



Map 6-2 Zoning/Overlay Districts

DATA SOURCE: Base data from Chester County GIS data distribution, 2001. Wetlands from FWS National Wetlands Inventory, 1996. Zoning Districts digitized by Brandywine Conservancy from West Brandywine Township Zoning Ordinance, 2003. Updated tax parcel data from subdivision plans supplied by developers, 2004 and 2005.

Legend	
	Municipal boundary
	Adjacent municipalities
	Tax parcels
	Roads
	Reservoirs, lakes, and ponds
	Streams
	Wetlands
	Sleep Slope District Overlay
	Floodplain District Overlay
	Public Water Supply District Overlay
Zoning Districts	
	L-2 - Limited Industrial
	LI - Limited Industrial
	MSI - Medical/Service Institutional
	R-1 - Agricultural/Residential
	R-2 - Rural Residential
	R-3 - Residential
	R-4 - Residential
	RM - Rural mixed use

Brandywine Conservancy
Environmental Management Center
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**West Brandywine Township
Comprehensive Plan**

Date: July 1, 2005

Chapter 200. Zoning

Article VI. R-3 Residential District

§ 200-22. Purpose.

The R-3 Residential District has been designed to provide for a variety of residential housing types at densities which are compatible with the rural character of the Township, and are related to the availability of off-site facilities.

§ 200-23. Use regulations.

A. Uses permitted by right:

- (1) Single-family dwelling.
- (2) Single-family dwelling using interior lot design in accordance with § 200-113.
[Added 2-7-1985 by Ord. No. 85-01; amended 3-6-1986 by Ord. No. 86-01]^[1]
[1] *Editor's Note: Former Section 601A.3 and 4, two-family dwelling (twin) and two-family dwelling (duplex), which immediately followed this subsection, were repealed 5-5-1994 by Ord. No. 94-04.*
- (3) Municipal, county, state and federal use, excluding dumps and correctional institutions.
- (4) Agriculture, in accordance with § 200-15.
- (5) Woodlots, Christmas tree farms, nurseries, arboretums or conservation purpose.
- (6) Accessory uses. The following accessory uses are permitted when located on the same lot and customarily incidental to any of the foregoing permitted uses, and when in accordance with the applicable provisions under Article XIV:
 - (a) Customary residential accessory uses, structures and swimming pools.
 - (b) Minor home occupations.
[Amended 8-3-2000 by Ord. No. 00-03]
 - (c) Customary agricultural accessory uses and structures.
 - (d) Sale of farm products.
- (7) Forestry, except that timber harvesting shall be subject to the provisions of § 200-100B(2).
[Added 11-21-2002 by Ord. No. 02-05]

B. Uses permitted by special exception, when authorized by the Zoning Hearing Board, and when in accordance with Article XIV:

[Amended 5-5-1994 by Ord. No. 94-04]

- (1) Residential conversion of detached building or farm building, in accordance with § 200-84.^[2]

[2] *Editor's Note: Former Section 601B.2, retirement community, which immediately followed this subsection, was repealed 11-16-1994 by Ord. No. 94-08.*

- (2) Educational use.
[Amended 8-3-2000 by Ord. No. 00-03]
 - (3) Religious use.
[Added 8-3-2000 by Ord. No. 00-03]
 - (4) Public library.
 - (5) Firehouse or other emergency service facility.
- C. Uses permitted by conditional use when authorized by the Board of Supervisors in accordance with Article **XXI**, Conditional Use Process:
[Added 5-5-1994 by Ord. No. 94-04; amended 2-15-1996 by Ord. No. 95-08]
- (1) Cemeteries in accordance with Article **XIV**, § **200-99**, Cemetery regulations.
 - (2) Development under the open space design option, including single-family, two-family and multiple-family dwellings in accordance with Article **XXII**.
 - (3) Golf course and country clubs.
 - (4) Public utility facility.
 - (5) Major home occupations.
[Added 8-3-2000 by Ord. No. 00-03]
 - (6) Country properties in accordance with § **200-15**.
[Added 10-4-2001 by Ord. No. 01-02]

§ 200-24. Area and bulk regulations.

- A. The following area and bulk regulations shall apply to all uses permitted by right within the R-3 District, with the exception of agricultural uses:
- (1) Minimum lot area, whether served by individual sewer, water and/or public sewer, water: 1.0 acre.
[Amended 2-5-1987 by Ord. No. 87-01; 5-6-1993 by Ord. No. 93-02; 2-15-1996 by Ord. No. 95-08; 12-21-2000 by Ord. No. 00-04]
 - (2) Minimum lot width at building line: 150 feet.
[Amended 2-5-1987 by Ord. No. 87-01; 5-6-1993 by Ord. No. 93-02]
 - (3) Minimum lot width at street line: 100 feet.
 - (4) Minimum side yard (each): 20 feet.
 - (5) Minimum front yard: 50 feet.
 - (6) Minimum rear yard: 40 feet.
 - (7) Maximum building coverage: 20%.
 - (8) Maximum lot coverage (total): 25%.
 - (9) Maximum building height: 35 feet.
- B. The following area and bulk regulations shall apply to uses permitted by special exception and/or conditional use under the R-3 District, with the exception of multiple-family use (§ **200-25**) and retirement community use (§ **200-93**):
[Amended 2-15-1996 by Ord. No. 95-08; 12-21-2000 by Ord. No. 00-04]
- (1) Minimum lot area per use/unit:
 - (a) Golf course and country clubs: five acres.

- (b) Residential conversion: two acres.
 - (c) Institutional use; public library; firehouse or other emergency facility: 1.5 acres.
 - (d) Cemetery: 10 acres.
- (2) Minimum lot width:
 - (a) Building line: 150 feet.
 - (b) Street line: 100 feet.
 - (3) Minimum side yard (each): 20 feet.
 - (4) Minimum front yard: 50 feet.
 - (5) Minimum rear yard: 40 feet.
 - (6) Maximum building coverage: 25%.
- C. Sewerage capability.
[Added 2-15-1996 by Ord. No. 95-08]
- (1) Except for lots established under the open space design option, where any lot is served by an individual on-site sewage system, a contiguous net lot area of at least 33,000 square feet shall be provided which shall not be divided completely by any of the following areas:
 - (a) Any permanent right-of-way or easement for a public or private street.
 - (b) Any area within the Flood Plain District as established in Article XII.
 - (c) Any area comprising wetlands under the jurisdiction of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection.
 - (d) Any area within the Severe Slope District as established in Article XIII.
 - (2) Any lot existing prior to the effective date of this provision which does not meet the minimum net lot area requirement may be used for any lawful use subject to demonstration of adequate sewage disposal to the Zoning Officer.

§ 200-25. Multiple-family regulations.

[Amended 12-21-2000 by Ord. No. 00-04]

The following regulations shall apply to multiple-family dwellings:

- A. Minimum tract size: five acres.
- B. Maximum gross density: three dwelling units/acre.
- C. Minimum building setback:
 - (1) Any property line: 100 feet.
 - (2) Any internal drive: 50 feet.
 - (3) Any internal parking: 25 feet.
- D. Minimum building separation in a multiple building development face to face (within 35 of parallel): 75 feet.
 - (1) End to end: 50 feet.
 - (2) Perpendicular, where no exterior wall faces the other building: 35 feet.
- E. Maximum building coverage: 25%.

- F. Maximum lot coverage (total): 35%.
- G. Minimum landscaped open space: 30%.
- H. Maximum building height: 35 feet.

§ 200-26. Design standards.

The following design standards under Article XV shall apply to all uses under the R-3 Residential District:

- A. Required off-street parking regulations, § 200-101.
- B. Parking lot standards, § 200-102.
- C. Visibility at intersections, § 200-103.
- D. Access and traffic control regulations, § 200-104.
- E. Interior circulation standards, § 200-105.
- F. Landscaping standards, § 200-107.
- G. Screening and buffering standards, § 200-108.
- H. Storage standards, § 200-109.
- I. Lighting standards, § 200-110.
- J. Pipeline setback standards, § 200-112.

