of this article and any other regulations or code of West Chester relating to signs.
- (2) It shall be unlawful for any person, firm, corporation or individual to erect and maintain signs without first obtaining a permit from the Zoning Officer, except those listed specifically hereinafter.
- (3) No display sign shall hereafter be erected or attached to, suspended from or supported on a building or structure and no display sign shall hereafter be altered, rebuilt, enlarged, extended or relocated until a permit for the same has been obtained, except those listed specifically hereinafter.
- (4) Application for such permits shall be made in writing to the Borough Zoning Officer in accordance with the provisions of § 112-705.
- (5) Nonconforming signs. Signs and their respective illumination existing at the time of the passage of this Chapter and which do not conform to the requirements of this Chapter shall be considered nonconforming signs and, once destroyed or removed for any reason, shall be replaced only with conforming signs and lighting. Nonconforming signs may be painted, repaired (including lighting) and altered in their wording, provided that such modifications do not exceed the dimensions of the existing signs.
- (6) Abandoned signs. No person shall maintain or permit to be maintained on any premises owned or controlled by him a sign which has been abandoned. An "abandoned sign," for the purpose of this Chapter, is a sign erected on and/or related to the use of a property which becomes vacant and unoccupied for a period of six months or more or any sign which was erected for a prior occupant or business or any sign which relates to a time, event or purpose which is past. Any such abandoned sign shall be removed by the landowner or person controlling the property within 10 days of the abandonment as described above.
- (7) The Zoning Officer is hereby authorized and empowered to revoke any permit issued by him upon failure of the holder thereof to comply with any provision of this article.

B. Sign restrictions and standards.

- (1) Prohibited signs. It is unlawful to erect or maintain the following signs:
 - (a) Spinning, animated, twirling or any other moving objects used for advertising purposes, whether containing a message or not.
 - (b) Flashing, blinking, twinkling or lighted moving signs of any type, except those portions of a sign which indicate time and temperature and billboard signs with changeable copy pursuant to §112-83B(8).[Amended 9-21-2011 by Ord. No. 16-2011

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- (c) Flashing, blinking, twinkling or lighted moving signs of any type, except those portions of a sign which indicate time and temperature and billboard signs with changeable copy pursuant to
 - (d) Curb or sidewalk signs or signs painted, attached or suspended from any outdoor bench, chair or other structure, except for inscriptions on benches at a church, park or other nonprofit institution or acknowledgments of a donor that are not commercial advertisements.
 - (e) Signs and advertisements which are tacked, pasted, tied or otherwise affixed to poles, posts, trees, buildings, fences or other structures located within public rights-of-way in the Borough of West Chester.
 - (f) Unsafe and lawful signs. If the Zoning Officer finds that any sign or other advertising structure regulated herein is unsafe, not secured, a menace to the public or has been constructed or erected or is being maintained in violation of the provisions of this article, he shall give written notice to the permittee thereof. If the permittee fails to remove or alter the sign or other advertising structure so as to comply with the standards herein set forth within 10 days after such notice, such sign or other advertising structure may be removed or altered to comply by the Zoning Officer at the expense of the permittee or owner of the property upon which it is located. The Zoning Officer shall refuse to issue a permit to any permittee or owner who refuses to pay costs assessed. The Zoning Officer may cause any sign or other advertising structure which is an immediate peril to persons or property to be removed summarily and without notice.
 - (g) Signs placed, inscribed or supported upon the roofline or any structure which extends above the roofline of any building.
 - (h) Off-premises signs, except billboard signs in the CS District.
 - (i) Signs or other advertising on a permanently parked vehicle which does not have a current license and inspection and is visible from the street.
- (2) General restrictions and standards. The following restrictions shall apply to all permitted signs:
- (a) No sign shall be located, arranged or placed in a position that it will cause danger to traffic or will interfere with traffic through glare; blocking of required sight lines for streets, sidewalks or driveways; confusion with a traffic control device by reason of color, location, shape or other characteristic; or through any other means.
 - (b) Every sign must be constructed of durable materials and shall be solidly and firmly attached, supported and/or anchored to the supports or framework.
 - (c) Every sign must be maintained in good condition and repair. Any sign which is allowed to become dilapidated (loose parts, broken or cracked materials, significantly altered by an accident, etc.) shall be removed by and at the expense of the landowner or lessee of the property on which it is located.
 - (d) No sign, other than a sign of a duly constituted governmental body, shall be erected within the right-of-way lines of any street, unless specifically authorized by other ordinances or regulations of the Borough or specifically permitted hereinafter.
 - (e) All permanent signs affixed to any permitted building shall be integrated into the architectural design of the building on which they are placed by being harmonious with the facade of the building.
 - (f) Double-faced signs.
 - [1] Any sign may be double-faced, provided that it has two parallel surfaces that are opposite and matching in size and shape and are not over 12 inches apart.
 - [2] The sign shall be considered as one sign, and only one face shall be used to calculate the total size of the sign.
 - (g) Pole signs. Such signs shall be permitted on the premises of the use for which they are intended and may be erected, provided that:
 - [1] No pole shall be erected within the right-of-way of any street or alley.

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- [2] No portion of said sign shall be less than 10 feet above the average ground level.
 - [3] No portion of said sign shall exceed 20 feet above the average ground level.
- (h) Ground signs.
- [1] The top of any ground sign shall be no higher above the ground level than six feet.
 - [2] All poles or columns that support ground signs shall be made of metal, except for those used in residential districts, which may be made of pressure-treated timbers. All such poles or columns shall be embedded in the ground at least three feet six inches, unless otherwise so directed by the Zoning Officer.
 - [3] Ground signs will be permitted in residential areas only when set back a distance of 10 feet from the front property line.
- (i) Wall signs. Such signs may be erected and maintained, provided that:
- [1] No such sign shall project more than 12 inches beyond the building line.
 - [2] All wall signs shall be rigidly affixed to the building and to all supporting and framing structures, attachments and hardware.
 - [3] No part of the projecting sign shall be less than eight feet or more than 20 feet above the ground on walkway level, except as provided below for marquees, awnings and canopies.
- (j) Marquees, awnings and canopies.
- [1] Marquees, awnings and canopies may be constructed of cloth or metal; provided, however, that all frames and supports shall be of metal.
 - [2] Every marquee, awning or canopy shall be securely attached to and supported by the building. Posts or columns beyond the building line shall not be permitted unless they are part of a restoration project in the Town Center District which is approved by the Borough Council.
 - [3] All marquees, awnings and canopies shall be constructed and erected so that the lowest portion thereof shall be not less than eight feet above the level of the sidewalk or public street.
- (k) Illuminated signs.
- [1] Lighting for all signs shall comply with the Illuminating Engineering Society of North America's (IESNA's) recommended practices and criteria in the IESNA Lighting Handbook. Fixtures shall be equipped with or be capable of being backfitted with light-directing devices such as shields, visors or hoods when necessary to redirect offending light distribution.
 - [2] Signs may be externally lit, such as by spotlights, provided that all lighting shall be aimed, located, designed, fitted and maintained so as not to project or reflect light onto a neighboring use or property. There shall be a maximum luminance of 0.1 footcandle measured at any residential property line.
 - [3] Signs may be internally lit, in which the display area of the sign itself is composed of lighting elements, such as liquid crystal diodes (LCD), light-emitting diodes (LEDs), fluorescent bulbs or lamps, plasma, or other digital illuminated display, provided that they shall not be lit between the hours of 10:00 p.m. and 5:00 a.m.
 - [4] The display of internally lit signs shall have a maximum illuminance not to exceed 0.3 footcandle above ambient lighting conditions, as measured using a footcandle meter at 75 feet perpendicular to the sign's display. It shall be the responsibility of the sign owner to demonstrate compliance with the maximum illuminance standards to the satisfaction of the Borough.
- (l) Each sign shall be removed within 10 days of the time when the circumstances leading to its erection no longer apply or as provided for otherwise in this Section 112-702.

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§ 112-703 Signs not requiring permits.

- (m) All signs on smokestacks, water towers, silos and other similar structures shall be governed by the provisions of this article.
- (n) Projecting signs.
 - [1] No such sign shall project more than five feet beyond the building line nor shall such signs exceed 12 square feet.
 - [2] All projecting signs shall be rigidly affixed to the building and to all supporting and framing structures, attachments and hardware.
 - [3] No part of the projecting sign shall be less than eight or more than 20 feet above the ground on walkway level, except as provided for herein for marquees, awnings and canopies.
 - [4] Projecting signs based on historical precedent which are not otherwise in compliance with the established regulations may be erected following the grant of a special exception by the Zoning Hearing Board, with the exception that no impact assessment report shall be required for this application.
- (o) Changeable-copy signs. Changeable-copy signs shall be permitted, subject to the following standards.
 - [1] Changeable-copy signs shall not be located in any residential zoning district.
 - [2] All such signs shall be permanently affixed to the ground or to a structure.
 - [3] Copy shall be changed electronically or by means of moveable lettering without altering the face or surface of the sign, provided that the messages/displays shall remain unchanged for a minimum of 30 seconds and the display must be static during that time.
 - [4] When the message is transitioned, it shall be accomplished in one second with a darkening of the display for one second between messages. The transition between messages shall not contain any flashing, spinning, revolving, or similar transition methods.
 - [5] The sign shall contain a default design that will freeze the sign in one position if a malfunction occurs or, in the alternative, shut down.
 - [6] The sign shall not display any message that moves, appears to move, scrolls, or changes in intensity during the fixed display period.
 - [7] Changeable-copy signs may be either billboard signs or ground signs.
 - [8] No changeable-copy sign shall be permitted within 500 feet of another.

§ 112-703 Signs not requiring permits.

The following signs, exactly as herein described, are exempt from the need to secure permits but shall still be subject to the above general restrictions and standards:

- A. Decorations for a recognized officially designated holiday, provided that they do not create a traffic or fire hazard.
- B. Official and governmental signs, which shall include safety signs, trespassing signs, signs indicating scenic or historical points of interest and traffic and public parking garage signs.
- C. Signs designating the name of the owner or occupant of a dwelling house, the address of such property or the private ownership of roadways or other property, provided that:
 - (1) Such sign is not in excess of two square feet in area.
 - (2) Not more than one such sign is erected for each use.
- D. Temporary yard sale or garage sale signs, provided that such signs:
 - (1) Do not exceed two square feet in area.
 - (2) Shall be removed within 24 hours after said sale.
 - (3) Shall be located on the lot where the sale is being conducted.

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§ 112-703 Signs not requiring permits.

- E. Temporary signs, except for banners across streets, alleys and public rights-of-way, which are provided for hereinafter, announcing a political, public, educational, charitable, civic, religious or similar campaign or event, provided that:
- (1) Each such temporary sign shall not cover any window area, nor shall it exceed 28 square feet or 20% of the square footage of the first-floor building facade, whichever is smaller.
 - (2) Such sign may be erected for a period not to exceed 60 days in any calendar year.
- F. Window signs. Such signs shall be used to serve as an accessory sign to the sign associated with the principal use.
- (1) Except for sexually oriented businesses, window signs shall be permitted in the TC, CS and ID Districts and where nonconforming commercial uses occur in other districts.
 - (2) The total area of temporary or permanent window signs shall not exceed 25% of the total glass area of the window in which they are placed, except for grocery stores, food markets or pharmacies, where the total area shall not exceed 35% of the total glass of the window.
- G. Informational signs, such as "entrance," "exit," "no parking," "visitor's parking," "no trespassing," "keep off the grass" and the like on the same lot as the use to which the sign relates or the prohibition of the use to which the sign relates, provided that:
- (1) The area of said sign shall not exceed two square feet in area.
 - (2) Such sign shall not contain any advertising.
- H. Signs advertising the sale or rental of individual lots on the premises upon which they are erected, or that said premises have been sold or rented, when erected by a broker or other person interested in the sale or rental of such premises, may be erected and maintained, provided that:
- (1) The size of the sign is not in excess of six square feet.
 - (2) Not more than one sign shall be placed upon any property in single and separate ownership, such signs to be removed within 31 days after an agreement of sale has been executed.
- I. Signs advertising the pending sale or development or rental of a subdivision or land development on the premises upon which they are erected, when erected in connection with the subdivision and/or land development of the premises by a building contractor, developer or other person interested in such sale or development, may be erected and maintained, provided that:
- (1) The size of any such sign is not in excess of 16 square feet.
 - (2) Not more than one sign shall be placed upon any property in single and separate ownership, unless such property fronts upon more than one street, in which event one sign may be erected on each frontage.
 - (3) Such sign shall not be erected until the subdivision and/or land development has received final plan approval.
- J. Signs of mechanics, painters and other artisans may be erected and maintained during the period such persons are performing work on the premises on which signs are erected, provided that:
- (1) The size thereof is not in excess of six square feet.
 - (2) Such signs may be placed during the conduct of the work but shall be removed within 31 days of commencement of the work, unless approved otherwise by the Zoning Officer.
- K. Sidewalk sign. A limit of one sidewalk sign per business shall be permitted within the Town Center District and may be placed within the sidewalk, so long as each portable sign shall not exceed nine square feet and a minimum clear walking width of four feet shall be maintained. All such sidewalk signs shall be taken indoors at the close of each business day.
- L. Recreational field signs, provided that:
- (1) The signs are installed only on the portion of the fence in the outfield;
 - (2) The signs do not extend above the height of the fence; and

(3) The total area of all such signs does not exceed 80% of the total fence area.

§ 112-704 Signs requiring permits.

The following signs, exactly as herein described under each specific district, are permitted, provided that a sign permit has been obtained for said sign:

A. Neighborhood Conservation District. The following signs may be erected and maintained in the Neighborhood Conservation Districts upon issuance of a sign permit:

- (1) Signs for home occupations as permitted in this Chapter, indicating the name and/or professional activity of the resident practitioner, provided that the size of any such sign shall not exceed two square feet in area.
- (2) Signs for uses in the Professional Office Overlay District. The size of such sign shall not exceed 12 square feet.
- (3) Signs naming an approved subdivision or land development, provided that:
 - (a) Such sign does not exceed 16 square feet in area for each exclusive entrance to a subdivision or other land development.
 - (b) Such sign is restricted to the subdivision or land development name.
- (4) Signs for a bed-and-breakfast facility, provided that the size of any such sign shall not exceed two square feet in area.
- (5) Signs of schools, colleges, churches, hospitals, public libraries, public parks or playgrounds, multifamily buildings containing 15 or more dwelling units or other institutions and sites of a similar nature may be erected and maintained on the premises, provided that:
 - (a) The size of any such sign is not in excess of 20 square feet.
 - (b) Not more than one sign shall be placed on a property in single or separate ownership unless such property fronts upon more than one street, in which event one such sign may be erected on each frontage.
- (6) Signs of fraternities and sororities may be erected and maintained, provided that:
 - (a) The permit application shall contain a letter from the Dean of Students evidencing university recognition, chartering or acceptance.
 - (b) Not more than one sign shall be placed on a property.
 - (c) The sign must be rigidly affixed to the building and to all supporting and framing structures, attachments and hardware.
 - (d) The sign shall not exceed four square feet in area.
 - (e) The sign shall not be illuminated.
 - (f) Each fraternity/sorority shall be limited to one sign, irrespective of the number of properties occupied.
- (7) Signs indicating the location of hospitals or other public service institutions may be erected and maintained, provided that:
 - (a) The number of any such signs to be erected by any one institution or organization may be limited at the discretion of the Borough Council.
 - (b) Written permission is secured from the owner of the property on which the sign is to be erected.
 - (c) The size of any such sign is not in excess of three square feet.
- (8) Business signs for nonconforming uses which are located in a building sharing both a business and residential use and which indicate the name or activity of the occupant of the building, provided that:
 - (a) Such sign shall be considered as separate from the residential signs as provided for in Section 112-703.C.

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§ 112-704 Signs requiring permits.

- (b) Not more than one such sign shall be erected for each building, and
 - (c) Such sign shall not exceed two square feet.
- (9) Business signs for nonconforming uses which are located in a building other than a residence and which indicate the name or activity of the occupant of the building, provided that:
- (a) Not more than one such sign shall be erected for such use.
 - (b) Such sign shall not exceed four square feet in area.
- (10) Only the following signs shall be illuminated in the residential districts:
- (a) An identification sign of a physician, dentist, District Justice, hospital and any such other person or establishment whose services in an emergency are considered essential to public health, safety and welfare.
 - (b) An identification sign of a school, church or other similar permitted use, provided that said sign is illuminated only between the hours of dusk and 12:00 midnight, prevailing time.
- (11) Banners across streets, alleys and other public rights-of-way shall be permitted to promote community events such as Sidewalk Sale Days, the Annual Restaurant Festival, Old Fashioned Christmas and events sponsored by the Chester County Hospital, Chester County Historical Society, veterans' organizations or charitable, educational, fraternal, civic or service organizations. Banners promoting business and commercial enterprises are prohibited. Banners shall also be governed by the following:
- (a) At least 30 days prior to the desired date of hanging a banner over a public street or way, an applicant must complete and submit a banner permit to the office of the Borough Manager for approval by the Borough Council. Upon approval of a permit by the Borough Council, a banner may be hung and displayed as set forth below.
 - (b) The hanging of banners must be in complete conformance with the application as submitted and as finally approved by the Borough Council.
 - (c) The hanging of banners is the sole responsibility of the applicant.
 - (d) No banner may hang lower than 15 feet over the street or public way.
 - (e) No more than two banners may be displayed over any particular street or public way.
 - (f) Banners may not be hung more than 14 days prior to the date of the event being advertised and must be removed no later than seven days after the conclusion of the event being advertised.
 - (g) Banners not removed within seven days after the advertised event has concluded will be removed by the Borough, and the applicant shall be liable for the actual cost of removal.
 - (h) Banners hung across streets and other rights-of-way without proper approval will be removed within two working days after the person(s) or organization(s) responsible have been notified by any means of communication. Failure to remove the banner(s) after notification shall result in the Borough's doing so at a charge of the actual cost of removal and fines as related to zoning violations.
- B. Commercial Service and Industrial Districts. The following signs may be erected and maintained in the CS and ID Districts upon issuance of a sign permit:
- (1) Any sign permitted in a Neighborhood Conservation District which relates to a use permitted in the CS and ID Districts or a condition of sale, rental, direction and the like as set forth in § 112-702.
 - (2) (Reserved)
 - (3) Signs advertising one business or industrial use when located on the lot where such use is conducted, provided that:
 - (a) Not more than one ground sign or pole sign shall be permitted upon each street on which the use has frontage. Such sign shall not exceed 32 square feet in area and shall be set back a distance of not less than 10 feet from the street right-of-way line; or

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- (b) Not more than three wall signs, the total signage of which is not to exceed 10% of the facade area on which the sign is located or 32 square feet, whichever is less.
- (4) Signs advertising two or more businesses or industries on a lot held in single and separate ownership on the lot where such uses are conducted, provided that:
- (a) Not more than one ground sign or pole sign shall be permitted. The total area of such sign shall not exceed 24 square feet for one business or industry; however, up to four additional square feet may be added for every additional business or industry, but in no case shall such sign exceed 40 square feet. The structural backing for all such signs shall be uniform, and no sign may extend in any direction beyond the outside edge of the backing; and
- (b) Not more than one wall sign per business or industry shall be permitted. No such sign shall exceed eight square feet.
- (5) In the case of an automobile service station, four accessory signs may be erected and maintained, provided that each such sign does not exceed four square feet in area.
- (6) All signs in the CS and ID Districts may be illuminated, subject to the requirements of this Article VII.
- (7) Signs for sexually oriented businesses in the CS District shall not depict specified sexual activities, persons in a state of nudity or semi-nudity or specified anatomical areas.
- (8) Billboard signs shall be permitted in the CS District as the sole principal use of a lot, provided that such signs meet the following requirements:
- (a) Not more than one billboard sign shall be permitted on a single lot.
- (b) The minimum net lot area must be 500 square feet.
- (c) The lot shall not contain any other buildings or structures, except those necessary for the operation, maintenance or security of the billboard sign.
- (d) The total height of any billboard sign shall not exceed 20 feet, measured from the average ground level to the top of the sign, including all structural components. There shall be a minimum of 10 feet of clearance (not including structural ground supports) under the lower edge of the signboard.
- (e) A billboard sign structure may have no more than two sign faces of equal size, shape and dimension, and the total display area of a billboard sign shall not exceed 72 square feet on one side, including border and trim, but excluding supports.
- (f) No portion of a billboard sign shall be located closer than 10 feet from the right-of-way.
- (g) No billboard sign shall be located within the safe clear sight distance or safe stopping distance of a signalized intersection, which distance shall be determined in accordance with applicable PennDOT standards.
- (h) No portion of a billboard sign shall interfere with or obstruct vehicle traffic, travel or ingress and egress to a public street.
- (i) No billboard sign shall be located closer than 500 feet to any other billboard sign.
- (j) A billboard sign structure may contain only one sign or advertisement per face. No part of the sign shall extend beyond the borders of the signboard structure.
- (k) Billboard signs shall conform to the applicable illumination standards.
- (l) Billboard signs may have changeable copy which shall conform to the applicable standards.
- (m) All billboard signs shall be maintained in good condition. The structural components of the sign shall be maintained to ensure their integrity and to prevent the possible collapse of the sign. Signs having ripped, defaced or partial advertisements shall be immediately repaired by having the advertisement restored to its original condition, removed, or covered.
- (n) All billboard signs shall be set back at least 100 feet from any property zoned residential and all property where a residential use is located.

