

**BOROUGH OF WEST CHESTER**  
**CHESTER COUNTY, PENNSYLVANIA**

**ORDINANCE NO.**

**AN ORDINANCE OF THE BOROUGH OF WEST CHESTER, CHESTER COUNTY, PENNSYLVANIA, AMENDING CHAPTER 112 OF THE WEST CHESTER CODE, TITLED, "ZONING", SPECIFICALLY SECTION 112-7 TO AMEND CERTAIN DEFINITIONS AND SECTION 112-30.A(1) TO DELETE EDUCATIONAL USES AS A PERMITTED PRINCIPAL USE IN THE TOWN CENTER DISTRICT OUTSIDE OF THE RETAIL OVERLAY DISTRICT.**

BE IT ENACTED AND ORDAINED, and it is hereby enacted by authority of the Council of the Borough of West Chester that the Code of the Borough of West Chester, specifically, Chapter 112, titled, "Zoning", is hereby amended as follows:

**SECTION 1.** Section 112-7 shall be amended by amending the following definitions:

**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 lot across from the subject lot.

**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 USE 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.

**APPLICATION FOR DEVELOPMENT**

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

#### **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/or a type of fencing to aid in screening.

#### **BLOCK**

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

#### **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 Article XVI.

#### **BUFFER PLANTING STRIP**

A strip of land within the required buffer area which is landscaped with trees and shrubs and which is maintained according to Article XVI and the applicable district regulations.

#### **BUILDING CODE**

Chapter 43, Building Construction, of the Borough of West Chester.

#### **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.

#### **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.

#### **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 regarding such items as land use, circulation, community facilities and utilities within the Borough.

#### **CONDOMINIUM**

Any dwelling unit, regardless of dwelling type, which has all of the following characteristics:

- (1) The unit (the interior and associated exterior areas designated for private use in the development plan) is owned by the occupant.

- (2) All or a portion of the exterior open space and any community interior spaces are owned and maintained 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.

#### DESIGN PROFESSIONAL

(See REGISTERED DESIGN PROFESSIONAL)

#### DIRECTOR OF BUILDING, HOUSING AND CODE ENFORCEMENT

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

#### 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 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 Article VI, 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.
- 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 — See "apartment."

#### ENVIRONMENTAL IMPACT ASSESSMENT REPORT (See IMPACT ASSESSMENT REPORT)

#### 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.

#### LAND DEVELOPMENT

(1) 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 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 or 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.

C. Development in accordance with Section 503(1.1) of the Pennsylvania Municipalities Planning Code.

(2) Provided, however, that 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, shall not be considered a land development.

#### LANDOWNER

The legal or beneficial 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 he or she is authorized under the lease to exercise the rights of the landowner, or another person having a proprietary interest in the land shall be deemed to be a "landowner" for the purposes of this chapter.

#### LANDSCAPING

The planting of trees, shrubbery, ground cover, turf grass and the like, including the maintenance and replacement thereof, for the control of soil 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.

#### 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.

#### 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 spaces or uncovered parking lot space which is directly accessible from a street or aisle in a parking lot.

#### **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 or less than seven (7) days from the date of the hearing or meeting.

#### **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 Area, 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.

#### **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.

#### **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.

#### **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.

## SEWERAGE

The system of sewers and appurtenances for the collection, transportation, pumping, treating, and disposing of sanitary sewage and industrial wastes.

## SIDEWALK

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

## 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.

## 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.

## 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 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.

**SECTION 2.** Section 112-30, titled, "Use regulations outside the Retail Overlay District" is hereby amended to delete Section 112-30.A.1(f) "Educational uses" as a permitted principal use.

**SECTION 3. Severability.** The provisions of this Ordinance are severable, and if any article, section, subsection, clause, sentence or part thereof shall be held or declared illegal, invalid or unconstitutional by any court of competent jurisdiction, the decision

shall not affect or impair any of the remaining articles, sections, subsections, clauses, sentences or parts thereof of this Ordinance. It is hereby declared to be the intent of the Borough Council that this Ordinance would have been adopted if such illegal, invalid or unconstitutional article, section, subsection, clause, sentence or par thereof had not been included herein.

**SECTION 4. Repealer.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of any such inconsistency.

**SECTION 5. Effective Date.** This Ordinance shall become effective upon enactment as by law provided.

ENACTED AND ORDAINED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2019.

**COUNCIL OF THE BOROUGH OF WEST  
CHESTER**

ATTEST:

\_\_\_\_\_  
Michael A. Perrone, Secretary

By: \_\_\_\_\_  
Diane C. LeBold, President

APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2019.

\_\_\_\_\_  
Dianne Herrin, Mayor