Chapter 200. Zoning

Article IX. RM Rural Mixed Use District

[Added 8-3-2000 by Ord. No. 00-03^[1]]

[1] *Editor's Note: This ordinance replaced the former HC Highway Commercial District, as amended by Ord. Nos. 87-06, 94-04, 95-08 and 96-01.*

§ 200-36. Purpose.

The Rural Mixed Use District is designed to focus a mixture of higher intensity residential and nonresidential development in close proximity to arterial roads, building on historical development patterns. The following specific design purposes are established:

- A. To facilitate development which results in a massing and grouping of structures that creates a cohesive sense of place, not visually dominated by large expanses of parking. It is intended that such development complement the character of the surrounding area and, to the greatest extent practicable, maintain open lines of sight at points of scenic view.
- B. To encourage development which provides for complementary mixed uses, including residential uses as well as small-scale commercial, service, and employment oriented development.
- C. To discourage conventional single-story "strip" development.
- D. To promote coordination of pedestrian and vehicular access and parking, to minimize traffic congestion and turning movement conflicts on arterial roads, and to moderate the impacts of impervious surfaces introduced within development areas.

§ 200-37. Use regulations.

- A. The following uses are permitted by right, provided that there is no more than one principal use on a single lot and provided that such use shall occupy no more than 4,000 square feet of gross sales/leasable floor area, except as provided in Subsection A(11) below:
 - (1) Professional, business, or administrative office;
 - (2) Retail establishment involving the sale of goods and services;
 - (3) Personal services, including barber- and beauty shops, tailoring, and dressmaking;
 - (4) Cottage industries, including crafts and homemade products;
 - (5) The teaching of not more than 10 pupils simultaneously, or in the case of musical instruction, not more than two pupils at a time;
 - (6) Repair shop, including small electrical or other small household appliances, bicycles, shoes and watches;
 - (7) Shop for a trade, including carpentry, plumbing and blacksmithing.
 - (8) Single-family dwelling;

- (9) Minor home occupation;
- (10) Bed-and-breakfast facility;
- (11) Historic structures. The use of any structure defined as a Class I or Class II Historic Resource in accordance with § 200-185 et seq. of this chapter may involve any one or more of the uses stipulated herein by right and, where applicable, shall not be limited to 4,000 square feet of gross sales/leasable floor area, provided that alterations to historic structures result in maintenance of general historical integrity and do not enlarge such structures by more than 25% of gross floor area.
- (12) Forestry, except that timber harvesting shall be subject to the provisions of § 200-100B(2).
[Added 11-21-2002 by Ord. No. 02-05]

B. Uses permitted by special exception, when authorized by the Zoning Hearing Board:

- (1) Educational use.
- (2) Religious use.

C. Uses permitted by conditional use when authorized by the Board of Supervisors in accordance with Article XXI:

- (1) Planned mixed use development including multiple use of a single lot or tract and when in accordance with §§ 200-38B and 200-40. A planned mixed use development may include any use permitted by right, special exception or conditional use in accordance with this article.
 - (2) Any use otherwise permitted by right where occupying in excess of 4,000 square feet of gross sales/leasable/habitable floor area or where involving the enlargement of historic structures (which are Class I or Class II Historic Resources per Article XXIII) by more than 25% of gross floor area.
 - (3) Restaurant, confectionery or other place serving food or beverages, including fast food restaurant, where part of a planned mixed use development or as provided under Subsection C(6) below;
 - (4) Bank or other financial institution, where part of a planned mixed use development or as provided under Subsection C(6) below;
 - (5) Two-family and multiple-family dwellings, where part of a planned mixed use development or as provided under Subsection C(6) below;
 - (6) Historic structures. Any structure defined as a Class I or Class II Historic Resource in accordance with Article XXIII of this chapter may be used for any one or more of the above uses permitted by conditional use whether or not part of a planned mixed use development. As a condition of approval, the Board of Supervisors may vary applicable area and bulk requirements where applicant demonstrates to the satisfaction of the Board that such variation is necessary to permit economic use of historic structure(s) and shall result in maintenance of general historical integrity of such structure(s);
 - (7) Dispensing of gasoline as an accessory use to a permitted retail use;
 - (8) Public utility facility;
 - (9) Automotive service or repair garage facility;
 - (10) Car wash;
 - (11) Sale or rental of automobiles and other vehicles;
 - (12) [1] Hotel or motel;
- [1] *Editor's Note: Former Subsection C(12), regarding commercial recreational facilities, was repealed 4-1-2004 by Ord. No. 04-01. This ordinance also provided for the redesignation of former Subsection C(13) through (16) as Subsection C(12) through (15), respectively.*
- (13) Nursing home or assisted living facility;

(14) Major home occupation.

(15) Country properties in accordance with § 200-15.

[Added 10-4-2001 by Ord. No. 01-02]

D. Accessory uses. Accessory uses shall be permitted which are clearly subordinate and customarily incidental to any of the foregoing permitted uses.

§ 200-38. Area and bulk regulations.

A. The following area and bulk regulations shall apply to uses permitted in the Rural Mixed Use District except planned mixed use development:

(1) Minimum lot size: one acre.

(2) Minimum lot width building line: 150 feet; street line: 100 feet.

(3) Minimum side yard (each), except where abutting a district boundary: 20 feet.

(4) Minimum side yard (each) where abutting a district boundary: 40 feet.

(5) Minimum front yard, measured from the ultimate right-of-way of any public road where applicable: 30 feet.

(6) Minimum rear yard: 40 feet.

(7) Maximum building coverage: 30%.

(8) Maximum lot coverage (total): 50%.

(9) Maximum building height: 35 feet.

B. The area and bulk regulations set forth hereunder shall apply to those portions of a planned mixed use development comprising permitted nonresidential uses as well as apartment dwellings in second- and/or third-story space above permitted nonresidential uses. All other residential development shall be subject to the area and bulk regulations set forth in § 200-38D below. Any area used to calculate compliance with the density, area and bulk standards set forth hereunder shall be excluded from calculations attributable to applicable area and bulk regulation under said § 200-38D.

[Amended 7-17-2003 by Ord. No. 03-10]

(1) Minimum tract size: two acres.

(2) Minimum tract width: 200 feet.

(3) Minimum setback from the ultimate right-of-way of any public road: 30 feet.

(4) Minimum setback from the outside curb or edge of cartway of any internal roadway, provided that emergency access is not hindered: 10 feet.

(5) Minimum setback from any adjacent property boundary (as existed prior to subdivision of planned mixed-use development, if any): 30 feet.

(6) Maximum building coverage (entire tract): 40%.

(7) Maximum lot coverage (entire tract): 60%.

(8) Maximum building height: 35 feet.

C. The following building size and spacing requirements shall apply to all uses permitted in the Rural Mixed Use District; the purpose of these requirements is to promote building design which emulates traditional rural development patterns, avoiding visual dominance of single large buildings, particularly large single-story buildings arranged linearly along parking lot(s):

- (1) For purposes of this section, an individual building shall be considered as a space or contiguous spaces under one roof fully separated from any abutting building by permanent walls and with no direct access to any abutting building.
- (2) Maximum individual building size, gross first floor area 15,000 square feet. Where approved by the Board of Supervisors as a conditional use, buildings larger than 15,000 square feet in gross floor area may be permitted, where applicant demonstrates to the satisfaction of the Board that the design of the building and its relationship(s) to surrounding buildings and landscaped areas mitigates any negative impacts of large building size on the character of the RM District. Mitigating factors may include arrangement of adjacent buildings, parking, and pedestrian areas and/or obvious offset in building height or facade design such that the visible or perceived size of individual buildings is generally in keeping with local historical precedent.
- (3) Except where buildings directly abut one another, no individual building shall be placed closer to any other building than the height of the taller of such adjacent buildings.
- (4) Where any individual building facade (or adjoining facades which abut flush to the same building line) is visible from any public right-of-way or public space (including internal public spaces within a development) and exceeds 80 feet in length, there shall be a clear dimensional differentiation of roofline (i.e., an obvious difference in height) and/or an offset in facade of at least 10 feet, effectively breaking the single facade into two or more facades each no more than 80 feet in length. Where approved by the Board of Supervisors as a conditional use, single facades greater than 80 feet in length may be permitted, where applicant demonstrates to the satisfaction of the Board that the design of the building and its relationship(s) to surrounding buildings and landscaped areas mitigate any negative impacts of long continuous building facade(s) on the character of the RM District. Mitigating factors may include design which emulates characteristic historical building forms which typically included relatively long individual facade lengths such as barns, stables, churches, meeting houses, or other public buildings. Building arrangements which rely on repeated use of the same long facade element shall not be approved.
- (5) The layout and spacing of buildings and parking areas shall maximize retention of lines of sight from nearby public roads across and into scenic open landscapes, as defined and mapped in the West Brandywine Township Open Space, Recreation and Environmental Resource Plan.^[1]