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§ 112-704 Signs requiring permits.

- C. Institutional District. The following signs may be erected and maintained in the IS District upon issuance of a sign permit:
- (1) Any sign permitted in a Neighborhood Conservation District which relates to a use permitted in the IS District or a condition of sale, rental, direction and the like.
 - (2) Signs advertising one institutional use when located on the lot or tract where such use is conducted, provided that:
 - (a) Not more than a combination of two ground signs or pole signs shall be permitted along each street on which the use has frontage. Such sign(s) shall not exceed 24 square feet in area and shall be set back at least 10 feet from the street right-of-way line and shall be separated at least 100 feet from one another, measured along the street line.
 - (b) Not more than two wall signs attached to a facade of a permitted principal building shall be permitted, neither of which shall exceed 24 square feet in area.
 - (3) Two accessory signs may be erected and maintained for each individual institutional use, provided that any such sign does not exceed four square feet in area.
 - (4) All signs in the IS District may be illuminated, subject to applicable standards.
- D. Town Center District. The following signs may be erected and maintained in the TC District upon issuance of a sign permit:
- (1) Any sign permitted in the Neighborhood Conservation District which relates to a use permitted in the TC District.
 - (2) A wall sign advertising one town center use, when located on the lot where such use is conducted, provided that:
 - (a) Not more than one wall sign attached to the wall of a permitted principal building shall be permitted for each tenant or business, in compliance with the following:
 - [1] Total sign area of all wall signs shall not exceed one (1) square foot per linear foot of wall facing the street, not to exceed twenty-four (24) square feet.
 - [2] Buildings with more than one (1) wall facing a street may have signs as limited above on each wall facing a street.
 - (b) No such sign shall cover any windows or walls of any part of the building not devoted to the use to which the sign relates.
 - (3) If a ground sign is erected, such sign shall not exceed 20 square feet and shall be set back a distance of not less than five feet from the street right-of-way line.
 - (4) If a pole sign is erected, such sign shall not exceed 20 square feet and shall be set back a distance of not less than five feet from the street right-of-way line.
 - (5) All signs in the TC District may be illuminated, subject to applicable standards.
 - (6) Projecting signs in accordance with this Article provided that only one sign per 25 feet of frontage shall be permitted.
- E. Mixed Use District. The following signs may be erected and maintained in the MU District upon issuance of a sign permit:
- (1) Any sign permitted in a Neighborhood Conservation District which relates to a use permitted in the MU District.
 - (2) No signs may be erected or maintained in the MU District unless such signs shall advertise the permitted business activity conducted on the premises. No off-premises signs shall be permitted.
 - (3) Signs advertising one business when located on the lot where such use is conducted, provided that:
 - (a) Not more than one ground sign shall be permitted upon each street on which the use has frontage;
 - (b) Such sign shall not exceed 32 square feet in area; and

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§ 112-705 Permit requirements.

- (c) Such sign shall be set back a distance of not less than 10 feet from the street right-of-way line.
- (4) Signs advertising two or more businesses on a lot held in single and separate ownership on the lot where such uses are conducted, provided that:
 - (a) Lots with 100 feet of street frontage or more may have two ground signs on each street where there is 100 feet or more of frontage.
 - (b) For lots with less than 100 feet of street frontage, only one ground sign shall be permitted.
 - (c) The maximum size of the ground sign shall be 40 square feet.
- (5) Municipal and governmental uses when located in the MU District may erect and maintain any of the following signs:
 - (a) Not more than one ground sign shall be permitted upon each street on which the use has frontage. Such sign shall not exceed 32 square feet in area and shall be set back a distance of not less than 10 feet from the street right-of-way line.
 - (b) Wall signs advertising one governmental use shall be permitted, the total area which shall not exceed 60 square feet.
- (6) All signs in the MU District may be illuminated.

§ 112-705 Permit requirements.

The following requirements shall apply to signs for which a permit is required as set forth in this Article:

- A. All sign approval permits shall be filed on application forms provided by the Borough and administered by the Zoning Officer.
- B. All sign approval permit applications shall disclose the following information in duplicate:
 - (1) A description of the size, shape, color, material, supports, anchoring, weight and height of the sign, as well as the intensity of illumination.
 - (2) An architectural elevation, drawn to scale, of the sign, indicating the proposed style of the letters, words, symbols or other graphics and the proposed size, dimensions, shape, color, material, supports, anchoring and height of the sign.
 - (3) A plot plan, drawn to scale, showing the proposed sign location with respect to the property lines and the building(s).
- C. Written consent of the landowner, if different from the applicant, shall be provided.
- D. All applications for sign approval permits shall be accompanied by a check to cover the required fee as set forth in the fee schedule for signs established by the Borough Council.
- E. The Zoning Officer shall process applications for sign approval permits within 30 days from the date of the filing of a complete application with the required fee, unless provided for otherwise herein.
- F. The Zoning Officer shall inspect and approve the installation of the sign and shall make periodic inspections to determine conformity of signs to these regulations.
- G. In determining the appropriateness of the proposed sign, the Zoning Officer shall determine the following:
 - (1) That the sign meets all the restrictions, standards and sign area requirements set forth in this article.
 - (2) That the sign has a reasonable location, scale and proportion in relation to buildings, doors, windows and pedestrian and vehicular access.

§ 112-706 Fees.

All applications for permits shall be accompanied by a fee in accordance with the fee schedule for the same established by the Borough Council.

ARTICLE VIII. SUPPLEMENTARY REGULATIONS APPLICABLE TO ALL DISTRICTS

§ 112-801 Purpose.

The overall purpose and intent of these general regulations is to identify supplementary provisions and standards which are common to all zoning districts.

§ 112-802 Lot and yard requirements.

A. Lot area and yard requirements.

- (1) An existing lot that complies with the area and dimensional standards of this Chapter shall not be reduced in size so that the minimum lot area and/or dimensional requirements of this Chapter are no longer met. An existing lot that does not comply with the minimum lot area standards of this Chapter shall not be subdivided. A lot that does not comply with the minimum dimensional standards shall not be subdivided so as to further reduce the nonconforming standard or create a new nonconforming condition.
- (2) Where a minimum lot area is specified, no principal building or use shall be erected or established on any lot of lesser area, except as provided in § 112-810.
- (3) The lot or yard requirements for any permitted building or use shall not include any part of a lot that is required by any other permitted building or use to comply with the requirements of this Chapter.

B. Frontage and access.

- (1) Every principal permitted building shall be built upon a lot with frontage upon a public or private street which is improved in accordance with the design standards for streets as set forth in the Borough Subdivision and Land Development Ordinance or for which such improvements have been insured by the posting of a performance guaranty pursuant to the Subdivision and Land Development Ordinance. Such frontage shall be in accordance with that specified in the Article pertaining to the particular district in which such lot is located.
- (2) Driveways may be shared by two lots in accordance with the design standards for driveways in the Borough Subdivision and Land Development Ordinance.

C. No more than one principal use shall be permitted on a lot, except in the following cases:

- (1) Conversions of existing buildings to apartments or professional offices, as permitted in the NC-2 and NC-3 Districts.
- (2) Multiple-use development and occupancy as permitted in the TC, CS, ID and IS Districts.

D. Minimum lot width at the building line. Where a minimum lot width at the building line is specified, no principal building shall be erected on any part of a lot which has a width of less than required under the applicable zoning district, except as provided in § 122-810.

E. Front yards of corner lots. Corner lots shall provide yards fronting streets equal to the Build-To-Line along both streets for any new lot created after the effective date of this Zoning Ordinance.

F. Front yard regulations. Where a minimum depth of front yard is specified in a district, an open space of at least the specified depth shall be provided between the street line or lines and the nearest point of any building or structure, except as may be hereinafter permitted.

G. Exception to required front yard for certain accessory uses. The front yard requirements for any district shall not apply to driveways, sidewalks, lights, fences, walls, signs and designated off-street parking areas open to the air in the Commercial Service and Industrial Districts. Garages, carports or other like structures shall not be located in front yards.

H. Side and rear yard requirements. Where a minimum width of side yard is specified, no building or other structure shall be erected within such width from either side lot line.

I. Projections of buildings into required yards.

CHAPTER 112 - ZONING ORDINANCE
§ 112-803 Exceptions to height regulations.

- (1) No building or structure or part thereof shall be erected within or shall project into any required yard in any district, except for:
 - (a) Uncovered and unroofed spaces, including steps, ramps or patios on grade.
 - (b) Clothes-drying lines.
 - (c) Marquees, awnings and canopies, subject to Article VII, pertaining to sign regulations.
 - (d) Buttresses, chimneys and cornices.
 - (e) Pedestrian walkways which are built over a public right-of-way, provided that they are built in compliance with the Borough's Building Code. The pedestrian walkway shall not be used in the calculation of any area and bulk requirement in this Chapter, and the maximum width of the walkway shall not exceed 15 feet. The use of the walkway shall be limited to pedestrian connection between two buildings which are on opposite sides of a public right-of-way.
 - (2) Except for a pedestrian walkway which is built over a public right-of-way, no projection permitted in § 112-802.l(1) shall extend more than five feet from the building line into the required yard setback.
 - (3) Setback distances for accessory use structures shall be in accordance with § 112-802.
 - (4) Decks shall only be permitted to extend up to five feet into the required rear yard setback. With regard to buildings that have existing nonconforming side yard setbacks, a deck may be constructed, provided that the degree of nonconformity with respect to the side yard setback is not increased. Notwithstanding the foregoing, under no circumstances shall a deck be any closer than three feet to the side lot line.
- J. Accessory use structures in yards. In any district, unless otherwise specified, accessory use structures may be erected in the side or rear yard not closer than five feet from the side and rear lot lines, provided that such structures are entirely separated from the principal building and are located at least 10 feet farther back from the front street line than the rearmost portion of the principal building, except for:
- (1) Fences or walls which define property boundary lines or serve as a required continuous visual buffer.
 - (2) A shared driveway for two lots, which may straddle property lines.
 - (3) Structures in the Town Center District, which shall meet the setback requirements of the Town Center District. Article VII.
 - (4) Unroofed garden structures, e.g., pergolas, arbors, lattices.
 - (5) Structures for which no other viable location exists, as approved by the Zoning Hearing Board by special exception.

§ 112-803 Exceptions to height regulations.

The Borough Council may determine that the height regulations prescribed within this Chapter may be exempted for church spires, steeples or belfries; cupolas or domes; solar panels; clock towers; chimneys; ventilating fans; air-conditioning equipment; roof structures for the housing of elevators and/or stairways; fire or parapet walls; skylights; flagpoles; water towers or water tanks; utility poles; windmills; silos; smokestacks; and ornamental or other necessary mechanical appurtenances, provided that such structures are not used for human occupancy and are set back a distance equal to their height (from ground level to the top of the structure) from a lot line.

§ 112-804 Height limitations of fences and walls.

- A. No fence or wall over eight feet in height shall be erected in the IS or ID Districts within any of the required yards except a retaining wall or a wall of a building permitted under the terms of this Chapter, unless that portion of the fence or wall which exceeds eight feet in height has a ratio of open to solid area of at least 4 to 1, subject to intersection sight distance, landscaping and screening requirements.

CHAPTER 112 - ZONING ORDINANCE
§ 112-805 Sight distances at intersections.

- B. No fence or wall over six feet in height shall be erected in the NC, TC or CS Districts within any of the required side or rear yards except a retaining wall or a wall of a building permitted under the terms of this Chapter, subject to intersection sight distance, landscaping and screening requirements.
- C. No fence or wall over six feet in height shall be erected within the front yard on a lot in the NC, TC or CS Districts or beyond the front wall of the principal building on a lot in the NC, TC or CS Districts, unless that portion of the fence or wall which exceeds six feet in height has a ratio of open to solid area of at least 4 to 1, subject to intersection sight distance, landscaping and screening requirements.
- D. Fences or walls which exceed six feet in height and/or fences or walls which exceed six feet in height that do not have a ratio of open to solid area of at least 4 to 1 and which are erected within the front yard on a lot in the NC, TC or CS Districts or beyond the front wall of the principal building on a lot in the NC, TC or CS Districts may be approved as a conditional use, subject to intersection sight distance, landscaping and screening requirements and conditional use requirements of this Chapter. The application fee for such conditional use shall be \$75 or such other fee as may be established by Borough Council from time to time.

§ 112-805 Sight distances at intersections.

On any lot, no wall, fence or other structure shall be erected, altered or maintained and no hedge, tree, shrub or other growth shall be installed or maintained which may cause danger to traffic on a street by obscuring the view. A clear sight triangle shall be maintained in accordance with the design standards and required improvements for streets set forth in the Borough Subdivision and Land Development Ordinance.

§ 112-806 Right-of-way widths for streets.

Whenever the existing street right-of-way is less than that required by the Borough Subdivision and Land Development Ordinance for the particular classification of street, the right-of-way widths set forth in the Subdivision and Land Development Ordinance shall be applicable to any development related to this Chapter.

§ 112-807 Outdoor storage and display.

- A. Except as may be permitted in the TC and CS Districts, no part of the street right-of-way, no sidewalks or other areas intended or designed for pedestrian use, no required parking areas and no part of the required front yard shall be occupied by outside storage and display, except in the case of a sidewalk sale, flea market, public auction or garage sale, provided that such sales shall not take place more than four times per year for a period not to exceed four days per event.
- B. Outside storage and display areas shall occupy an area of less than 1/2 the existing building coverage.
- C. Outside storage and display areas not related to a sidewalk sale, flea market, public auction or garage sale shall be screened from view from any public street or residential zoning district in accordance with the applicable landscaping standards.
- D. Uses requiring more land area for such storage or display may be permitted by special exception. However, in no case shall more than 25% of the lot area be used in outdoor storage or display.
- E. All organic rubbish or storage shall be contained in airtight, vermin-proof containers.
- F. Recreational vehicles and travel trailers. Recreational vehicles and/or travel trailers may be stored in the rear or side yard of the principal permitted use or in a garage or roofed structure and shall be no closer to a property line than the setback line created by the various yard requirements when stored outside. Such vehicles and/or trailers shall be screened from adjacent properties in accordance with applicable landscaping standards.

CHAPTER 112 - ZONING ORDINANCE
§ 112-808 Permits for temporary structures or uses.

- G. Junk vehicles. Junk vehicles may not be kept or stored outdoors on public or private property for longer than 96 hours during any thirty-day period, provided that junk vehicles may be worked on or stored within a garage or other fully enclosed structure. This regulation does not apply to the following:
- (1) Commercial businesses which are permitted principal land uses and are normally involved in the repair or assembly of such vehicles.
 - (2) Antique cars or other automobiles in the process of being reconstructed for purposes of qualifying as antique cars and which have been registered with the Zoning Officer, provided that:
 - (a) Such vehicles shall be suitably covered at all times when not actively being worked on.
 - (b) The vehicles must receive antique registration within one year from the date of initial registration of the vehicles with the Zoning Officer.
 - (3) No more than one vehicle without current inspection or registration or license tags shall be permitted outside on any residential lot, and such vehicle shall not at any time be in a state of major disassembly or disrepair or be in the process of being stripped or dismantled.
 - (4) No more than two vehicles without current inspection or registration or license tags shall be permitted outside on any nonresidential lot, and such vehicles shall not at any time be in a state of major disassembly or disrepair or be in the process of being stripped or dismantled.

§ 112-808 Permits for temporary structures or uses.

A temporary permit may be issued by the Zoning Officer for structures or uses necessary during construction or other special circumstances of a nonrecurring nature, subject to the following additional provisions:

- A. The life of such permit may not exceed one year and shall be reviewed annually for an aggregate period of not more than three years.
- B. Such structure or use shall be removed completely upon expiration of the permit without cost to the Borough.

§ 112-809 Environmental controls.

- A. It is the intent of these regulations to prevent land or buildings, including those permitted by right, conditional use or special exception, from being used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable condition adversely affecting the surrounding area. All uses shall operate in conformance with the environmental controls set forth herein and relevant statutes, codes, rules and other regulations of the United States government, the Commonwealth of Pennsylvania, Chester County, the Borough and governmentally-regulated companies, authorities and other entities which have jurisdiction over sewage disposal, water supply, water quality, traffic and other consumption or emission characteristics of land use. The most stringent regulation applicable shall be used.
- B. All plans for proposed development in the Borough shall illustrate, depict, note or otherwise demonstrate compliance with this section and with the requirements of the Borough Subdivision and Land Development Ordinance.
- C. Noise control. The following provisions shall apply to any noise-producing source within the Borough:
 - (1) No person shall make, continue or cause to be made or continued any noise disturbance.
 - (2) The following acts and the causing thereof are in violation of this Chapter, including but not limited to the following;

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- (a) Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, cassette player, sound amplifier or similar device which produces, reproduces or amplifies sound:
- [1] At any time in such manner as to cause a noise disturbance across a lot line or between the hours of 9:00 p.m. of one day and 7:00 a.m. of the following days so as to be audible across a lot line of the receiving land use.
- [2] In such manner as to create a noise disturbance across such a lot line or at 50 feet from such source, whichever is less, when the source is operated in, from or on a motor vehicle or is hand carried on a public right-of-way or public space.
- [3] In such a manner and at a time as to cause a noise disturbance and which disturbs the peace and quiet of the immediate neighborhood.
- (b) Engaging in loud or raucous yelling, shouting, hooting, whistling or singing on the public streets between the hours of 9:00 p.m. of one day and 7:00 a.m. of the following day or at any time or place in such a manner as to cause a noise disturbance.
- (c) Operating or permitting the operation of any tools or equipment used on construction operations, drilling or demolition or other work or in the sweeping of parking lots in areas adjacent to residential districts between the hours of 9:00 p.m. of one day and 7:00 a.m. of the following day on weekdays and Saturdays or at any time on Sundays or legal holidays such that the sound therefrom causes a noise disturbance across a residential lot line, except for emergency work.
- (d) Operating or permitting the operation of any electrically powered saw, drill, sander, grinder, lawn or garden tool, snowblower or similar device used outdoors between the hours of 9:00 p.m. of one day and 7:00 a.m. of the following day so as to cause a noise disturbance across a lot line of the receiving land use.
- (e) Loading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or other objects between the hours of 9:00 p.m. of one day and 7:00 a.m. of the following day in such a manner as to cause a noise disturbance across a residential lot line. This subsection shall not apply to municipal or utility services in or about the public right-of-way.
- (f) Owning, possessing, harboring or controlling any animal or bird which howls, barks, meows, squawks or makes other sounds continuously and/or incessantly for a period of 10 minutes or makes such noise intermittently for one-half (1/2) hour or more to the disturbance of any person at any time of the day or night, regardless of whether the animal or bird is situated in or upon private property; provided, however, that at the time the animal or bird is making such noise, no person is trespassing or threatening to trespass upon private property in or upon which the animal or bird is situated or for any other cause which teased or provoked the animal or bird.
- (g) Offering for sale or selling by shouting or outcry or by any other amplified or unamplified sound, except between the hours of 7:00 a.m. of one day and 7:00 p.m. of the same day.
- (h) The removal or rendering inoperative by any person, other than for purposes of maintenance, repair, replacement or other work, of any muffler or sound-dissipative device or element of design or noise label of any product; the intentional moving or rendering inaccurate or inoperative of any sound-monitoring instrument or other device positioned by or for the Borough or other governmental entity, provided that such device or the immediate area is clearly labeled or posted to warn of the potential illegality; and the use of a product which has had a muffler or sound-dissipative device or element of design or noise label removed or rendered inoperative with knowledge or reason to know that such action has occurred.

