

## **Chapter 101**

# **FLOODPLAIN MANAGEMENT**

### **GENERAL REFERENCES**

**Building construction — See Ch. 42.**

**Zoning — See Ch. 116.**

**Subdivision and land development — See Ch. 105.**



ARTICLE I  
**Statutory Authorization**

**§ 101-1. Authority.**

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978,<sup>1</sup> delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Pursuant to that obligation, the following regulations are enacted.

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1. Editor's Note: See 32 P.S. § 679.101 et seq.



ARTICLE II  
**General Provisions**

**§ 101-2. Intent.**

The intent of this chapter is to:

- A. Promote the general health, welfare, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supply and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
- E. Comply with federal and state floodplain management requirements.

**§ 101-3. Applicability.**

- A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Township of Whitemarsh unless a permit has been obtained from the Floodplain Administrator.
- B. A permit shall not be required for minor repairs to existing buildings or structures.

**§ 101-4. Abrogation and greater restrictions.**

This chapter supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this chapter, the more restrictive shall apply.

**§ 101-5. Warning and disclaimer of liability.**

- A. The degree of flood protection sought by the provisions of this chapter is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that areas outside any identified floodplain areas, or that land uses permitted within such areas will be free from flooding or flood damages.
- B. This chapter shall not create liability on the part of the Township of Whitemarsh or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.



ARTICLE III  
**Administration**

**§ 101-6. Designation of Floodplain Administrator.**

- A. The Township Engineer is hereby appointed to administer and enforce this chapter and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:
- (1) Fulfill the duties and responsibilities set forth in these regulations;
  - (2) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees; or
  - (3) Enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations.
- B. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 CFR 59.22.
- C. In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Assistant Township Manager.

**§ 101-7. Permits required.**

A permit shall be required before any construction or development is undertaken within any area of the Township of Whitemarsh.

**§ 101-8. Duties and responsibilities of Floodplain Administrator.**

- A. The Floodplain Administrator shall issue a permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
- B. Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended);<sup>2</sup> the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended);<sup>3</sup> the Pennsylvania Clean Streams Act (Act 1937-394, as amended);<sup>4</sup> and the United States Clean Water Act, Section 404, 33 U.S.C. § 1344. No permit shall be issued until this determination has been made.
- C. In the case of existing structures, prior to the issuance of any development/permit, the Floodplain Administrator shall review the history of repairs to the subject building, so that any repetitive loss concerns can be addressed before the permit is

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2. Editor's Note: See 35 P.S. § 750.1 et seq.

3. Editor's Note: See 32 P.S. § 693.1 et seq.

4. Editor's Note: See 35 P.S. § 691.1 et seq.

issued.

- D. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.
- E. In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this chapter.
- F. In the event that the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the permit and report such fact to the Board of Supervisors for whatever action it considers necessary.
- G. The Floodplain Administrator shall maintain in perpetuity all records associated with the requirements of this chapter, including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.
- H. The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning community participation in the National Flood Insurance Program.
- I. The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in the floodplain ordinance as the Floodplain Administrator/Manager.
- J. The Floodplain Administrator shall consider the requirements of the 34 Pa. Code and the 2009 IBC and the 2009 IRC or latest revisions thereof.

**§ 101-9. Application procedures and requirements.**

- A. Application for such a permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the Township of Whitemarsh. Such application shall contain the following:
  - (1) Name and address of applicant.
  - (2) Name and address of owner of land on which proposed construction is to occur.
  - (3) Name and address of contractor.
  - (4) Site location including address.
  - (5) Listing of other permits required.
  - (6) Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood

damage occurred where appropriate.

- (7) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
- (1) All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
  - (2) All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
  - (3) Adequate drainage is provided so as to reduce exposure to flood hazards;
  - (4) Structures will be anchored to prevent floatation, collapse, or lateral movement;
  - (5) Building materials are flood-resistant;
  - (6) Appropriate practices that minimize flood damage have been used; and
  - (7) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
- C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:
- (1) A completed permit application form.
  - (2) A plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 50 feet or less, showing the following:
    - (a) North arrow, scale, and date;
    - (b) Topographic contour lines (or spot elevations);
    - (c) All property and lot lines, including dimensions, and the size of the site expressed in acres or square feet;
    - (d) The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
    - (e) The location of all existing streets, drives, and other accessways; and
    - (f) The location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.

- (3) Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
  - (a) The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
  - (b) The elevation of the base flood;
  - (c) Supplemental information as may be necessary under 34 Pa. Code, the 2009 IBC or the 2009 IRC or the most recently adopted building code(s).
- (4) The following data and documentation:
  - (a) Elevation certificate.
  - (b) Detailed information concerning any proposed floodproofing measures and corresponding elevations.
  - (c) Proof of application submission to the Montgomery County Conservation District by the applicant.
  - (d) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood; and Floodway Area (See § 101-17A.), when combined with all other existing and anticipated development, will not increase the base flood elevation at any point.
  - (e) Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area/District without floodway or an A Area/District or community-identified flood hazard area (See § 101-17B, C and D.), when combined with all other existing and anticipated development, will not increase the base flood elevation at any point within the community.
  - (f) A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood. Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.
  - (g) Detailed information needed to determine compliance with § 101-23F, Storage, and § 101-24, Development Which May Endanger Human Life, including:
    - [1] The amount, location and purpose of any materials or substances referred to in §§ 101-23F and 101-24 which are intended to be used, produced, stored or otherwise maintained on site.
    - [2] A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in § 101-24 during a base flood.

- (h) The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
  - (i) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.
- D. Applications for permits shall be accompanied by a fee, payable to the municipality as per an official fee schedule approved by the Board of Supervisors of the Township of Whitemarsh.

**§ 101-10. Review of application by others.**

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Floodplain Administrator to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, etc.) for review and comment.

**§ 101-11. Changes.**

After the issuance of a permit by the Floodplain Administrator, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Floodplain Administrator. Requests for any such change shall be in writing, and shall be submitted by the applicant to Floodplain Administrator for consideration.

**§ 101-12. Placards.**

In addition to the permit, the Floodplain Administrator shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the permit, the date of its issuance, and be signed by the Floodplain Administrator.

**§ 101-13. Start of construction.**

- A. Work on the proposed construction or development shall begin within 180 days after the date of issuance of the development permit. Work shall also be completed within 12 months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. The issuance of development permit does not refer to the zoning approval.
- B. The "actual start of construction" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the "actual start of construction"

means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- C. Time extensions shall be granted only if a written request is submitted by the applicant, who sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request and the original permit is compliant with the ordinance and FIRM/FIS in effect at the time the extension is granted.

**§ 101-14. Enforcement; violations and penalties.**

- A. Notices. Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this chapter, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

- (1) Be in writing;
- (2) Include a statement of the reasons for its issuance;
- (3) Allow a reasonable time not to exceed a period of 30 days for the performance of any act it requires;
- (4) Be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this state;
- (5) Contain an outline of remedial actions which, if taken, will effect compliance with the provisions of this chapter.

- B. Penalties.

- (1) Any person, firm or corporation who violates or permits a violation of this chapter shall be guilty of a summary violation and, upon conviction, shall be sentenced to pay a fine of not more than \$1,000, plus all court costs, including reasonable attorney's fees, incurred by the Township in the enforcement of this chapter. Each day a violation exists shall constitute a separate offense. In default of the payment of any fine, the defendant shall be sentenced to imprisonment to the extent allowed by law for the punishment of summary offenses. Further, the appropriate officers or agents of the Township are hereby authorized to file a citation for such summary violation and seek any other available relief at law or equity, including injunction, to enforce compliance with this chapter.
- (2) In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this chapter. The imposition of a fine or penalty for any violation of, or noncompliance with, this chapter shall not excuse the violation or noncompliance or permit it to continue, and all such persons shall be required to correct or remedy such

violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered or relocated in noncompliance with this chapter may be declared by the Board of Supervisors to be a public nuisance and abatable as such.

**§ 101-15. Appeals.**

- A. Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this chapter may appeal to the Zoning Hearing Board. Such appeal must be filed, in writing, within 30 days after the decision, determination or action of the Floodplain Administrator.
- B. Upon receipt of such appeal the Zoning Hearing Board shall consider the appeal in accordance with the Municipal Planning Code and any other local ordinance.
- C. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief therefrom by appeal to court, as provided by the laws of this state including the Pennsylvania Flood Plain Management Act.<sup>5</sup>

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5. Editor's Note: See 32 P.S. § 679.101 et seq.



ARTICLE IV  
**Identification of Floodplain Areas**

**§ 101-16. Identification.**

- A. The identified floodplain area shall be:
- (1) Any areas of Township of Whitemarsh, classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated March 2, 2016, and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study; and
  - (2) Any community-identified flood hazard areas.
- B. The above-referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Township of Whitemarsh and declared to be a part of this chapter.

**§ 101-17. Description and special requirements of identified floodplain areas.**

The identified floodplain area shall consist of the following specific areas:

- A. The Floodway Area shall be those areas identified in the FIS and the FIRM as floodway and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those special flood hazard areas where no floodway has been identified in the FIS and FIRM.
- (1) Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
  - (2) Within any floodway area, no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection regional office.
- B. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.
- (1) The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a floodway has been delineated.
  - (2) AE Area without floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined.

- (a) No permit shall be granted for any construction, development, use, or activity within any AE Area/District without floodway unless it is demonstrated that the cumulative effect of the proposed development would not, together with all other existing and anticipated development, increase the BFE at any point.

C. A Area/District.

- (1) The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other federal, state, or other acceptable sources shall be used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.
- (2) In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the municipality.

- D. Community-identified flood hazard areas shall be those areas where Township of Whitemarsh has identified local flood hazard or ponding areas, as delineated and adopted on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high-water marks, soils or approximate study methodologies, including the Floodplain Conservation Overlay District.

**§ 101-18. Changes in identification of area.**

The identified floodplain area may be revised or modified by the Board of Supervisors where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the special flood hazard area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six months after the date such information becomes available, a community shall notify FEMA of the changes to the special flood hazard area by submitting technical or scientific data. See § 101-21B for situations where FEMA notification is required.

**§ 101-19. Boundary disputes.**

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Township of Whitemarsh, and any party aggrieved by this decision or determination may appeal to the Board of Supervisors. The burden of proof shall be on the appellant.

**§ 101-20. Jurisdictional boundary changes.**

Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the community shall review flood hazard data affecting the lands subject to boundary changes. The community shall adopt and enforce floodplain regulations in areas subject to annexation or corporate boundary changes which meet or exceed those in 44 CFR 60.3.



ARTICLE V  
**Technical Provisions**

**§ 101-21. General.**

A. Alteration or relocation of watercourse.

- (1) No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have first been obtained from the Department of Environmental Protection regional office.
- (2) No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood-carrying capacity of the watercourse in any way.
- (3) In addition, FEMA and the Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.

B. When a community proposes to permit the following encroachments: any development that causes a rise in the base flood elevations within the floodway; or any development occurring in Zones A1-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or alteration or relocation of a stream (including but not limited to installing culverts and bridges), the applicant shall (as per 44 CFR 65.12):

- (1) Apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.
- (2) Upon receipt of the Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and/or revised floodway reflecting the post-project condition.
- (3) Upon completion of the proposed encroachments, a community shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.

C. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this chapter and any other applicable codes, ordinances and regulations.

D. Within any identified floodplain area, no new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection regional office.

**§ 101-22. Elevation and floodproofing requirements.**

## A. Residential structures.

- (1) In AE, A1-30, AH Zones any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation.
- (2) In A Zones and community-identified flood hazard areas, where there are no base flood elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation determined in accordance with § 101-17C and D of this chapter.
- (3) The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 Pa. Code (Chapters 401 through 405, as amended) shall be utilized, where they are more restrictive.

## B. Nonresidential structures.

- (1) In AE, A1-30, AH Zones any new construction or substantial improvement of a nonresidential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that the space enclosed below the regulatory flood elevation:
  - (a) Is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water; and
  - (b) Has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (2) In A Zones and community-identified flood hazard areas, where no base flood elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the regulatory flood elevation determined in accordance with § 101-17C and D of this chapter.
- (3) Any nonresidential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations," published by the United States Army Corps of Engineers (June 1972, as amended March 1992), or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.
- (4) The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 Pa. Code (Chapters 401 through 405, as amended) shall be utilized, where they are more restrictive.

- C. Space below the lowest floor.
- (1) Fully enclosed space below the lowest floor (including basements) is prohibited.
  - (2) Partially enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.
  - (3) Designs for meeting the requirements of Subsection C(2) above must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
    - (a) There shall be a minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space.
    - (b) The bottom of all openings shall be no higher than one foot above grade.
    - (c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- D. Historic structures. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this chapter must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic Places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.
- E. Accessory structures. Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:
- (1) The structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
  - (2) Floor area shall not exceed 200 square feet.
  - (3) The structure will have a low damage potential.
  - (4) The structure will be located on the site so as to cause the least obstruction to the flow of floodwaters.
  - (5) Power lines, wiring, and outlets will be elevated to the regulatory flood elevation.
  - (6) Permanently affixed utility equipment and appliances such as furnaces,

heaters, washers, dryers, etc., are prohibited.

- (7) Sanitary facilities are prohibited.
- (8) The structure shall be adequately anchored to prevent flotation, collapse, and lateral movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
  - (a) There shall be a minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space.
  - (b) The bottom of all openings shall be no higher than one foot above grade.
  - (c) Openings may be equipped with screens, louvers, etc., or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

### **§ 101-23. Design and construction standards.**

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

#### **A. Fill.**

- (1) If fill is used, it shall:
  - (a) Extend laterally at least 15 feet beyond the building line from all points;
  - (b) Consist of soil or small rock materials only; sanitary landfills shall not be permitted;
  - (c) Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
  - (d) Be no steeper than one vertical to two horizontal feet unless substantiated data justifying steeper slopes are submitted to and approved by the Floodplain Administrator; and
  - (e) Be used to the extent to which it does not adversely affect adjacent properties.

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

#### **C. Water and sanitary sewer facilities and systems.**

- (1) All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to eliminate flood damages and the

infiltration of floodwaters.

- (2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
  - (3) No part of any on-site waste disposal system shall be located within any identified floodplain area or Floodplain Conservation District.
  - (4) The design and construction provisions of the UCC and FEMA No. 348, "Protecting Building Utilities From Flood Damages," and "The International Private Sewage Disposal Code" shall be utilized.
- D. Other utilities. All other utilities such as gas lines and electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.
- E. Streets. The finished elevation of all new streets shall be no more than one foot below the regulatory flood elevation.
- F. Storage. All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in § 101-24, Development which may endanger human life, shall be stored at or above the regulatory flood elevation or floodproofed to the maximum extent possible.
- G. Placement of buildings and structures. All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of floodwater.
- H. Anchoring.
- (1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
  - (2) All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.
- I. Floors, walls and ceilings.
- (1) Wood flooring used at or below the regulatory flood elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
  - (2) Plywood used at or below the regulatory flood elevation shall be of a marine or water-resistant variety.
  - (3) Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are water-resistant and will withstand inundation.
  - (4) Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other water-resistant material.