[1] *Editor's Note: See Ch. A207, Open Space, Recreation and Environmental Resources Plan.*

- D. The area and bulk regulations set forth hereunder shall apply to those portions of a planned mixed use development comprising permitted residential uses excluding apartment dwellings in second- and/or third-story space above permitted nonresidential use(s), to which the provisions of § 200-38B shall apply. Any area used to calculate compliance with the density, area and bulk standards set forth hereunder shall be excluded from calculations attributable to applicable area and bulk regulation under said § 200-38B.

[Added 7-17-2003 by Ord. No. 03-10]

- (1) Minimum tract size: two acres.
- (2) Minimum tract width: 200 feet.
- (3) Maximum density.
 - (a) Maximum density measured in number of dwelling units: net tract area in acres multiplied times the multiplier stipulated hereunder:
 - [1] Where single-family and/or two-family dwellings are provided: 2.5.
 - [2] Where multiple-family dwellings excluding apartment dwellings are provided: 3.5.
 - [3] Where apartment dwellings are provided: 6.0.
 - (b) For purposes of this subsection, the net tract area shall be measured to exclude any portion of the tract subject to planned mixed use development which is utilized for calculation of compliance with area and bulk requirements for any use(s) subject to the provisions of § 200-38B.

- (4) Maximum building coverage: 20%.
- (5) Maximum lot coverage: 40%.
- (6) Minimum separation between any principal and/or accessory residential structures, at any point, except as provided in § 200-38D(7) below: 40 feet. Where applicant demonstrates to the satisfaction of the Board of Supervisors that adequate fire protection shall be provided, minimum separation may be reduced to 20 feet.
- (7) Minimum separation between any rear wall of any residential structure and any point on any other building: 50 feet.
- (8) Minimum setback from the edge of cartway (or outside edge of curb, if applicable) of any internal street or parking area: 15 feet.
- (9) Minimum setback from the ultimate right-of-way of any external street: 30 feet.
- (10) Minimum setback from any adjacent property boundary (as existed prior to subdivision of planned mixed-use development, if any): 30 feet.
- (11) Maximum building height: 35 feet. No more than 50% of apartment dwellings provided in a planned mixed-use development shall be in residential structures exceeding two full stories in height, excluding habitable roof or attic stories and excluding apartment dwellings in third-story space above permitted nonresidential use(s).

§ 200-39. Design standards.

The following design standards under Article XV shall apply to all uses under the Rural Mixed Use District:

- A. Required off-street parking requirements, § 200-101.
- B. The parking lot standards of § 200-102 shall apply. Parking shall not be located within the required minimum front yard setback. To the degree practicable, all parking shall be located to the side or rear of buildings fronting toward the street.
- C. Visibility at intersections, § 200-103.
- D. The access and traffic control standards of § 200-104 shall apply. In addition, vehicular access within the Rural Mixed Use District shall be designed to limit the number of new access points to public roads and to limit potential for turning movement conflict. Direct access to arterial and collector streets and highways shall be limited to no more than one point of ingress or egress, or a single point of ingress and egress for any lot, tract, or parcel with frontage on such road. For the purposes of this section, a planned mixed use development shall be considered as a single parcel. Any parcel with frontage on more than one arterial or collector street or highway may provide for access to each of such streets or highways. Where practicable, access to adjoining parcels with frontage along arterial and collector streets and highways shall be combined so as to limit potential turning movement and pedestrian movement conflicts.
- E. Interior circulation standards, § 200-105.
- F. Off-street loading standards, § 200-106.
- G. Landscaping standards, § 200-107.
- H. Screening and buffering standards, § 200-108.
- I. Storage standards, § 200-109.
- J. Lighting standards, § 200-110.
- K. Performance standards, § 200-111.
- L. Pipeline setback standards, § 200-112.

§ 200-40. Special provisions for planned mixed use development.

In addition to the design standards of § 200-39, as applicable, the following provisions shall apply to planned mixed use development, where approved by the Board of Supervisors as a conditional use:

- A. As part of conditional use application, the applicant shall prepare a plan indicating how the lot or tract will be developed and used. The plan shall also identify specific ownership and maintenance responsibilities of the lot or tract, including buildings, structures, access and parking areas, landscaped open space, and other improvements.
- B. The combined uses, buildings, structures and other improvements shall collectively comply with the bulk regulations under § 200-38B above.
- C. Signs. No more than one freestanding sign shall be permitted along the frontage of each public street or highway abutting the lot or tract developed for planned mixed use development and no more than two freestanding signs shall be permitted on the entirety of such lot or tract. Such sign(s) shall serve as a directory to uses on the lot or tract. All individual signs shall be mounted to the building or structure housing the use. Signs shall be designed in accordance with Article XVII and shall be designed to complement overall appearance within the Rural Mixed Use District.
- D. Pedestrian and vehicular access.
 - (1) Pedestrian access within the planned mixed use development shall be designed to provide convenient, safe, and direct access between the various uses within the district and nearby concentrations of development which it is intended to serve.
 - (2) Parking needs shall be independently calculated for each use in accordance with Article XV. Parking facilities may be designed as a common parking lot, provided that the required number of parking spaces are provided for each use. As a condition of approval the Board of Supervisors may reduce collective parking requirements, provided that applicant demonstrates to the satisfaction of the Board that intended uses and parking lot design promote shared parking usage.
 - (3) Parking areas shall be designed so as to appear broken in mass, in proportion to the scale of structural development and shall be landscaped in accordance with the provisions of § 200-107.
- E. Site design.
 - (1) Development of a planned mixed use development shall result in a massing and grouping of structures that complements the character of the surrounding area, and which enhances management of vehicular access to arterial and collector streets and highways. Landscaping, pedestrian walks or paths, parking, signage and other improvements shall demonstrate a cohesive design pattern for the entire tract under application. Applicants are strongly encouraged to mix uses with complementary parking requirements (i.e., where differential timing of peak parking demand permits the same parking area to support more than one use). Uses which may involve second and third story space are encouraged in order to replicate traditional rural structural development patterns. As a condition of approval, the Board of Supervisors may permit roof structures above the cornice line which exceed the thirty-five-foot height limit, where the Board agrees that such structures enhance the appearance of the overall design.
 - (2) Within a planned mixed use development, not more than 15% of the gross lot or tract area shall be occupied by structures less than 1 1/2 stories in height. For this purpose, 1/2 story shall mean a roof-story with sufficient height and space within the form of a pitched roof to permit the development of habitable or leasable space, whether or not any actually is proposed for development.
- F. Mixed use requirements. Consistent with the purposes of this RM District and in consideration of historical and characteristic rural development patterns, any planned mixed use development on a tract or tracts exceeding five acres in gross area shall include a variety of permitted land uses. In providing for a mix of land uses and residential dwelling types, the standards set forth hereunder shall apply unless modified at the sole discretion of the Board of Supervisors as a condition of conditional use approval. The purpose of these

numerical standards is to ensure that adequate lands may be set aside for a diversity of uses, including potential public and/or quasi-public uses, such as a church, community organization, post office, or fire hall, for example. The numerical standards essentially establish a range of between 35% and 65% of the net tract area that may be used for either residential or nonresidential development. There also is a limit on the amount of area that may be dedicated to larger-scale multifamily residential buildings (mainly apartment buildings), as an objective of this article is to promote a "village-like" scale of development. With the village theme, apartments over top of nonresidential uses are NOT subject to any further limitation beyond normal area, bulk and height limitations. This section does not require any applicant to develop any particular range of uses. Where, for example, only residential development is proposed, it may be permitted subject to limitation to use of 65% of the tract. The remainder may be left open or may be sold or dedicated to another party to develop for nonresidential purposes.