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- (i) Repairing, rebuilding or testing or otherwise working on any motorcycle or other motor vehicle, motorboat or aircraft in such a manner as to cause such disturbance across a lot line of the receiving land use.
- (3) The noise from any of the aforesaid prohibited acts that disturbs two or more residents or owners in use or occupancy, who are in agreement as to the times and durations of the noise and who occupy separate buildings across a lot line from the noise source, shall be prima facie evidence of a noise disturbance.
- (4) The following sounds are exempted from the provisions above:
- (a) Blasting, only if performed in accordance with a permit issued by the Fire Marshal. Such blasting may occur only between 8:00 a.m. and 4:30 p.m., Monday through Friday, unless specifically authorized otherwise by the permit.
 - (b) Band concerts, carnivals or other performances or similar activities publicly or privately sponsored and presented in any public or private space outdoors, provided that such activities do not occur between 11:00 p.m. on one day and 10:00 a.m. on the following day.
 - (c) Sounds caused by the performance of emergency work or by the ordinary and accepted use of emergency apparatus and equipment.
 - (d) Sounds resulting from the repair or replacement of any municipal or utility installation in or about the public right-of-way.
 - (e) Sounds, not electronically amplified, created by organized school-related programs, activities, athletic and entertainment events or other public programs, activities or events, other than motor vehicle racing events.
 - (f) Sounds made by warning devices operating continuously for three minutes or less, except that, in the event of an actual emergency, the limitation shall not apply.
- D. Vibration control. Operating or permitting the operation of any device that creates vibration which is above the vibration perception threshold of an individual at or beyond the property boundary of the source if on private property or at 50 feet from the source if on a public space or public right-of-way shall be prohibited. For the purposes of this section, "vibration perception threshold" means the minimum ground- or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as but not limited to sensation by touch or visual observation of moving objects.
- E. Storage control.
- (1) All storage of flammable materials shall comply with the provisions of the West Chester Borough Code.
 - (2) No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes or forces, nor shall any substance which can contaminate a stream or watercourse or otherwise render such stream or watercourse undesirable as a source of water supply or recreation or which will destroy aquatic life be allowed to enter any stream or watercourse.
 - (3) All materials or wastes which cause fumes or dust or which constitute a fire hazard or which may be edible or otherwise attractive to rodents or insects shall be stored outdoors only if enclosed in containers adequate to eliminate such hazards or any leaching to substratum.
- F. Glare and heat control.

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- (1) In any nonresidential district, direct, unshielded or sky-reflected glare from spotlights or floodlights over 150 watts or from high-temperature processes (such as combustion or welding or from other sources) greater than two foot-candles visible at the lot line of the receiving land use shall be prohibited. There shall be no emission or transmission of heat or heated air so as to be discernible at the lot line of the receiving land use.
 - (2) In any residential district, floodlighting or high-intensity lighting over 150 watts shall be located so that the glare or reflection is not greater than one foot-candle at the lot line of the receiving land use.
 - (3) No floodlighting or high-intensity lighting, except for surveillance, security, decorative or safety lighting, shall be permitted after 11:00 p.m. in any residential district
- G. Fire and explosion control. All activities and all storage of flammable and explosive materials at any point within a lot shall be provided with adequate safety and fire-fighting devices.
- H. Excavation control. Except as related to gardening activities, excavation and removal of sod, topsoil and earth material, such as sand, gravel or rock, and earthmoving activities shall be in full compliance with Chapter 97, Subdivision and Land Development, and may occur only under the following conditions:
- (1) For the sole purposes of constructing or altering a building or street or grading related to such improvements.
 - (2) When such activities would not result in the establishment of pits, mounds, loose boulders or other conditions which could be hazardous.
 - (3) When such activities would not result in new topographic conditions which would alter the pattern and volume of drainage onto adjoining properties.
 - (4) When such activities would not result in the transport of sod and earth materials which could result in the deposit of soil and dust particles on the Borough's streets, in the air or on adjoining properties.
- I. Electromagnetic radiation controls. No use shall produce any electromagnetic radiation or radioactive emission injurious to human beings, animals or vegetation. Electromagnetic radiation or radioactive emissions shall not be of any intensity that interferes with the use of any other property.
- J. Slope controls. Slope controls shall be in accordance with the regulations for the same as set forth in Chapter 97, Subdivision and Land Development.

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- A. Except as otherwise noted in this section, the following regulations shall apply in all districts to any lot where there is any nonconformity on the effective date of this Chapter. For purposes of this section, the words "area and bulk regulations" shall mean the lot area, lot width at building line, lot width at street line, lot coverage, green area, building setback line, design standards, side yard, rear yard, maximum building height and similar regulations established in each of the district regulations.
- B. Continuation. Any nonconforming building or structure, nonconforming use of a building or structure, nonconforming use of a lot or use of a nonconforming lot existing on the effective date of this Chapter may be continued, except as otherwise provided in this section.
- C. Extension, enlargement or additional buildings. The erection of new buildings, enlargement of existing buildings or structures, extension of existing uses of land or establishment of uses on a lot where there is any legal nonconformity of use, size or location on the lot at the effective date of this Chapter or amendment thereto shall be regulated according to the type of nonconformity in accordance with the provisions of the section regulating the type of nonconformity involved.

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- D. Nonconforming uses of land. A nonconforming use of land, exclusive of buildings on the lot, or of land containing no buildings may be extended on the lot so used where such use exists at the effective date of this Chapter, provided that the area of such use shall not be increased by more than 10% of the area of that portion of the lot actually occupied by the use, and such extension shall conform to the most-restrictive area and bulk requirements and to the design standards for the district. The extension of a nonconforming use of land shall be limited to that which was in single and separate ownership on the effective date of this Chapter, except that any portion of the lot which is subdivided after the effective date of this Chapter and to which the nonconforming use has not been extended before subdivision shall, after subdivision, be used only in conformity with all the provisions of this Chapter.
- E. Conforming uses, conforming buildings on nonconforming lots. Conforming buildings of which a conforming use is made and which are located on a lot which is nonconforming at the effective date or amendment of this section may be enlarged or additional buildings may be erected, subject to the following:
- (1) Provided that all of the area and bulk regulations, except minimum lot size and minimum lot width at building line and all design standards for the district in which the lot is located, are complied with and not exceeded.
 - (2) If a lot on which a single-family detached dwelling has been constructed is rendered nonconforming in the minimum lot size by an amendment to this section adopted after the construction and residential use and occupancy of such dwelling, subject to the grant of a special exception by the Zoning Hearing Board, the owner may enlarge the dwelling by encroachment into the existing rear yard, provided that:
 - (a) There is no encroachment of such enlargement within any side yard, and
 - (b) The dwelling enlarged is a minimum of 30 feet from the rear property line in the NC-1 District and a minimum of 20 feet from the rear property line in the NC-2 District.
 - (3) Provided, if the owner of such lot owns or controls adjacent land sufficient to enable him to enlarge the lot in conformity or more nearly in conformity with the district regulations, he shall be required to enlarge the lot before any extensions, enlargements or additional buildings are permitted; provided, however, that such enlargement of a nonconforming lot shall not create nonconformity of any kind on such adjacent land.
- F. Conforming uses of nonconforming buildings on conforming lots.
- (1) Buildings of which a conforming use is made, but which are nonconforming in area and bulk by exceeding the allowed coverage or height for the district in which they are located, may not be enlarged unless the lot size is enlarged to conform to the district regulations. If the lot size is enlarged, the addition or enlargement shall conform in all respects to all of the area and bulk regulations and design standards for the district in which the lot is located.
 - (2) Buildings of which a conforming use is made, but which are nonconforming in location on a lot, may be enlarged or additional buildings may be constructed, subject to the following:
 - (a) Additional buildings and enlargement of existing buildings shall conform to all of the area and bulk regulations and all design standards for the district in which the lot is located. No existing side yard nonconformity in the side may be increased by such additional building or enlargement of existing buildings.
 - (b) A nonconforming building located entirely outside the building envelope shall not be enlarged or added to.

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- (c) A nonconforming building which is located partially outside the building envelope may be enlarged or added to, provided that such enlargement or addition is located wholly within the building envelope and the addition complies with all area and bulk requirements.
 - (d) Where an additional building is proposed to be constructed within the building envelope on a lot on which an existing nonconforming building is located wholly outside the building envelope, the conforming building envelope shall be reduced by an area equal to twice the area of the nonconforming building footprint measured to the outside walls.
 - (e) If a single-family dwelling is rendered nonconforming in location on the lot by an amendment to this section adopted after the construction and residential use and occupancy of such dwelling, the owner may, as of right, enlarge the dwelling laterally along and within the existing building setback of such dwelling, provided that there is no encroachment into the minimum side yard, and/or the owner may, as of right, enlarge the dwelling laterally along the line established by the rear wall of the existing dwelling, provided that there is no encroachment into any minimum side yard. There shall be no encroachment permitted into that part of the rear yard extending from the face of the rear wall of the existing dwelling to the rear property line.
 - (f) A building may be enlarged within the existing building footprint by the construction or enlargement of one or more additional stories or parts thereof not exceeding the maximum height limitation for the district in which the building is located.
- G. Conforming uses of nonconforming buildings on nonconforming lots. A nonconforming building existing on a nonconforming lot at the effective date or amendment of this section, if such building is used in conformity with the use provisions of the district in which it is located, may be enlarged or additional buildings may be constructed, subject to the following:
- (1) Provided that all area and bulk regulations (except minimum lot size and minimum lot width at building line) meet all design standards for the district in which the lot is located and are complied with and not exceeded. No building which exceeds the minimum lot coverage or height limitations of the district shall be enlarged or extended.
 - (2) Except as otherwise restricted, a building may be enlarged within the existing building footprint by the construction or enlargement of one or more additional stories or parts thereof not exceeding the maximum height limitation for the district in which the building is located.
 - (3) A nonconforming building located wholly or partially outside the building envelope shall be subject to the provisions of Subsection F(2)(b) through (d) of this section.
 - (4) If the lot on which the single-family dwelling has been constructed is rendered nonconforming in minimum lot size and location of the dwelling on the lot, by an amendment to this section adopted after the construction and residential use and occupancy of such dwelling, the owner may, as of right, enlarge the dwelling laterally along and within the existing building setback of such dwelling, provided that there is no encroachment into any minimum side yard, and/or the owner may, as of right, enlarge the dwelling laterally along the rear wall of the existing dwelling, provided that there is no encroachment into any minimum side yard. There shall be no encroachment permitted into that part of the rear yard extending from the face of the rear wall of the dwelling to the rear property line, absent the grant of a special exception, as provided for in this section.
 - (5) If a lot upon which a single-family dwelling has been constructed is rendered nonconforming in minimum lot size by an amendment to this section adopted after the construction and residential use and occupancy of such dwelling, subject to the grant of a special exception by the Zoning Hearing Board, the owner may enlarge the dwelling by encroachment into the existing rear yard, provided that:
 - (a) There is no encroachment of such enlargement within any side yard, and

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- (b) The dwelling, as enlarged, is a minimum of 30 feet from the rear property line in the NC-1 District and a minimum of 20 feet from the rear property line in the NC-2 District.
- (6) Such enlargements or additional buildings shall be limited to the lot which was in single and separate ownership at the effective date or amendment of this section. If the owner of such lot owns or controls adjacent lands sufficient to enable such owner to enlarge the lot in conformity or more nearly in conformity with the district regulations, he shall be required to enlarge the lot before any building enlargement or addition is permitted; provided, however, that such enlargement or addition on a nonconforming lot shall not create nonconformity of any kind on such adjacent land.
- H. Nonconforming uses of conforming buildings on conforming lots. A building which is conforming in area and bulk regulations and design standards on a conforming lot which houses a nonconforming use may be increased in area by enlargement of the existing building or by construction of additional buildings, subject to the following requirements:
- (1) A special exception is granted by the Zoning Hearing Board for expansion of the proposed use.
- (2) The existing building, plus such extension, enlargement, or additional buildings, do not exceed the area and bulk regulations or design standards for the district in which the lot is located or for that use in a zoning district where the use is allowed or otherwise cause the lot to become nonconforming.
- (3) The area of such building shall not be enlarged, nor shall any additional buildings be constructed which exceed, in floor area, more than 25% of the floor area of such building on the date it first became legally nonconforming.
- (4) The enlargement, additional building or extension of such nonconforming use shall be limited to the lot which was in single and separate ownership at the effective date or amendment of this section.
- I. Nonconforming uses of conforming buildings on nonconforming lots. Nonconforming uses of conforming buildings located on nonconforming lots shall be subject to the provisions of Subsection H of this section.
- J. Nonconforming uses of nonconforming buildings on conforming lots. A nonconforming use of a nonconforming building located on a conforming lot shall be subject to the following provisions:
- (1) In all districts, buildings nonconforming in area and bulk by exceeding the allowable lot coverage or height for the district shall not be enlarged or additional buildings constructed.
- (2) In all districts, buildings nonconforming in location on the lot by reason of being closer to a lot line or setback line than the minimum requirements for the district may be enlarged or additional buildings constructed, subject to the following provisions:
- (a) Enlargements and additional buildings shall conform to all setback requirements for the district.
- (b) The buildings on the lot at the effective date of this Chapter, plus the enlargements or additions, do not exceed the lot coverage requirements for the most restrictive district and all design standards for the district are complied with.
- (c) The enlargements and additional buildings for the extension of a nonconforming use shall be limited to the lot which was in separate and single ownership at the effective date of this Chapter.
- (d) A special exception is granted by the Zoning Hearing Board.
- (e) Prior to granting any special exception hereunder and as a condition precedent thereto, the Zoning Hearing Board shall determine that the proposed enlargement of existing buildings or

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construction of additional buildings is necessitated solely by reason of the need to accommodate the natural growth of the then-existing nonconforming use and not by reason of any change in use or addition of other principal or accessory uses.

- (f) The cumulative increase in floor area of all expansions, extensions and new construction, subsequent to the date of enactment of this subsection, shall not exceed 25% of the floor area that existed or was then authorized by a valid building permit.
- K. Nonconforming uses of nonconforming buildings on nonconforming lots. A nonconforming building of which a nonconforming use is made on a nonconforming lot may not be enlarged, nor may additional buildings be constructed.
- L. Nonconforming lots containing no buildings. A nonconforming lot which contains no buildings, and which is in single and separate ownership at the effective date of this Chapter which is not of the required minimum area or width or which is of unusual dimensions such that the owner could not provide the open spaces required for the district may be used or a building erected thereon under the following conditions:
- (1) The owner does not own or control other adjoining properties sufficient to enable him to comply with the area and bulk requirements for the district.
- (2) A special exception is granted by the Zoning Hearing Board. In addition to other standards governing special exceptions, the Board, in considering a special exception for this use, shall impose the following requirements:
- (a) The use of the lot and building shall conform to the permitted uses in the district.
- (b) The building height shall conform to the requirements for the district.
- (c) The design standards for uses in the district shall be applied.
- (3) In any residential district, a single-family dwelling may be constructed on a lot of this character without special exception by the Zoning Hearing Board if the conditions of Subsection L(1) above are met and if all the setback, yard and coverage requirements for the district are met; otherwise, the provisions of Subsection L(2) above shall apply.
- M. Application to accessory uses. The provisions of this article relative to continuation and extension of nonconforming uses shall not apply or be applicable to an accessory use.
- N. Standards applicable to nonconformities and to imposition of requirements by the Zoning Hearing Board.
- (1) In passing upon any application for a special exception made with respect to the provisions of this section, the Zoning Hearing Board shall require the applicant to strictly comply with the provisions of this section. No special exception shall be granted in violation of area and bulk regulations or design standards of this section, except as expressly provided for in this section or unless a variance is granted from any applicable area and bulk regulation or design standard otherwise applicable. The owner of a nonconformity has no inherent right to build in gross conflict with setback, side and rear yard requirements, coverage requirements or other area and bulk regulations or design standards of the district in which the property is located. For purposes of these provisions, the term "area and bulk regulations" shall mean lot size, lot width at building line, lot width at street line, lot coverage, green area, building setback line, side yard, rear yard, maximum building height, design standards and similar regulations established in each of the district regulations, and the term "building envelope" shall mean that area established by the district's minimum yard and building setback regulations within a lot in which a building or structure may be located.