- J. Paints and adhesives.
- (1) Paints and other finishes used at or below the regulatory flood elevation shall be of marine or water-resistant quality.
  - (2) Adhesives used at or below the regulatory flood elevation shall be of a marine or water-resistant variety.
  - (3) All wooden components (doors, trim, cabinets, etc.) used at or below the regulatory flood elevation shall be finished with a marine or water-resistant paint or other finishing material.
- K. Electrical components.
- (1) Electrical distribution panels shall be at least five feet above the base flood elevation.
  - (2) Separate electrical circuits shall serve lower levels and shall be dropped from above.
- L. Equipment. Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the regulatory flood elevation.
- M. Fuel supply systems. All gas and oil supply systems shall be elevated at or above the regulatory flood elevation and designed to prevent the infiltration of floodwaters into the system and discharges from the system into floodwaters. Additional provisions shall be made for the drainage of these systems in the event that floodwater infiltration occurs.
- N. Uniform Construction Code coordination. The standards and specifications contained 34 Pa. Code (Chapters 401 through 405, as amended) and not limited to the following provisions shall apply to the above and other sections and subsections of this chapter, to the extent that they are more restrictive and supplement the requirements of this chapter.
- (1) International Building Code (IBC) 2009 or the latest edition thereof: Sections 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.
  - (2) International Residential Building Code (IRC) 2009 or the latest edition thereof: Sections R104, R105, R109, R322, Appendix E, and Appendix J.

**§ 101-24. Development which may endanger human life.**

Within any identified floodplain area, any structure of the kind described in Subsection A, below, shall be prohibited. If a variance is obtained in accordance with the criteria in Article VIII, then the following provisions apply (Subsections B, C, D and E):

- A. In accordance with the Pennsylvania Flood Plain Management Act,<sup>6</sup> and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which will be

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6. Editor's Note: See 32 P.S. § 679.101 et seq.

used for the production or storage of any of the following dangerous materials or substances; or will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or will involve the production, storage, or use of any amount of radioactive substances shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

- (1) Acetone.
  - (2) Ammonia.
  - (3) Benzene.
  - (4) Calcium carbide.
  - (5) Carbon disulfide.
  - (6) Celluloid.
  - (7) Chlorine.
  - (8) Hydrochloric acid.
  - (9) Hydrocyanic acid.
  - (10) Magnesium.
  - (11) Nitric acid and oxides of nitrogen.
  - (12) Petroleum products (gasoline, fuel oil, etc.).
  - (13) Phosphorus.
  - (14) Potassium.
  - (15) Sodium.
  - (16) Sulphur and sulphur products.
  - (17) Pesticides (including insecticides, fungicides, and rodenticides).
  - (18) Radioactive substances, insofar as such substances are not otherwise regulated.
- B. Within any identified floodplain area, any new or substantially improved structure of the kind described in Subsection A, above, shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.
- C. Within any Floodway Area, any structure of the kind described in Subsection A, above, shall be prohibited. Where permitted within any identified floodplain area, any new or substantially improved residential structure of the kind described in Subsection A, above, shall be elevated to remain completely dry up to at least 1 1/2 feet above base flood elevation and built in accordance with §§ 101-21, 101-22 and 101-23, including:

- D. Where permitted within any identified floodplain area, any new or substantially improved nonresidential structure of the kind described in Subsection A, above, shall be built in accordance with §§ 101-21, 101-22 and 101-23.
- (1) Elevated, or designed and constructed to remain completely dry up to or above regulatory flood elevation; and
  - (2) Designed to prevent pollution from the structure or activity during the course of a base flood.
- E. Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations (United States Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

**§ 101-25. Special requirements for subdivisions and development.**

All subdivision proposals and development proposals in identified floodplain areas where base flood elevation data are not available shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision and Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

**§ 101-26. Special requirements for manufactured homes.**

- A. Within any identified floodplain area manufactured homes shall be prohibited. If a variance is obtained in accordance with the criteria in Article VIII, then the following provisions apply.
- B. Within any Floodway Area/District, manufactured homes shall be prohibited. No variance shall be granted.
- C. Within any identified floodplain area, manufactured homes shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.
- D. Where permitted within any identified floodplain area, all manufactured homes, and any improvements thereto, shall be:
- (1) Placed on a permanent foundation;
  - (2) Elevated so that the lowest floor of the manufactured home is at least at or above regulatory flood elevation;
  - (3) Anchored to resist flotation, collapse, or lateral movement; and
  - (4) Have all ductwork and utilities including HVAC/heat pump elevated to the regulatory flood elevation.
- E. Installation of manufactured homes shall be done in accordance with the manufacturer's installation instructions as provided by the manufacturer. Where the

applicant cannot provide the above information, the requirements of Appendix E of the 2009 "International Residential Building Code" or the "U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing," 1984 Edition, draft or latest revision thereto and 34 Pa. Code Chapters 401 through 405 shall apply.

- F. Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC or the most recent revisions thereto and 34 Pa. Code, as amended where appropriate and/or applicable to units where the manufacturer's standards for anchoring cannot be provided or were not established for the proposed unit(s) installation.

**§ 101-27. Special requirements for recreational vehicles.**

Recreational vehicles in Zones A, A1-30, AH and AE must either:

- A. Be on the site for fewer than 180 consecutive days; and
- B. Be fully licensed and ready for highway use; and
- C. Be removed from the floodplain when a flood warning is issued.



ARTICLE VI  
**Prohibited Activities**

**§ 101-28. General.**

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act,<sup>7</sup> the following activities shall be prohibited within any identified floodplain area:

- A. The commencement of any of the following activities; or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:
  - (1) Hospitals.
  - (2) Nursing homes.
  - (3) Jails or prisons.
- B. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.
- C. The commencement of any new construction or the construction enlargement or expansion of any of the facilities identified as extremely hazardous facilities and Tier II reporting facilities under the Superfund Amendments and Reauthorization Act (SARA) and Emergency Planning and Community Right-to-Know Act (EPCRA) shall be prohibited within any identified floodplain area.
- D. The commencement of any new construction, or the construction enlargement or expansion of any structure or facility used for any activities prohibited under Pennsylvania Code, Title 25, Chapters 260 to 270 (Hazardous Waste Management), Title 25, Chapters 271 to 285 (Municipal Waste Regulations) and Title 25, Chapters 287 to 299 (Residual Waste Management), shall be prohibited within any identified floodplain area.

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7. Editor's Note: See 32 P.S. § 679.101 et seq.



ARTICLE VII  
**Existing Structures in Identified Floodplain Areas**

**§ 101-29. Existing structures.**

The provisions of this chapter do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of § 101-30 shall apply.

**§ 101-30. Improvements.**

The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:

- A. No expansion or enlargement of an existing structure shall be allowed within any identified floodplain area (except for AE Areas/Districts where a floodway has been established) that would cause any increase in BFE.
- B. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of 50% or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this chapter.
- C. The above activity shall also address the requirements of the 34 Pa. Code, as amended and the 2009 IBC and the 2009 IRC or the most recently adopted building code.
- D. Within any Floodway Area/District (See § 101-17A.), no new construction or development shall be allowed unless the appropriate permit is obtained from the Department of Environmental Protection regional office.
- E. Within any AE Area/District without floodway (See § 101-17B.), no new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse,
- F. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than 50% of its market value, shall be elevated and/or floodproofed to the greatest extent possible.
- G. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of "repetitive loss" shall be undertaken only in full compliance with the provisions of this chapter.



ARTICLE VIII  
**Variances**

**§ 101-31. General.**

If compliance with any of the requirements of this chapter would result in an exceptional hardship to a prospective builder, developer or landowner, the Township of Whitemarsh may, upon request, grant relief from the strict application of the requirements.

**§ 101-32. Variance procedures and conditions.**

Requests for variances shall be considered by the Township of Whitemarsh Zoning Hearing Board in accordance with the procedures contained in § 101-15 and the following:

- A. No variance shall be granted within any identified floodplain area (except for AE Areas/Districts where a floodway has been established) that would cause any increase in BFE.
- B. Except for a possible modification of the regulatory flood elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by § 101-24, Development which may endanger human life.
- C. No variance shall be granted for Prohibited Activities (Article VI).
- D. If granted, a variance shall involve only the least modification necessary to provide relief.
- E. In granting any variance, the Township of Whitemarsh Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this chapter.
- F. Whenever a variance is granted, the Township of Whitemarsh Zoning Hearing Board shall notify the applicant in writing that:
  - (1) The granting of the variance may result in increased premium rates for flood insurance.
  - (2) Such variances may increase the risks to life and property.
- G. In reviewing any request for a variance, the Township of Whitemarsh Zoning Hearing Board shall consider, at a minimum, the following:
  - (1) That there is good and sufficient cause.
  - (2) That failure to grant the variance would result in exceptional hardship to the applicant.
  - (3) That the granting of the variance will:
    - (a) Neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense;

- (b) Nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- H. A complete record of all variance requests and related actions shall be maintained by the Township of Whitemarsh Zoning Hearing Board. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.
- I. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-percent-annual-chance flood.

ARTICLE IX  
**Definitions**

**§ 101-33. Word usage.**

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

**§ 101-34. Specific definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**ACCESSORY USE OR STRUCTURE** — A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

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

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

**BASE FLOOD ELEVATION (BFE)** — The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a one-percent or greater chance of being equaled or exceeded in any given year. For Zone A, the BFE will be that elevation established by the applicant with the approval of the Township engineer.

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

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

**COMPLETELY DRY SPACE** — A space which will remain totally dry during flooding; the structure is designed and constructed to prevent passage of water and water vapor.

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

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

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** — The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FLOOD** — A temporary inundation of normally dry land areas.

**FLOOD INSURANCE RATE MAP (FIRM)** — The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY (FIS)** — The official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

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

**FLOODPLAIN CONSERVATION OVERLAY DISTRICT** — Areas adjoining any watercourse, drainage course or body of water subject to periodic inundation or overflow. The most extensive of those areas described in the following sources determine the outermost boundary of the Floodplain Conservation Overlay District:

- A. Fifty-year flood, as delineated in the Floodplain Information Report on Wissahickon Creek, Montgomery County, Pennsylvania, Corps of Engineers, United States Army District, Philadelphia, March 1965.
- B. Areas which contain soil characteristics clearly indicating flooding conditions, hereinafter referred to as "floodplain soils." The floodplain soils shall include any one or combination of the following soil classifications as defined in the Soil Survey of Montgomery County, Pennsylvania, prepared by the United States Department of Agriculture, Soil Conservation Service: Bermudian silt loam, Bouldery alluvial land, Bowmansville silt loam, Codorus silt loam, Hatboro silt loam and Rowland silt loam.

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

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

**FREEBOARD** — A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected flood magnitude and floodway conditions.

**HISTORIC STRUCTURES** — Any structure that is:

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

**IDENTIFIED FLOODPLAIN AREA** — This term is an umbrella term that includes all of the areas within which the community has selected to enforce floodplain regulations. It will always include the area identified as the special flood hazard area on the Flood Insurance Rate Maps and Flood Insurance Study, but may include additional areas identified by the community. See §§ 101-16 and 101-17 for the specifics on what areas the community has included in the identified floodplain area.

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

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

**MANUFACTURED HOME PARK OR SUBDIVISION** — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MINOR REPAIR** — The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring, mechanical or other work affecting public health or general safety.

**NEW CONSTRUCTION** — Structures for which the start of construction commenced on or after March 2, 2016, and includes any subsequent improvements to such structures. Any construction started after December 1, 1977, and before March 2, 2016, is subject

to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

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

**OBSTRUCTION** — Any structure, construction, fill, excavation, channel, rectification, culvert or matter in, along, across or projecting into any channel, watercourse or designated Floodplain Conservation Districts which impede, retard or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water or is placed where the flow of water might carry the same downstream to the damage life and property.

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

**POST-FIRM STRUCTURE** — A structure for which construction or substantial improvement occurred after December 31, 1974, or on or after the community's initial Flood Insurance Rate Map (FIRM) dated December 1, 1977, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

**PRE-FIRM STRUCTURE** — A structure for which construction or substantial improvement occurred on or before December 31, 1974, or before the community's initial Flood Insurance Rate Map (FIRM) dated December 1, 1977, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

**RECREATIONAL VEHICLE** — A vehicle which is:

- A. Built on a single chassis;
- B. Not more than 400 square feet, measured at the largest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light-duty truck;
- D. Not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**REGULATORY FLOOD ELEVATION** — The base flood elevation (BFE) or estimated flood height as determined using simplified methods that are approved by the Floodplain Administrator plus a freeboard safety factor of two feet.

**REPETITIVE LOSS** — Flood-related damages sustained by a structure on two or more separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, cumulatively equals or exceeds 50% of the market value of the structure before the damages occurred.

**SPECIAL FLOOD HAZARD AREA (SFHA)** — An area in the floodplain subject to a one-percent or greater chance of flooding in any given year. It is shown on the FIRM as

Zone A, AO, A1-A30, AE, A99, AH, or as labeled on the Community-Identified Flood Hazard Area Map.

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

**START OF CONSTRUCTION** — Includes substantial improvement and other proposed new development and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within 12 months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the "actual start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

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

**SUBSTANTIAL IMPROVEMENT** — Any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds 50% of the market value of the structure, such percentage to be calculated on an event or occurrence basis, rather than cumulatively, before the start of construction of the improvement. This term includes structures which have incurred substantial damage or repetitive loss regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

**UNIFORM CONSTRUCTION CODE (UCC)** — The statewide building code adopted by the Pennsylvania General Assembly in 1999 applicable to new construction in all

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

**VARIANCE** — A grant of relief by a community from the terms of a floodplain management regulation.

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

ARTICLE XXXVII  
**Riverfront Development Overlay District (RDD)<sup>1</sup>**  
**[Added 12-13-2007 by Ord. No. 845]**

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1. Editor's Note: This article title was amended, to include the word "overlay," 1-28-2010 by Ord. No. 893. Said ordinance also provided that all references to said district would be construed to be the name as amended.

**§ 116-278. Legislative intent.**

The legislative intent of this article with respect to the Riverfront Development District (RDD) is to recognize the unique character and natural resources of the Schuylkill Riverfront and to preserve and enhance the public's access to the area. It is further the intent to establish reasonable standards for the height and size of buildings, the areas and dimensions of yards and open spaces, the provision of facilities to minimize traffic congestion, noise, glare and pollution so as to lessen the danger to the public safety and surrounding building values from traffic congestion, overcrowding of land and inadequate transportation and to establish reasonable standards for the riverfront area. It is further the intent of the RDD to:

- A. Allow mixed use development and redevelopment with a distinction between the area that is riverfront and the supporting area beyond (to be known as the "RDD-1 and RDD-2 Subdistricts" respectively).
- B. Provide a uniformity of design and orderly arrangement of buildings, land uses and parking areas.
- C. Acknowledge the unique character of both the area along the riverfront and the area immediately beyond the riverfront.
- D. Recognize the proximity of the rail station and the need for transit-oriented development and redevelopment.
- E. Ensure greater public access to the riverfront and provide for a greenbelt along the river.
- F. Implement the Comprehensive Plan.
- G. Implement transfer of development rights as a tool to promote development and redevelopment while conserving land in other areas of the Township.
- H. Promote redevelopment to correct inadequate street patterns and access, abandoned industrial buildings that are obsolete in terms of economic feasibility, or are incompatible with surrounding uses, in order to allow better use of the waterfront properties.

**§ 116-279. Application.**

- A. Areas where the RDD-1 and RDD-2 subdistricts apply are shown on the Zoning Map of Whitemarsh Township.
- B. The RDD shall be deemed to be an overlay on the area designated on the Zoning Map of Whitemarsh Township.
  - (1) In those areas of Whitemarsh Township where the RDD applies, the requirements of the RDD shall be additive to the requirements of the underlying zoning district(s) and in the event of a conflict, take precedence over the underlying zoning district(s).

- (2) Should the RDD boundaries be revised as a result of legislative or administrative actions or judicial decision, the zoning requirements applicable to the area in question shall revert to the requirements of the underlying zoning district(s) without consideration of this article.
- (3) If a structure is otherwise permitted by virtue of the requirements of the RDD, relief from the Zoning Hearing Board from the provisions of Article XXXV, Riparian Corridor Conservation District, shall not be required, provided approval is recommended to the Board of Supervisors by the Township Engineer.