[Added 7-17-2003 by Ord. No. 03-10]

- (1) No more than 65% of the net tract area of the tract or tracts undergoing development of a planned mixed use development shall be used to meet applicable area and bulk or coverage requirements for permitted residential development or to provide for purposes ancillary to such residential development, including but not limited to parking, stormwater management and sewage disposal, and no land area used to satisfy such requirements nor applicable open space requirements shall also be used to satisfy similar requirements for any nonresidential use. Apartment dwellings in second- and/or third-story space above permitted nonresidential uses shall be exempt from this limitation.
- (2) No more than 35% of the total number of residential dwelling units in a planned mixed use development shall be multifamily dwellings in structures containing more than six such dwellings. Apartment dwellings in second- and/or third-story space above permitted nonresidential uses shall be exempt from this limitation.
- (3) No more than 65% of the net tract area of the tract or tracts undergoing development of a planned mixed use development shall be used to meet applicable area and bulk or coverage requirements for permitted nonresidential development, or to provide for purposes ancillary to such nonresidential development, including but not limited to parking, stormwater management and sewage disposal, and no land area used to satisfy such requirements shall also be used to satisfy similar requirements for any residential use. Apartment dwellings in second- and/or third-story space above permitted nonresidential uses shall be exempt from this limitation.
- (4) Area(s) developed for permitted nonresidential uses shall include land set aside at appropriate locations to be made available for public or quasi-public uses such as a day-care center, church, library, museum, educational or cultural use. No less than 15% of that portion of the tract area developed and/or allocated for permitted nonresidential uses shall be devoted to or set aside for such public or quasi-public use(s). Compliance with area and bulk requirements shall be calculated to include such areas, whether or not such public or quasi-public use(s) are part of initial land development plans. Building space or sites thus made available need not be dedicated but may be marketed for such purposes as would any other real estate.

§ 200-41. (Reserved)

[1] *Editor's Note: These sections were reserved with the amendment to Art. IX by Ord. No. 00-03.*

§ 200-42. (Reserved)

Chapter 200. Zoning

Article XXII. Open Space Design Option

[Added 2-15-1996 by Ord. No. 95-08; amended 3-4-1999 by Ord. No. 99-03; 7-18-2002 by Ord. No. 02-04; 11-21-2002 by Ord. No. 02-05; 7-17-2003 by Ord. No. 03-10; 10-6-2005 by Ord. No. 05-05; 6-7-2007 by Ord. No. 07-01; 4-3-2008 by Ord. No. 08-01]

§ 200-177. Purpose.

The purposes of this article are:

- A. To provide an opportunity for flexibility in lot designs and building arrangement not afforded by conventional lot-by-lot development;
- B. To provide for a more varied, innovative, and efficient development pattern;
- C. To preserve unique and sensitive landscapes and site features by locating new dwelling sites in areas removed from such features;
- D. To protect scenic vistas from encroachment by development;
- E. To retain and protect open space areas within residential development;
- F. To provide a means to attain the aims and objectives of the West Brandywine Township Comprehensive Plan^[1] relative to orderly growth and the enhancement of environmental resources.
^[1] *Editor's Note: See Ch. A206, Comprehensive Plan.*
- G. To support the specific objectives of the West Brandywine Township Open Space, Recreation and Environmental Resources Plan.^[2]
^[2] *Editor's Note: See Ch. A207, Open Space, Recreation and Environmental Resources Plan.*

§ 200-178. Eligibility.

- A. The open space design option shall be permitted in the R-1, R-2, R-3, R-4 and MSI Zoning Districts where applicant, to the satisfaction of the Board of Supervisors, can demonstrate compliance with all design standards and criteria of this article. The Board of Supervisors may retain such consultants as necessary to review and certify the accuracy of all plans and other documentation submitted in accordance with Article XXI, reasonable and necessary charges therefor to be borne by the applicant.
- B. Applicant is strongly encouraged to submit a sketch plan to the West Brandywine Township Planning Commission and to discuss community development and open space resource conservation objectives with the Planning Commission prior to formal conditional use application.
- C. Development under the open space design option shall be served by individual, community, or public water supply systems, where applicant, to the satisfaction of the Board of Supervisors, can demonstrate adequate supply for the intended residential and open space uses and for fire emergency purposes.

- D. Development under the open space design option shall be served by individual, community, or public sewage disposal systems consistent with the West Brandywine Township Sewage Facilities (Act 537) Plan, subject to demonstration of compliance with all applicable regulations of the Chester County Health Department and/or the Pennsylvania Department of Environmental Protection. Provision of capped sewers shall be required where future public sewer service is anticipated or where the subject development is located within or adjacent to any public sewer service area identified in the Act 537 Plan.
- E. The proposed development will be generally consistent with the West Brandywine Township Open Space, Recreation and Environmental Resources Plan,^[1] and with the Chester County Future Land Use Plan and West Brandywine Township Comprehensive Plan,^[2] as applicable.
[1] Editor's Note: See Ch. A207, Open Space, Recreation and Environmental Resources Plan.
[2] Editor's Note: See Ch. A206, Comprehensive Plan.
- F. The tract or tracts of land to be developed, including noncontiguous tracts where applicable, and whether in single or multiple ownership, shall be developed according to a single plan with common authority and responsibility.
- G. Where any provision of any other section of this Chapter 200, Zoning, or any provision of Chapter 167, Subdivision and Land Development, is inconsistent with the purposes and provisions of this article, the provisions of this article shall apply.

§ 200-179. General regulations.

- A. The open space option shall be used to develop single-family dwellings on lots in excess of 20,000 square feet in area where approved by the Board of Supervisors in accordance with the provisions of this article.
- B. The open space design option maybe used to establish open space uses as set forth in § 200-181D(2) of this article.
- C. Where permitted by the Board of Supervisors as a conditional use, an applicant may utilize the open space design option for development of any of the following uses, in addition to or in place of single-family dwellings on lots in excess of 20,000 square feet:
 - (1) Single-family dwellings on lots less than 20,000 square feet.
 - (2) Two-family dwellings, except that two-family detached (duplex) dwellings shall not be permitted in the R-1 or R-2 Zoning Districts;
 - (3) Multiple-family dwellings, except that apartment dwellings shall not be permitted in the R-1 or R-2 Zoning Districts;
 - (4) Where the open space design option is utilized to develop dwellings comprising an age-restricted community, common or congregate facilities and other uses customarily accessory to an age-restricted community also may be included within the development, subject to conditional use approval and where primarily intended to serve residents of the development and their occasional invited guests.

§ 200-180. Area and bulk regulations.