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- (2) In those districts in which the district regulations establish different area and bulk regulations for uses permitted as of right and for uses permitted by special exception or by conditional use, no lot shall be construed to be nonconforming for purposes of the regulations established in this section which complies with the minimum lot size requirements applicable to uses permitted as of right. Uses by special exception and/or conditional uses shall not be permitted on any such lot, and the area and bulk regulations applicable to special exception and/or conditional uses shall not render the lot nonconforming unless the applicant demonstrates that the lot cannot reasonably be used for any use permitted as of right in such district or unless the area and bulk regulations applicable to such uses permitted by special exception or conditional use are the same as those applicable to uses as of right.
- (3) No provision of this section which establishes a twenty-five-percent limitation on the expansion of a nonconforming use shall be construed to automatically authorize an expansion to such twenty-five-percent maximum. The burden of proof shall rest upon the applicant to establish the need for such expansion consistent with the established principles of law. When such expansion has been permitted, no further expansion shall be allowed, either by action of the Zoning Officer or by the Zoning Hearing Board.
- O. Change of use. A lawful nonconforming use of land, building or structure may be changed to a use permitted by right by the applicable zoning regulations for the district in which the land, building or structure is located. A lawful nonconforming use of land or of a building or other structure may be changed to another nonconforming use which is less intense than the prior use. Such intensity shall be measured by the extent of lot coverage, parking, traffic, noise pollution, air pollution, safety and other area and bulk regulations.
- P. Abandonment of use. Whenever a nonconforming use of land or of a building or other structure or any portion thereof is abandoned or discontinued for a continuous period of one year or more, such abandonment or discontinuance shall be presumed to constitute an intention to abandon or discontinue such use. Any subsequent use of such building or structure or land shall be in conformity with the provisions of this Chapter.
- Q. Restoration. Any lawful nonconforming building or other structure which has been involuntarily damaged or destroyed by fire, explosion, windstorm or other similar act or cause or a nonconforming building which has been legally condemned may be reconstructed and used for the same nonconforming use, provided that the reconstructed building shall not exceed in height, area and volume the building destroyed or condemned, and the building reconstruction shall be commenced within one year from the date the building was destroyed or condemned and shall be carried on without interruption.
- R. Nonconforming signs.
- (1) Any sign, signboard, billboard or advertising device existing at the time of the passage of this Chapter that does not conform to the regulations of the district in which it is located shall be considered a nonconforming sign and may be used in its existing location, provided that it is maintained in good condition and repair at all times.
- (2) Nonconforming signs, once removed, may be replaced only with conforming signs; however, legal nonconforming signs may be repainted or, after issue of a permit, repaired or modernized, provided that such repaired or modernized sign does not exceed the dimensions of the existing sign.
- S. Single-family residential dwellings rendered nonconforming use. If the residential use of a single-family residential dwelling is rendered nonconforming by an amendment to this section that changes the zoning classification of the lot on which the dwelling is located to any commercial or industrial zoning district classification and said amendment is adopted after the construction and residential use and occupancy of such dwelling, such dwelling may be extended and enlarged on the lot held in single and separate ownership at the time of such amendment, subject to the following:

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§ 112-811 Forestry

- (1) Compliance with the area and bulk regulations and design standards applicable to the NC-2 Residential Zoning District; and
 - (2) The owner's execution of a covenant running with the land, in a form suitable for recordation, binding and enforceable by the Borough against the owners, their heirs, successors, administrators and assigns, in which the owner agrees on his and their behalf that, upon cessation of the residential use and occupancy, the lot and dwelling shall be used and occupied only in compliance with the use and area and bulk regulations and the design standards of the underlying commercial or industrial zoning district, as the case may be, and that the extension and/or enlargement authorized by this section shall be removed.
- T. Area and bulk requirements. In instances where this Chapter does not provide area and bulk requirements for a specific nonconforming use, the most restrictive area and bulk requirements for the zoning district where the use is located shall apply.

§ 112-811 Forestry

Forestry, including timber harvesting, shall be permitted by right in all zoning districts.

ARTICLE IX. SPECIAL REGULATIONS APPLICABLE TO CERTAIN DISTRICTS AND USES

§ 112-901 Purpose.

The purpose of these special regulations is to define provisions which apply to certain districts, uses and/or types of development within the Borough. This article identifies supplementary requirements for accessory uses, buildings and structures; landscaping and screening; and impact assessment and evaluation.

§ 112-902 Wireless communications facilities.

A. Purposes and findings of fact.

- (1) The purpose of these provisions is to establish uniform standards for the siting, design, permitting, maintenance, and use of wireless communications facilities in West Chester Borough. While the Borough recognizes the importance of wireless communications facilities in providing high-quality communications service to its residents and businesses, the Borough also recognizes that it has an obligation to protect public safety and to minimize the adverse visual effects of such facilities through the standards set forth in the following provisions.
- (2) By enacting these provisions, the Borough intends to:
 - (a) Accommodate the need for wireless communications facilities while regulating their location and number so as to ensure the provision for necessary services without adverse impact;
 - (b) Provide for the managed development of wireless communications facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both Borough residents and wireless carriers in accordance with federal and state laws and regulations;
 - (c) Establish procedures for the design, siting, construction, installation, maintenance and removal of both tower-based and non-tower based wireless communications facilities in the Borough, including facilities both inside and outside the public rights-of-way;
 - (d) Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, cable Wi-Fi and other wireless communications technologies;
 - (e) Minimize the adverse visual effects and the number of such facilities through proper design, siting, screening, material, color and finish and by requiring that competing providers of wireless communications services co-locate their commercial communications antennas and related facilities on existing towers;
 - (f) Ensure the structural integrity of commercial communications antenna support structures through compliance with applicable industry standards and regulations; and
 - (g) Promote the health, safety and welfare of the Borough's residents.

B. Small Wireless Facilities

- (1) In an effort to comply with recent federal and state laws applicable to Small Wireless Facilities which have now been defined by the Federal Communications Commission, the Borough has adopted a separate ordinance, and related design criteria, to address Small Wireless Facilities. Wireless Communications Facilities that fall under the definition of Small Wireless Facilities are governed and controlled by the Small Wireless Facilities ordinance and approved design criteria. The Small Wireless Facilities design criteria may be adopted by resolution of Borough Council, and further updated by resolution.
- (2) As new technology develops, the Small Wireless Facilities ordinance and the related design criteria may be changed to address new technologies and to better accommodate more advanced, and possibly smaller facilities. Those new types of technologies and facilities shall be governed and controlled by the Small Wireless Communications ordinance as amended to

include, and address, those new technologies and facilities.

- (1) General requirements for all non-tower wireless communication facilities (WCFs).
 - (1) The following regulations shall apply to all non-tower wireless communications facilities located within the Borough, including those inside the public rights-of-way:
 - (a) Permitted in all zoning districts, subject to regulations. Non-tower WCFs are permitted in all zoning districts, subject to the restrictions and conditions prescribed below and subject to applicable permitting by the Borough. The height of an antenna shall not exceed 15 feet and shall not be located closer than 25 feet to any property line.
 - (b) Standard of care. Non-tower WCFs shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical and safety codes, including but not limited to the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, the National Electrical Code and any applicable sections of the Pennsylvania Uniform Construction Code (UCC). Non-tower WCFs shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Borough.
 - (c) Wind. All non-tower WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA-222-E, as amended) and any applicable sections of the UCC.
 - (d) Aviation safety. Non-tower WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
 - (e) Public safety communications. Non-tower WCFs shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
 - (f) Radio frequency emissions. A non-tower WCF shall not, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
 - (g) Permits required. Any applicant proposing the construction of a non-tower WCF, or the modification of an existing non-tower WCF, shall first obtain the required building and electrical permits from the Borough.
 - (h) Historic buildings. Non-tower WCFs shall not be located on a building or structure that is located in the Historic District. However, non-tower WCFs may be located on buildings or structures in the Historic District that are owned by municipal, county or state governments if permission is granted by that entity.
 - (i) Timing of approval. Within 30 calendar days of the date that an application for a non-tower WCF is filed with the Borough, the Borough shall notify the applicant in writing of any information that may be required to complete such application. Within 90 calendar days of receipt of a complete application, the Borough shall make its final decision on whether to approve the application and shall advise the applicant in writing of such decision. If additional information was requested by the Borough to complete an application, the time required by the applicant to provide the information shall not be counted toward the Borough's ninety-day review period. Time extensions may be mutually agreed upon by the parties.
 - (j) Insurance. Each person that owns or operates a non-tower WCF shall provide the Borough with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in

the minimum amount of \$1,000,000 per occurrence covering the non-tower WCF.

- (k) Indemnification. Each person that owns or operates a non-tower WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Borough, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the non-tower WCF. Each person that owns or operates a non-tower WCF shall defend any actions or proceedings against the Borough in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a non-tower WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
 - (l) Maintenance. To the extent permitted by law, the following maintenance requirements shall apply:
 - [1] The non-tower WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair
 - [2] Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Borough's residents.
 - (m) Removal. In the event that use of a non-tower WCF is discontinued, the owner shall provide written notice to the Borough of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:
 - [1] All abandoned or unused WCFs and accessory facilities shall be removed within two months of the cessation of operations at the site unless a time extension is approved by the Borough.
 - [2] If the WCF or accessory facility is not removed within two months of the cessation of operations at a site, or within any longer period approved by the Borough, the WCF and/or associated facilities and equipment may be removed by the Borough and the cost of removal assessed against the owner of the WCF.
- (2) The following regulations shall apply to all non-tower wireless communications facilities, such as antennas, that do not substantially change the physical dimensions of the wireless support structure to which they are attached:
- (a) Permits required. Applicants proposing the modification of an existing wireless support structure shall obtain the required building and electrical permits from the Borough. In order to be considered for such permits, the applicant must submit a permit application to the Borough.
 - (b) Non-tower WCF that do not substantially change the physical dimension of the wireless support structure may be eligible for a sixty-day time frame for review. The applicant shall assert such eligibility in writing to the Borough and provide documentation reasonably related to determining whether the application is eligible for the shortened review time frame. If warranted, such application shall be reviewed within the sixty-day time frame.
 - (c) Fees. The Borough may assess appropriate and reasonable application fees and rights-of-way annual access fees (if applicable) as may be determined by resolution.

D. Non-tower wireless communications facilities outside the rights-of-way.

- (1) The following additional regulations shall apply to non-tower wireless communications facilities located outside the rights-of-way that do substantially change the wireless support structure to

which they are attached:

- (a) Development regulations. Non-tower WCFs shall be co-located on existing structures, such as existing buildings or tower-based WCFs, subject to the following conditions:
 - [1] In accordance with industry standards, all non-tower WCF applicants must submit documentation to the Borough justifying the total height and dimensions of the non-tower WCF. Such documentation shall be analyzed in the context of such justification on an individual basis.
 - [2] If the WCF applicant proposes to locate the related equipment in a separate building, the building shall comply with any applicable setback requirements of this chapter.
 - [3] A security fence of not less than six feet and not more than eight feet in height may be required to surround any separate communications equipment building subject to the approval of the Zoning Officer.
- (b) Design regulations.
 - [1] Non-tower WCFs shall employ stealth technology subject to the approval of the Borough.
 - [2] Antennas, and their respective accompanying support structures, shall be no greater in diameter than any cross-sectional dimension that is reasonably necessary for their proper functioning.
 - [3] Non-commercial usage exemption. Borough citizens utilizing satellite dishes and antennas for the purpose of maintaining television, phone, and/or Internet connections at their respective residences shall be exempt from the design regulations enumerated in this section.
- (c) Removal and replacement.
 - [1] The removal and replacement of non-tower WCFs and/or accessory equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not increase the overall size of the WCF or the number of antennas.
- (d) Inspection. The Borough reserves the right to inspect any WCF to ensure compliance with the provisions of this section and any other provisions found within the Borough Code or state or federal law.

B. Non-tower wireless communications facilities in the rights-of-way (ROW).

- (1) The following additional regulations shall apply to all non-tower wireless communications facilities located in the rights-of-way:
 - (a) Co-location. Non-tower WCFs in the ROW shall be co-located on existing poles, such as existing utility poles.
 - (b) Design Requirements.
 - [1] WCF installations located above the surface grade in the public ROW including, but not limited to, those on joint utility poles, shall consist of equipment components that are no more than three feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.
 - [2] Antennas and all support equipment shall be treated to match the supporting structure. WCFs and accompanying equipment shall be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.
 - [3] Stealth technology shall be specifically utilized in locations within the Borough's Historic District in order to maintain the historic streetscape. In certain instances, the Borough may authorize the use of replacement poles and/or the alteration of streetlights to accommodate WCFs using stealth technology.
 - (c) Time, place and manner. The Borough shall determine the time, place and manner of construction, maintenance, repair and/or removal of all non-tower WCFs in the ROW based on

public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Borough and the requirements of the Public Utility Code.

- (d) Equipment location. Non-tower WCFs and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Borough. In addition:
- [1] In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb.
 - [2] Ground-mounted equipment that cannot be located underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Borough.
 - [3] Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Borough.
 - [4] Any graffiti on any accessory equipment shall be removed at the sole expense of the owner within 10 business days.
 - [5] Any proposed underground vault related to non-tower WCFs shall be reviewed and approved by the Borough.
- (e) Relocation or removal of facilities. Within 60 days following written notice from the Borough, or such longer period as the Borough determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Borough, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
- [1] Construction, repair, maintenance or installation of any public improvement is necessary and needed within the ROW;
 - [2] Operations of the Borough or other governmental entity are required within the right-of-way;
 - [3] Vacation of a street or road or the release of a utility easement is necessary; or
 - [4] An emergency as determined by the Borough.

F. General requirements for all tower-based wireless communications facilities.

- (1) The following regulations shall apply to all tower-based wireless communications facilities in the Borough:
- (a) Standard of care. Tower-based WCFs shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Any tower-based WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Borough.
 - (b) Conditional use authorization required. Tower-based WCFs are permitted in certain zoning districts by conditional use, and only at a height necessary to satisfy their function in the WCF applicant's wireless communications system.
 - [1] Prior to the Borough's approval of a conditional use authorizing the construction and installation of tower-based WCF, it shall be incumbent upon the WCF applicant for such conditional use approval to prove to the reasonable satisfaction of the Borough that the applicant cannot adequately extend or infill its communications system by the use of

antennas and/or non-tower WCFs.

- [2] The conditional use application shall also be accompanied by documentation demonstrating that the proposed tower-based WCF complies with all state and federal laws and regulations concerning aviation safety.
 - [3] As a condition of approval, the WCF applicant shall provide the Borough with a written commitment that it will allow other service providers to co-locate antennas where technically and economically feasible. The owner of a tower-based WCF shall not install any additional antennas without obtaining the prior written approval of the Borough.
 - [4] Where the tower-based WCF is located on a property with another principal use, the applicant shall present documentation to the Borough that the owner of the property has granted an easement for the proposed WCF and that vehicular access will be provided to the facility.
- (c) Engineer inspection, seal and signature. Prior to the Borough's issuance of a permit authorizing construction and erection of a tower-based WCF, a structural engineer registered in the Commonwealth of Pennsylvania shall issue to the Borough a written certification of the proposed WCF's ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association. All plans and drawings for a tower-based WCF shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania.
 - (d) Visual appearance. Tower-based WCFs shall employ stealth technology. All WCF buildings and other related equipment shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible. The Borough may require that WCF buildings that house electrical transmitter equipment be placed underground, unless determined to be detrimental to the functioning and physical integrity of such equipment.
 - (e) Permit required for modifications. To the extent permissible under applicable state and federal law, any applicant proposing the modification of an existing tower-based WCF, which increases the overall height of such WCF, shall be required to obtain building and electrical permits from the Borough.
 - (f) Wind. Tower-based WCFs shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/EIA/TIA- 222-E, as amended).
 - (g) Height. Tower-based WCFs shall be designed at the minimum functional height. The maximum total height of any tower-based WCF shall not exceed 150 feet, as measured vertically from the ground level, including any base pad, to the highest point on the structure, including antennas and subsequent alterations. Should the WCF applicant prove that another provider of wireless communications services has agreed to co-locate antennas on the WCF applicant's tower-based WCF and requires a greater tower height to provide satisfactory service for wireless communications than is required by the WCF applicant, the total height of such tower-based WCF may be increased to 200 feet.
 - (h) Related equipment building. Any building or other structure housing related equipment shall comply with the required yard and height requirement of the applicable zoning district for an accessory structure.
 - (i) Public safety communications. Tower-based WCF shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.

G. Maintenance.

- (1) Any tower-based WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.

- (2) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the aesthetic enjoyment, safety and security of the Borough's residents.
- H. Radio frequency emissions. Tower-based WCF shall not, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
- I. Lighting. Tower-based WCFs shall not be artificially lighted, except as required by law. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.
- J. Signs. Tower-based WCFs shall post a sign in a readily visible location, approved by the Borough, identifying the name and phone number of a party to contact in the event of an emergency. The only other signage permitted on the WCF shall be those required by the FCC, or any other federal or state agency.
- K. Noise. Tower-based WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the Borough Code, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.
- L. Aviation safety. Tower-based WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
- M. Timing of approval. Within 30 calendar days of the date that a conditional use application for a tower-based WCF is filed, the Borough shall notify the WCF applicant in writing of any information that may be required to complete such application. All applications for tower-based WCFs shall be acted upon within 150 days of the receipt of a fully completed application and the Borough shall advise the WCF applicant in writing of its decision. If additional information was requested by the Borough to complete an application, the time required by the applicant to provide the information shall not be counted toward the 150-day review period.
- N. Nonconforming uses. Nonconforming tower-based WCFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location, but must comply with the terms and conditions of this section which are necessary to protect public health and safety. Co-location on existing nonconforming tower-based WCFs is permitted.
- O. Removal. In the event that use of a tower-based WCF is to be discontinued, the owner shall provide written notice to the Borough of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:
- (1) All unused or abandoned tower-based WCFs and accessory facilities shall be removed within six months of the cessation of operations at the site unless a time extension is approved by the Borough.
 - (2) If the WCF and/or accessory facility is not removed within six months of the cessation of operations at a site, or within any longer period approved by the Borough, the WCF and accessory facilities and equipment may be removed by the Borough and the cost of removal (including legal and consultant costs) assessed against the owner of the WCF or against the owner of the property upon which the WCF is located.
 - (3) Any unused portions of tower-based WCFs, including antennas, shall be removed within six months of the time of cessation of operations. The Borough must approve all replacements of portions of a tower-based WCF previously removed.
- P. Fees. The Borough may assess appropriate and reasonable application fees and rights-of-way annual access fees (if applicable) as may be determined by resolution.
- Q. Insurance. Each person that owns or operates a tower-based WCF 40 feet or more in height shall provide the Borough with a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum

amount of \$1,000,000 per occurrence covering each tower-based WCF.

- R. Indemnification. Each person that owns or operates a tower-based WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Borough, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the tower-based WCF. Each person that owns or operates a tower-based WCF shall defend any actions or proceedings against the Borough in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of tower-based WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
- S. Tower-based WCF outside the rights-of-way.
- (1) The following additional regulations shall apply to tower-based wireless communications facilities located outside the rights-of-way:
- (a) Development regulations.
- [1] Location. Tower-based WCFs are permitted in the following zoning districts or upon specifically owned properties by conditional use:
- (a) Borough-owned property in any zoning district, subject to approval and acceptance by Borough Council;
- (b) IS Institutional District; and
- (c) ID Industrial District.
- [2] Sole use on a lot. A tower-based WCF may be permitted as a sole use on a lot. The minimum distance between the base of a tower-based WCF and any adjoining property line or street right-of-way line shall equal 110% of the proposed WCF structure height, unless it is demonstrated to the reasonable satisfaction of Borough Council and its engineer that in the event of failure the WCF is designed to collapse upon itself within a setback area less than the required minimum setback without endangering such adjoining uses and their occupants.
- [3] Combined with another use. A tower-based WCF may be permitted on a property with an existing use, or on a vacant parcel in combination with another use, except residential, subject to the following conditions:
- (a) The existing use on the property shall be a permitted use in the applicable district, and need not be affiliated with the WCF.
- (b) Minimum setbacks. The minimum distance between the base of a tower-based WCF and any adjoining property line or street right-of-way line shall equal 110% of the proposed tower-based WCF's height, unless it is demonstrated to the reasonable satisfaction of the Borough Council and its engineer that in the event of failure the WCF is designed to collapse upon itself within a setback area less than the required minimum setback without endangering such adjoining uses and their occupants.
- (b) Design regulations. Any tower-based WCF over 40 feet in height shall be equipped with an anti-climbing device, as approved by the manufacturer.
- (c) Surrounding environs.
- [1] The WCF applicant shall ensure that the existing vegetation, trees and shrubs located within 50 feet of the WCF structure shall be preserved to the maximum extent possible.
- [2] The WCF applicant shall submit a soil report to the Borough complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA-222-E, as amended, to document and verify the design specifications of the foundation of the tower-based WCF, and

anchors for guy wires, if used.

(d) Fence/screen.