**§ 116-280. Use regulations.**

A. Residential uses.

- (1) Single-family detached.
- (2) Single-family attached.
- (3) Multifamily.

B. Commercial uses.

- (1) Retail (with a maximum floor area limit for any individual use of 30,000 square feet).
- (2) Office.
- (3) Restaurant, including outdoor dining and take-out service.
- (4) Bank or other financial institution.
- (5) Child or adult day-care center.
- (6) Parking structure, provided that a freestanding parking structure is considered a building for purposes of computation of building coverage and all other dimensional requirements of this district.
- (7) Clubhouse facility as part of a residential development.
- (8) Mixed use including any permitted use in the appropriate RDD-1 or RDD-2 Subdistrict.

C. Public/semi-public uses.

- (1) Municipal facility.
- (2) Firehouse or ambulance station, which may include a supporting social club building or facility.

D. Any use of the same general character as any of the uses above is permitted when authorized as a conditional use, provided that:

- (1) The applicant can demonstrate that traffic and other impacts are similar to those of permitted uses.

E. Conditional uses.

- (1) More intensive development pursuant to § 116-281A(7)(d) herein.

F. Additional conditional uses permitted in the RDD-1 Subdistrict (Riverfront Area):

- (1) Hotel, including meeting room facilities when ancillary and subordinate to the hotel.
- (2) Recreational open space, boat club/boathouse, river-oriented recreation and marina.
- (3) Community center or library.
- (4) Cultural center or museum.
- (5) School, public or private, primary or secondary.
- (6) Fitness center, health club, or racquet club.
- (7) Theater.
- (8) Places of worship.
- (9) Public/private utilities including telecommunication facilities, satellite antennas and similar equipment on proposed buildings and structures.
- (10) Continuing care retirement community, pursuant to the provisions of § 116-281C, including: **[Added 4-28-2011 by Ord. No. 906]**
  - (a) Independent senior units.
  - (b) Assisted-living facilities.
  - (c) Skilled nursing facilities.
  - (d) Ancillary services for use of senior residents and their guests, in the aggregate limited to no more than 20,000 square feet of floor area and limited to the following activities and uses:
    - [1] Dining facilities.
    - [2] Medical treatment facilities.
    - [3] Rehabilitation and physical therapy facilities.
    - [4] Auditorium and activity rooms.
    - [5] On-site retail and services facilities.
    - [6] Administrative offices used in the management of the facility.

[7] Guest overnight accommodations.

[8] Accessory uses.

- G. Drive-in or drive-through uses are specifically prohibited in the RDD-1 and RDD-2 Subdistricts.
- H. In the RDD-1 Subdistrict, a minimum of 2% of the footprint area of a residential development must contain a permitted nonresidential use(s); provided, however, that such area shall not be less than 2,000 square feet.

### § 116-281. Dimensional requirements.

#### A. RDD-1 Subdistrict.

- (1) Minimum lot area: three acres
- (2) Minimum width at building setback line: 200 feet.
- (3) Minimum building setbacks:
  - (a) Perimeter: From all property lines, 20 feet for up to four habitable stories above the floodplain; any portion of the building above four habitable stories must be setback a minimum of 30 feet; any portion of the building above six habitable stories must be setback a minimum of 35 feet. The minimum setback from the ultimate right-of-way of abutting streets shall be 10 feet with an average of 20 feet. For a building with greater than six habitable stories, the minimum setback from the ultimate right-of-way of abutting streets shall be 15 feet with an average of 25.
  - (b) From other unattached buildings on the same site, the minimum setback shall be 40 feet, so long as the average setback is equal to the height of the taller building, up to a maximum of 70 feet. **[Amended 8-14-2008 by Ord. No. 857]**
  - (c) From public trails, buildings shall be set back 10 feet. For stairs associated with public trails, buildings shall be set back five feet. **[Amended 10-13-2011 by Ord. No. 908]**
  - (d) In the event that a property abuts a utility or railroad, the setback from any utility or railroad right-of-way shall be 10 feet.
- (4) Minimum parking setback: 15 feet from all property lines.
- (5) Building coverage: maximum of 40% of the total lot area, unless an integrated parking structure is utilized, in which case the building coverage may be increased as long as overall impervious coverage requirements are met. A freestanding parking structure is considered a building for purposes of computation of building coverage.
- (6) Density: Residential density shall not exceed 30 dwelling units per gross acre,

except as otherwise provided in § 116-281A(7)(d), below.

(7) Building height.

- (a) Maximum building height is four habitable stories above the floodplain except in the case of single-family houses which shall be a maximum of three habitable stories above the floodplain. The number of stories of an attached parking garage is not regulated as long as it does not exceed the height of the lowest building to which it is attached. In addition, no portion of the parking garage shall be visible from the riverfront access and open space as required by § 116-284 herein.
- (b) A freestanding parking structure shall not exceed a height of 60 feet.
- (c) One hundred percent of a building, other than a freestanding parking structure, shall be permitted to be constructed to the maximum habitable stories above the floodplain as long as no more than 75% of the footprint is at one height with the remainder being at least one story lower. This requirement applies to any building of four stories or higher.
- (d) For buildings other than freestanding parking structures, residential density may be increased to 50 dwelling units per gross acre and building height may be increased to a maximum of six habitable stories above the floodplain, as a conditional use, provided the following conditions are met:
  - [1] A right-of-way of at least 25 feet in width is provided to the Township perpendicular to the Schuylkill River to provide public access to the river in accordance with § 116-284D.
  - [2] A red shale macadam area of at least 10 feet in width shall be provided within the right-of-way.
  - [3] Building height shall be varied to allow vistas to the river in accordance with § 116-281A(7)(c) herein.
  - [4] The building includes more than one level of structured parking above grade and no more than 10% of the parking shall be surface parking.
  - [5] At least 75% of the building is residential.
  - [6] A minimum of 5% of the parking spaces provided are designated for public use.
  - [7] At least one of the public amenity(ies) is provided in accordance with § 116-283B herein.
- (e) Notwithstanding the provisions of § 116-32B, a parapet wall, cornice or similar projection of sufficient height to screen mechanical equipment on the roof of a building (as seen from the ground) shall be provided but may

be excluded in the calculation of height, provided that it shall be no higher than 12 feet.

- (8) Impervious ground cover: 75% maximum of the total lot area if the maximum building height is four habitable stories above the floodplain or less. If the maximum building height is greater than four habitable stories above the floodplain, the maximum impervious cover shall be 65%.
- (9) Building and impervious coverage are calculated on the area of the tract, excluding the area of riverfront open space along riverfront parcels, in accordance with the requirements of § 116-284A, B, or C, whichever is applicable.

B. RDD-2 Subdistrict.

- (1) Each single-family detached dwelling shall be subject to the following minimum area, width and yard requirements and maximum height, building coverage, and impervious ground cover requirements:
  - (a) Minimum lot area: 6,000 square feet.
  - (b) Minimum width at building setback line: 40 feet.
  - (c) Minimum front yard: 20 feet.
  - (d) Minimum side yard: 10 feet.
  - (e) Rear yard: 30 feet.
  - (f) Maximum height: 35 feet for the principal building and 20 feet, not exceeding one story, for an accessory building.
  - (g) Maximum building coverage: 25% of the total lot area.
  - (h) Maximum impervious ground cover: 40% of the total lot area.
- (2) Each attached single-family dwelling unit shall be subject to the following minimum area, width and yard requirements and maximum height, building coverage, and impervious ground cover requirements:
  - (a) Minimum lot area: 2,200 square feet.
  - (b) Minimum width at building setback line: 20 feet.
  - (c) Minimum front yard: none required.
  - (d) Minimum side yard, where they occur: 15 feet.
  - (e) Minimum rear yard: 30 feet minimum. Accessory buildings may be situated in the rear yard, but not any closer than five feet from a side lot line.
  - (f) Fences and walls. No fence or wall over six feet in height, except a

retaining wall or a wall of a building permitted under the terms of this chapter, shall be erected within three feet of the rear lot line of any single-family attached residential lot. In instances where the side lot line does not pass through a common wall, no such fence or wall shall be erected within three feet of said side lot line.

- (g) Maximum height: 35 feet for the principal building and 20 feet, not exceeding one story, for an accessory building.
  - (h) Maximum building coverage: 60% of the total lot area.
  - (i) Maximum impervious ground cover: 75% of the total lot area.
- (3) Buildings other than single-family detached or attached dwelling units shall be subject to the following minimum area, width and yard requirements and maximum height, building coverage, and impervious ground cover requirements.
- (a) Minimum lot area: 10,000 square feet.
  - (b) Minimum width at building setback line: 75 feet.
  - (c) Minimum front yard: none required.
  - (d) Minimum side yard: 15 feet.
  - (e) Minimum rear yard: 30 feet.
  - (f) Maximum height: three habitable stories above the floodplain with a maximum of 35 feet for the principal building and 20 feet, not exceeding one story, for an accessory building.
  - (g) Maximum building coverage: 60% of the total lot area.
  - (h) Maximum impervious ground cover: 75% of the total lot area.
- C. Continuing care retirement community as permitted by § 116-280F(10): **[Added 4-28-2011 by Ord. No. 906]**
- (1) Minimum lot size: 4.0 acres.
  - (2) Minimum lot width at building setback line: 200 feet.
  - (3) Minimum front yard: 15 feet.
  - (4) Minimum side yard: 25 feet.
  - (5) Minimum rear yard: 100 feet in accordance with the standards found in § 116-284C.
  - (6) Maximum height: six stories residential/plus no more than three stories of garage parking: nine stories maximum.

- (7) Maximum building coverage: 50%.
- (8) Maximum impervious coverage: 75%.
- (9) Density: Senior housing density shall not exceed 85 independent units per gross acre. Assisted and skilled beds should be allowed up to 25% of the independent beds. For the purposes of this subsection, every three beds in the assisted-living facilities and skilled nursing care facilities shall be deemed the equivalent of one dwelling unit.

**§ 116-282. Off-street parking and loading.**

- A. Parking structures, whether freestanding or integral with other uses in the same building, shall have another permitted first floor use on any portion of the structure visible from any streets, required pathways, or riverfront access or suitable architectural treatment shall be provided. For any parking structures, whether freestanding or integral with other uses in the same building, which contain three or more parking levels, another permitted first floor use on any portion of the structure visible from any streets, required pathways, or riverfront access, shall be mandatory, if the first floor is out of the floodplain. If the first floor is within the floodplain, suitable architectural treatment shall be provided. Any additional floors of exposed parking structures shall also have suitable architectural treatment. Suitable architectural treatment shall be as defined in Subsections B, C and D below and § 116-283A(2) and (4) herein.
- B. When part of a development with other principal uses, a parking structure must use the dominant exterior materials of the adjoining building and be of a similar vernacular style.
- C. Exterior materials utilized for parking structures shall effectively and attractively obscure the view to the interior of all parking decks.
- D. Parking structures shall be designed such that sloping circulation bays are internal to the structure and not expressed in the exterior treatment of the parking structure.
- E. Required off-street parking facilities shall be in accordance with § 116-184, except that 1.75 parking spaces per dwelling unit shall be required for residential uses and residential uses shall not be subject to the overflow parking requirements of Chapter 105, Subdivision and Land Development § 105-38W. As a conditional use, the total number of parking spaces for all of the uses may be reduced based on the following: **[Amended 8-14-2008 by Ord. No. 857]**
  - (1) In the case of a unified development plan in which there are efficiencies derived by shared parking for uses which have complementary peak demands, the applicant shall submit parking generation data based upon standard methodology (such as that published by the ITE, Institute of Transportation Engineers) sufficient for the Board of Supervisors to determine the appropriate reduction.
  - (2) In the case of a unified development consisting solely of two or more

contiguous uses of the same classification, the Board of Supervisors may permit a reduction of the aggregate amount of required parking based upon a determination that greater efficiency is effected by joint use of a common parking area, but in such case the required number of off-street parking spaces shall not be reduced by more than 25%.

- (3) In the case of a continuing care retirement community as permitted in § 116-280F(10), parking shall be provided in accordance with the following standards: **[Added 4-28-2011 by Ord. No. 906]**
    - (a) 1.0 space for each independent unit.
    - (b) 0.3 space for each assisted or skilled bed.
- F. Parking may be permitted in the floodplain and riparian corridor in the RDD without relief from the Zoning Hearing Board from the provisions of Article XXII, Floodplain Conservation District, and Article XXXV, Riparian Corridor Conservation District, provided that a parking evacuation plan is provided by the applicant and is approved by the Board of Supervisors.
- G. When approved as a conditional use in accordance with § 116-37, residential parking structures integrated with other uses in the same building may utilize a parking stall size of nine feet by 18 feet with a minimum drive aisle width of 24 feet. **[Added 8-14-2008 by Ord. No. 857]**

### § 116-283. Design standards.

#### A. Architectural criteria.

- (1) Variations in rooflines shall be used to screen HVAC, telecommunications, utility or other similar equipment and to provide interest and reduce the scale of large buildings. Roofs should provide a variety of vertical dimensions. Multiplaned and intersecting rooflines are encouraged. Flat-roofed designs are discouraged. However, if utilized, then flat roofs shall include architecture/details such as cornices, decorative facings and arches to provide interest to the roofline. Additionally, all roof types should have at least one of the following features:
  - (a) Overhanging eaves of at least three feet;
  - (b) Sloping roofs with an average slope of between three to one and one to one that do not exceed the average height of the supporting walls; or
  - (c) Three or more roof slope planes.
- (2) Specific permitted dominant materials. Each development should be of a single, unified architectural style. The exterior building skin shall be composed of one dominant facing material and not more than two additional materials. The dominant material shall comprise 60% or greater of each building elevation, with the exception of any side that is hidden or otherwise cannot be

viewed from an abutting street or from the riverfront. The requirements for dominant building materials herein shall also be applicable to freestanding parking structures and parking structures attached to another principal building.

(a) Dominant exterior materials may include:

- [1] Wood (to also include fiber-cement exterior siding with wood texture and finish or equivalent).
- [2] Brick.
- [3] Stone, or stone veneer (cultured stone or equivalent).
- [4] Concrete masonry unit (CMU). CMU is allowed only as split face block or block molded with a textured surface.
- [5] Architectural precast concrete panels.
- [6] Glass, warm and cool tones.
- [7] Stucco and synthetic stucco.

(b) Dominant exterior materials may not include:

- [1] Aluminum siding.
- [2] Vinyl siding.
- [3] Smooth-faced CMU.
- [4] Tilt-up concrete panels.
- [5] Glass, highly reflective/mirrored.

(3) Architectural style of the development shall be designed to avoid the massive scale and uniform impersonal appearances of a big box structure through facade ornamentation, building offsets, window treatments, variation in rooflines, entry treatments and upgraded building materials. The focus should be on varying the spaces among groups of buildings to avoid creating a walled corridor of long, unbroken rows of buildings along a setback, or a monotonous pattern of buildings across a site. Facades should be divided into increments through the use of architectural features such as bay windows, offsets, recesses and other devices that break or minimize scale. Strong vertical and horizontal reveals, offsets and three-dimensional details between surface planes should be incorporated into building design to create shadow lines and to further break up flat surfaces.

(4) Building facades greater than 100 feet in length, including separate buildings that are attached, shall incorporate one or more architectural features over at least 20% of the length of the facade. There shall be no uninterrupted length of facade that exceeds 100 feet. These requirements shall also be applicable to

freestanding parking structures and parking structures attached to another principal building.