- A. Qualified open space requirement. At a minimum, qualified open space shall be provided equal in area to the sum of the following and subject to the measurement criteria set forth in § 200-181D(2):
 - (1) All area(s) excluded from the net tract area as provided in § 200-180B below; and
 - (2) Forty-five percent of the net tract area as established in accordance with said § 200-180B.
- B. Establishment of net tract area. For purposes of establishing the maximum permissible number of lots or dwelling units on any tract utilizing the open space design option, and establishing open space requirements, the net tract area shall include all areas within the legal property lines of a tract, excluding the following:

- (1) Any existing area that has been set aside as a permanent right-of-way or easement for a public or private street, or for aboveground or underground utilities other than for local service;
 - (2) Any existing area comprising permanent drainage or stormwater management easements;
 - (3) Any existing area comprising sewage disposal facilities;
 - (4) Any area within the Flood Plain District as established in Article XII;
 - (5) Any area comprising wetlands under the jurisdiction of the U.S. Army Corps of Engineers and/or the Pennsylvania Department of Environmental Protection;
 - (6) Any area within the Severe Slope District as established in Article XIII;
 - (7) Any area of hydric soils as defined in § 200-8. To the extent that any Glenville soils are proven to be upland (nonhydric) in nature, there shall be no net out once proven and approved by the Township Engineer;
 - (8) Any area equivalent to 75% of any area within 50 feet of the top of bank of any stream, and where not coextensive with any area excluded in accordance with § 180-180B(1) through (7) above;
 - (9) An area equivalent to 75% of any area within the Moderate Slope District as established in Article XIII and where the Moderate Slope District does not coincide with any area excluded in accordance with § 200-180B(1) through (8) above.
- C. The maximum permissible number of lots or dwelling units on any tract utilizing the open space design option shall be calculated by multiplying the net tract area in acres by the multiplier stipulated below. This density calculation shall be rounded to the next lower whole number (i.e., a permitted density calculation of 17.7 would yield 17 lots.).
- (1) In the R-1 Zoning District: 0.55.
 - (2) In the R-2 Zoning District: 0.9.
 - (3) In those portions of the R-3, R-4 and MSI Zoning Districts outside of areas designated for public sewerage service by the West Brandywine Township Sewage Facilities (Act 537) Plan: 1.0.
 - (4) In those portions of the R-3, R-4 and MSI Zoning Districts within areas designated for public sewerage service by the West Brandywine Township Sewage Facilities (Act 537) Plan, and where public sewerage service is provided:
 - (a) Where single-family and/or two-family dwellings are developed: 2.0.
 - (b) Where multiple-family dwellings are developed, the multiplier shall be 3.0 on that portion of any tract devoted to multiple-family dwellings.
 - (5) Various portions of any single tract may be planned for development in accordance with differing density options as provided above. In such event, applicant shall demonstrate that appropriate land areas, including required qualified open space, can be identified to separately apply to each density multiplier utilized. No land area used for calculation under any one option shall also be used for calculation under another option.
 - (6) Where permitted density calculated as provided herein is utilized for development of dwellings in an age-restricted retirement community, the density applied to the age-restricted retirement community may be increased such that 1.25 age-restricted dwellings may be developed for each dwelling otherwise permitted in accordance with the density calculations provided herein.
- D. Applicant is advised that the maximum number of units calculated under the provisions herein may not always be achievable while meeting requirements for minimum restricted open space and all other standards, criteria, and regulations herein.
- E. (Reserved)

- F. Maximum tract coverage. Coverage by impervious surfaces shall be limited to the percentage of net tract area established for each zoning district as follows:
- (1) In the R-1 Zoning District: 15%.
 - (2) In the R-2 Zoning District: 20%.
 - (3) In those portions of the R-3, R-4 and MSI Zoning Districts outside of areas designated for public sewerage service by the West Brandywine Township Sewage Facilities (Act 537) Plan: 25%.
 - (4) In those portions of the R-3, R-4 and MSI Zoning Districts within areas designated for public sewerage service by the West Brandywine Township Sewage Facilities (Act 537) Plan, and where public sewerage service is provided: 35%.
- G. The following area and bulk regulations shall apply to all principal and accessory residential structures and to any structures containing any permitted open space use(s) on any tract developed pursuant to this article. For any structure containing any other permitted use, the applicable area and bulk requirements of the underlying zoning district shall apply.
- (1) Except in accordance with § 200-180G(2) below, the minimum separation between any principal and/or accessory structures, at any point, shall not be less than 40 feet. Where applicant demonstrates to the satisfaction of the Board of Supervisors that adequate fire protection shall be provided, minimum separation may be reduced to 20 feet.
 - (2) Minimum separation shall not be less than 50 feet measured perpendicularly from any rear wall of any residential structure to any point on any other building except permitted accessory structures.
 - (3) Minimum setback from the edge of cartway (or outside edge of curb, if applicable) of any street shall be not less than 25 feet, except as provided in § 200-181A(2) below.
 - (4) Maximum building height shall not exceed 35 feet measured from the average elevation of all corners of the building at ground level to the peak of the building's roof; provided, however, that a building height of 35 feet or less than 35 feet may, when considered in conjunction with building location, be a factor in denying conditional use approval (or a lower building height maybe a condition imposed) if, in the judgment of the Board of Supervisors, the purposes of this article pertaining to, among other things, the preservation of scenic vistas, are not satisfied by the applicant's plan.
 - (5) Maximum building length, measured in any continuous linear direction, shall not exceed 150 feet, regardless of length of individual facades.
 - (6) No individual residential structure shall contain more than four single-family attached dwellings and no individual group or cluster of residential structures shall comprise more than eight residential structures nor include more than 24 individual dwelling units. For example, where multifamily dwelling units are provided, 24 units may be provided in eight structures of three units each. Each group or cluster of residential structures shall be separated from any other group or cluster by a landscape buffer of a minimum of 150 feet in width, measured between any principal residential structures, and landscaped in accordance with the provisions of § 200-181A(5).
 - (7) Where individual residential lots are established, no individual lot shall be less than 8,000 square feet in area for single-family detached dwelling units nor less than 5,000 square feet in area for each individual dwelling unit within a two-family structure, nor less than 2,500 square feet for each individual dwelling unit within any multifamily structure.
 - (8) Individual residential lots shall have a minimum lot width at street line as follows, including lots located on the bulb of a cul-de-sac street:
 - (a) Single-family detached residential lots: 50 feet.
 - (b) Two-family residential lots: 40 feet.
 - (c) Single-family attached residential lots: 20 feet.

- (9) Notwithstanding parking requirements otherwise stipulated in this chapter, in any development utilizing the open space design option, the Board of Supervisors may require four parking spaces per dwelling unit plus one quarter parking space per dwelling unit for visitor parking. The Board may require additional parking to serve recreational or other common facilities where applicable.
- (10) For any development utilizing the open space design option, the area and bulk provisions herein shall supersede any other provisions of this chapter or Chapter 167, Subdivision and Land Development, which may be inconsistent herewith. The provisions herein maybe modified by the Board of Supervisors where applicant has demonstrated to the satisfaction of the Board that variation from these standards results in a pattern of development more fully in compliance with the objectives of this article.
- (11) Notwithstanding the above and subject to conditional use approval, the following specific area and bulk regulations may be applied to a tract or tracts where, and to the extent that, the open space design option is utilized to develop dwellings comprising an age-restricted community. Where not otherwise provided herein, the area and bulk standards set forth in § 200-180G(1) through (9) shall apply.
 - (a) Within an age-restricted community, where individual lots are not provided, the following minimum separation distances shall apply:
 - [1] The minimum separation between any principal and/or accessory structures, at any point, may be reduced to not be less than 10 feet, provided that adequate fire protection shall be provided and except as provided in § 200-180G(10)(a)[2] below.
 - [2] Minimum separation shall not be less than 30 feet measured perpendicularly from any rear wall of any residential structure to any point on any other building.
 - (b) Within an age-restricted community, where individual lots are provided, the following setback requirements shall apply in lieu of minimum separation requirements:
 - [1] Minimum front yard: 20 feet.
 - [2] Minimum rear yard: 25 feet.
 - [3] Minimum side yard: 7.5 feet.
 - (c) Where individual residential lots are established, no individual lot shall be less than 5,000 square feet in area for single-family detached dwelling units nor less than 3,000 square feet in area for each individual dwelling unit within a two-family structure, nor less than 2,000 square feet for each single-family attached dwelling unit.
 - (d) Individual residential lots shall have a minimum lot width at street line as follows, including lots located on the bulb of a cul-de-sac street:
 - [1] Single-family detached residential lots: 45 feet.
 - [2] Two-family residential lots: 35 feet.
 - [3] Single-family attached residential lots: 20 feet.
 - (e) In any age-restricted community, recreation facilities such as clubhouses, community centers, swimming pools, tennis courts and other customary accessory uses shall be subject to the following provisions:
 - [1] No building shall be closer than 50 feet to any residential lot line or to any residential structure where individual lots are not provided.
 - [2] Parking for a clubhouse or community center shall be provided at one space per 250 square feet of gross floor area.