[1] A security fence having a minimum height of six feet and a maximum height of eight feet may be required to surround any tower-based WCF greater than 40 feet in height subject to the approval of the Zoning Officer.

[2] Landscaping. Landscaping shall be required to screen as much of a newly constructed tower-based WCF as possible. The Borough Council may permit any combination of existing vegetation, topography, walls, decorative fences, or other features instead of landscaping, if, in the discretion of the Borough Council, they achieve the same degree of screening.

(e) Related equipment.

[1] Ground-mounted equipment associated with, or connected to, a tower based WCF shall be located underground, or screened from public view using stealth technologies, as described above.

[2] All utility buildings and related equipment accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district.

(f) Parking. For each tower based WCF greater than 40 feet in height, there shall be one off-street parking space, unless the WCF applicant provides evidence of sufficient adjacent parking areas that can be utilized if needed.

(g) Inspection. The Borough reserves the right to inspect any tower based WCF to ensure compliance with the provisions of this section and any other applicable provisions found within the Borough Code or state or federal law.

T. Tower-based WCF in the rights-of-way.

(1) The following regulations shall apply to tower-based wireless communications facilities located in the rights-of-way:

(a) Development regulations.

[1] Only tower-based WCFs 50 feet or shorter in height are permitted by conditional use within rights-of-way in designated areas within the Borough. Such tower based WCFs shall not be permitted in the Town Center District or Historic District of the Borough.

[2] Tower-based WCFs 30 feet or shorter in height shall be permitted by conditional use along the following corridors and roadways, regardless of the underlying zoning district (with the exception of the Town Center District):

(a) High Street;

(b) Market Street;

(c) Gay Street; and

(d) Price Street.

(b) In addition to the permitted location of WCFs 50 feet or shorter in height in designated rights-of-way, such facilities are also permitted by conditional use in the Transportation Corridor Overlay District.

(c) Time, place and manner. The Borough shall determine the time, place and manner of construction, maintenance, repair and/or removal of all tower-based WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Borough and the requirements of the Public Utility Code.

(d) Equipment location. Tower-based WCFs and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise

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create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Borough. In addition:

- [1] In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb.
- [2] Ground-mounted equipment that cannot be located underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Borough.
- [3] Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Borough.
- [4] Any graffiti on the tower or on any accessory equipment shall be removed at the sole expense of the owner within 10 business days.
- [5] Any underground vaults related to tower-based WCFs shall be reviewed and approved by the Borough.

(e) Design regulations.

- [1] The WCF applicant shall employ the most current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. Use of such technology shall be subject to the approval of the Borough.
- [2] The WCF applicant may be required to construct wireless support structures that implement the most current and technologically advanced urban designs in order to complement and enhance the Borough's streetscape.
- [3] Tower-based WCFs in the public ROW shall not exceed 50 feet in height.

(f) Relocation or removal of facilities. Within 60 days following written notice from the Borough, or such longer period as the Borough determines is reasonably necessary or such shorter period in the case of an emergency, an owner of tower-based WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Borough, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:

- [1] Construction, repair, maintenance or installation of any public improvement is deemed necessary in the right-of-way;
- [2] Operations of the Borough or other governmental entity are deemed necessary in the right-of-way;
- [3] Vacation of a street or road or the release of a utility easement is necessary; or
- [4] An emergency as determined by the Borough.

(g) Fees. The Borough may assess appropriate and reasonable application fees and rights-of-way annual access fees (if applicable) as may be determined by resolution.

U. Consistency with state and federal laws and regulations.

- [1] The provisions contained herein regulating Wireless Communications Facilities are intended to comply with federal and state laws and regulations in effect as of the date of adoption of this section. To the extent that any of the provisions in this section conflict with any federal or state statute or regulations, the federal or state statutes or regulations shall control unless the applicable federal or state statutes or regulations allow for more stringent provisions in local ordinances, in which case, any more stringent provisions of local ordinances shall remain in effect and shall control.

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The following regulations shall apply to the accessory uses, buildings and structures described below:

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- A. Tennis courts. A tennis court, fences and related lighting shall be located in either a rear or side yard and shall not be closer to a rear or side lot line than the distance of the required principal building setbacks of the district in which it is proposed. Tennis court fences shall be permitted but shall not exceed 12 feet in height.
- B. Swimming pools. Swimming pools permitted as an accessory use shall comply with the following conditions and requirements:
- (1) The swimming pool shall be used solely for the enjoyment of the occupants of the principal permitted use of the property on which it is located and their guests and shall not be operated commercially so as to charge a fee for the use of the swimming pool.
 - (2) Noncommercial swimming pools designed to contain more than 18 inches of water shall be erected in conformity with the following requirements:
 - (a) A permit shall be required to locate, construct or maintain a noncommercial swimming pool.
 - (b) Swimming pools and buildings related to the pool may be located in the rear or side yard but shall not be closer to any rear or side lot line than the distance of the required building setbacks of the district in which they are proposed. Any walks, paved areas or open decks related to the pool shall be no closer than five feet to a lot line.
 - (c) Fences shall be constructed with good-quality materials and shall be maintained in a good, safe condition.
 - (d) These regulations shall not apply to a swimming pool four feet or more above grade when equipped with removable steps or ladders, provided that said steps or ladders shall be removed when the pool is not in use.
 - (e) These regulations shall not apply to a natural pond or a man-made pond not intended for swimming.
 - (f) No permit shall be granted for the installation or construction of any in-ground, permanent pool or portable pool having a capacity of 20,000 gallons or more, unless the Borough Engineer has certified that the drainage of such pool is adequate and will not interfere with the water supply system, with existing sanitary facilities or with public streets.
 - (g) All regulations of the West Chester Borough Building Code shall also apply to swimming pools.
- C. Microwave antennas for satellite communication. All parabolic ground-based reflectors, together with the pedestal and any other attachments and parts, commonly referred to as "dish-shaped antennas," used or intended to receive radio or electromagnetic waves from an overhead satellite in an accessory structure shall conform to the following:
- (1) The diameter of a ground-based reflector shall not exceed 12 feet.
 - (2) The entire structure, including the microwave antenna, shall not exceed 15 feet in height.
 - (3) Any such structure which is placed in the rear or side yard shall be no closer than 10 feet to the property line, and no such structure shall be placed in the front yard.
 - (4) No more than one microwave antenna shall be permitted on any lot.
 - (5) No such structure shall be placed upon any roof, except in the Town Center District, wherein it shall be placed on the side or rear portion of the roof and not on the front portion of the roof.
 - (6) Any such structure shall be buffered from an adjoining property by a fence or buffer planting strip of at least three feet in width, in accordance with the landscaping and screening requirements of this Chapter.
 - (7) Before erecting any such structure, a building permit shall be obtained.
- D. Bed-and-breakfast facilities. The following regulations shall apply to such facilities in the NC-1 and NC-2 Districts:

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- (1) Such use shall be accessory to and permitted only for a single-family detached residential use that is in compliance with all of the applicable area and bulk regulations of the NC-1 District and the NC-2 District.
- (2) The operator of the facility shall reside at the facility as the occupant of the single-family detached dwelling unit.
- (3) The facility shall have a maximum of three guest rooms or suites.
- (4) At least one bathroom shall be provided for the first guest room, plus one bathroom for each two additional guest rooms. The living quarters for the residents shall have their own bathroom or bathrooms. Bathrooms shall be equipped with a toilet, washbasin and bath and/or shower.
- (5) The minimum size of the guest suite shall be no less than 120 square feet for the first two occupants, and 50 square feet shall be provided for each additional occupant. No more than five individuals shall occupy a guest suite.
- (6) Guests shall not remain in the same bed-and-breakfast inn for more than 14 consecutive days.
- (7) No external alterations, additions or changes to the exterior structure shall be permitted.
- (8) The use shall be conducted by members of the family of the occupant. Nonresident employees shall be limited to two in addition to the resident family members.
- (9) There shall be no separate kitchen or cooking facilities in any guest room. Food served to guests on the premises shall be limited to breakfast and afternoon tea only. All food service shall comply with federal, state and county regulations for the preparation, handling and serving of food.
- (10) A special exception shall not be granted unless the applicant has a valid County Health Department permit for the use issued within the last five years.
- (11) One off-street parking space per bedroom used shall be provided on the premises in addition to other off-street parking spaces required by this Chapter.
- (12) A permit issued for a bed-and-breakfast facility, after the Zoning Hearing Board approves the special exception, shall have a life of one year. The permit may be renewed annually without the necessity of a new special exception application, provided that the Zoning Officer has inspected the facility and found it to be in compliance with the provisions of this Chapter and any conditions imposed by the Zoning Hearing Board in the grant of the special exception.
- (13) A bed-and-breakfast facility shall be considered a temporary accessory use granted to the owner. The temporary zoning permit shall expire when the property is transferred, sold or leased or when the property is no longer the primary residence of the owner or if the Zoning Officer does not renew the permit.
- (14) Any amenities, such as a tennis court or swimming pool, shall be solely for the use of the resident owner and the guests.
- (15) The resident owner(s) shall maintain a guest register, which shall list the names and addresses of all guests.
- (16) No bed-and-breakfast facility shall be within 300 feet of another lot used for a bed-and-breakfast facility.

E. Home occupations.

- (1) Legislative intent. The intent of these regulations governing home occupations is as follows:
 - (a) To protect the market values of properties within the Borough's residential zoning districts by preventing excessive noise, traffic, nuisance, fire hazard and other possible adverse effects from commercial-type activities that are being conducted in residential zoning districts.
 - (b) To recognize that certain limited home occupational uses can be useful to the community as well as compatible with a residential zoning district if the regulations and standards of this Section 112-904.E are met.

- (c) To protect the integrity of the Borough's residential zoning districts from activities which detract from the residential character of a neighborhood and infringe upon the rights of residential property owners.
- (d) To permit home occupations as an accessory use to a dwelling or a dwelling unit, provided that such occupations are compatible with neighboring residential uses, do not detract from the residential character of a neighborhood and comply with the specific standards set forth in this § 112-904.E.

(2) Regulations, standards and restrictions on home occupations.

- (a) Home occupations shall be permitted in a dwelling or a dwelling unit, provided that all regulations, standards and requirements of this § 112-904.E are met and complied with and provided that the person or persons seeking a home occupation use first obtain(s) a permit from the Director of Building, Housing and Codes Enforcement in accordance with § 112-904.E(3).
- (b) A home occupation shall be permitted, provided that any person engaged in the home occupation is a resident of the dwelling or dwelling unit in which the home occupation use exists. The person or persons engaged in the home occupation may employ additional employees, provided that such employees do not work in the dwelling or the dwelling unit or on the premises upon which the home occupation is conducted, do not report for work at the dwelling or the dwelling unit or the premises upon which the home occupation is conducted and do not park their vehicles at the premises upon which the home occupation is conducted.
- (c) A home occupation shall be incidental or clearly secondary to the use of the property as a residence.
- (d) More than one home occupation shall be permitted in a dwelling or a dwelling unit, provided that the multiple home occupations as a whole comply with all standards specified in this § 112-904.E, and provided further that the addition of a multiple home occupation does not adversely affect the surrounding residential properties.
- (e) No home occupation shall be commenced until all permits required by the regulating authorities for such home occupation (including, without limitation, the permit required by this § 112-904.E) have been obtained by the person or persons intending to be engaged in such home occupation.
- (f) The person or persons intending to be engaged in such home occupation must comply with all local, state and federal laws, regulations, statutes and ordinances which are pertinent to the home occupation.
- (g) The home occupation shall involve no customer, client or patient traffic (whether vehicular or pedestrian), pickup, delivery or removal functions to or from the dwelling or dwelling unit in excess of those normally associated with residential use.
- (h) The home occupation shall be conducted only within the dwelling unit and may not occupy more than 25% of the total habitable floor area of the dwelling or the dwelling unit.
- (i) The home occupation may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical interference, including interference with radio or television reception, which is detectable in the neighborhood.
- (j) There shall be no display or sale of retail goods and no stockpiling of inventory of a substantial nature.
- (k) There shall be no outside appearance of a business use, including but not limited to parking or lighting.
- (l) The home occupation may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with the residential use in the neighborhood.

(3) Administrative procedure/permits.

- (a) Prior to undertaking the conduct of a home occupation, the resident practitioner shall submit an application for a permit and the requisite fee as determined by resolution of Borough Council to

the Director of Building, Housing and Codes Enforcement. The application shall contain the following information:

- [1] The name of the property owner and property address where the home occupation shall be conducted.
- [2] The name of the resident practitioner of the home occupation and trade name, if any, under which the home occupation shall be operated.
- [3] The zoning district of the property from which the home occupation shall be conducted.
- [4] The floor plan of the dwelling showing the dimensions of all floors.
- [5] A sketch plan and description of the area of the dwelling dedicated to the home occupation use, including the total square footage of the dwelling area dedicated to the home occupation.
- [6] A description of the home occupation to be conducted from the premises, demonstrating its compliance with the standards of this § 112-904.E

(b) Upon receipt of the application, the Director of Building, Housing and Codes Enforcement shall review its contents and issue a permit to the resident practitioner if authorized. Such permit must be renewed annually and is not transferable to a different person or a different property address. A home occupation existing at the date of enactment of these standards and operating in compliance with a previously issued permit or special exception shall be entitled to continue to operate under those terms.

F. Livestock.

- (1) The total number of livestock animals permitted on any lot shall be computed according to the total number of acres constituting the lot and the number of acres required per animal.
- (2) The total number of acres required to keep livestock must be equal to the total required acreage for the proposed combination of livestock as referenced below. Animals not referenced in the following table shall be judged according to the requirements for animals of a similar type:

<u>Mature Livestock</u>	<u>Acres Required Per Animal</u>
Horses and cows	1.0
Sheep and goats	0.5

- (3) No person owning or having in his custody livestock or poultry shall maintain such so as to create any health or safety hazard or obnoxious or foul odor therefrom, except to the minimum practical extent inherent in the nature of said livestock.
 - (a) No manure storage shall be established closer than 100 feet to any property line.
 - (b) No manure storage shall be established closer than 100 feet to any wells, springs, sinkholes, lakes, ponds, and streams.
- (4) No person owning or having in his custody livestock or poultry shall permit the same to go unattended to the injury or annoyance of others, nor shall such livestock or poultry be permitted at large upon the streets or other public ways of the Borough. Such action is considered to be a danger to the public health and safety.
- (5) Shelter and fenced area requirements.
 - (a) In addition to the acreage requirements for any agricultural use determined by using the above procedure, every landowner shall also provide a shelter area of a size sufficient for good sanitation practices and adequate and sanitary drainage therefor according to the following minimum requirements:
 - [1] All shelters shall have a roof and at least three enclosed sides.
 - [2] A shelter area of 120 square feet shall be provided for each mature horse.

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§ 112-904 Landscaping and screening requirements.

[3] A shelter area of 80 square feet shall be provided for each pony, mule, donkey, cow, or other similar livestock animal.

[4] A shelter area of 20 square feet shall be provided for each sheep or other livestock animal of similar size.

(b) Every landowner shall provide a fenced area around any pasture and shelter and shall make provisions for good sanitation practices and sanitary drainage.

G. Height and setback regulations for accessory use structures.

(1) All accessory buildings shall be at least 10 feet from any principal building.

(2) The maximum height of accessory use structures which are detached from a principal building shall be 15 feet.

H. Family day-care homes. The following regulations shall apply to such facilities:

(1) All floors, walls, ceilings, and other surfaces, including the outdoor play area, must be kept clean and in good repair.

(2) All medicines, drugs, cleaning materials, detergents, aerosol cans and other poisonous and toxic materials must be stored in their original, labeled containers and used in such a way that does not contaminate play surfaces, food, food preparation areas or constitute a hazard to the children. Such materials must be kept in a place inaccessible to children and separate from child-care areas, food and food preparation areas.

(3) Hot-water pipes, fixed space heaters and other sources of heat exceeding 110° F. (43° C.) which are accessible to children, must be equipped with protective guards or insulated to prevent children from coming into direct contact with the heat source. Fireplaces must be securely screened or equipped with protective guards while in use.

(4) The family day-care home must have one indoor flushing toilet and one sink with water available at the sink.

(5) All windows and doors used for ventilation must be screened.

(6) The family day-care home must have an operable telephone.

(7) Stairways, hallways and exits from rooms and from the family day-care home must be unobstructed. Easily opened protective gates and other devices are permitted.

(8) Protective receptacle covers must be placed in all electrical outlets accessible to children under five years of age.

(9) An operable one-hundred-twenty-volt, single-circuit smoke detector must be placed on each level of the home used by the children and on each level of exit from the home.

(10) A portable fire extinguisher suitable for Class B fires, as defined in the Borough Fire Prevention Code, Chapter 57 of the Code, must be provided in the kitchen and other cooking areas. The fire extinguisher must be tested yearly or have a gauge to assure adequate pressure level.

§ 112-904 Landscaping and screening requirements.

All required landscaping areas shall be installed and maintained in accordance with a landscaping plan that is approved by the Borough Council. The landscaping plan shall conform to the requirements in the Borough's Subdivision and Land Development Ordinance.

§ 112-905 Impact assessment report.

A. An impact assessment report shall be submitted for the following:

(1) Any proposed development governed by the conditional use provisions of this Chapter.

(2) Any development in the NC-3, TC, CS, ID or IS Districts which involves a project on one or more acres of land or involves five or more dwelling units, leaseholds or buildings.

(3) Conversions of existing buildings to professional office or multifamily use in the NC-2 District.

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§ 112-905 Impact assessment report.

- (4) Any petition for a zoning change filed pursuant to this Chapter.
 - (5) Any application for a building in the Town Center HO-60 District where the height of the building is increased above 45 feet to a maximum height of 60 feet.
 - (6) Any application for a building in the Commercial Service HO-75 District where the height of the building is increased above 35 feet to a maximum height of 75 feet.
- B. The impact assessment report shall be prepared by a design professional and shall address the following;
- (1) A site development plan, including notes pertaining to the number and type of lots or units, the square footage and/or acreage of the lot(s) and a depiction of the features which are proposed, such as streets, driveways, parking areas, buildings and other structures and all impervious surfaces. The Plans shall be drawn at a scale of not more than 50 feet to the inch and may be submitted as an attachment to the report.
 - (2) Floor plans and elevations depicting the proposed size, square footage and height of buildings and/or other structures.
 - (3) A statement indicating the existing and proposed ownership of the lot(s) and, where applicable, the type of ownership, operation and maintenance proposed for areas which may be devoted to open space or otherwise not under the control of a single lot owner.
 - (4) A statement indicating the proposed staging or phasing of the project and a map depicting the boundaries of each stage or phase of the project. Such boundaries shall be superimposed on a version of the site development plan.
 - (5) An identification of the land use conditions and characteristics associated with the lot(s), such as current and past use, land cover and encumbrances, and the relationship of these to adjacent lot(s). The identification of land use conditions and characteristics shall include a narrative description of the above. In addition, the following maps, drawn at a scale of not more than 50 feet to the inch, shall be incorporated into the report or submitted as attachments to it:
 - (a) A map depicting the landcover characteristics of the tract. Such map shall define existing features, including paved or other impervious surfaces, wooded areas, lawns and landscaped areas and the like.
 - (b) A map depicting any encumbrances to the tract. Such map shall define easements and other areas where certain use privileges exist.
 - (c) A map depicting the land uses adjacent to the proposed tract. Such map may be at the same scale as the location map.
 - (6) An identification of the historic resources associated with the lot(s), such as areas, structures and/or routes and trails which are significant. Areas, structures and/or routes and trails included on the National Register of Historic Places, the Pennsylvania Inventory of Historic Places and the Historic American Building Survey and any which may be identified in the Comprehensive Plan shall be identified. The identification of historic resources shall include a narrative description of the above. In addition, a map, drawn at a scale of not more than 50 feet to the inch, depicting historic resources shall be incorporated into the report or submitted as an attachment to the report.
 - (7) An identification of the community facility needs associated with the users and/or residents of the proposed project. The community facility needs assessment shall indicate in narrative form the type of services which will be in demand. Where applicable, community facilities (such as schools, park and recreation areas, libraries, hospitals and other health-care facilities, fire protection, police protection and ambulance and rescue service) shall be discussed in terms of the ability of existing facilities and services to accommodate the demands of future users and/or residents of the lot(s) and the need for additional or expanded community facilities.
 - (8) An identification of the utility needs associated with the users and/or residents of the proposed project. The utility needs assessment shall indicate in narrative form the type of installations which will be in demand. Utilities, such as those used for water supply, sewage disposal, storm drainage, communications and electrical transmission, shall be discussed in terms of the ability of existing

utility installations to accommodate the demands of the future users and/or residents of the lot(s), the need for additional or expanded utility installations and the ability to achieve an adequate system for storm drainage and stormwater management.