- (5) Building facades greater than 250 feet in length, including separate buildings that are attached, shall incorporate setbacks of at least 20 feet over at least 50% of the length of the facade. When approved as a conditional use in accordance with § 116-37, one building facade of parallel building facades on separate unattached buildings in which both facades are greater than 250 feet in length and no greater than an average of 90 feet apart may be set back 20 feet along 50% of the facade, provided that the other facade contains some compensatory embellishment such as facade ornamentation, window treatments, recesses, height differential or other devices to break or minimize the scale of the facade; and/or where a facade is parallel to a railroad, the twenty-foot setback shall be at least 35% of the length of the facade, with a minimum length of 80 feet. In addition, when said buildings contain only one story, they shall include facades that appear to be two stories in height and have architectural features that complement those of the ground floor. Sixty percent of facades of said buildings which face a street or the riverfront shall be two stories in height or appear to be two stories in height, and all buildings proposed on corner locations shall be or appear to be two stories. When a corner location does not contain a building, a compatible architectural feature shall be provided at the corner and be of a height similar to a two-story facade. **[Amended 8-14-2008 by Ord. No. 857]**
  - (6) All ground-mounted exposed HVAC units or other utility equipment shall be screened from view. This shall be accomplished through the use of masonry walls and landscaping.
  - (7) All signage shall be in accordance with § 116-286 herein and Article XXVIII of the Zoning Chapter. **[Amended 8-14-2008 by Ord. No. 857]**
  - (8) For commercial or office uses, loading facilities shall be provided through screened delivery courtyards, via underground service corridors, or in a similar fashion which is not visually or functionally obtrusive to patrons using the parking areas. Waste receptacles shall be located in areas convenient for on-site use and accessible for collections. Loading areas and trash enclosures shall be screened from views by the use of masonry walls, landscaping, or similar measure as approved by the Township.
- B. Public amenities shall include the following when required in this district:
- (1) Restrooms that are available to the public and will be maintained by the property owner.
  - (2) Boat launches using the most current specifications of the Pennsylvania Fish and Boat Commission. Boat launches shall include a minimum of five parking spaces or be in accordance with § 116-184C(3), whichever requires a greater number of spaces. No overnight parking of boats or other recreational vehicles shall be permitted in any development in this district. A minimum of 50% of

the required parking spaces must be tandem spaces to allow for the parking of vehicles with boat trailers.

- (3) Scenic overlook. Scenic overlook areas shall be ADA accessible, and regularly maintained. They shall be made of durable, permanent materials that meet all ANSI specifications. Scenic overlooks shall be lit and designed so that all public safety and security issues are adequately addressed.
- (4) Recreation facilities. If any public recreational facilities are provided, they shall conform to standards set forth by their respective associations (i.e., tennis facilities shall meet United States Tennis Association guidelines). All passive recreation, if surfaced in permanent material, such as asphalt or concrete pathways, shall be ADA compliant.
- (5) Public gathering places. All public gathering spaces shall be designed to safely provide pedestrians with ingress and egress, shall be adequately lit, and shall be ADA compliant. Adequate seating and trash receptacles shall be provided.
- (6) Sculpture garden. Sculpture gardens shall have ADA compliant access and be adequately lit. All landscaped and hardscaped areas shall be designed so that all public safety and security issues are addressed. There shall be no areas within public gardens where individuals can hide from view. Only sculptures made of durable, permanent material shall be placed in public gardens. If sculpture contains any dangerous or hazardous edges or points, especially around the base, it shall be located a safe distance from the public's reach. Designed elements such as ha-has or barricades, approved by the Township, may be utilized.
- (7) Botanical garden. Botanical gardens may not include any species considered invasive to the southern Pennsylvania region. Any pathways or walks provided in the public garden shall be ADA compliant. Species that include nonedible, poisonous fruit, thorns, or prickles shall not be utilized.
- (8) Fountain. Construction drawings for all public fountains shall be approved by the Township prior to their installation. Once installed, all fountains must be regularly maintained and meet public health standards.
- (9) Similar amenities: a similar amenity when deemed appropriate by the Board of Supervisors. The design of each amenity shall be consistent with the overall design of the development of which it is a part. In addition, uses in the riverfront open space shall be designed in a manner in which they coordinate with nearby facilities along the river, even if these facilities are in adjacent or nearby developments. Durable, attractive materials shall be utilized, with natural colors appropriate to the setting. Use of any bright or deep hues for accent purposes shall only be permitted with the express approval of the Board of Supervisors.
- (10) When required, public amenities shall encompass a minimum of 5% of the lot area of a development.

## C. Landscaping and screening.

- (1) Street trees shall be planted in accordance with § 105-48 of the Subdivision and Land Development Ordinance for Whitemarsh Township.
- (2) Parking lot landscaping shall be in accordance with § 105-39 of the Subdivision and Land Development Ordinance for Whitemarsh Township except that all trees planted shall be a minimum of 2.5 inches caliper.
  - (a) Parking lots consisting of 20 vehicles or more, shall be screened from view by buildings on the site or by incorporating decorative walls, fences, landscaping, or a combination thereof.
  - (b) In no case shall tree trunks or shrubs negatively impact required sight triangles, or interfere with the opening of vehicle doors.
  - (c) Where a freestanding parking structure or an attached parking structure with a facade that is exposed to a public street or that is otherwise visible by the public is constructed, the landscaping required in Chapter 105, Subdivision and Land Development, § 105-52B(2), Option A(1), shall be utilized to enhance the exterior of the parking structure. **[Amended 8-14-2008 by Ord. No. 857]**
- (3) Buffer yards shall be landscaped in accordance with § 105-52 of the Subdivision and Land Development Ordinance of Whitemarsh Township.
- (4) Public amenity landscaping.
  - (a) Planters and other vessels for containerized landscaping are encouraged, especially at building entrances. All planters shall be safely and securely anchored.
  - (b) Trees located in plazas, sidewalk areas, courtyards, or other highly traveled areas shall include tree grates and guards and be subject to Township approval.
- (5) Lighting fixtures shall be of a style as approved by the Board of Supervisors.

## D. Pedestrian-oriented development.

- (1) For all developments the following elements shall be included to create a pedestrian oriented development:
  - (a) Lighting along all street frontages with lighting fixtures to be of a style as approved by the Board of Supervisors.
  - (b) Benches, trash receptacles, bicycle racks and other street furniture in a style approved by the Board of Supervisors.
  - (c) Wide sidewalks and other pedestrian amenities, landscaping, shade trees.
  - (d) A variety of pavement materials for street surfaces and sidewalks.

- (e) Planting strips, located between the curb and sidewalk.

**§ 116-284. Riverfront access and open space.**

- A. An area of not less than 150 feet in width, parallel to the river, measured from the mean water elevation of the Rivers of the United States/Pennsylvania, shall be provided along the length of the river on each development site. This area shall be offered for dedication to the Township. If the area is not accepted for dedication, an easement for public use must be provided along with maintenance agreements acceptable to the Township. This area shall include:
- (1) A red shale macadam trail of at least 10 feet in width, the length of the river, to connect to adjoining property trails.
  - (2) Seating areas at intervals of not more than 300 feet.
  - (3) Landscaping to enhance the trail, which at a minimum shall include trees in a naturalized setting at the rate of one tree per every 50 feet of trail. Other landscape treatments may be utilized if approved by the Township.
  - (4) Appropriate lighting fixtures shall be of a style as approved by the Board of Supervisors.
  - (5) Street furniture located in the floodway shall be anchored in accordance with the requirements of Article II, Floodplain Regulations, § 42-7 of the Building Construction Code.
- B. The width of the riverfront area may be reduced to no less than 125 feet, provided at least one public amenity is provided for buildings four stories or less, the suitability of which shall be determined by the Board of Supervisors. If the building is greater than four habitable stories, then one additional public amenity must be provided in addition to the requirements of § 116-281A(7)(d).
- C. The width of the riverfront area may be reduced to no less than 100 feet, provided at least two public amenities are provided for buildings four stories or less, the suitability of which shall be determined by the Board of Supervisors. If the building is greater than four habitable stories, then two additional public amenities must be provided in addition to the requirements of § 116-281A(7)(d).
- D. Public riverfront access is required in accordance with Chapter 105, Subdivision and Land Development § 105-47K.
- E. Other public access. For all parcels with frontage on Hector Street which do not have riverfront access, a connection perpendicular to said street and the Montgomery County Schuylkill River Trail shall be provided. Said right-of-way shall be 15 feet in width or of a width that includes the limits of an alternative trail configuration and is subject to the following: **[Amended 10-13-2011 by Ord. No. 908]**
- (1) This right-of-way shall not be contained within any road right-of-way.

- (2) The right-of-way shall be offered for dedication to the Township. If the area is not accepted for dedication, an easement for public use must be provided along with maintenance agreements acceptable to the Township.
- (3) A red shale macadam pathway with a minimum of 10 feet in width shall be provided and separated from any vehicular traffic. Alternative materials for the pathway may be used if approved by the Board of Supervisors. Alternate configurations of the pathway, such as, but not limited to, two five-foot lanes divided by landscaping may be considered as long as the combined total hardscape width of the path is determined to be equivalent to a ten-foot pathway.
- (4) Lighting fixtures shall be installed along the pathway and shall be of a style as approved by the Board of Supervisors.
- (5) The access shall contain appropriate signage to direct pedestrians to the Montgomery County Schuylkill River Trail.

**§ 116-285. Transfer of development rights option.**

A. Intent.

- (1) The primary purpose of the transfer of development rights (TDR) section is to permanently preserve open land, agricultural land, sensitive natural areas, and community character that would be lost if the land were developed. In addition, this section is intended to protect property rights by allowing landowners whose land is intended for preservation to transfer their right to develop to other areas of Whitemarsh Township. Specific objectives include:
  - (a) To effectively achieve the land use planning goals identified in Whitemarsh Township's Comprehensive Plan while preserving existing property rights.
  - (b) To preserve unique community features in residential districts while creating a more efficient land use pattern and provision of services and infrastructure in areas the municipality proposed for growth.
  - (c) To promote redevelopment of the riverfront area in the Township.

B. This section is enacted pursuant to the authority granted by § 603(c)(2.2) and 619.1 of the Pennsylvania Municipalities Planning Code, under the terms of which development rights are acknowledged to be severable and separately conveyable from a sending area to a receiving area. Compliance with the provisions of this chapter shall be prerequisites to the use of the transfer of development rights option.

C. Establishment of sending and receiving districts.

- (1) Any zoning district, including but not limited to the RDD-1 Subdistrict, may qualify as a sending district for the purposes of the TDR program.
- (2) The number of development rights which may be sold shall be computed using

the methodology prescribed in this chapter.

- (3) The RDD-1 Subdistrict described herein shall be the receiving district for the purposes of the transfer of development rights program.

D. Calculation of transfer development rights.

- (1) The total number of development rights available to be severed from a sending area tract shall be determined by multiplying the gross tract area, minus a percentage of any constrained lands as required in Subsection D(4) below, by 0.51, subtracting from such product the number of retained development rights. Products resulting in fractions may be rounded to the nearest whole number; fractions of 1/2 may be rounded up.
- (2) Development rights previously severed or land previously restricted from development by covenant, easement or deed restriction shall not be eligible for severance or transfer under this chapter and shall be subtracted from any applicable calculation of transferable development rights to the extent of the restriction(s) in force unless and until such time as said covenant, restriction or easement is dissolved or rescinded with agreement of all beneficiaries of such covenant, restriction or easement.
- (3) Any sending area tract shall retain at least one development right, unless the tract is joined in a single deed with an adjacent tract or tracts with retained or remaining development right(s). All remaining development rights may be severed from the tract.
- (4) Constrained lands.
  - (a) When calculating eligible development rights for the sending area, a reduction of 50% in development rights shall be made for any portion of that area consisting of the following constrained lands:
    - [1] Any area within the Floodplain District.
    - [2] Any area comprising wetlands under the jurisdiction of the United States Army Corps of Engineers and/or the Pennsylvania Department of Environmental Protection.
    - [3] Any area of steep slope, as defined herein and where the ratio of the change in elevation over the horizontal distance as measured between consecutive two-foot contour intervals exceed 15%.
  - (b) For the purpose of development right determination, areas of constrained lands identified in Subsection D(4)(a)[1], [2], and [3] above may be determined by an applicant or landowner utilizing current Township mapping, Montgomery County Soils Survey maps, and National Wetlands Inventory information, unless more accurate site data is available and found acceptable to the Township.

E. Right to transfer development rights.

- (1) Each transferor shall have the right to sever all or a portion of the rights to develop from the parcel in a sending district and to sell, trade, or barter all or a portion of those rights to a transferee consistent with the purposes above.
- (2) The transferee may retire the rights, resell them, or apply them to property in a receiving district in order to obtain approval for development at a density or intensity of use greater than would otherwise be allowed on the land, up to the maximum permitted in Subsection E(3) below.
- (3) Development rights may be utilized by the transferee to increase the allowable residential density of a receiving parcel above the applicable base or conditional limits in § 116-281A(6) and (7)(d). Acquisition of one development right shall entitle the receiving parcel to an increase of five residential dwelling units over the applicable base density of 30 dwelling units per gross acre or conditional use density of 50 dwelling units per gross acre. In no event shall the use of transfer development rights result in an increase in the base or conditional use density by greater than 10 dwelling units per gross acre. For each 10 development rights purchased, there shall be a corresponding decrease in the required park and recreation obligation in accordance with the following:

<b>TDRs Purchased</b>	<b>Land To Be Dedicated</b>	<b>Fee-In-Lieu (residential)</b>	<b>Fee-In-Lieu (nonresidential)</b>
10 to 19	8%	\$800.00	\$0.40
20 to 29	6%	\$600.00	\$0.30
30 to 39	4%	\$400.00	\$0.20
40 to 49	2%	\$200.00	\$0.10
50 or more	0%	\$0.00	\$0.00

- (4) Any transfer of development rights pursuant to this article authorizes only an increase in density and shall not alter or waive the development standards of the receiving district, including standards for floodplains, wetlands, and other environmentally sensitive areas, nor shall it allow a use otherwise prohibited in a receiving district.
- F. Covenant restrictions. Except for retained development rights (not to be severed), if any, the sending tract must be permanently restricted from future development by a declaration of restriction of development or other restrictive covenant which meets the following requirements:
- (1) Except where any retained development rights are specified, the restrictive covenant shall permanently restrict the entire sending tract from future development of any nonagricultural uses, except for public park land, conservation areas, municipal facilities and similar uses. Where development rights will be severed from less than an entire parcel, the portion of the parcel from which the development rights are transferred shall be clearly identified

on a plan of the entire parcel, drawn to scale, the accuracy of which shall be satisfactory to the Township. Such plan shall also include a notation of the number of development rights applicable to the entire parcel, the number of development rights applicable to the identified portion of the parcel from which the development rights are to be severed, and the number of development rights which remain available to the remaining portion of the parcel. This plan shall be a part of the restrictive covenant and shall be recorded.