H. Where a tract or tracts of land subject to development in accordance with the open space design option is or are located in more than one zoning district, or comprise noncontiguous tracts, applicable density,

qualified open space and tract coverage calculations shall be performed separately for each tract and in each zoning district and summed to establish total permissible density, tract coverage and qualified open space. Where approved as a conditional use, the locations of dwellings, permitted accessory uses, impervious coverage and open space may be provided without regard to application of density, coverage and open space regulations to any individual tract or zoning district. Notwithstanding the above, not less than 25% of the tract area of any single tract shall comprise qualified open space and not more than 60% of the tract area of any single tract shall be developed as impervious coverage.

§ 200-181. Conservation and development design standards.

A. General development standards.

- (1) All applicable standards provided in Articles XIV and XV of this chapter shall apply to any development utilizing the open space design option.
- (2) All proposed dwelling units in a development utilizing the open space design option shall be situated so that they are set back a minimum of 50 feet from the predevelopment perimeter boundary of the tract. Existing dwellings and dwellings resulting from the conversion of existing structures shall be exempt from this requirement.
- (3) Placement of buildings and design of internal circulation systems shall minimize adverse impact to existing Township roads.
- (4) Architectural design.
 - (a) For any residential structure other than a single-family dwelling, where any individual building facade visible from any public right-of-way or public space (including internal public spaces within a development) exceeds 50 feet in length, there shall be a clear dimensional differentiation of roofline (i.e., an obvious difference in height) and/or an offset in facade of at least 10 feet, effectively breaking the single facade into two or more facades each no more than 50 feet in length. Where approved by the Board of Supervisors as a conditional use, single facades greater than 50 feet in length may be permitted, where applicant demonstrates to the satisfaction of the Board that the design of the building and its relationship(s) to surrounding buildings, landscaped areas and topographic features mitigates any negative impacts of long, continuous building facade(s). Mitigating factors may include design which emulates characteristic historical building forms which typically included relatively long individual facade lengths such as barns, stables, churches, meeting houses, or other public buildings. Building arrangements which rely on repeated use of the same long facade element shall not be approved.
 - (b) At its sole discretion the Board of Supervisors may require applicant to provide architectural renderings generally illustrating the intended exterior design, including principal exterior materials, of structures to be built on lands developed in accordance with this section. Such drawings shall effectively present an overall architectural theme which is internally consistent and compatible with surrounding properties and community resource protection objectives and which utilizes materials of long-term durability and low maintenance. The Board may further require, as a condition of approval, establishment of specific architectural design guidelines and/or a formal design review process, or other appropriate means to guarantee adherence to the intended architectural theme presented by the applicant.
- (5) Any required landscape buffer between clusters of dwelling units shall be landscaped in accordance with the provisions of § 200-107 of this chapter and shall visually screen dwelling units in any one cluster from those in any other cluster and/or shall take advantage of existing site conditions to provide such screening.

B. Historic resources. Historic resources and their historic landscape context shall be preserved through incorporation into development plans and design to the greatest degree feasible, including historic structures, ruins or sites, historic road or other transport traces, paths and trails, and any other historic landscape features. In considering conditional use approval, the Board of Supervisors may request testimony

from recognized expert(s) in the area of historic resource analysis and preservation, reasonable and necessary charges therefor to be borne by the applicant.

C. Open space resource protection standards. In utilizing the open space design option, the proposed design shall limit disturbance of all open space resources identified in the required natural and cultural resources analysis and accompanying material submitted in accordance with § 200-174C of this chapter.

(1) Where applicable, applicant shall comply with the specific objectives of the West Brandywine Township Open Space, Recreation and Environmental Resources Plan.^[1]

[1] *Editor's Note: See Ch. A207, Open Space, Recreation and Environmental Resources Plan.*

(2) Applicant shall demonstrate maximum conservation of scenic views from public roads and, where feasible, neighboring residential properties, including but not limited to lines of view from vista points as noted in the West Brandywine Township Open Space, Recreation and Environmental Resources Plan^[2] and direct lines of view from adjacent public roads to visual accents mapped in said plan. Applicant may demonstrate conservation of views through retention of existing vegetation, structures, or changes in topography or through provision of landscaping to screen proposed development from view.

(a) In considering conditional use approval, the Board may reduce screening requirements where applicant submits individual building design plans with sufficient detail to demonstrate, in terms of how such buildings may be viewed from public roads or neighboring residential properties, reasonable replication of proportional relationships of form and massing evident in existing historic resources, including ratios of height to width, length of individual facade segment, roof pitch, relative size and placement of windows, doors, and other facade details. The distance from point of public or neighboring view also may be considered as a mitigating factor in review of plans for buildings within such view.

[2] *Editor's Note: See Ch. A207, Open Space, Recreation and Environmental Resources Plan.*

(3) Lands within the Flood Plain District shall comply with the terms of Article XII of this chapter.

(4) Lands within areas of severe steep slopes (over 25%) or moderate steep slopes (15% to 25%) shall comply with the terms of Article XIII of this chapter.

(5) Applicant shall demonstrate compliance with applicable state and/or federal regulation of streams and wetlands, including compliance with special protection guidelines for designated special protection waters. For any proposed activity requiring the submission of a wetland delineation report, stream or wetland encroachment permit, or mitigation plan to the Pennsylvania Department of Environmental Protection and/or U.S. Army Corps of Engineers, a copy of all such documentation shall be submitted to West Brandywine Township.

(6) Where feasible, applicant shall demonstrate conservation of any site included in the Chester County Natural Areas Inventory and/or any unique natural area inventoried in the Chester County Open Space and Recreation Study, as may be amended from time to time.

(7) Mature trees and woodlands, including any existing trees greater than eight inches caliper, hedgerows, fencelines, rock outcroppings and other noted landscape features, shall be preserved to the greatest degree feasible. Woodland removal shall not exceed 25% of total woodland area on any tract, except where the Board is satisfied that conservation of other significant open space resources can be best achieved with additional woodland removal. In no case shall more than 50% of existing woodland be removed. For the purposes of this section, the extent of area occupied by any tree or woodland (tree mass) shall be measured from the outermost drip line of such tree or of all the trees in a woodland (tree mass). Applicant shall give special consideration to the conservation of significant woodland habitat areas identified in the West Brandywine Township Open Space, Recreation and Environmental Resources Plan.^[3]

[3] *Editor's Note: See Ch. A207, Open Space, Recreation and Environmental Resources Plan.*