- (9) An identification of the demographic characteristics related to the proposed project. The characteristics, which shall be presented in narrative form, shall include a profile of the future users and/or residents of the lot(s), including information such as the number of people or laborers expected. Such information shall be related to initial and completed project conditions.
 - (10) An identification of the economic and fiscal characteristics related to the proposed project. The characteristics, which shall be presented in narrative form, shall include a profile of the Borough, county and school district revenues which the proposal may generate and the Borough, county and school district costs it may create. Such information shall be related to initial and completed project conditions.
 - (11) An identification of characteristics and conditions associated with existing, construction-related and future air and water quality and noise levels, vibration, toxic materials, electrical interference, odor, glare and heat, fire and explosion, smoke, dust, fumes, vapors and gases, radioactive materials and/or other noxious conditions.
 - (12) An identification of compliance with the environmental controls as required by this Chapter.
 - (13) The implications of the proposed project in terms of the type of beneficial or adverse effects which may result from it and the duration of these effects in terms of their short-term or long-term nature. To indicate such effects, there shall be a discussion of the implications of the proposed project to the resources, conditions and characteristics described in Subsections B(1) to B(13). In addition to a narrative presentation of implications, the applicant shall display where the project adversely affects the lot(s), resources, conditions or characteristics through the use of a map, drawn at a scale of not more than 50 feet to the inch, wherein the areas adversely affected from proposed development are highlighted. Such map may be either incorporated into the report or submitted as an attachment to the report. Further, the applicant must demonstrate and specify in the report how and where the findings in the report and its attachments are reflected in the subdivision, land development or other plan.
 - (14) Alternatives to the proposed project. To indicate such alternatives, the applicant shall submit exhibits or diagrams which will depict the type of alternatives described in narrative form. The applicant shall comment on how alternatives such as revised location, redesign, layout or siting of buildings, streets and other structures, reduction in the size of proposed structures or number of structures and the like would preclude, reduce or lessen potential adverse impact or produce beneficial effects.
 - (15) Measures to mitigate adverse effects. To indicate such measures, the applicant shall submit exhibits or diagrams which will depict the type of remedial, protective and mitigative measures described in narrative form. These measures shall include those required through existing procedures and standards and those unique to a specific project, as follows:
 - (a) Mitigation measures which pertain to existing procedures and standards are those related to current requirements of the state, county and/or Borough for remedial or protective action such as sedimentation and erosion control, stormwater runoff control, water quality control, air quality control and the like.
 - (b) Mitigation measures related to adverse impacts of a specific project are those related to efforts such as regrading, revegetation, screening and the creation of landscaped areas, fencing, emission control, traffic control, noise control, relocation of people and/or businesses, land acquisition and the like.
- C. In making its evaluation, the Borough Council and/or the Planning Commission may request any additional information it deems necessary to adequately assess potential impacts.

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§ 112-906 Standards for granting a special exception for a student home.

§ 112-906 Standards for granting a special exception for a student home.

The following criteria must be met before the Zoning Hearing Board may authorize a special exception for a student home in the NC-1 or NC-2 Zoning District or in a dwelling unit which is not a multifamily dwelling unit in the NC-3 Zoning District:

- A. The single-family dwelling has a floor area of at least 1,000 square feet exclusive of basements, garages and accessory buildings.
- B. A student home shall not be located within 500 feet of a group home, group quarters institution, church, educational use, housing for older persons or home for handicapped individuals. The distance between the two uses shall be measured by the shortest distance between the lot on which the proposed student home will be located and the lot or lots which contain the existing uses.
- C. A student home shall not be located closer than the distance equal to 20 times the required street frontage for the Neighborhood Conservation District Block Class where the student home is proposed to be located from another student home. The distance between the two student homes shall be measured by the shortest distance between the two lots where the student homes are located.
- D. A student home shall meet the area and bulk requirements for a single-family dwelling in the applicable zoning district where such use is proposed.
- E. The owner of the student home, or the agent or manager of the student home, shall annually register the student home with the Borough Department of Building and Housing on a form provided by the Borough. If the owner of the student home fails to maintain a current registration of his or her student home, the Zoning Officer shall enforce such condition.
- F. If the single-family dwelling where the student home is proposed cannot meet the parking requirements set forth in Article VI, the Zoning Hearing Board may still authorize the special exception with the condition that the number of occupants which may reside at the student home shall be limited to the number of off-street parking spaces provided at the single-family dwelling.

§ 112-907 Airport hazard area.

- A. Purpose. This section is enacted pursuant to the authority in Act 1984-164, known as "Pennsylvania's Airport Hazard Zoning Law," in order to avoid airport hazards which would reduce the size of the area available for landing, take off and maneuvering of aircraft and to restrict the height of structures and objects of natural growth on certain properties which are identified as being in the transitional surface area on the Brandywine Airport Surface Area Map which is attached hereto and shall be found in the Appendix to this section.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

AIRPORT

Brandywine Airport.

AIRPORT HAZARD

Any structure or object, natural or manmade, or use of land which obstructs the airspace required for flight or aircraft and landing or taking off at an airport or is otherwise hazardous as defined in 14 C.F.R. 77 and 74 Pa. C.S.A. § 5102.

AIRPORT HAZARD AREA

Any area of land or water upon which an airport hazard might be established if not prevented as provided for in this section and Act 1984-164.

TRANSITIONAL SURFACE ZONE

An imaginary surface that extends outward and upward from the edge of the primary surface to the horizontal surface at a slope of seven feet horizontally to one foot vertically (7:1). The transitional surface zone is depicted on the Brandywine Airport Surface Map which is attached hereto and shall be found in the Appendix to this section.

- C. Permit applications. Any person who plans to erect a new structure, to add to an existing structure or to erect or maintain any object in the transitional surface zone which would be 200 feet or greater above ground level shall first notify the Pennsylvania Department of Transportation's Bureau of

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§ 112-908 Transportation impact studies.

Aviation (BOA) by submitting PennDOT Form AV-57 to obtain an obstruction review of the proposal at least 30 days prior to commencement thereof. The Department's BOA response must be included with a building permit application. If the Department's BOA returns a determination of no penetration of air space, the building permit shall be considered to be in compliance with this section of the Chapter and may be issued. If the Department's BOA returns a determination of a penetration of air space, the Borough shall deny the building permit until the necessary approval is granted by the BOA.

- D. Notwithstanding any other provisions of this section, no use shall be made of land or water within the transitional surface zone in such a manner as to create electrical interference with navigational signals or radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise endanger or interfere with the landing, take off or maneuvering of aircraft utilizing the airport.

§ 112-908 Transportation impact studies.

- A. A transportation impact study prepared in accordance with the standards in § 97-40.2 of the Code shall be submitted for the following:
- (1) Any change in use of a building or structure in all zoning districts, except the Institutional District, which involves the use of 1,500 or more square feet of a building.
 - (2) Any change in use of a building or structure in the Institutional District which involves the use of 5,000 or more square feet of a building.
 - (3) Any development which involves the creation of five or more dwelling units.
- B. Implementation of recommendations. The Borough may have an independent review done of the applicant's transportation impact study, at the applicant's expense, to make a final determination if any traffic improvements must be implemented to mitigate negative impacts from the proposed change in use or development. The Planning Commission and Borough Council shall review the transportation impact study to analyze its adequacy in solving any traffic problems that will occur due to the proposed change in use or development. The applicant shall be required to implement the on-site transportation improvements necessary to mitigate the "future with" deficient traffic conditions as noted in the transportation impact study. Borough Council may determine that certain other improvements on and/or adjacent to the site and within the study area are necessary requirements for approval of the change in use or development and may attach these as conditions to the approval if permitted by law. If the Borough Council determines that such additional improvements are necessary, the applicant shall have the opportunity to submit alternative improvement designs to obtain plan approval.

§ 112-909 Nursing homes in conjunction with personal care homes.

Nursing Home facilities in conjunction with personal care homes shall be designed according to a unified architectural scheme and site plan to include building facades, street furniture, signs, lighting standards, parking and driveways in conformity with the following:

- A. Any uninterrupted building facade that exceeds 200 feet in length shall be varied by any of the following methods:
- (1) A wall may be offset to a depth of at least four feet at intervals of 100 feet or less.
 - (2) The direction of the wall may change by at least 90° but no more than 135° at intervals of 200 feet or less.
- B. All roof lines shall be designed to provide visual interest through the use of variations in pitch or height or architectural detailing and shall reflect the predominant style of the neighborhood, if such can be determined.
- C. All building facades that front externally shall be designed to provide some visual interest through architectural detailing, varied building materials, color or other means and shall reflect the predominant style of the neighborhood, if such can be determined.
- D. Exterior walls of the structure shall be finished in a manner compatible with the front facade of the building.

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§ 112-910 Special design standards for new streets and alleys.

- E. Parking lot landscaping, boundary buffers and site element screens shall be employed in accordance with the requirements of all ordinances and regulations of the Borough of West Chester. Wherever possible, off-street parking shall be located so as not to be visible as viewed from an elevation three feet above cartway surfaces of abutting streets. The burden shall be upon the applicant to demonstrate any lack of feasibility of such placement.
- F. The sign standards of the Borough of West Chester shall apply, except that each entrance shall be signed with only one sign, and such sign shall not exceed four square feet.
- G. The parking standards of the Borough of West Chester shall apply, including provisions for reserved parking.
- H. The applicant shall submit preliminary subdivision and land development plans for the proposed skilled nursing facility in conjunction with a personal care home when filing the conditional use application. The preliminary plans shall be prepared in accordance with Chapter 97, Subdivision and Land Development, of the West Chester Borough Code.]

§ 112-910 Special design standards for new streets and alleys.

- A. The design and development of all tracts of land that are five acres and larger and that involve the construction of new streets and alleys shall provide for the construction of such streets and alleys as an extension of and with a connection to the existing grid of streets and alleys. Such extension and connection shall form a continuous network of streets and alleys without cul-de-sac.

§ 112-911 Open space provisions.

- A. These provisions are designed to:
 - (1) Provide an effective means for identifying, organizing and maintaining open space.
 - (2) Provide for active and passive recreation areas to complement existing open space and recreational uses and/or to meet the demand for such areas by future residents.
 - (3) Preserve natural environmental resources by:
 - (a) Encouraging the preservation of floodplains and thus supplementing the floodplain regulations.
 - (b) Limiting the development of steep slopes.
 - (c) Protecting the quality of existing watercourses, ponds and other water bodies.
 - (d) Avoiding the disruption of woodland and/or individual trees.
 - (e) Maintaining and/or enhancing the character of the site relative to its aesthetic and recreational qualities and characteristics.
 - (4) Preserve historic and cultural resources by:
 - (a) Promoting the preservation of significant historical and cultural sites and structures as open space.
 - (b) Protecting the character of historic and cultural sites and structures by encouraging the designation of surrounding land as open space.
- B. Permitted principal uses shall be as follows:
 - (1) Recreational uses, such as parks and playfields, and activities and structures related thereto, such as pavilions, tennis courts, basketball courts and playground apparatus.
 - (2) Conservation uses to preserve woodland areas, ponds, streams and related landscape features.
- C. Permitted accessory uses shall be as follows:
 - (1) Uses customarily incidental to the principal uses permitted in this § 112-911.B, unless specified otherwise in § 112-911.D.
 - (2) Signs which are customarily incidental to the principal uses permitted in § 112-911.B and in accordance with Article VII.

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§ 112-911 Open space provisions.

D. Conditional uses shall be as follows:

- (1) Parking which is customarily incidental to the principal uses.
- (2) Utility easements and rights-of-way.
- (3) Stormwater management facilities and erosion and sedimentation control facilities, provided that such facilities do not exceed 5% of the required open space.

E. Locational criteria. The following resources shall be considered to be most appropriate for designation as open space:

- (1) Areas for various active recreational opportunities and pursuits, such as level open areas which could be adopted for playfields and parks.
- (2) Areas regulated by the Floodplain Regulations of this Chapter.
- (3) Other natural areas comprising woodland, surface water resources and steep slopes.
- (4) Historic sites and buildings, such as those on or candidates for the National Register of Historic Places, the Pennsylvania Inventory of Historic Places or the Historic American Building Survey, or those that are identified as being historically or culturally significant in the Comprehensive Plan or other recognized study.
- (5) Lands to be used and maintained as buffers for screening purposes, noise control and other safeguards.

F. Calculating open space areas.

- (1) When computing open space areas for purposes of determining compliance with this article, the following shall not be counted as open space:
 - (a) More than 5% of the areas to be used for permanent erosion and sedimentation control and for stormwater management structures and drainage easements.
 - (b) Parking areas or parking lots which are paved.
 - (c) Lot areas for existing or proposed dwelling units.
 - (d) Streets and bridges.
- (2) No more than 1/2 of the required open space shall consist of a single type of physical or biological resource. For example, no more than 50% of the open space can be comprised of floodplain conservation areas, or no more than 50% of the open space can be comprised of steep slopes, woodland or wetlands.
- (3) No more than one-fourth (1/4) of the required open space shall consist of those historic sites or buildings which are used or made available to the residents of the development for recreational or related use.

G. Performance standards shall be as follows:

- (1) Minimum contiguous area: 5,000 square feet.
- (2) Minimum parcel width: 20 feet.
- (3) Minimum setback for recreational buildings and structures from property lines: 20 feet.
- (4) Maximum impervious coverage of an open space area: 15%.

H. Ownership and maintenance.

- (1) There shall be provisions which ensure that the open space shall continue as such and be properly maintained. Any of the following methods and no other may be used, either individually or together, to preserve, own and maintain open space:
 - (a) Dedication to the Borough, if accepted by the Borough.
 - (b) Homeowners' association.
 - (c) Condominium association.

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§ 112-911 Open space provisions.

- (d) Donation or dedication of conservation easements.
 - (e) Transfer of fee-simple title or development rights and easements to a private conservation organization.
- (2) The following specific requirements are associated with each of the various methods:
- (a) Fee-simple dedication. The Borough may, but shall not be required to, accept an offer of a deed of dedication, provided that:
 - [1] Such land is accessible to the residents of the Borough.
 - [2] There is no cost of acquisition.
 - [3] The Borough agrees to and has access to maintain such lands.
 - (b) Homeowners' association: the establishment of a nonprofit homeowners' association established pursuant to § 112-911.H(2)(f).
 - (c) Condominium association. The open space may be controlled through the use of condominium agreements. Such agreements shall be in conformance with the Unit Property Act of 1963. All open space land shall be held as common element.
 - (d) Dedication of easements. The Borough or other organization acceptable to the Borough may, but shall not be required to, accept conservation easements for public use of any portion of open space land, the title of which is to remain in the ownership of the condominium or homeowners' association, provided that:
 - [1] Such land is accessible to the residents of the Borough.
 - [2] There is no cost of acquisition.
 - [3] A satisfactory maintenance agreement is reached between the developer and the Borough.
- I. Transfer to a private conservation organization.
- (1) With permission of the Borough, the landowner or developer may transfer either the fee-simple title with appropriate deed restrictions running in favor of the Borough or the development rights or easements to a private, nonprofit organization, one of whose purposes is to conserve open space land, provided that:
- (a) The organization is acceptable to the Borough and is a bona fide conservation organization with perpetual existence.
 - (b) The organization is chartered under the laws of the state to administer deed restrictions limiting eventual disposition of such property for the purposes stated in its Articles of Incorporation.
 - (c) The conveyance contains appropriate provisions for reverter or retransfer in the event that the organization becomes unwilling or unable to continue to function.
 - (d) A maintenance agreement acceptable to the Borough is entered into by the landowner or developer and the organization.
 - (e) In the event of any proposed transfer of open space within the methods permitted in this section or of the assumption of maintenance of open space land by the Borough as hereinafter provided, notice of such action shall be given to all affected property owners.
- (2) If a homeowners' association (the organization) is formed, it shall be governed according to the following:
- (a) The landowner or developer shall provide the Borough with a description of the organization, including its bylaws and methods for maintaining open space, which shall be acceptable to the Borough.
 - (b) The organization shall be organized by the landowner or developer and operated with financial subsidy by the landowner or developer, if necessary, before the sale of any lots within the development.

- (c) Membership in the organization shall be mandatory for all purchasers of dwelling units therein and their successors.
- (d) The members of the organization shall share equitably the costs of maintaining and developing open space in accordance with procedures established by them. If a member fails to pay his pro rata share, then a lien against an individual property may be made in accordance with the provisions for the same in the bylaws of the organization.
- (e) The organization shall be responsible for maintenance of, and insurance and taxes on, open space.
- (f) The organization shall have or hire adequate staff to administer common facilities and maintain the open space to the satisfaction of the Borough Council.
- (g) In the event that the organization established to own and maintain open space or any successor organization shall at any time after designation fail to maintain the open space in reasonable order and condition in accordance with any and all approved plans, the Borough may serve written notice upon such organization or upon the residents and owners of lots within the development from which the open space was derived, setting forth the manner in which the organization has failed to maintain the open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be cured within 30 days thereof and shall state the date and place of a hearing thereon, which shall be held within 14 days of the notice.
 - [1] At such hearing, the Borough may modify the terms of the original notice as to the deficiencies and may give an extension of the time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within said 30 days or any extension thereof, the Borough, in order to preserve the taxable values of the properties and to prevent the open space from becoming a public nuisance, may enter upon said open space and maintain the same for a period of one year, at the expense of the organization. The cost of any such maintenance shall be borne by the owners of lots within the development from which the open space was derived. Said entry and maintenance shall not vest in the public any rights to use the open space except when the same is voluntarily dedicated to the public by the residents and owners.
 - [2] Before the expiration of said year, the Borough shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the open space, call a public hearing upon notice to such organization or to the residents and owners of the project to show cause why such maintenance by the Borough shall not, at the election of the Borough, continue for a succeeding year. If the Borough shall determine that such organization is not ready and able to maintain said open space in a reasonable condition, the Borough may, in its discretion, continue to maintain said open space during the next succeeding year, subject to a similar hearing and determination in each year thereafter. The decision of the Borough in any such case shall constitute a full administrative decision, subject to judicial review at the expense of the homeowners' association.
 - [3] The cost of such maintenance by the Borough shall be assessed ratably against the properties within the project that have a right of enjoyment of the open space and shall become a municipal lien on said properties. The Borough, at the time of entering upon said open space for the purpose of maintenance, shall file a notice of such lien, in the office of the Prothonotary of Chester County, upon the properties affected.