- (2) The restrictive covenant shall be approved by the Board of Supervisors of the Township, in consultation with the Township Solicitor. Final plan approval of any subdivision or land development plan proposing the severance or use of TDRs, and endorsement of any deed of transferable development rights, will be contingent upon the recording of the restrictive covenant at the Montgomery County Recorder of Deeds.
- (3) The restrictive covenant shall designate the Township, and/or a bona fide conservation organization acceptable to the Township at its sole discretion, as the beneficiary/grantee, but shall also designate both all future owners of all or a portion of the sending parcel, and all future owners of any portion of the receiving parcel as having separate and independent enforcement rights with respect to the restrictive covenants.
- (4) The restrictive covenant shall apply to the tract of land from which development rights are sold, and shall specify the number of development rights to be transferred as well as any to be retained. No portion of the tract area used to calculate the number of development rights to be transferred shall be used to satisfy minimum yard setbacks or lot area requirements for any development rights which are to be retained or for any other development.
- (5) All owners of the tract from which development rights are severed shall execute the restrictive covenant(s). All lienholders of the tract from which development rights are severed shall execute a joinder and/or consent to the restrictive covenant(s).
- (6) Agricultural uses not in keeping with the intent statement of this article may be restricted or denied by the Township.
- (7) Should the Township acquire ownership of the sending tract, the land may be used for passive recreation coincidental with municipal purposes that allow for possible municipal uses and continue to promote the conservation of open space and preservation of viewsheds.

G. Plan submittal process.

- (1) All applicants for use of transferable development rights shall submit a conditional use application in accordance with the provisions of this Code. In addition, an applicant shall submit a preliminary subdivision and/or land development plan showing development with purchase of development rights;

this plan shall meet the requirements of the Township's Subdivision and Land Development Ordinance.<sup>2</sup>

- (2) Along with the preliminary plan, an applicant shall submit:
  - (a) An agreement of sale for all development rights proposed to be purchased from sending area sites.
  - (b) A note on the plan showing the total number of dwelling units proposed on the site.
  - (c) A note on the plan showing the total number of dwelling units that could be built on the site when development rights are purchased, the number of dwelling units that can be built without the additional development rights, and the difference between the two. This difference represents the number of additional units that could be constructed on the site.
  - (d) A note on the plan which shows the proposed number of additional dwelling units and the number of development rights that must be purchased, based on the proposed number of additional dwelling units determined in § 116-285D above.
  - (e) A plan of all sending sites from which the applicant proposes to purchase development rights. This plan shall show all information needed to determine the number of development rights which may be sold. In addition, the plan shall be accompanied by metes and bounds description of the property(ies), as well as each property's parcel number, owner name, and tax block and unit number. If the applicant is purchasing development rights from a portion of a sending area site, this portion shall be shown on the plan and described with metes and bounds.
  - (f) In order to receive final plan approval, the applicant must agree to record restrictive covenants for all sending area land whose development rights are being used by the applicant. These restrictive covenants must meet the requirements of § 116-285F above. The restrictive covenant on the sending area land shall be recorded first, followed by the deed of transfer which transfers the development rights from the sending area landowner to the receiving area landowner.
- H. Public acquisition. The Township may purchase development rights and may accept ownership of development rights through transfer by gift. All such development rights may be resold or retired by the Township. Any such purchase or gift shall be accompanied by restrictive covenants as specified above.
- I. Amendment and/or extinguishment. The Township reserves the right to amend this article in the future, and the Township expressly reserves the right to change the manner in which the number of development rights shall be calculated for a tract in the sending area and the manner in which development rights can be conveyed. The

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2. Editor's Note: See Ch. 105, Subdivision and Land Development.

Township further expressly reserves the right to terminate its transferable development rights program at any time. No owner of the land or owner of development rights shall have any claim against the Township for damages resulting from a change in this article relating to the regulations governing the calculation, transfer and use of development rights or the abolition of the transferable development rights program. If the transferable development rights program is abolished by the Township, no developer may attach development rights to any tract in the receiving area after the effective date of the ordinance abolishing the transferable development rights program unless an application in conformity with the provisions of this article was filed prior to the effective date of such ordinance and thereafter is continuously processed to approval, and, following such approval, a complete subdivision and/or land development application complying such rights is thereafter filed within six months from the date of such approval.

**§ 116-286. Signs permitted in RDD Riverfront Development District.**

A. General provisions.

- (1) All signs in the RDD Riverfront Development District shall be consistent with the overall design concept for the development and be appropriate to the type of activity to which they pertain.
- (2) Design elements, such as the size, shape, materials, lighting, color, lettering style and the number and arrangement of signs, should present a unified appearance.
- (3) The color of individual commercial or office signage should coordinate with any awnings that are provided.
- (4) Signs anchored in the ground shall not exceed 10 feet in height and shall be of a monument type.
- (5) All signs must be approved by the Board of Supervisors.
- (6) Signs shall be illuminated in accordance with § 116-210 with the exception that there shall be no internally illuminated box signs.

B. In the Riverfront Development District, the following signs shall be permitted and no other:

- (1) Any sign which may be permitted in any residential district, provided that the use to which it refers is permitted in the RDD Riverfront Development District.
- (2) Along each street frontage building facade, one wall sign for each use. The total sign area may be 5% of the wall area on which it is placed not to exceed 35 square feet.
- (3) Any property which has two or more uses permitted in the district shall be permitted a directory sign. Each business in single and separate ownership

shall be entitled to not more than three square feet of signage, and the total area of the directory sign shall not exceed 30 square feet. **[Amended 7-28-2011 by Ord. No. 907]**

- (4) In the RDD-1 District, one freestanding sign is permitted for each property entrance. The area of the sign shall be no larger than 24 square feet.
- (5) Interior property parking and traffic control signs are permitted in accordance with § 116-208A. Signs are also permitted to direct people to the public trail or other public amenities, provided the signs do not exceed four square feet in area.
- (6) Each use located in a building fronting along the river, may have one sign to identify it from the riverfront trail. Said sign may either be on the building or be a monument sign. Said sign shall not exceed 12 square feet.

**§ 116-287. Application and review of development proposals.**

- A. The submission of a sketch plan, in accordance with § 105-20 of the Township's Subdivision and Land Development Ordinance, is strongly encouraged. In addition to the requirements of § 105-13, the sketch plan shall include building setbacks, building heights, and the size and dimensions for all buildings. However, a sketch plan submission is neither required nor mandatory. The sketch plan is not subject to a formal review by Township professionals.
- B. All submissions, including sketch, preliminary and final plans, shall include:
  - (1) A site plan to include buildings, pedestrian access, river access (both physical and visual) and open space areas.
  - (2) Architectural plans for any proposed buildings in adequate detail to indicate building setback, footprint dimensions, building heights, and building mass. Architectural elevations or sections in adequate detail to indicate how proposed buildings will affect views to the river and across the river to the hills and ridges. Architectural drawings showing concepts for facades, roof design and materials for buildings, structured parking facilities, signs as well as proposed lighting, street furniture and sidewalk design.
  - (3) Landscape plan showing the general location of all landscaping and buffer areas and the mature height of all proposed vegetation, differentiating between trees and shrubs.
  - (4) Any other pertinent data as the Planning Commission or Board of Supervisors may require.
  - (5) A transportation impact study (TIS) is required for all applications in the RDD-1 Subdistrict. Applications in the RDD-2 Subdistrict are required to submit a TIS in accordance with the provisions of § 105-21B(9)(c) of the Subdivision and Land Development Ordinance.

- C. In a review of a sketch plan, the Planning Commission shall provide the applicant with general guidance as to whether the design, layout and other features of the proposed development are in keeping with the intent and purposes of this article and will consider whether any of the following criteria have been met:
- (1) The plan meets or exceeds applicable provisions.
  - (2) The plan is in best interest of the health, safety and welfare.
  - (3) General site considerations (including site layout, open space, and topography; orientation and location of buildings; circulation and parking; setbacks; height; walls; fences and similar elements) and general architectural considerations (including the character, scale and quality of design) have been designed and incorporated to invite pedestrian circulation in this area, will maintain a usable open space area along the river, will provide unobstructed views of the river from nearby streets and will not unduly restrict view of the ridges and hills across the Schuylkill River.

## **Chapter 116**

### **ZONING**

#### **GENERAL REFERENCES**

**Building construction — See Ch. 42.**

**Junkyards — See Ch. 66.**

**Official Map — See Ch. 71.**

**Parks and recreation areas — See Ch. 80.**

**Quarries — See Ch. 93.**

**Subdivision and land development — See Ch. 105.**



ARTICLE I  
**General Provisions**

**§ 116-1. Title; when effective.**

- A. This chapter shall be known and may be cited as the "Whitemarsh Township Zoning Ordinance of 1957."
- B. This chapter shall become effective five days after its adoption.

**§ 116-2. Legislative intent.**

This chapter, enacted for the purpose of promoting the health, safety, morals and the general welfare of the Township, is in accordance with a Comprehensive Plan to secure safety from fire, panic and other danger; to provide adequate light and air; to prevent the overcrowding of the land; to avoid undue congestion of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of buildings; and to encourage the most appropriate use of land throughout the Township.

**§ 116-3. Interpretation; objectives.**

- A. In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the health, safety, morals and the general welfare of the Township.
- B. The Comprehensive Plan, in accordance with which this chapter has been formulated, shall implement the purpose set forth in § 116-2 hereinabove, in the respects therein stated and more particularly with a view toward, inter alia, the following objectives:
  - (1) Guiding and encouraging the future development of the Township in accordance with comprehensive planning of land use and population density that represents the most beneficial and convenient relationships among the areas within the Township, having regard to their suitability for various uses appropriate to each of them and their potentiality for such uses, as indicated by topography and soil conditions, existing man-made conditions, and the trends in population, in the direction and manner of the use of land in building development and in economic activity, considering such conditions and trends both within the Township and with respect to the relation of the Township to surrounding areas.
  - (2) Protecting the character and social and economic stability of each of such areas and encouraging their orderly and beneficial growth.
  - (3) Protecting and conserving the value of land and buildings throughout the Township appropriate to the various zoning districts established herein.
  - (4) Bringing about through proper timing the gradual conformity of land use to the Comprehensive Plan aforesaid, and minimizing conflicts among the uses of land and buildings.

- (5) Aiding in bringing about the most beneficial relation between land use and the circulation of traffic throughout the Township, having particular regard to and from the expressways, and to avoidance of congestion in the streets and the provisions of safe and convenient access appropriate to the various land uses.
- (6) Aiding in providing a guide for public safety and action in the efficient provision of public facilities and services, in the provision of safe and proper sanitary sewage disposal and for private enterprise in building, development, investment and other economic activity relating to land use, insofar as such objectives are consistent with the purpose set forth in § 116-2 and with the aforesaid minimum requirements therefor. The provisions of this chapter shall be interpreted, administered and applied in such a manner as will facilitate attainment of said objectives.

#### **§ 116-4. Abrogation and greater restrictions.**

It is not intended by this chapter to repeal, abrogate, annul or interfere with any existing ordinance or enactment, or with any rule, regulation or permit adopted or issued thereunder, except insofar as the same may be inconsistent or in conflict with any of the provisions of this chapter, provided that where this chapter imposes greater restriction upon the use of buildings or land, or upon the height and bulk of buildings, or prescribes larger open spaces than one required by the provisions of such ordinance enactment, rule, regulation or permit, then the provisions of this chapter shall control.

#### **§ 116-5. Severability.**

Should any section or provision of this chapter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof.

#### **§ 116-6. Revision of prior ordinance.**

For all intents and purposes, this chapter shall be considered as a complete revision in the form of amendment to the Zoning Ordinance of the Township heretofore adopted.

#### **§ 116-7. Repealer.**

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

#### **§ 116-8. Municipal liability.**

The grant of a use and occupancy permit or zoning permit shall not constitute a representation, guaranty or warranty of any kind by the Township, or by any official or employee thereof, of the practicability or safety of the proposed use and shall create no liability upon the Township, its officials or employees.

#### **§ 116-9. Exemptions. [Added 10-21-1982 by Ord. No. 442]**

No use established or changed, no structure erected, constructed, reconstructed, altered, razed or removed, and no building used or occupied or changed in use by or for the Township of Whitemarsh shall be subject to the limitations of the Zoning Ordinance.

ARTICLE II  
**Definitions and Word Usage**

**§ 116-10. Construal of provisions.**

Unless otherwise expressly stated, the following words and phrases shall be construed throughout this chapter to have the meanings indicated in this article. The present tense includes the future; the singular number includes the plural and the plural the singular: the word "buildings" includes the word "structure" and shall be construed as if followed by the words "or part thereof;" the word "occupy" includes the words "designed or intended to be occupied;" the word "use" includes the words "arranged," "designed" or "intended to be used;" and the word "shall" is always mandatory.

**§ 116-11. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**ACCESSORY BUILDING** — A building subordinate to the principal building on a lot and used for purposes customarily incidental to those of the principal building.

**ACCESSORY DWELLING UNIT** — A building or portion thereof providing complete housekeeping facilities for one family as permitted within a conservation design subdivision or land development. **[Added 4-6-2006 by Ord. No. 812]**

**ACCESSORY USE** — A use subordinate to the principal use of land or a building or other structure on a lot and customarily a part of or incidental thereto. **[Amended 10-28-1982 by Ord. No. 444]**

**ADJUSTED TRACT AREA** — Base site area minus constrained lands. (See § 116-273C of this chapter). **[Added 4-6-2006 by Ord. No. 812]**

**AGRICULTURE** — The cultivating of the soil, and the raising and harvesting of the products of the soil, including but not by way of limitation nursery, horticulture and forestry, and animal husbandry, but excluding sod and/or soil removal.

**ALTERATION** — As applied to a building or structure, a change in the structural parts or an enlargement, or the moving from one location or position to another.

**APA 87-1** — The American Pyrotechnics Association Standard 87-1: Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001 edition, or any subsequent edition. **[Added 10-25-2018 by Ord. No. 989]**

**APARTMENT BUILDINGS and CONDOMINIUMS, AGE-RESTRICTED** — A building or series of buildings designed exclusively for multifamily dwelling purposes by three or more families living independently of one another and requiring that at least one permanent occupant be age 55 years or older and further requiring that any resident of an individual dwelling unit under the age of 19 years shall not reside in that unit for more than three months in any calendar year. **[Added 12-18-2003 by Ord. No. 784]**

**AVERAGE LOT AREA** — Calculated as the sum of the lot areas for all dwelling units of a single type divided by the total number of dwelling units of a single type.

**AVERAGE SETBACK** — Average setback is calculated in the following manner: **[Added 12-13-2007 by Ord. No. 845]**

$$(Length1 \times Setback1) + (Length2 \times Setback2) + (Length3 \times Setback3)...+ (Lengthn \times Setbackn)$$

$$Length1 + Length2 + Length3...+ Lengthn$$

Where:

Each “Length” is the length of the facade of the building segment at the specific setback. “Setback” is the setback of that segment of the facade from the ultimate right-of-way.

**AVERAGE SLOPE** — The slope of land determined according to the formula:

$$S = \frac{.0023}{A} \times I \times L$$

(S is the average slope in percent; I is the contour interval in scale feet; L is the combined length of contour lines in scale feet; A is the area in acres of the site being considered)

**BASE FLOOD** — The flood having a one-percent chance of being equaled or exceeded in any given year.

**BERM** — An artificial embankment composed of soil which serves as a form of fence or buffer which is not to be construed to be either a building or structure.

**BUFFER** — A portion of a tract designed, constructed and maintained to separate the elements and uses of lands which abut each side. It shall function to effectively block the transmission of noise, glare and dust from one side to another at all times and seasons of the year.