D. Open space designation and use standards.

- (1) Areas designated as open space shall be consistent with the West Brandywine Township Open Space, Recreation and Environmental Resources Plan.^[4] The location and layout of open space shall be configured so as to promote adherence to resource protection standards in § 200-181B and C above.
[4] Editor's Note: See Ch. A207, Open Space, Recreation and Environmental Resources Plan.
- (2) No portion of any designated open space shall be considered as meeting the qualified open space requirement where:
 - (a) Occupied by existing or proposed impervious surfaces;
 - (b) Extending less than 150 feet in the narrowest dimension at any point;
 - (c) Located within the bounds of any lot whose principal use(s) are not permitted open space use(s) in accordance with § 200-181D(2). Parcels or lots where agriculture or other open space uses are the principal use(s) may also include residential dwelling unit(s) and still be counted as open space, subject to all criteria herein for measurement of minimum restricted open space.
 - (d) Located within 20 feet of any structure except structures devoted to permitted open space uses or required infrastructure.
 - (e) Occupied by stormwater detention or retention facilities, sewage collection, conveyance, treatment or disposal facilities, or water supply facilities, subject to the following:
 - [1] In determining compliance with this section, areas devoted to stormwater detention or retention facilities shall be measured to include all of the following:
 - [a] All areas within the contour line established by the top elevation of the stormwater detention/retention embankment on the outlet or downhill side of the detention/retention area (i.e., basin); plus
 - [b] All areas between said contour line and the toe of slope of any embankment established to contain the stormwater detention/retention facility; plus
 - [c] All area within (or directly over top of) the physical limits of any surface or subsurface stormwater management structure; plus
 - [d] Any area within 10 feet of any area as set forth in Subsection D(2)(e)[1][a], [b] and [c] above; plus
 - [e] Any area within 10 feet to either side of any stormwater management pipe or other stormwater conveyance structure; plus
 - [f] Any additional area, if any, within any easement established for stormwater management or drainage.
 - [2] In determining compliance with this section, areas devoted to water supply facilities or to sewage collection, conveyance, treatment or disposal facilities, including any drip dispersion tubing and any area subject to spray irrigation, shall be measured to include all areas subject to any easement established for such purposes and/or any area within 10 feet of the outermost limits of any area where such facilities have been or shall be installed, whichever area is greatest in extent. Water supply and sewage collection lines serving only one individual residential dwelling shall be excluded from this provision.
- (3) Areas designated for open space purposes may be used for any of the following as approved by the Township:
 - (a) Woodland, meadow, pasture, wildlife habitat, game preserve, agricultural area, or similar conservation-oriented area;
 - (b) Park or recreation area.

- (4) For management and ownership purposes, water supply, sewage service and stormwater management facilities may be located within areas designated and managed as open space, but shall not contribute to the measurement of qualified open space, as stipulated in § 200-181D(2)(e). Where such facilities are so located, easements satisfactory to the Board of Supervisors shall be established to require and enable maintenance of such facilities by the appropriate parties.
- (5) Except to provide for permitted open space uses, all designated open space areas shall be restricted from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to the Township and duly recorded in the office of the Recorder of Deeds of Chester County. Restrictions shall run in favor of the Township and owners of all new lots created by the development under application.

§ 200-182. Standards for ownership of restricted open space.

Subject to permanent conservation restrictions, open space lands in any subdivision may be owned by a homeowners' association, the Township, a land trust, another conservation organization recognized by the Township, or by a similar entity, or, where required by the Township as provided in § 200-182F, may be placed in private ownership.

A. Offer of dedication.

- (1) The Township may, but shall not be required, to accept dedication in the form of fee simple ownership of open space land provided:
 - (a) Such land is accessible to the residents of the Township;
 - (b) There is no cost of acquisition other than any costs incidental to the transfer of ownership such as title insurance; and
 - (c) The Township agrees to and has access to maintain such lands.
- (2) Where the Township accepts dedication of open space land that contains improvements, the Board of Supervisors may require the posting of financial security to ensure structural integrity of said improvements as well as the functioning of said improvements for a term not to exceed 18 months from the date of acceptance of dedication. The amount of financial security shall not exceed 15% of the actual cost of installation of said improvements.

B. Homeowners' association. Open space lands and associated facilities may be held in common ownership by a homeowners' association. The association shall be formed and operated under the following provisions:

- (1) The developer shall provide a description of the association including its bylaws and methods for maintaining the open space.
- (2) The association shall be organized by the developer and operating with financial subsidization by the developer, before the sale of any lots within the development.
- (3) Membership in the association is mandatory for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the association from developer to homeowners shall be identified.
- (4) The association shall be responsible for maintenance and insurance on common open space land, enforceable by liens placed by the homeowners' association. Maintenance obligations may be enforced by the Township which may place liens to recover its costs. Any governmental body with jurisdiction in the area where the development is located may place liens on the owners of the open space to collect unpaid taxes.
- (5) The members of the association shall share equitably the costs of maintaining and developing such common land. Shares shall be defined within the association bylaws. Association dues shall be structured to provide for both annual operating costs and to cover projected long-range costs relating

to the repair of any capital facilities (which shall be deposited in a sinking fund reserved for just such purposes).

- (6) In the event of a proposed transfer, within the methods here permitted, of common open space land by the homeowners' association, or of the assumption of maintenance of such land by the Township, notice of such action shall be given to all property owners within the development.
 - (7) The association shall have or hire adequate staff to administer common facilities and properly and continually maintain the common open space land.
 - (8) The homeowners' association may lease open space lands to any other qualified person, or corporation, for operation and maintenance of such lands, but such a lease agreement shall provide:
 - (a) That the residents of the development shall at all times have access to the open space lands contained therein (except that access to land that is actively farmed shall be limited to times of the year with the fields are fallow);
 - (b) That the common open space land to be leased shall be maintained for the purposes set forth in this chapter; and
 - (c) That the operation of open space facilities may be for the benefit of the residents only, or may be open to the residents of the Township, at the election of the developer and/or homeowners' association, as the case may be.
 - (9) The lease shall be subject to the approval of the Board and any transfer or assignment of the lease shall be further subject to the approval of the Board. Lease agreements so entered upon shall be recorded with the Recorder of Deeds of Chester County within 30 days of their execution and a copy of the recorded lease shall be filed with the Secretary of the Township.
- C. Condominiums. Open space lands and associated facilities may be held in common through the use of condominium agreements, approved by the Board of Supervisors. Such agreement shall be in conformance with the Uniform Condominium Act of 1980.^[1] All common open space land shall be held as "common element."
- [1] *Editor's Note: See 68 Pa. C.S.A. § 3101 et seq., the Uniform Condominium Act.*
- D. Dedication of easements. The Township may, but shall not be required to, accept easements for public use of any portion or portions of the open space, title of which is to remain in common ownership by condominium or homeowners association, provided:
- (1) Such land is accessible to Township residents;
 - (2) There is no costs of acquisition other than any costs incidental to the transfer of ownership, such as title insurance; and
 - (3) A satisfactory maintenance agreement is reached between the developer, condominium or homeowners association and the Township.
- E. Transfer of easements to a private conservation organization. With the permission of the Township, an owner may transfer easements to a private, nonprofit, organization recognized by the Township, among whose purpose it is to conserve open space and/or natural resources, provided that:
- (1) The organization is acceptable to Board, and is a bona fide conservation organization with perpetual existence;
 - (2) The conveyance contains appropriate provision for proper reverter or retransfer in event that organization becomes unwilling or unable to continue carrying out its functions; and
 - (3) A maintenance agreement acceptable to the Board is entered into by the developer and the organization.
- F. Private ownership of open space. All or portions of the designated open space, where required by the Township, may be included within or divided among one or more of the individual lots. Regardless of

ownership, where deemed appropriate, the Board of Supervisors may require that responsibility for maintenance of open space be conferred upon and/or divided among the owners of one or more individual lots.

§ 200-183. Open space management provisions.

- A. Required open space management plan. Any application under the open space development option shall include a plan for the long-term management of the open space which is to be created as part of the development as well as the maintenance and management of any wastewater disposal, water supply, stormwater management or any other common facilities. Such a plan shall include a narrative discussion of:
- (1) The manner in which any open space or common facilities will be owned and by whom it will be managed and maintained;
 - (2) The conservation, land management and agricultural techniques and practices which will be used to conserve and perpetually protect the open space, including conservation plan(s) approved by the Chester County Conservation District, where applicable;
 - (3) The professional and personnel resources that will be necessary in order to maintain and manage the property;
 - (4) The nature of public or private access that is planned for any open space; and
 - (5) The source of money that will be available for such management, preservation and maintenance on a perpetual basis.
- B. The Board of Supervisors may require that the management plan be recorded, with the final subdivision and land development plans, in the Office of the Recorder of Deeds of Chester County. The Board may require as a condition of land development approval that appropriate management contracts be established as evidence of the ability to adhere to the provisions of the approved management plan. In order to allow for the changing needs inherent in the perpetual management of land, the management plan shall contain a provision to the effect that it may be changed by written application to the Board of Supervisors. Approval of such application by the Board shall not be unreasonably withheld or delayed, so long as the proposed change is feasible and consistent with the purposes of preservation of open space set forth in this article and so long as the plan for such change avoids a likelihood of the obligation for management and maintenance of the land falling upon the Township without the consent of the Board of Supervisors.
- C. Provisions for maintenance of any open space and any community facilities held in common ownership, including wastewater disposal, water supply, and stormwater management facilities.
- (1) In the event that the association or any successor organization shall, at any time after establishment of a development containing open space land, fail to maintain such land in reasonable order and condition in accordance with the development plan, the Township may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the open space land in reasonable condition.
 - (2) Failure to adequately maintain the open space land in reasonable order and condition constitutes a violation of this chapter. The Board is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any violation, directing the owner to remedy the same within 20 days.
 - (3) Should any bill or bills for maintenance of open space land by the Township be unpaid by November 1 of each year, a late fee of 15% shall be added to such bills and a lien shall be filed against the premises in the same manner as other municipal claims.