§ 112-912 Regulations for Unified Mixed-Use Development

Where meeting specific criteria to support Affordable Housing in combination with community facilities, a Unified Mixed-Use Development shall be a permitted use in the CS District Commercial Service District subject to the following provisions:

- A. Purposes. A Unified Mixed-Use Development provides an alternative set of provisions for development of properties in the CS Commercial Service District. This by-right development alternative is applicable where Affordable Housing is provided in combination with community facilities and/or neighborhood

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amenities either on the same lot, or on multiple lots approved together as part of a Unified Mixed-Use Development in the CS District, and further subject to all use and development standards established by this Section 112-912.

- B. Controlling Regulations. Where a conflict exists between a provision of this Section 112-914 and another provision of this Chapter or the Borough Subdivision and Land Development Ordinance, or other development ordinance or regulation, the provisions of this Section 112-914 shall prevail.
- C. Size and Location. A Unified Mixed-Use Development shall be limited to tracts in excess of 0.5 gross acres.
- D. There shall be no minimum lot area requirement per use or per dwelling unit.
- E. Uses. A Unified Mixed-Use Development shall include Use Component 1, as set forth below, in all cases. In addition, a Unified Mixed- Use Development shall include at least one of Use Components 2 and 3 as set forth below. Buildings may include a combination of use components, but at least 50% of the gross floor area of all buildings in the Unified Mixed-Use Development must be Affordable Housing.
 - (1) Use Component 1: Affordable Housing Residential Uses. Any combination of single-family attached (townhouse), multifamily / apartment uses which meet the definition of Affordable Housing. Such residential uses shall not require a separate lot or lots for any such use on the Unified Mixed-Use Development.
 - (2) Use Component 2: Community Facilities. Facilities which provide for various community, educational, safety, leisure and like needs and the locations at which these services are provided. For purposes of this Section 112-912, typical community facilities or components thereof include, but are not limited to, arts and education centers; recreation centers; community centers; sports, recreational or athletic facilities; playgrounds; parks; libraries; museums; youth or community theaters; culinary institutes or programs; or any combination thereof.
 - (3) Use Component 3: Neighborhood Amenities. Neighborhood amenities provide neighborhood support in meeting economic and social needs of the community and enhance walkability and local proximity to such amenities. For purposes of this Section 112-912, neighborhood amenities include, but are not limited to, grocery or food services, including co-ops or food banks; cafes or restaurants; catering and event venues; child, youth or adult day care; after-school programs; health clinics, medical clinics, or health care services; workforce development services; community group meeting space; educational uses; alternative education facilities; and personal service shops.
 - (4) Height, Area and Bulk Standards. Notwithstanding any height, area or bulk standards otherwise set forth as to the CS Commercial Service District or elsewhere in the Borough Ordinances, the following shall specifically apply to a Unified Mixed-Use Development:

Minimum lot area	0.5 gross acre
Minimum lot width at lot frontage on Market Street, Gay Street, Strasburg Road, Downingtown Pike, or Hannum Avenue	50 feet
Minimum front yard setback	5 feet
Minimum rear yard setback	10 feet
Minimum side yard setback	10 feet
Maximum building coverage	65%
Maximum impervious lot coverage	85%
Building height	45 feet by right. (Provided, however, that a building may exceed 45 feet in height if otherwise in the HO-75 Overlay District and when in compliance with the standards in § 112-402 as to height.

(5) Parking.

(a) Parking for Community Facilities and Neighborhood Amenities. Notwithstanding any parking or loading requirements under Article VI of the Code, a legally existing or lawfully nonconforming structure containing Use Component 2 (Community Facilities) or Use Component 3 (Neighborhood Amenities) may utilize the existing number of parking spaces already on the site, and such existing number of parking spaces shall be considered compliant in number and space size as it relates to the Use Components 2 and 3.

(b) Residential Parking. As to parking for residential uses, given the proximity and support for walkability to services and amenities, and nearby public transportation options, and the more limited needs for traditional residential automobile parking, the applicant shall utilize the following parking standards:

[1] Single-family attached (townhouses): minimum 2 spaces per dwelling unit; provided that where any spaces are approved as garage spaces, such garage spaces shall be continuously maintained as being open and available for vehicular parking and shall be so stated in any leases.

[2] Multifamily or apartment uses: minimum 0.8 average spaces per apartment unit, provided that the Unified Mixed-Use Development has street frontage along a public transportation route stop or is within $\frac{1}{4}$ mile of a public transportation route stop as measured from a point in the site. If such public transportation access is not available, the parking minimum shall be 1.2 average spaces per apartment unit.

(6) Internal Zero Lot Lines; Responsibilities for Common Elements and Infrastructure. Any individual units, buildings, or parcels of land within an approved Unified Mixed-Use Development may be leased, purchased, sold, mortgaged, and developed as individual zero lot line units, or as individual condominium units, or as other form of ownership units, provided, however, that the development plan for the overall Unified Mixed-Use Development shall remain compliant with the standards of this Section 112-912. Any and all association, condominium, or other agreements relating to development shall be subject to review and approval of the Borough Solicitor and shall properly ensure and provide responsibility for common elements and infrastructure by the applicant, developer, user or tenant.

§ 112-913 Student Home, Existing

A. Purpose. The demolition and reconstruction of student homes in multifamily dwelling units shall be permitted by conditional use. The Borough recognizes that certain existing buildings containing multifamily dwelling units used for student homes in the Borough have become functionally obsolete. The purpose of this use is to allow existing student homes in a building or buildings containing 30 or more dwelling units to be demolished and reconstructed to provide student homes which are built in accordance with the latest edition of ICC 700, or an equivalent code which is approved by the Zoning Officer, and which are code-compliant facilities that are security-enhanced with interior and exterior security cameras and on-site management. The reconstruction of student homes will allow for building design featuring architectural amenities that are more consistent with the residential character of the neighborhood. Said student homes will service the existing demand for student homes and will thereby decrease pressure to provide student homes in other parts of the Borough.

B. The following area and bulk regulations shall apply:

(1) Minimum tract size: 40,000 square feet.

(2) Minimum lot width at the building line: 150 feet.

(3) Minimum lot width at the street line: 100 feet.

(4) Minimum front yard: 15 feet.

(5) Minimum rear yard: 20 feet.

(6) Minimum side yard, individual: 10 feet.

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- (7) Minimum side yard, aggregate: 25 feet.
 - (8) Maximum building coverage: 45%.
 - (9) Maximum impervious coverage: 70%.
 - (10) Minimum green area: 15%.
- C. Maximum height of buildings and structures erected, enlarged or used shall be 45 feet in the case of a flat roof and 50 feet in the case of a pitched roof
- D. The following regulations shall apply:
- (1) No building, porch or portico shall be less than 25 feet from the perimeter property line, except for directional signs, lighting standards, benches, terraces and patios.
 - (2) Common parking areas shall be screened from any residential use located on an adjacent lot to prevent direct glare from headlights and other lights. Common parking areas assigned to particular dwelling units shall not be more than 200 feet from the principal building. Screening may include fencing, shrubbery or a combination of both.
 - (3) All trash and recycling shall be collected and stored inside a multifamily building, except that temporary trash and recycling collection and storage may occur outside of a multifamily building for a period not to exceed 15 days during the peak move-in and move-out period(s) of the calendar year.
 - (4) Multifamily buildings containing dwelling units shall be designed and constructed to avoid a solid, unarticulated building mass over that portion of the facade(s) of the building containing said dwelling units. The mass, scale and visual impact shall be reduced by staggering building walls. The staggered building walls shall incorporate setbacks or bump-outs of at least three feet in depth and occur along the facade length at least every 75 feet; other architectural treatments may be incorporated, provided such treatments divide the facade and create architectural interest and distinction. Architectural interest and distinction should be in keeping with the design of the surrounding neighborhood and community.
 - (5) Multifamily buildings may contain balconies only as ornamental architectural features that are uninhabitable spaces, and access to balconies from dwelling units shall not be permitted.
 - (6) All plans for this use shall be accompanied by a landscaping plan and an impact assessment report in accordance with this Chapter.
 - (7) No active recreation facilities involving the installation of accessory use structures such as basketball, volleyball or tennis equipment shall be permitted
 - (8) All rooftop mechanical equipment and structures shall be screened from view of adjacent properties.
 - (9) All rooftop mechanical equipment and structures shall be operated in compliance with Chapter 73 of the Borough Code, Noise Disturbance.
 - (10) Bicycle racks shall be provided and shown on the conditional use plan.
- E. Parking shall be as follows:
- (1) Off-street parking shall be provided in accordance with this Chapter. The applicant shall demonstrate compliance at the time of conditional use approval. All parking shall be provided on premises.
 - (2) Except as otherwise provided in this section, the minimum size for individual parking spaces, excluding accessways for vehicles, shall be nine feet by 18 feet in size, and the minimum size for handicapped-accessible spaces shall be as required by applicable code. Up to 40% of the individual parking spaces provided on a tract within the Existing Student Housing (ESH) Overlay District may be reduced to a minimum size of 7.5 feet by 16 feet, so long as said parking areas are clearly designated as compact spaces.

§ 112-914 Standards and Criteria for Pub Restaurants.

- A. In addition to the standards and criteria set forth in Section 112-1008.A, Pub Restaurants shall comply with the standards and criteria of this Section 112-914. The Borough Council has made a legislative decision that Pub Restaurants are permitted in TC Town Center and CS Commercial Service Districts as part of a brewery and as a Conditional Use in the ID Industrial District as part of a brewery only if the use complies with all of the standards and criteria of this Section 112-914. Any proposed use not meeting all of the standards and criteria set forth herein shall not be permitted as a by-right use or conditional use and any application to the Zoning Hearing Board for a variance required from any specific standard or criteria shall be considered an application for a use variance for the proposed use.
- B. Standards and Criteria.
- (1) The Pub Restaurant shall habitually and principally serve food to the public. At all times that alcoholic beverages are being sold or served, the Pub Restaurant shall be preparing, selling, and serving food.
 - (2) Unless approved by Council as part of the conditional use decision, the Pub Restaurant shall not be combined with any other use including a nightclub, venue for the presentation of live or recorded music, or venue for theatrical, dramatic, comedic or celebrity appearances or performances.
 - (3) Unless the Pub Restaurant holds a valid permit as a Restaurant-Café in accordance with Chapter 90A of the Code or as may be permitted by Council Resolution from time to time, the service and consumption of alcoholic beverages shall occur inside buildings.
 - (4) All owners and managers of and servers of alcoholic beverages at the Pub Restaurant shall successfully complete the Pennsylvania Liquor Control Board Responsible Alcohol Management Program. Written proof thereof shall be provided to the Borough from time to time upon request.
 - (5) The Pub Restaurant shall be monitored by video cameras with at a minimum of 24-hours of digital or videotape back-up, which shall be made available to the Borough Police Department upon request. The cameras shall be located and continuously maintained along the public sidewalk adjacent to the premises and at all locations of entrances to the premises.
 - (6) The owner or manager of the Pub Restaurant shall provide to the Borough the name and contact telephone number of a management individual for the purpose of handling and resolving complaints and problems.
 - (7) Within twenty-four hours of receipt, the owner or manager of the Pub Restaurant shall advise the Borough of any violations of law charged or citation issued by the Pennsylvania Liquor Control Board, the Pennsylvania State Police or other law enforcement agency.
 - (8) The owners, managers and employees of the Pub Restaurant shall use reasonable efforts to prevent loitering of customers on the public sidewalk or public areas outside the premises.
 - (9) The owners, managers and employees of the Pub Restaurant shall sweep and clear any and all debris on the sidewalk adjacent to the Pub Restaurant immediately after the business closes each day.
 - (10) The Pub Restaurant shall be operated and maintained at all times in compliance with the Pennsylvania Liquor Code, rules and regulations of the Pennsylvania Liquor Control Board, and all applicable federal, state, and local laws, ordinances, rules, and regulations.

ARTICLE X. ADMINISTRATION AND ENFORCEMENT

§ 112-1001 Zoning Officer.

There shall be a Zoning Officer who shall be appointed by the Borough Council and may not hold any elected office in the Borough. The Zoning Officer's duties shall include but not be limited to the following:

- A. To enforce all provisions of this Chapter and all amendments thereto.
- B. To receive and examine all applications and permits required by this Chapter and issue permits only for any use which is addressed in this Chapter.
- C. To refer applications for special exceptions to the Zoning Hearing Board.
- D. To issue permits for construction of structures or uses requiring a special exception or variance only upon order of the Zoning Hearing Board. Permits requiring approval by the Borough Council, such as conditional use approval, shall be issued only after authorization from the Borough Council.
- E. To receive applications for interpretation appeals and variances and forward these applications to the Zoning Hearing Board for action thereon.
- F. To conduct inspections and surveys to determine compliance or noncompliance with the terms of this Chapter.
- G. To issue stop, cease and desist orders and order, in writing, correction of all conditions found to be in violation of the provisions of this Chapter. Such written orders shall be served personally or by certified mail upon persons, firms or corporations deemed by the Zoning Officer to be violating the terms of this Chapter. It shall be unlawful for any person to violate any such order lawfully issued by the Zoning Officer, and any person violating such order shall be guilty of a violation of this Chapter.
- H. To keep an official record of all business and activities, including complaints of a violation of any of the provisions of this Chapter and of the subsequent action taken on each such complaint.
- I. To maintain or cause to have maintained a map or maps showing the current zoning classification of all land in the Borough.
- J. To approve a reasonable accommodation for handicapped persons pursuant to the provisions of the Federal Fair Housing Act.
- K. To issue use and occupancy permits in accordance with the terms of this article.
- L. To communicate as necessary with the Borough Department of Building, Housing and Codes Enforcement and other Borough Departments to assure all required permits and approvals have been obtained and all fees have been paid prior to commencement of any use, land disturbance, construction or activity regulated by this Chapter.

§ 112-1002 Building permit required.

- A. A building permit shall be obtained from the Borough Department of Building, Housing and Codes Enforcement in accordance with Chapter 43, Building Construction. No building permit shall be issued until the Pennsylvania Department of Labor and Industry issues a permit for commercial uses, industrial uses, places of public assembly and other uses if and as required by the state.
- B. It shall be unlawful for any person to commence construction and/or uses until a building permit has been duly issued and the applicant has complied with and obtained all permits required by Chapter 43, Building Construction
- C. After completion of construction in accordance with an issued building permit, it shall be unlawful for any person to occupy any building or structure until a use and occupancy permit has been issued in accordance with Chapter 43, Building Construction.
- D. The Zoning Officer shall refuse to issue any permit and perform any inspection or other duty required by this Article unless the applicant has complied with all applicable requirements of the Borough Code, regulations and policies.
- E. Issuance of building permit; posting; notification of completion. In addition to any other requirements set forth by the Borough, the following shall apply: No building permit shall be issued until the Zoning

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§ 112-1003 Use and occupancy permit required.

Officer has certified that the proposed building, structure or alteration complies with the provisions of this chapter and other applicable codes, regulations and ordinances. A building permit, once issued, shall be posted on the property. Upon completion of the erection of, addition to or alteration of any building, structure or portion thereof authorized by any building permit obtained in compliance with this chapter and prior to use or occupancy, the holder of such permit shall notify the Zoning Officer of such completion.

§ 112-1003 Use and occupancy permit required.

It shall be unlawful for any person to use or occupy any building or other structure or land until a certificate of occupancy has been duly issued and, where applicable, a highway occupancy permit has been issued by the Pennsylvania Department of Transportation.

A use and occupancy permit shall be required prior to any of the following:

- A. Use and occupancy of any building or other structure hereafter erected or altered for which a building permit is required.
- B. Change in the use of any building or structure or any part thereof.
- C. Use of land or change in the use thereof, except that the placing of vacant land under cultivation shall not require a use and occupancy permit.
- D. Change in use or extension of a nonconforming use.

§ 112-1004 Fees.

- A. The Borough Council shall establish, by resolution, a schedule of fees, charges and expenses and collection procedures for building permits, occupancy permits, sign permits, conditional uses, special exceptions, variances, validity challenges, curative amendments, petitions for a zoning change, appeals, parking demand review and other matters pertaining to this Chapter. The schedule of fees shall be posted in the office of the Zoning Officer and may be altered or amended only by the Borough Council.
- B. No action shall be taken on any application for any conditional use, special exception, variance, validity challenge, curative amendment, petition for a zoning change or appeal or other approval or permit until all application fees, charges and expenses have been paid in full.
- C. The applicant shall reimburse the Borough for any fees of the Borough Engineer or other experts and consultants for reviews on applications for conditional use, petitions for zoning change, curative amendments, parking demand review and any other application or request that requires review and recommendations by Borough consultants.

§ 112-1005 Notice of violation.

- A. If it appears to the Borough that a violation of any provision of this Chapter or any amendment thereto, any detailed statement or a plan approved under the provisions of this Chapter or any amendment thereto or any condition of a variance or special exception granted by the Zoning Hearing Board or of a conditional use granted by the Borough Council has occurred or is occurring, the Zoning Officer, his designated agent or other enforcement officer shall initiate enforcement proceedings by providing notice thereof to the owner of record of the parcel, to any person who has filed a written request to receive such a notice regarding that parcel and to any other person requested, in writing, by the owner of record of the parcel.
- B. The enforcement notice shall state at least the following:
 - (1) The name of the owner of record and any other person against whom the municipality intends to take action.
 - (2) The location of the property in violation.
 - (3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.

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§ 112-1006 Violations and penalties.

- (4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
- (5) That the recipient of the notice has the right to appeal to the Zoning Hearing Board or otherwise as prescribed herein within a prescribed period of time in accordance with procedures set forth in this Chapter.
- (6) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board or otherwise as provided in this Chapter, constitutes a violation, with possible sanctions clearly described.

§ 112-1006 Violations and penalties.

Any person who has violated or permitted the violation of the provisions of this Chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced hereunder, pay a judgment of not more than \$500, plus all court costs, including reasonable attorney's fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. In the event that any such person against whom a judgment has been rendered by the District Justice neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable Pennsylvania Rules of Civil Procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there was a good faith basis for such person violating this Chapter to have believed that there was no such violation. In that latter event, there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice, and thereafter, each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney's fees collected for the violation of this Chapter shall be paid over to the Borough.

§ 112-1007 Remedies.

In case any building, sign or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, sign, structure or land is used or any hedge, tree, shrub or other growth is maintained in violation of this Chapter or of any regulations pursuant thereto, in addition to other remedies provided by law, any appropriate action or proceeding, whether by legal process or otherwise, may be instituted or taken to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

§ 112-1008 Criteria and procedures for conditional uses.

- A. In evaluating an application to the Borough Council for a conditional use, the Council shall require the applicant to provide information to indicate that the standards and criteria have been met. The applicant shall submit a report which describes how the standards and criteria have actually been met or will be met to ensure that:
- (1) The proposed use is consistent with the purpose of the Chapter whereby it is permitted, the overall purpose of the zoning as contained in Article I and all applicable provisions of this Chapter.
 - (2) The proposed use will satisfy all of the relevant provisions and requirements of the West Chester Subdivision and Land Development Ordinance and any other applicable ordinance, code and/or regulation.
 - (3) The proposed use and its location are consistent with and responsible to the Comprehensive Plan and in particular to the plans for land use, circulation, community facilities and utilities.
 - (4) The proposed use will not adversely affect the health, safety, morals and general welfare of the Borough.
 - (5) The proposed land use is consistent with the nature of the land uses existing on any immediately adjacent properties and it will not detract from or cause harm to neighboring properties and will be maintained in a manner in keeping with the character of the neighborhood.
 - (6) The proposed use is located in an area or areas for which the lot is suited.