**BUILDING** — Any structure having enclosing walls and roof, permanently located on the land.

**BUILDING AREA** — The aggregate of the maximum horizontal cross section areas of all buildings on a lot 18 inches or less above the ground level, measured at the greatest outside dimensions, excluding cornices, eaves, gutters or chimneys greater than 18 inches above the ground level projecting not more than 18 inches out from the building, excluding bay windows not extending through more than one story and/or 18 inches or less above the ground level and not projecting more than five feet out from the building, and excluding steps, unenclosed porches whether covered or not, decks whether covered or not, and balconies. "Building area" shall also include the area of covered porches, breezeways, or covered patios which have impervious floor surfaces and which are attached to a building. **[Amended 3-28-2013 by Ord. No. 925]**

**BUILDING COVERAGE** — The total building area on a lot divided by the lot area. **[Added 9-9-2004 by Ord. No. 794]**

**BUILDING FOOTPRINT** — Same as "building area" as herein defined. **[Added 12-13-2007 by Ord. No. 845; amended 3-28-2013 by Ord. No. 925]**

**BUILDING, PRINCIPAL** — A building in which is conducted the principal use of the lot on which it is situated.

**BUILDING SETBACK LINE** — The rear line of the minimum front yard, as herein designated for each district, measured from the street line; provided, however, that where an ultimate right-of-way traverses a lot, the building setback line shall be measured from the ultimate right-of-way. **[Amended 10-25-2018 by Ord. No. 988]**

**CABARET** — A restaurant, cafe, tearoom, tavern or bar which also provides, at any time, dancing and/or live entertainment (including but not limited to disc jockeys), except that live background instrumental music, while dining, when such background music is performed by a single musician playing either a piano, organ, violin or accordion, shall not be considered live entertainment. **[Added 10-24-1985 by Ord. No. 522]**

**CCRC PARKING GARAGE** — A building or open parking structure used for the parking or storage of more than four passenger motor vehicles designed to carry not more than nine persons, wherein provision for the repair of such vehicles is not made. **[Added 12-18-2003 by Ord. No. 783]**

**CEMETERY** — Burial place or graveyard, including mausoleum, crematory or columbarium. **[Added 9-25-2008 by Ord. No. 862]**

**CHILD DAY-CARE CENTER** — The premises in which care is provided at any one time for seven or more children unrelated to the operator. **[Added 9-25-2008 by Ord. No. 863]**

**CLINIC** — Ambulatory health care facility, generally including a number of medical, dental and/or mental health specialties, in which examinations, diagnostic and preventive health services and treatment are provided for patients on an out patient basis, generally on a walk-in or first-come-first-served basis; a clinic is characterized by centralized facilities and services, including patient records storage/management, waiting areas and laboratory and other diagnostic and testing facilities. It is typically managed by a single institution or corporation and is distinguished from a medical office building wherein individual offices or suites are leased or sold to a health care provider or group of same and wherein the health care provider(s) in one office or suite does not necessarily have any corporate, managerial or similar relationship to the health care provider(s) occupying other offices or suites in the building. It typically consists of several medical professionals who change over on a regular basis and none of which have a recurring patient roster. **[Added 9-25-2008 by Ord. No. 862]**

**CLUB** — A voluntary, nonprofit, incorporated or unincorporated association for the purpose of social, literary or political nature.

**COMMERCIAL SCHOOL** — Trade and professional school; arts, music or dancing school. **[Added 9-25-2008 by Ord. No. 862]**

**COMMUNITY CENTER** — Adult education center or other similar facility operated by an educational, philanthropic or religious or governmental institution. <sup>1</sup>**[Added 9-25-2008 by Ord. No. 862]**

**COMMUTER RAIL STATION** — A facility which incorporates, but is not limited to,

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1. Editor's Note: The former definition of "community residential facility," added 8-30-1984 by Ord. No. 494, as amended, which immediately followed this definition, was repealed 3-28-2013 by Ord. No. 925.

a railroad station building, including ticket office, passenger waiting room, taxi stand and bus shelter, canopies, platforms, parking areas for the use of commuters, patrons and employees, passenger pickup areas, bus layover areas and appurtenant features which provide safe, convenient and amenable boarding, alighting and waiting for a passenger train or other transportation services. **[Added 1-25-2001 by Ord. No. 734]**

COMPREHENSIVE PLAN — The Whitemarsh Township Comprehensive Plan and amendments thereto, including maps, charts and/or descriptive matter officially adopted by the Township Planning Commission and Board of Supervisors, indicating recommendations for the continuing development of the municipality; and including all elements required by the Pennsylvania Municipalities Planning Code,<sup>2</sup> as last amended. **[Amended 4-6-2006 by Ord. No. 812]**

CONDITIONAL USE — A use permitted in a particular zoning district by the Board of Supervisors of Whitemarsh Township. **[Added 8-23-1990 by Ord. No. 604]**

CONDOMINIUM — A dwelling unit as defined in the Unit Property Act of July 3, 1963, P.L. 196 (68 P.S. § 700.101 et seq.).<sup>3</sup>

CONFERENCE CENTER — A building or series of buildings used primarily as a professional meeting and training facility for 50 or more persons, which shall include related lodging and dining facilities and may include recreational facilities, service stores and other similar facilities for use by conference participants and employees, and which may also include any of the following as an accessory use: **[Amended 9-23-1993 by Ord. No. 649]**

A. Lodging of persons who are not conference participants, provided that no centralized reservation system is used to promote the availability of such lodging:

- (1) On Fridays, Saturdays, Sundays, public holidays and days immediately following and preceding such public holidays, provided that such lodging shall not be permitted for more than 75% of the rooms available or 90 rooms per day, whichever is less, during the months of May through October, and shall not be permitted for more than 40% of the rooms available or 50 rooms per day, whichever is less, during the months of November through April.
- (2) On all other days, provided that no mass media form of advertising is used to promote the availability of such lodging, and further provided that such weekday lodging shall not be permitted for more than 35% of the rooms available or 40 rooms on any such weekday, whichever is less.

B. Dining for:

- (1) Lodgers permitted under Subsection A above; and
- (2) Persons who are not conference participants or lodgers on Fridays, Saturdays, Sundays, public holidays and days immediately following or preceding such public holidays, provided that not more than 350 seats shall at any one time be made available for such dining.

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2. Editor's Note: See 53 P.S. § 10101 et seq.

3. Editor's Note: This Act was repealed 7-2-1980 by P.L. 286, No. 82, § 2; see now 68 Pa.C.S.A. § 3101 et seq, the "Uniform Condominium Act."

- C. Recreation for lodgers permitted under Subsection A above.
- D. Prescheduled and contracted special functions (e.g., wedding receptions, corporate picnics, Mother's Day brunches, retirement dinners, charity auctions, etc.), subject to the condition that any such functions or part of such functions held outdoors shall be concluded no later than 11:00 p.m. and shall not include the amplification of music if such amplification would result in the music being audible from off the premises.
- E. Prohibited uses: cabaret, nightclub, public trade show, exhibitions, tours, happy hours, religious revivals or the sale or service of alcoholic beverages later than 1:00 a.m.

**CONGREGATE BUILDING** — One or more principal buildings within a continuing-care retirement community which contain residential, dining, social, recreational, assisted living, nursing care, medical, and administrative facilities designed to serve and support the residents of the community and their guests. **[Added 5-16-2002 by Ord. No. 755]**

**CONSERVATION DESIGN OVERLAY DISTRICT OPEN SPACE** — Land (including land covered with water, or subject to easements for community wells) which is the subject of a perpetual, legally binding conservation easement in favor of the Township or, with Township consent, a conservation organization qualified to accept charitable donations of conservation easements. Such easement shall run with the land and prohibit the construction of structures for residential, office, commercial, industrial or other use (other than agricultural accessory structures for agricultural uses existing or permitted in the zoning district in which the land is located) and shall vest in the Township or other approved entity the right to enforce the use, maintenance and management restrictions and obligations upon such land. Conservation Design Overlay District open space shall hereinafter be referred to as "common open space." **[Added 4-6-2006 by Ord. No. 812]**

**CONSERVATION FEATURES MAP** — A map adopted as part of the Township Comprehensive Plan depicting primary and secondary conservation features for the purpose of creating an interconnected system of common open space and recreation areas. **[Added 4-6-2006 by Ord. No. 812]**

**CONSERVATION FEATURES, PRIMARY** — Natural features found on the Township's Conservation Features Map which have development constraints placed upon them during development of a tract. These features are floodplain and flood-prone areas, wetlands, steep slopes over 25% and riparian corridors. **[Added 4-6-2006 by Ord. No. 812]**

**CONSERVATION FEATURES, SECONDARY** — Natural or man-made features found either on the Township's Conservation Features Map (or listed elsewhere in other Township documents) that the Township desires to preserve during the land development process. The extent to which these features are preserved on an individual site will be determined on a case-by-case basis during the land development process. These features are woodlands, important farmland soils, steep slopes between 8% and 25%, scenic roads and vistas, and historic or cultural resources. **[Added 4-6-2006 by Ord. No. 812]**

CONSUMER FIREWORKS[**Added 10-25-2018 by Ord. No. 989**] —

- A. Any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public, complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to commercial practices) or any successor regulation and complies with the provisions for "consumer fireworks" as defined in APA 87-1 or any successor standard, the sale, possession and use of which shall be permitted throughout this commonwealth.
- B. The term does not include the devices "ground and hand-held sparkling devices," "novelties" or "toy caps" in APA 87-1 or any successor standard, the sale, possession and use of which shall be permitted at all times throughout this commonwealth.

CONTINUING-CARE RETIREMENT COMMUNITY — A development, licensed by the Commonwealth of Pennsylvania or other agencies with jurisdiction, consisting of residential dwelling units exclusively for persons who are 62 years of age or older and for couples with one or both of the couple being 62 years of age or older, and containing certain support facilities specifically designed for these individuals. Such developments shall include independent living units, assisted living facilities, and skilled nursing care beds, and may also include the following congregate facilities and services for the exclusive use of residents and their guests: dining facilities; physical therapy facilities; auditoriums; recreation facilities; limited on-site retail and service facilities, as specified in § 116-254A; and other customary ancillary services.[**Added 5-16-2002 by Ord. No. 755**]

CONTOUR INTERVAL — The distance, in scale feet, between successive contour lines.

CONTOUR LINE — A line connecting the points on a land surface that have the same elevation.

DAY CAMP — A camp for minor children conducted between 10:00 a.m. and 5:00 p.m., but excluding Saturdays and Sundays.<sup>4</sup>

DENSITY — A measure of the number of dwelling units per acre. It is calculated by dividing the total number of dwelling units by the site area.

DEVELOPABLE ACRE — All land within the lot lines except that located within existing street rights-of-way, floodplains and land continuously covered with water.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of mobile homes, streets and other paving, utilities, filling, grading, regrading, excavation, mining, dredging or drilling operations.

DEVELOPMENT PLAN — The provisions for development; a plat of subdivision; all covenants relating to use, location and bulk of buildings and other structures; intensity of use or density of development; streets, ways and parking facilities; common open space and public facilities.[**Amended 8-23-1990 by Ord. No. 604**]

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4. Editor's Note: The former definition of "day nursery," which immediately followed, was repealed 9-25-2008 by Ord. No. 863.

DEVELOPMENT RIGHTS — The rights of the owner of a parcel of land, under land development regulations, to configure that parcel and the structures thereon to a particular intensity for residential uses. **[Added 12-13-2007 by Ord. No. 845]**

DWELLING — A building designed for and occupied exclusively for residential purposes, excluding, however, a hotel, rooming house, tourist home, institutional home, residential club, motor court and the like.

- A. DETACHED DWELLING — One with no physical connection to a building on another lot.
- B. SEMIDETACHED DWELLING — One of two dwellings with a single party wall common to both.
- C. ATTACHED DWELLING — A dwelling having one or more common walls and having independent and separate exterior access in a structure of two or more dwellings. Floors and ceilings shall be considered "walls" hereunder.
- D. SINGLE-FAMILY DWELLING — A building designed for and occupied exclusively as a dwelling for one family, regardless of construction type, and including, without limitation, frame, masonry and mobile homes.
- E. TWO-FAMILY DWELLING — A building designed for and occupied exclusively as a dwelling for two families.
- F. MULTIPLE DWELLING — A building not a single-family dwelling nor a two-family dwelling, designed for and occupied exclusively for dwelling purposes by three or more families living independently of one another; not a row house, but customarily called an apartment house.
- G. ZERO-LOT-LINE SINGLE-FAMILY DETACHED DWELLING — A single-family dwelling with no physical connection to a building on another lot which has all or part of one wall constructed on a side property line of the lot on which it is located. **[Added 4-24-2014 by Ord. No. 943]**

DWELLING UNIT — A building or portion thereof providing complete housekeeping facilities for one family.

EXTRACTION — The removal of mineral deposits from the ground by quarrying, mining, digging, dredging, blasting or any other form of excavation.

FAMILY — **[Amended 8-30-1984 by Ord. No. 494; 2-24-1994 by Ord. No. 659; 3-28-2013 by Ord. No. 925]**

- A. Any number of individuals living together on a nontransient basis as a single housekeeping unit and doing their cooking on the premises, when said individuals are related by blood, marriage or adoption, including any number of foster children; no more than five unrelated individuals living together as a single housekeeping unit and doing their cooking on the premises, except when an application for a special exception to enable a greater number of unrelated individuals to occupy a dwelling unit is reviewed and approved by the Zoning Hearing Board, as provided in this chapter. The definition of "family" shall not apply to the occupants of a club, fraternity house, lodge or residential club.

- B. Notwithstanding the definition in Subsection A of this definition, a "family" shall also be deemed to include any number of mentally or physically handicapped persons occupying a dwelling unit as a single, nonprofit housekeeping unit, if such occupants are handicapped persons as defined in Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

**FAMILY CHILD DAY-CARE HOME** — A home other than the child's own home, operated for profit or not-for-profit, in which child day care is provided at any one time to four, five or six children unrelated to the operator. **[Added 9-25-2008 by Ord. No. 863]**

**FLOOD** — A general or temporary inundation, partial or complete, of normally dry land areas.

**FLOODWAY** — The area designated as "floodway" in the "Flood Insurance Study, Township of Whitemarsh, Montgomery County, Pennsylvania," prepared by the Delaware River Basin Commission for the United States Department of Housing and Urban Development, Flood Insurance Administration.

**FLOODWAY FRINGE** — The Floodplain Conservation District, exclusive of the floodway.

**FLOOR AREA** — The sum of the total horizontal areas of the several floors devoted to a particular use of a building or structure, including any space devoted to incidental purposes related thereto, as measured from the exterior faces of enclosing walls or partitions hallways, stairs, closets, columns or other features. The terms "floor area" and "gross floor area" shall be synonymous. **[Added 3-30-1989 by Ord. No. 577]**

**FOOTCANDLE** — Unit of light density incident on a plane (assumed to be horizontal unless otherwise specified), measurable with an illuminance meter, a.k.a. light meter. **[Added 12-18-2008 by Ord. No. 872]**

**GARAGE, PRIVATE** — An accessory building or a part of a principal building used for the storage of motor vehicles owned and used by the owner or tenant of the premises, and for the storage of not more than two motor vehicles owned and used by persons other than the owner or tenant of the premises. Not more than two commercial vehicles or trucks may be stored in a private garage.

**GARAGE, PUBLIC** — A building, other than a private or storage garage, one or more stories in height, used solely for the commercial storage, service or repair of motor vehicles.

**GARAGE, STORAGE** — A building, not a private or public garage, one story in height, used solely for the storage of motor vehicles (other than trucks) but not for the sale, service or repair thereof, nor for the sale of fuel, accessories or supplies.

**GASOLINE SERVICE STATION** — Any area of land, including structures thereon, or any building or part thereof, which is used for the sale of gasoline or other motor vehicle fuel or accessories, and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but which shall not include painting or body and fender repairs.