§ 200-184. Open space performance bond.

All landscape improvements, plantings, accessways, and recreational facilities within designated open space areas shall be provided by the developer as applicable. A performance bond or other securities shall be required to cover costs of all installation of proposed improvements in the open space area. The performance bond or other security shall be in the same form and adhere to the same conditions as otherwise required for proposed improvements under § 167-19 of Chapter 167, Subdivision and Land Development, of the Code of the Township of West Brandywine. An appropriate portion of the performance bond or other security will be applied by the Township should the developer fail to install the planting or recreational facilities.

Chapter 200. Zoning

Article XVI. Mobile Homes and Mobile Home Park Standards

§ 200-114. General regulations.

- A. **Applicability.** The provisions established under this article shall apply to all mobile home parks as defined in § 200-8 of this chapter. No person shall establish a mobile home park within West Brandywine Township except as provided under this article.
- B. **Temporary parking of mobile homes.** No person shall allow any mobile home to stand upon any street or right-of-way in West Brandywine Township unless in a mobile home park licensed under the provisions of § 200-118, unless such mobile home complies with the provisions of § 200-119. No mobile home park shall be established or occupied unless the park is in compliance with the Chester County Health Department rules and regulations.

§ 200-115. Use provisions within mobile home park.

- A. **Uses by right:**
 - (1) Mobile home units when self-contained, including cooking, sleeping, living, and lavatory facilities.
 - (2) Mobile home park office.
 - (3) Mobile home park service buildings.
- B. **Permitted accessory uses:**
 - (1) Recreational facilities.
 - (2) Signs in accordance with Article XVII.
[Amended 2-7-1985 by Ord. No. 85-01]
 - (3) Uses which are customarily incidental to a mobile home park.
 - (4) Mobile home sales facility.

§ 200-116. Area and bulk regulations.

- A. **Tract size.** A tract shall have a minimum area of 10 contiguous acres to qualify as a site for a mobile home park. The site shall comply with environmental open space and access requirements under Chapter 167, Subdivision and Land Development, of the Code of the Township of West Brandywine, § 167-29.
- B. **Density.** The gross density of a mobile home park shall not exceed five mobile home units per acre, provided adequate community or public sewer service and central water service are utilized.
- C. **Common open space.** A minimum of 30% of the total tract area shall be reserved for common open space. Such area shall be for the use of tenants within the mobile home park and may contain recreation facilities.

Common open space areas shall conform with the design criteria established under § 167-29 of Chapter 167, Subdivision and Land Development, of the Code of the Township of West Brandywine.

- D. Building separation. Mobile home spaces within a mobile home park shall be so designed that no mobile home shall be located closer than 20 feet from another mobile home.
- E. Setback. All mobile homes, park office or service structures shall be located a minimum of 50 feet from any mobile home park boundary. Mobile homes shall be set back a minimum of 75 feet from any road located outside the mobile home park. Mobile homes and accessory structures shall be set back a minimum of 10 feet from any internal park street. Individual mobile home access shall be only from an internal park street.
- F. Coverage provisions. The lot coverage and paved area provisions of the district in which the mobile home park is located shall apply. A minimum of 20% of a park shall be landscaped.
- G. Installation of mobile homes. All mobile homes shall be placed on and secured to a level foundation. A foundation shall be in accordance with Chapter 65, Building Construction, of the Code of the Township of West Brandywine. The length and width of the base shall be dependent upon the size of the mobile home it is to accommodate. Skirting of a suitable weather resistant material shall be placed around the entire base of the mobile home.
- H. Anchoring. All mobile homes shall be anchored in accordance with Chapter 65, Building Construction, of the Code of the Township of West Brandywine. The mobile home shall be secured to the anchors by acceptable materials and practices and be properly grounded.
- I. Minimum habitable floor area. All mobile homes shall have a minimum of 800 square feet, exclusive of addition and accessory structures.
- J. Applicable design standards. The following design standards under Article XV shall apply to all mobile home parks:
 - (1) Required off-street parking standards, § 200-101.
 - (2) Parking lot standards, § 200-102.
 - (3) Vehicular access, § 200-104.
 - (4) Interior circulation, § 200-105.
 - (5) Landscaping standards, § 200-107.
 - (6) Screening standards, § 200-108.
 - (7) Storage standards, § 200-101.
[Amended 2-7-1985 by Ord. No. 85-01]
 - (8) Lighting standards, § 200-110.
 - (9) Pipeline setback standards, § 200-112.
- K. The mobile home park standards under Article VI of Chapter 167, Subdivision and Land Development, of the Code of the Township of West Brandywine shall apply.

§ 200-117. Utilities.

- A. Sewage disposal. In all cases, a community or public sewage system is required. The sanitary sewage disposal standards established in Chapter 167, Subdivision and Land Development, of the Code of the Township of West Brandywine shall apply. All systems shall be subject to approval by the Pennsylvania Department of Environmental Protection through the Chester County Health Department.
- B. Water supply. In all cases, an off-site water supply system is required for both potable and fire protection purposes. Fire hydrants and their locations shall meet the specifications of the Association of Fire

Underwriters. Potable water supply system shall be subject to approval by the Pennsylvania Department of Environmental Protection. The water supply standards in Chapter 167, Subdivision and Land Development, shall apply.

- C. Fuel supply and storage. All fuel supplies and their storage shall be in accordance with the standards established in Chapter 167, Subdivision and Land Development.

§ 200-118. Mobile home park management.

- A. Registration. Every mobile home park shall include an office for the person in charge of such park. A copy of the operating permit shall be posted at all times in such office, and along with the register shall at all times be open for inspection by any Township Official. The register shall include, but not be limited to, the following information:
 - (1) A number assigned to each mobile home lot or site.
 - (2) Names and addresses of all residents of the park.
 - (3) The arrival date of each mobile home to the park.
 - (4) The departure date of each mobile home from the park.
- B. Management responsibilities. The following responsibilities shall apply to all mobile home park managers:
 - (1) Maintenance of the mobile home park in a clean and sanitary condition.
 - (2) Report all violations of this chapter to the Township Zoning Officer.
 - (3) Prohibit open fires upon the premises.
 - (4) Notify the Township Zoning Officer a minimum of 24 hours in advance of any entry or departure of a mobile home unit.
- C. Change of ownership. Whenever the ownership or management of an established mobile home park is changed, the new owner or manager shall notify the Board of Supervisors, which shall amend the permit.

§ 200-119. Mobile homes outside of mobile home park.

- A. Conformance to district regulations. All mobile homes located outside a mobile home park shall be subject to treatment as a single-family detached dwelling. A mobile home treated as a single-family detached dwelling shall conform to all requirements of the zoning district in which it is located.
- B. Placement of mobile homes on a single-family lot. Placement or installation of a mobile home on a single-family lot shall be placed on a permanent foundation comparable to that provided for a single-family dwelling.
- C. Utilities. Each mobile home on a single-family lot shall have an approved water supply and sewage disposal system by the Chester County Health Department.

§ 200-120. Mobile home park permits.

[Amended 2-5-1987 by Ord. No. 87-01]

All mobile home parks shall be required to obtain permits in accordance with Chapter 167, Subdivision and Land Development, of the Code of the Township of West Brandywine, § 167-28.