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§ 112-1008 Criteria and procedures for conditional uses.

- (7) The proposed use is consistent with the logical extension of public services and utilities, such as a public water and public sewer and will not have a negative effect on the public services and utilities of the surrounding properties.
- (8) Proposed construction will be consistent with good design principles and sound engineering and land development practices and is in keeping with the character of any existing quality construction within the neighborhood.
- (9) The proposed use reflects an environmentally sensitive approach to land planning and design based on thorough site analysis and evaluation related to topography, soils, vegetation, hydrology, visual quality and related site conditions and characteristics.
- (10) The proposed use will provide safe and adequate access to roads and public services, existing or proposed.
 - (a) For all conditional use applications, except those noted in 112-1008.A(10)(g) below, the applicant shall demonstrate that the proposed conditional use will not adversely affect traffic flow and/or current traffic controls within the Borough by creating a level of service below that which is specified in this subsection.
 - (b) To minimize potential adverse conditions from the proposed conditional use, the level of service for all signalized intersections within a distance of 1,000 feet from the tract which is the subject of the conditional use application shall be a level of service of D or better. The level of service for all unsignalized intersections within a distance of 1,000 feet from the tract which is the subject of the conditional use application shall be a level of service of C or better. The term "level of service" and the categories thereof are used herein in accordance with the definitions or meanings ascribed thereto in the document entitled "Highway Capacity Manual, Transportation and Research Board," most recent edition.
 - (c) The determination of levels of service shall be made after an experienced transportation engineer/traffic consultant conducts a transportation impact study in accordance with the requirements in Code § 97-40.2.
 - (d) Signalized intersections showing a projected level of service E or F and volume-to-capacity (v/c) ratios equal to or greater than 1.0 shall be considered deficient, and specific recommendations for the elimination of these deficiencies shall be listed.
 - (e) Unsignalized intersections showing a projected level of service D, E or F shall be considered deficient and specific recommendations for the elimination of these deficiencies shall be listed.
 - (f) The listing of recommended improvements required by Subsection A(10)(d) and (e) above shall include but not be limited to the following elements: internal circulation design, site access location and design; external street and intersection design and improvements; pedestrian facilities and accommodations; public transportation availability; and traffic signal installation and operation, including signal timing.
 - (g) The requirements in § 112-1008.A(10)(a) through (f) shall not apply to the following conditional use applications: adaptive reuse of a historic carriage house, wireless communications facilities, agricultural operations, public service facilities or fences and walls over six feet in height.
- (11) The proposed use will provide for effective sanitation.
- (12) The proposed use will create the required screening and landscaping as required in this Chapter and the West Chester Subdivision and Land Development Ordinance.
- (13) The proposed use, as depicted in the plans for subdivision and/or land development, includes proposals for landscaping, in addition to that required as stated above, in areas such as the entrance, along property boundaries, in areas which are highly visible, such as along streets or sidewalks, and in other places where the use of trees, shrubs and ground covers would be functional and appropriate.
- (14) The proposed use will be properly sited and not be disruptive to existing topography, streams and ponds, vegetation and other natural resources, especially within the areas subject to floodplain regulations of this Chapter.

- (15) The proposed use will provide for adequate off-street parking and loading.
 - (16) The proposed use will provide for adequate signage.
 - (17) The proposed use will provide for adequate environmental controls in accordance with Article V.
 - (18) A satisfactory impact assessment report is submitted for any proposed use subject to the provisions of Article IX.
 - (19) The proposed use can be adequately serviced by the type of water supply and sewage disposal system which is proposed.
 - (20) The proposed use will be developed using effective stormwater management techniques and soil erosion and sedimentation control techniques.
- B. The Council may impose such conditions of approval as may be necessary to ensure compliance with any or all of the above standards as well as compliance with any other relevant ordinances, regulations and codes.
- C. General procedures.
- (1) In the case of an application for a conditional use, the Planning Commission shall perform a review and provide a report to the Borough Council concerning the grant of approval or disapproval of the proposed use.
 - (2) The Borough Council shall, in the case of an application for a conditional use, schedule a hearing for public review and comment. Such hearing shall be held within 60 days of the application for conditional use approval.
 - (3) Review and decision process for conditional use applications. The hearing shall be conducted by the Borough Council or the Council may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings, shall be made by the Borough Council. However, the appellant or the applicant, as the case may be, in addition to the Borough, may, prior to the decision of the hearing, waive decision or findings by the Council and accept the decision or findings of the hearing officer as final. Hearings shall be conducted and concluded in accordance with the following regulations.
 - (a) Each hearing subsequent to the initial hearing shall be held within 45 days of the prior hearing, unless otherwise agreed by the applicant in writing or on the record.
 - (b) The applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing.
 - (c) The applicant shall be given at least seven hours of hearing time within that one-hundred-day period, assuming that number of hours is required or requested.
 - (d) Protestants, if any, shall complete their case in opposition to the application within 100 days of the first hearing held after completion of the applicant's case-in-chief.
 - (e) The applicant may request additional hearings to complete his case-in-chief, provided protestants are given an equal number of additional hearings.
 - (f) Protestants may be given additional hearings to complete their opposition, provided the applicant is granted an equal number of additional hearings for rebuttal and both the applicant and the Borough give their written consent, or their consent is stated on the record.
 - (4) All notices shall be made or shall occur in conformance with § 112-1104.B hereof.
 - (5) The Borough Council shall render a written decision or, when no decision is called for, make written findings on the conditional use application within 45 days after the last hearing before the Council. The date for the Council's decision may be extended by the applicant either on the record or in writing addressed to the Council. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor. Conclusions based upon this Chapter, the Pennsylvania Municipalities Planning Code or any rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found, and shall be mailed to the applicant

and his attorney at the addresses listed on the application. If, after the conclusion of the public hearing(s), the application is amended or revised, the Council shall hold one or more public hearings thereon as may be necessary and shall issue a new decision thereon in conformance with the procedure established in this section.

- (6) The President of Borough Council may issue subpoenas to compel attendance of witnesses and the production of relevant documents and papers, including witnesses and documents required by the parties.
- (7) The parties to the hearing shall be the Borough, any person affected by the application who has made a timely appearance of record before the Borough Council and any other person, including civic or community organizations, permitted to appear by the Borough Council. All persons who wish to be considered parties must enter appearances in writing.
- (8) The parties shall have the right to be represented by legal counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses.
- (9) The Borough Council shall keep a stenographic record of the proceedings, and a transcript of the proceedings and copies of graphic or written material received in evidence shall be made available to any party at cost.
- (10) In the event of approval, should the applicant fail to obtain the necessary Borough approvals and permits within 12 months of notification or, having obtained the necessary approvals and permits, fail to commence work thereunder within six additional months, it shall be conclusively presumed that the applicant has waived, withdrawn or abandoned his appeal or application; and all provisions, conditional use(s) and permits granted to him shall be deemed automatically rescinded by the Borough Council. If the Borough Council finds that a good reason exists for the failure to comply with the time periods specified above, an extension may be granted.
- (11) The grant of approval by the Borough Council for a conditional use shall in no way release the applicant from his obligation to comply with the applicable provisions of this Chapter, the Subdivision and Land Development Ordinance and any other applicable Borough, state and federal regulations.
- (12) In the event that the Council fails to render a decision or fails to commence, conduct or complete the required hearing(s) as provided in this § 112-1008.C, unless extended by the applicant either on the record or in writing, the decision shall be deemed to have been rendered in favor of the applicant. When a decision has been rendered in favor of the applicant because the Council failed to commence the hearings, complete the hearings, or render a decision as required by this section, the Council shall give public notice of the decision within 10 days from the last day it could have met to render a decision in the same manner as required by the public notice requirements of this section. If the Council shall fail to provide such notice, the applicant may do so. Nothing in this section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

ARTICLE XI. ZONING HEARING BOARD

§ 112-1101 Establishment.

A Zoning Hearing Board shall be appointed by the Borough Council in the manner prescribed in the Municipalities Planning Code, as amended, and as provided below.

§ 112-1102 Membership; appointment; terms; removal.

- A. There shall be a Zoning Hearing Board consisting of five residents of the Borough who shall be appointed by the Borough Council to serve a term of five years. The terms shall be so fixed that the term of office of one member shall expire each year. Borough Council shall fill any vacancy on the Board by appointing a new member to serve for the unexpired portion of such vacant term. The Borough Council may reappoint members at the expiration of their term. Members of the Board shall hold no other office in the Borough.
- B. Any member of the Board may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Borough Council, taken after the Board member has received 15 days' advance written notice of the intent to take such a vote, and a hearing shall be held in connection with such vote if the member shall so request in writing.

§ 112-1103 Organization and procedure.

- A. The Board shall elect from its own membership its officers, who shall serve annual terms and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be required, consisting of not less than a majority of all the members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf. The Board may make, alter and rescind rules and forms for its procedure consistent with this Chapter and the laws of the Commonwealth of Pennsylvania. The Board shall keep full public records of its business and shall submit a report of its activities to the Borough Council once each year.
- B. Within the limits of funds appropriated by the Borough Council, the Zoning Hearing Board may employ or contract for secretaries, clerks, attorneys, consultants and other technical and clerical services. However, the Solicitor for the Zoning Hearing Board shall be a different individual than the Solicitor for the Borough Council. Members of the Zoning Hearing Board may receive compensation for the performance of their duties, as may be fixed by the Borough Council, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Borough Council.

§ 112-1104 Hearings and decisions.

- A. The Board shall conduct hearings and make decisions in the following manner:
 - (1) The first hearing before the Zoning Hearing Board shall be commenced within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time.
 - (2) Each hearing subsequent to the initial hearing shall be held within 45 days of the prior hearing, unless otherwise agreed by the applicant in writing or on the record.
 - (3) The applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing.
 - (4) The applicant shall be given at least seven hours of hearing time within that one-hundred-day period, assuming that number of hours is required or requested.
 - (5) Protestants, if any, shall complete their case in opposition to the application within 100 days of the first hearing held after completion of the applicant's case-in-chief.
 - (6) The applicant may request additional hearings to complete his case-in-chief, provided protestants are given an equal number of additional hearings.
 - (7) Protestants may be given additional hearings to complete their opposition, provided the applicant is granted an equal number of additional hearings for rebuttal and both the applicant and the Zoning Hearing Board give their written consent or their consent is stated on the record.
- B. Notice of hearings shall be given in the following manner:

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§ 112-1104 Hearings and decisions.

- (1) To the public, by providing public notice, which is notice published once each week for two successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.
 - (2) To the applicant, the Zoning Officer, the Borough Secretary, the Secretary of the Planning Commission, to abutting owners and owners within 500 feet along the frontage of the lot and within a one-hundred-fifty-foot radius of the side and rear lot lines and to any person who has made timely request for the same, or their legal counsel, if such counsel shall have filed appearance with the Board, by mailing notice of the time, place and purpose of the hearing at least 14 days in advance of the date fixed for hearing.
 - (3) Notice of hearings, both published and written, shall state, in addition to the time, place and purpose of the hearing, the location of the lot or structure involved and the nature and extent of the relief sought and the general nature of the question involved. Notice of said hearing shall be conspicuously posted on the affected tract of land.
 - (4) In the event that more than one hearing is required to consider any application or a hearing is continued while in progress to another date, announcement at the hearing to be continued of the next hearing date shall be deemed adequate notice of said continued or subsequent hearing. In the event that the date or time of the hearing is changed, then public notice must again be provided as set forth above.
- C. Hearings shall be conducted by the Board, or hearing officer, and the Chairperson or, in his absence, the Acting Chairperson, shall administer oaths and may issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
 - D. The parties to the hearing shall be the Borough, any person affected by the application who has made a timely appearance of record before the Board and any other person, including civic or community organizations, permitted to appear by the Board. All persons who wish to be considered parties must enter appearances in writing.
 - E. The parties shall have the right to be represented by legal counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses.
 - F. The Zoning Hearing Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Zoning Hearing Board. The cost of the original transcript shall be paid by the Zoning Hearing Board if the transcript is ordered by the Board or hearing officer, or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copies or copy. In all other cases, the party requesting the original transcript shall bear the cost thereof.
 - G. The Board, or hearing officer, shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved, except upon notice and opportunity for all parties to participate; shall not take notice of any communication, reports, staff memoranda or other materials unless the parties are afforded an opportunity to contest the material so noticed; and shall not inspect the site or its surroundings after the commencement of hearings with any party or his respective counsel unless all parties are given an opportunity to be present.
 - H. The Zoning Hearing Board or hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Zoning Hearing Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this Chapter, the Pennsylvania Municipalities Planning Code ("MPC"), or any rule or regulation in the Borough Code shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in light of the facts found. If the hearing is conducted by a hearing officer and there has been no stipulation that his decision or findings are final, the Zoning Hearing Board shall make its report and recommendations

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§ 112-1105 Powers and duties.

available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the Zoning Hearing Board prior to final decision or entry of findings, and the Zoning Hearing Board's decision shall be entered no later than 30 days after the report of the hearing officer. Except for challenges filed under § 916.1 of the MPC, where the Zoning Hearing Board fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in § 112-1104.A, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Zoning Hearing Board to meet or render a decision as hereinabove provided, the Zoning Hearing Board shall give public notice of said decision within 10 days from the last day it could have met to render a decision. If the Zoning Hearing Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

- I. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him in accordance with the law; and to all other persons who have filed their names and addresses with the Board not later than the last day of the hearing, the Board shall provide, by mail or otherwise, brief notice of the decision or findings and a statement of the place where the full decisions or findings may be examined.

§ 112-1105 Powers and duties.

- A. The Board shall have and perform the following functions:
- B. Appeals from the Zoning Officer. The Board shall hear and decide appeals where it is alleged by the applicant that the Zoning Officer has failed to follow prescribed procedures or has misinterpreted or misapplied any provision of any ordinance or map or any rule or regulation governing the action of the Zoning Officer.
- C. Variances.
 - (1) The Board shall hear requests for variances where it is alleged that the provisions of the Zoning Ordinance inflict unnecessary hardship upon the applicant. The Board may grant a variance, provided that the following findings are made where relevant in a given case:
 - (a) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located.
 - (b) That, because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
 - (c) That such unnecessary hardship has not been created by the applicant.
 - (d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare.
 - (e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation or ordinance in issue.
 - (2) In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Zoning Ordinance and the Municipalities Planning Code.
- D. Special exceptions. The Board shall hear and decide special exceptions in accordance with the standards set forth below, and, in granting special exceptions, the Board may attach such reasonable conditions and safeguards in addition to those expressed in this Chapter as it may deem necessary to implement the purposes of this Chapter:

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§ 112-1106 Time limit after variance or special exception granted; extension.

- (1) Whenever the Board hears a special exception for uses specified in this Chapter, the standards of § 112-1008 applicable to conditional uses shall apply. Special exceptions related to areas regulated by the requirements of the FP Floodplain Conservation District, shall be evaluated in accordance with such requirements.
- (2) The applicant shall submit a report to evidence proof of compliance with the standards and criteria of § 112-1008.

E. Unified appeals. The Board shall also hear all appeals which an applicant may elect to bring before it with respect to any Borough ordinance or requirement pertaining to the same development plan or development. In any such case, the Board shall have no power to pass upon the non-zoning issues but shall take evidence and make a record thereon. At the conclusion of the hearing, the Board shall make findings on all relevant issues of fact, which shall become part of the record on appeal to the court.

§ 112-1106 Time limit after variance or special exception granted; extension.

Any variance or special exception granted in accordance with this Chapter shall be void if the applicant fails to obtain the necessary Borough approvals and permits within 12 months from the date of the grant of a variance or special exception or, having obtained the necessary approvals or permits, fails to commence work thereunder within six additional months. If the Zoning Hearing Board finds that a good reason exists for the failure to comply with the time periods specified above, an extension may be granted.

§ 112-1107 Appeals and application procedures.

- A. The Rules of the Zoning Hearing Board of West Chester Borough of March 1987, and as may be amended from time to time, shall be followed.
- B. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board.
- C. Every appeal or application shall refer to the specific provision of this Chapter involved and shall exactly set forth the interpretation that is claimed, the grounds for any challenges to the validity of this Chapter, the use for which a special exception is sought or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.
- D. Applications and appeals, together with the required filing fee as established by the Borough, shall be submitted to the Zoning Officer.
- E. No action by the Zoning Hearing Board will begin until a complete application form is filed along with the required fee.
- F. All applications and appeals shall be forwarded to the Borough Planning Commission, which may review and offer comment on such applications and appeals at its discretion. At his own discretion, an applicant or appellant may appear before the Planning Commission to review his submission. Similarly, the Planning Commission shall not be required to schedule such appearances prior to taking action, if any, on a particular application or appeal. The failure of the Planning Commission to offer comment on any application or appeal shall not invalidate any action taken by the Board.

ARTICLE XII. AMENDMENTS

§ 112-1201 Authority.

The Borough Council may from time to time amend, supplement, change, modify or repeal this Chapter, including the Zoning Map, in accordance with the procedures established by the Pennsylvania Municipalities Planning Code and in accordance with the procedure set forth below.

§ 112-1202 Procedure upon proposal by landowner.

Proposals for amendment or change may be initiated by petition of one or more owners of property to be affected by the proposed amendment. Borough Council may determine not to consider a petition in its discretion. If Borough Council determines to consider the petition, the following provisions shall apply:

- A. Every such proposed amendment shall be submitted to the Borough Council, which shall refer every proposal to the Borough Planning Commission for recommendation.
- B. Whenever a petition for zoning amendment is submitted, the petitioner shall submit a report to indicate that the following standards and criteria can be met.
- C. Each such proposed amendment shall be evaluated in accordance with the following standards and criteria to ensure that:
 - (1) The proposed use is consistent with the purpose of the Article whereby it is permitted, the overall purpose of the zoning as contained in Article I and all other applicable provisions of this Chapter.
 - (2) The proposed use will satisfy all of the relevant provisions and requirements of the West Chester Subdivision and Land Development Ordinance and any other applicable codes, ordinances and/or regulations.
 - (3) The proposed use and its location are consistent with the Comprehensive Plan.
 - (4) There is a demonstrated need for the proposed use and it will contribute to the maintenance of the health, safety, morals and general welfare of the Borough.
 - (5) The proposed use is consistent with the nature of the uses existing on any immediately adjacent properties and it will not detract from or cause harm to neighboring properties and will be maintained in a manner in keeping with the character of the neighborhood.
 - (6) The proposed use is consistent in concept and design with other amendments for which approval has been heretofore granted.
 - (7) The proposed use is consistent with the logical extension of public services and will not measurably affect the public services and utilities of the surrounding properties.
 - (8) If the use is one which traditionally adheres to some unique location criteria, the site for which the use is proposed is not one which obviates such criteria.
 - (9) Any proposed construction will be consistent with good design principles and sound engineering and land development practices and is in keeping with the character of any existing construction within the neighborhood.
 - (10) The proposed use will provide safe and adequate access to streets and public services, existing or proposed, and will not result in excessive traffic volumes or will make any improvements needed to guarantee compatibility with adjacent streets and public services.
 - (11) The proposed use has provided for adequate sanitation.
 - (12) The proposed use will provide for adequate screening as determined by the Borough Council, parking according to Article VI, signage according to Article VII and all environmental controls in Article V.
 - (13) The proposed use can meet the standards and criteria established for conditional uses as set forth in § 112-1007.
- D. Public hearings. All public hearings shall be conducted in accordance with the Pennsylvania Municipalities Planning Code.
- E. Fees. Fees shall be in accordance with the applicable fee schedule adopted by Borough Council.