**GLARE** — Excessive brightness in the field of view that is sufficiently greater than that to which the eyes are adapted to cause loss in visual performance or annoyance, so as to jeopardize health, safety and welfare. **[Added 12-18-2008 by Ord. No. 872]**

**GREEN SPACE AREA** — Any area that is not covered by buildings or paving and is available and used for retention and maintenance of natural vegetation and for absorption of stormwater for groundwater discharge, including, by way of example, landscape features such as planting beds, planted islands, landscaped buffers and screens, lawn areas, woods and hedgerows. Decorative stone and mulch ground covers may be included if placed upon an earth surface.**[Added 9-9-2004 by Ord. No. 794]**

**GREENWAY** — A linear park or open space conservation area that provides passive recreational opportunities, pedestrian and/or bicycle paths, and the conservation of open space or natural areas.**[Added 4-6-2006 by Ord. No. 812]**

**GROUP CHILD DAY-CARE HOME** — The premises in which care is provided at one time for more than six but fewer than 16 older school-age-level children or more than six but fewer than 13 children of another level who are unrelated to the operator. The term includes a facility located in a residence or another premises.**[Added 9-25-2008 by Ord. No. 863]**

**GROUP HOME** — A residential facility used as living quarters by any number of unrelated persons requiring special care, and their attendant adult supervisors, specifically designed to create a residential setting for the mentally and physically handicapped (as a special exception). The individuals may be either transient or permanent residents. Any number of handicapped persons, as defined in Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, have the right to occupy a dwelling unit in the same manner and to the same extent as any family unit.**[Added 8-30-1984 by Ord. No. 494; amended 2-24-1994 by Ord. No. 659; 3-28-2013 by Ord. No. 925]**

**HEIGHT OF BUILDING** — A building's vertical measurement from the mean level of the ground surrounding the building to a point midway between the highest and lowest points of the roof on the highest roof plane. For buildings with multiple roofs, the point midway between the highest and lowest points of the roof shall be measured on the highest roof plane of the highest roof. In no case shall the lowest and highest points be on different roofs or roof planes. For buildings with flat roofs, the height shall be measured to the surface of the highest roof. A flat roof is defined as one having a maximum slope ratio of 1:48 or a maximum slope of 2.1%.**[Amended 3-28-2013 by Ord. No. 925]**

**HEIGHT OF STRUCTURE** — For structures that are not buildings, the height is the structure's vertical measurement from the mean level of the ground surrounding the structure to the highest point on the structure or to the highest point of any antenna or other attachment on the structure.**[Added 3-28-2013 by Ord. No. 925]**

**HISTORIC OR CULTURAL RESOURCES** — Man-made structures or artifacts, including but not limited to farmhouses, barns, springhouses, stonewalls or graveyards; may also include places where historic events occurred (such as battlefields or campsites, birthplaces of famous persons, dwellings designed by noted architects, etc.) and abandoned roads, established footpaths or trails, or scenic vistas. Such resources may or may not be listed on official registers of historic structures.**[Added 4-6-2006 by Ord. No. 812]**

**HOLD-HARMLESS AGREEMENT** — An agreement between a property owner and the Township in which the property owner indemnifies and holds the Township harmless for any damages to the Township within a Township-owned right-of-way or easement, or within the ultimate right-of-way of a road.**[Added 10-25-2018 by Ord. No. 988]**

HOME OCCUPATION — An occupation for gain or support conducted only by members of a family residing on the premises and conducted entirely within the dwelling, provided that no article is sold or offered for sale except such as may be produced by members of the immediate family residing on the premises. The conducting of a clinic, hospital, barbershop, beauty parlor, tearoom, tourist home, animal hospital or any other similar use shall not be deemed to be a home occupation.

HOSPITAL — An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illnesses, disease, injury, deformity and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, medical offices and staff residences. **[Added 9-25-2008 by Ord. No. 862]**

HOTEL — A building used for the purpose of furnishing for compensation more or less temporary lodging to the public, with or without meals, and having lodging accommodations for 10 or more persons.

ILLUMINANCE — Quantity of light, measured in footcandles. **[Added 12-18-2008 by Ord. No. 872]**

IMPERVIOUS GROUND COVER — That portion of a tract where, due to surface coverage, the water runoff coefficient is 0.90 or more, as designated by the Township Engineer.

JUNKYARD — A lot, land or structure, or part thereof, used primarily for the collection, storage and sale of wastepaper, rags, scrap metal or discarded materials or for the collection, dismantling, storage and salvaging of machinery or vehicles not in running condition, and for the sale of parts thereof.

LIBRARY — Library open to the public or connected with a permitted educational use. **[Added 9-25-2008 by Ord. No. 862]**

LIGHT TRESSPASS — Light emitted by a lighting fixture or installation, which is cast beyond the boundaries of the property on which the lighting installation is sited. **[Added 12-18-2008 by Ord. No. 872]**

LOADING SPACE — An off-street space exclusive of access area, accessible from a street or way, in a building or on a lot, for the temporary use of vehicles while loading merchandise or materials. **[Amended 9-25-2008 by Ord. No. 862]**

LOT — A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit. **[Amended 8-23-1990 by Ord. No. 604]**

LOT AREA — The total horizontal area of the lot lying within the lot lines, provided that no area of land lying within any street shall be deemed a portion of any lot area. The area of any lot abutting a street shall be measured to the street line only. "Lot area" shall not include any area designated as right-of-way. **[Amended 2-27-2014 by Ord. No. 937]**

LOT LINE — Any boundary line of a lot.

- A. LOT LINE, REAR — Any lot line which is parallel to or within 45° of being parallel to a street line, except for a lot line that is itself a street line, and except that in the case of a corner lot the owner shall have the option of choosing which of the two lines that are not street lines is to be considered a rear lot line. In the case of a lot having no street frontage or a lot of an odd shape, only the lot line furthest from

any street shall be considered a rear lot line.

B. LOT LINE, SIDE — Any lot line which is not a street line or a rear lot line.

LOT WIDTH — The distance measured between the side lot lines at the required building setback line. In the case where there is only one side lot line, lot width shall be measured between such lot line and the opposite rear lot line or street line.

MEDICAL OFFICE — Any office for medical doctors or other practitioners licensed or certified by the Commonwealth of Pennsylvania and associated with the physical and/or mental well-being of a person, including those undertaking diagnostic, treatment and counseling services. **[Added 10-25-2018 by Ord. No. 988]**

MOBILE HOME — A transportable, single-family dwelling intended for permanent occupancy, contained in one unit, or in two or more 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 constructed so that it may be used without a permanent foundation. A mobile home shall not include recreational or travel trailers. **[Amended 8-23-1990 by Ord. No. 604]**

MOBILE HOME LOT — A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobile home. **[Amended 8-23-1990 by Ord. No. 604]**

MOBILE HOME PARK — A parcel or contiguous parcels of land which have been so designated and improved that they contain two or more mobile home lots for the placement thereon of mobile homes. **[Amended 8-23-1990 by Ord. No. 604]**

MOTOR COURT or MOTEL — A building or a group of two or more detached or semidetached buildings containing rooms or apartments having separate ground floor entrances provided directly or closely in connection with automobile parking or storage space serving such rooms or apartments, which building or group of buildings is designed, intended or used principally for the providing of sleeping accommodations for automobile travelers and is suitable for occupancy at all seasons of the year.

MUSEUM — Museum or gallery open to the public and not conducted as a private, gainful business. **[Added 9-25-2008 by Ord. No. 862]**

NFPA 1124 — The National Fire Protection Association Standard 1124, Code for the Manufacture, Transportation, and Storage of Fireworks and Pyrotechnic Articles, 2006 edition, or any subsequent edition. **[Added 10-25-2018 by Ord. No. 989]**

NO-IMPACT HOME-BASED BUSINESSES — A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements: **[Added 3-24-2003 by Ord. No. 770]**

- A. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- B. The business shall employ no employees other than family members residing in the dwelling.

- C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- D. There shall be no outside appearance of a business use, including but not limited to parking, signs or lights.
- E. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical interference, including interference with radio or television reception, which is detectable in the neighborhood.
- F. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- G. The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.

**NONCONFORMING** — A building or other structure, use or lot which, by reason of design, size or use, does not conform to the requirements of the district or districts in which it is located.

**NONCONFORMING LOT** — A lot, the area or dimension of which was lawful prior to the adoption or amendment of this chapter, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment. **[Added 8-23-1990 by Ord. No. 604]**

**NONCONFORMING STRUCTURE** — A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in this chapter or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of this chapter or amendment or prior to the application of this chapter or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs. **[Added 8-23-1990 by Ord. No. 604]**

**NONCONFORMING USE** — A use, whether of land or of structure, which does not comply with the applicable use provisions in this chapter or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this chapter or amendment. **[Added 8-23-1990 by Ord. No. 604]**

**NOVELTIES** — Articles of trade having amusement value and whose appeal is often transitory, and which is limited to those items for sale described in American Pyrotechnics Association (APA) Standard 87-1, Section \*3.2. **[Added 10-25-2018 by Ord. No. 989]**

**NURSING HOME** — A building, or part thereof, used for the lodging, boarding and nursing care, on a twenty-four-hour basis, of four or more persons who, because of mental or physical incapacity, may be unable to provide for their own needs and safety without the assistance of another person. **[Added 9-25-2008 by Ord. No. 862]**

**OCCASIONAL LANDING** — Touchdown and liftoff of rotary-wing aircraft (helicopters) for the purpose of picking up and discharging passengers or cargo in conjunction with a special event as approved by the Board of Supervisors upon seven days' notice; when necessary for emergencies or law enforcement purposes; or in conjunction with a construction project where a helicopter is used to lift equipment in

connection with such project.**[Added 11-17-1983 by Ord. No. 481]**

**OFF-SITE OUTDOOR ADVERTISING SIGN OR BILLBOARD** — A freestanding sign which directs attention to a business, commodity, service or entertainment facility that is not located, conducted, sold or offered upon the premises where such sign is located, or which calls attention to a candidate, cause, public issue or any other kind of paid or unpaid commercial or noncommercial message.**[Added 7-13-1995 by Ord. No. 681; amended 9-25-2008 by Ord. No. 862; 1-14-2010 by Ord. No. 889]**

**ONE-HUNDRED-YEAR FLOOD** — A flood that has one chance in 100 or a one-percent chance of being equaled or exceeded in any one year. For the purposes of this chapter, the “one-hundred-year flood” (base flood) is as defined by the Federal Insurance Administration in the Flood Insurance Study.**[Added 4-6-2006 by Ord. No. 812]**

**OPEN SPACE** — A portion of a tract available and accessible for use by the public and/or residents of the tract, generally undeveloped. Open space may include areas of steep slopes, floodplains and other significant features to be preserved. Open space shall not include streets or street rights-of-way, parking areas, yards and lots of individual dwelling units or other public improvements nor does it include required buffer areas. Open space uses may include active and passive recreation.

**OUTDOOR STORAGE UNIT** — A consumer fireworks building, trailer, semitrailer, metal shipping container or magazine meeting the specifications of NFPA 1124.**[Added 10-25-2018 by Ord. No. 989]**

**OVERBURDEN** — The material or strata overlaying mineral deposits.

**PARKING SPACE, ALL-WEATHER** — A parking space surfaced to whatever extent necessary to permit reasonable use under all conditions of weather.

**PARKING SPACE** — A reasonably level space, available for the parking of one motor vehicle, not less than nine feet wide and having an area of not less than 162 square feet exclusive of passageways or other means of circulation or access, provided that the dimensions of handicapped (accessible) parking spaces shall be based upon the requirements set forth in the latest edition of the International Building Code and ANSI standards, as implemented by the Township in accordance with the Construction Code Act, 35 P.S. 7210.101 to 7210.1103, as amended, and the Uniform Construction Code, 34 Pa. Code, Part XIV, as amended.**[Amended 1-28-2010 by Ord. No. 891; 3-28-2013 by Ord. No. 925]**

**PARK OR RECREATIONAL FACILITY** — An outdoor park or recreational facility, including day camp, driving range, swim club, tennis club, stables and athletic fields.**[Added 9-25-2008 by Ord. No. 862]**

**PENNSYLVANIA FIREWORKS LAW** — Act 42 of 2017, as amended.**[Added 10-25-2018 by Ord. No. 989]**

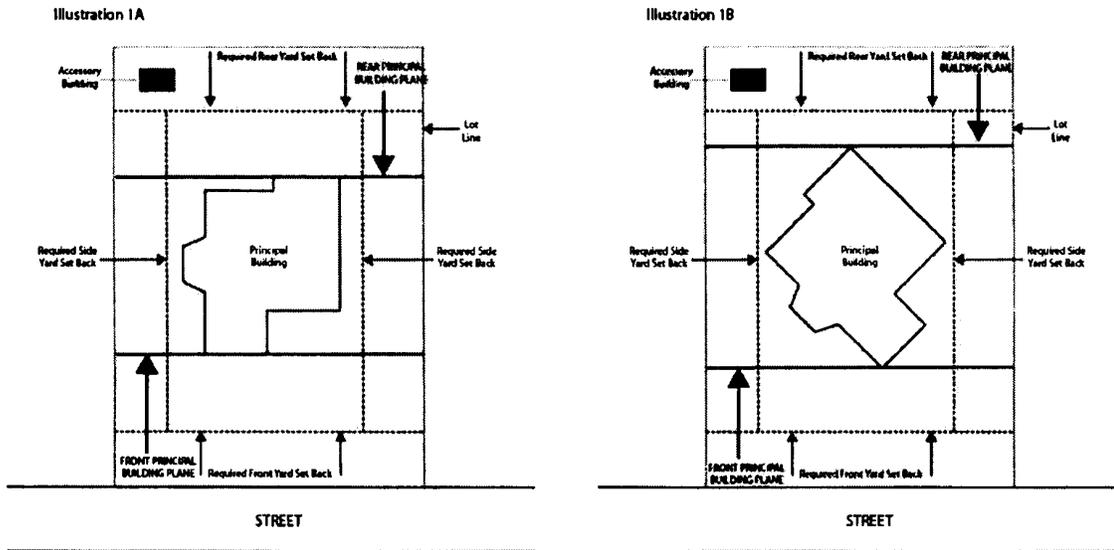
**PERFORMANCE STANDARDS** — Measures and standards by which the suitability of a proposed use can be measured by the extent of its external effect.

**PLACE OF WORSHIP** — Places of religious worship and their adjunct residential dwellings for clergy and support staff; adjunct social, recreational and educational uses directly administered by the religious institution; and nursery school and kindergarten.**[Added 9-25-2008 by Ord. No. 862]**

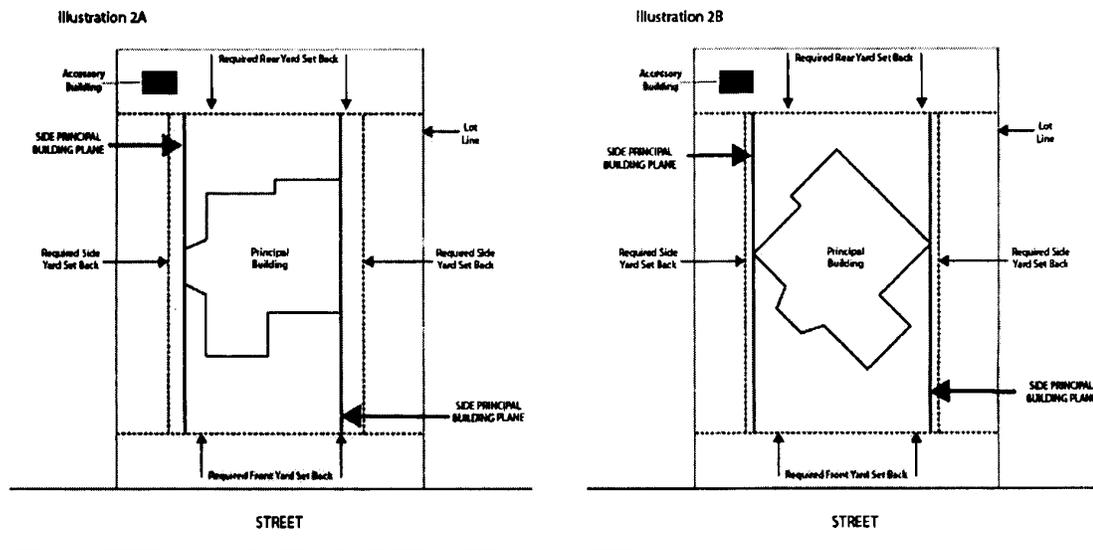
**PRINCIPAL BUILDING PLANE** — An imaginary line coterminous with the outermost

wall or outermost point on a specified face of the principal building parallel to its closest lot line. [Added 3-28-2013 by Ord. No. 925]

- A. FRONT PRINCIPAL BUILDING PLANE — The building plane parallel to the street or front lot line; see Illustrations 1A and 1B.
- B. REAR PRINCIPAL BUILDING PLANE — The building plane parallel to the rear lot line; see Illustrations 1A and 1B.



- C. SIDE PRINCIPAL BUILDING PLANE — The building plane parallel to, and closest to, the respective side lot line; see Illustrations 2A and 2B.



PRIVATE CLUB — Private social or fraternal club, without lodging facilities, other

than a private recreational facility or country club. **[Added 9-25-2008 by Ord. No. 862]**

**PRIVATE USE HELIPORT** — An area of land, water or a structure used or intended to be used for the landing and takeoff of helicopters, sometimes known as "helistop," approved by the Pennsylvania Department of Transportation and the Federal Aviation Administration for the purpose of picking up or discharging passengers or cargo, restricted to use of the owner or to persons authorized by the owner only. No fueling, helicopter repair or storage areas or operation of helicopters for hire or for a fare are permitted in conjunction with the operation of a private use heliport. **[Added 11-17-1983 by Ord. No. 481]**

**PROFESSIONAL OFFICE** — Any office maintained by professionals licensed or certified by the Commonwealth of Pennsylvania, including those involving administrative, clerical, or financial operations and client visits. Such offices include, but are not limited to, offices for attorneys, engineers, architects, accountants, insurance agents, and real estate agents or brokers. The term does not include "medical office," as separately defined herein. **[Added 10-25-2018 by Ord. No. 988]**

**PUBLIC AMENITY** — A resource, convenience, facility or benefit available to the general public for their use and/or enjoyment, with or without charge (e.g., restrooms, boat launches, scenic overlooks, recreation facilities, etc.). Access to public amenities shall be provided even when located on private land. **[Added 12-13-2007 by Ord. No. 845]**

**PUBLIC UTILITIES FACILITIES** — A building or structure and its equipment, used for transmission and exchange of telephone, radio telephone, gas power, sewer and water facilities; provided, however, that in a residential district these shall not include public business facilities, storage of materials, trucks or repair facilities or housing of repair crews.

**QUARRY** — A place where mineral deposits are being or have been extracted from the ground.

**RECEIVING DISTRICT** — One or more districts in which the development rights of parcels in the sending district may be used. **[Added 12-13-2007 by Ord. No. 845]**

**RECEIVING PARCEL** — A parcel of land in the receiving district that is the subject of a transfer of development rights, where the owner of the parcel is receiving development rights, directly or by intermediate transfers, from a sending parcel, and on which increased density and/or intensity is allowed by reason of the transfer of development rights. **[Added 12-13-2007 by Ord. No. 845]**

**RECONSTRUCTION** — As applied to a building or structure, a total or partial replacement or renovation to any exterior wall, foundation or projection so as to affect the exterior dimensions of said building or structure.

**REGRADE** — To alter the elevation of the existing ground surface.

**RESIDENTIAL DISTRICTS** — AAAA, AAA, AA, A, B and C Residential Districts; Apartment House District LR and HR; AD Attached Dwelling District; MHP Mobile Home Park District and CCRC Continuing-Care Retirement Community District. **[Added 1-26-1989 by Ord. No. 569; amended 5-16-2002 by Ord. No. 755]**

**ROADSIDE STAND** — A temporary structure not exceeding 10 feet in height and 100 square feet in area.

ROOMING HOUSE — A dwelling, not a single-family or two-family dwelling, apartment house or hotel, providing lodging, with or without meals, and having lodging accommodations for less than 10 guests. (See "tourist home.")

SANITARY SEWAGE SYSTEM — A system of sanitary sewage collection, including a sewage treatment plant, approved by the proper state and Township authorities; specifically excluded are cesspools, septic tanks, French drains, tile fields and any other on-site system which does not employ an approved sewage treatment plant.

SCHOOL — Any public, parochial or private place of instruction, including any adjunct dormitories and other uses customarily incidental to a school, not including institutions of higher learning, having regular sessions with regularly employed instructors, which teaches those academic subjects that are fundamental and essential in general education and which provide kindergarten, elementary, secondary stages of education, or a vocational school under the supervision of a state or lawfully constituted ecclesiastical governing body and with standards of instruction meeting the requirements of the Commonwealth of Pennsylvania, but excluding any privately operated schools of trade, vocation, avocations and business. **[Amended 9-25-2008 by Ord. No. 862]**

SCHOOL-AGE CARE — Supervised child day care in a departmentally certified facility during the hours when a child is not required to attend school. **[Added 9-25-2008 by Ord. No. 863]**

SENDING DISTRICT — One or more districts in which the development rights of parcels in the district may be designated for use in one or more receiving districts. **[Added 12-13-2007 by Ord. No. 845]**

SENDING PARCEL — A parcel of land in the sending district that is the subject of a transfer of development rights, where the owner of the parcel is conveying development rights of the parcel, and on which those rights so conveyed are extinguished and may not be used by reason of the transfer of development rights. **[Added 12-13-2007 by Ord. No. 845]**

SIGN — Any name, nameplate, emblem, painting, banner, pennant, placard, billboard, poster, panel, display, illustration, structure or other device, illuminated or nonilluminated, used for visual communication which is affixed, painted or represented directly or indirectly upon a building, freestanding structure or other outdoor surface or on the interior of the building visible from the exterior for the purpose of bringing the subject thereof to the attention of passersby or advertising a business, commodity, service or product or for identifying a business, structure or use of land on which the sign is located. **[Amended 7-21-1994 by Ord. No. 662]**

SIGN AREA — The area of the largest single face of a sign within a perimeter which encompasses the outside shape, including any form which is an integral part of the display, subject to the following: **[Added 7-21-1994 by Ord. No. 662]**

- A. For double-sided signs or V-type signs, the interior angle of which does not exceed 45°, only one side shall be applicable in computing sign area;
- B. For double-sided signs or V-type signs, the interior angle of which exceeds 45°, both sides shall be used in computing sign area; and
- C. The area of all irregularly shaped signs, including signs consisting of separate modules, figures or letters, shall be deemed to be the total square footage of the

smallest single square or rectangle into which all the separate modules, figures or letters which comprise the irregularly shaped and/or modular sign would fit.

**SIGN, FACIAL** — A sign attached parallel to and projecting not more than 16 inches from a wall or other building surface.**[Added 7-21-1994 by Ord. No. 662]**

**SIGN, GROUND** — A freestanding sign and its supports which is imbedded in or anchored to the ground.**[Added 7-21-1994 by Ord. No. 662]**

**SIGN, MONUMENT** — Any sign that incorporates a decorative base, often of stone or masonry, placed upon or supported by the ground. Monument signs do not include support posts or other column-like structures to raise the bottom of the sign above the grade surrounding the sign.**[Added 3-28-2013 by Ord. No. 925]**

**SIGN, PORTABLE** — Any sign not permanently attached to the ground or to a building or building surface.**[Added 7-21-1994 by Ord. No. 662]**

**SIGN, PROJECTING** — A sign attached to and projecting more than 16 inches from a wall or other building surface.**[Added 7-21-1994 by Ord. No. 662]**

**SITE** — A parcel or parcels of land intended to have one or more buildings or intended to be subdivided into two or more lots.

**SITE AREA** — All land area within the site as defined in the deed. Area shall be from an actual survey rather than from a deed description.

**SOLAR ENERGY** — Radiant energy (direct, diffuse, and reflected) received from the sun.**[Added 1-28-2010 by Ord. No. 890]**

**SOLAR ENERGY SYSTEM** — Any solar collector or other solar energy device, or any structural design feature whose primary purpose is to provide for the collection, storage and distribution of solar energy for space heating or cooling, for water heating or for electricity that may be mounted on a building or on the ground and is not the primary use of the property.**[Added 1-28-2010 by Ord. No. 890]**

**SOLAR PANELS** — A structure containing one or more receptive cells, the purpose of which is to convert solar energy into usable electrical energy by way of a solar energy system.**[Added 1-28-2010 by Ord. No. 890]**

**SPECIAL EXCEPTION** — Permission or approval granted by the Zoning Hearing Board in accordance with this chapter in situations where provision therefor is made by the terms of this chapter.

**STEEP SLOPE** — A land grade in excess of 8%.**[Amended 9-18-1986 by Ord. No. 537]**

**STEEP SLOPE RATIO** — A measurement calculated by dividing the total area of all steep slopes within the site or lot by the site area or lot area, respectively.**[Added 9-18-1986 by Ord. No. 537]**

**STOCKPILE** — An artificial embankment or pile of excavated material, including, without limitation, topsoil, overburden, stone and similar materials placed for purposes of storage, processing and/or sale, but excluding berms.

**STREET** — A right-of-way municipally or privately owned, serving as a means of vehicular and pedestrian travel, furnishing access to abutting properties and space for sewers and public utilities. For the purposes of this chapter, no street shall be considered

less than 50 feet in width.

**STREET LINE** — The dividing line between a lot and the existing boundary of a public street or between a lot and a privately owned street over which the owners of two or more lots have the right-of-way; however, where an ultimate right-of-way traverses a lot, setbacks shall be computed from such ultimate right-of-way and not from the street's existing boundary.

**STRUCTURAL ALTERATION** — Any change in or addition to the supporting or structural members of a building, such as the bearing walls, partitions, columns, beams, girders, or enclosing porches or any change which would convert an existing building into a different structure, or adapt it to a different use, or which in the case of a nonconforming use would prolong the life of such use.

**STRUCTURE** — Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land. **[Amended 8-23-1990 by Ord. No. 604]**

**TEMPORARY STRUCTURE** — A structure, other than a permanent facility with fixed utility connections, including retail sales stands, tents, and canopies, in use or in place for a temporary period of time, and which is dedicated to the storage and sale of goods, wares, merchandise, or consumer fireworks and related items. Regarding the sale of consumer fireworks, the term also includes membrane structures meeting the specifications of NFPA 1124, but shall not include a facility that is not licensed to sell consumer fireworks pursuant to Chapter 52 of the Whitmarsh Township Code of Ordinances, and any related state or federal laws or regulations. **[Added 10-25-2018 by Ord. No. 989]**

**TOPSOIL** — The horizon of land or that layer of soil ordinarily removed in tillage or its equivalent in uncultivated soil about five to eight inches in thickness.

**TOT-LOT** — A designated play area for the use by children under five years of age. Where the area is not contained by a fence, the boundary of a tot-lot area shall be defined by the edge of the resilient surface of safety material, such as wood or plastic curbing, or any other material surrounding the tot-lot area. **[Added 4-6-2006 by Ord. No. 812]**

**TOURIST HOME** — A dwelling in which sleeping accommodations for fewer than 10 persons are provided for compensation.

**TRACT AREA** — All land area within the site as defined by the deed. The tract area shall be calculated from an actual survey of the property rather than from the deed description. **[Added 4-6-2006 by Ord. No. 812]**

**TRAILER, HOUSE** — Any vehicle used for living or sleeping purposes.

**TRAILER PARK** — Any land used or designated to be used as parking space for more than one house trailer.

**TRANSFERABLE DEVELOPMENT RIGHTS** — The attaching of development rights to specific lands which are desired by a municipality to be kept undeveloped, but permitting those rights to be transferred from those lands so that the development potential which they represent may occur on other lands where more intensive development is deemed more appropriate. **[Added 12-13-2007 by Ord. No. 845]**

**TRANSFeree** — The person or legal entity, including a person or legal entity that owns property in a receiving district, who purchases the development rights. **[Added**

**12-13-2007 by Ord. No. 845]**

**TRANSFEROR** — The landowner of a parcel in a sending district. **[Added 12-13-2007 by Ord. No. 845]**

**ULTIMATE RIGHT-OF-WAY** — The future or planned width of highway in the public domain as shown on the Official Ultimate Right-of-Way Map of the Township.

**USE** — The purpose for which either land or a building is arranged, designed or intended or for which either land or building is or may be obtained.

A. **MAIN USE** — A principal or dominant use.

B. **ACCESSORY USE** — A use subordinate to the principal use of land or a building or other structure on a lot and customarily incidental thereto. See § 116-24 for uses included in this definition as accessory to agricultural and residential uses.

**VARIANCE** — Permission or approval granted by the Zoning Hearing Board in accordance with this chapter, constituting a modification of or deviation from the exact provisions of this chapter as applied to a specific piece of property.

**VEGETATION** — Plant materials, including but not limited to trees, shrubs, grasses and flowers. **[Added 9-18-1986 by Ord. No. 537]**

**WETLAND** — Those areas that are inundated and saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation and wildlife, typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas. Such areas are also important for recharging groundwater aquifers. **[Added 4-6-2006 by Ord. No. 812]**

**YARD** — An open area on a lot, unobstructed from the ground up, extending along a lot line or street line and inward from said lines. The minimum dimension of a required yard shall be as provided for each district and shall be measured the shortest distance between the lot line or street line and a line parallel to such lines.

A. **YARD, REQUIRED FRONT** — A yard between the street line and building setback line extending the entire length of the street line and building setback line. In the case of lots which front on more than one street, the yard extending along each street is a required front yard; provided, however, that where an ultimate right-of-way traverses a lot, the required front yard shall be the yard between the ultimate right-of-way line and the building setback line. **[Amended 10-25-2018 by Ord. No. 988]**

B. **YARD, REQUIRED REAR** — A yard between the rear lot line and a line parallel to said rear lot line extending the entire length of the rear lot line and the width of the lot.

C. **YARD, REQUIRED SIDE** — A yard between the side lot line and a line parallel to said side lot line extending from the front yard to the rear yard, in the case of a lot having no street frontage or a lot of odd or irregular shape. Any yard that is not a front yard or a rear yard shall be considered to be a side yard.

**ZONING OFFICER** — An individual appointed to administer, etc., the Zoning Ordinance (this Chapter 116).



ARTICLE III  
**Enumeration and Boundaries of Districts; Maps; Applicability**

**§ 116-12. Enumeration of districts.**

A. For the purpose of this chapter, the Township is hereby divided into districts, which shall be designated as follows: [Amended 10-21-1982 by Ord. No. 442; 2-28-2002 by Ord. No. 747; 5-16-2002 by Ord. No. 755; 3-24-2003 by Ord. No. 768; 12-13-2007 by Ord. No. 845; 1-28-2010 by Ord. No. 893; 3-28-2013 by Ord. No. 925]

AAAA	Residential District
AAA	Residential District
AA	Residential District
A	Residential District
B	Residential District
C	Neighborhood Preservation
AR	Administration and Research
CR	Commercial Retail Districts
	Class H
	Class L
APT	Apartment House Districts
	APT HR
	APT LR
FL PL	Floodplain Conservation Overlay District
LIM and LIM-X	Limited and Limited-X Districts
HVY	Heavy Industrial Districts
CLI and CLI-X	Campus Limited Industrial Districts
AD	Attached Dwelling
MHP	Mobile Home Park
CCRC	Continuing-Care Retirement Community District
INST	Institutional Overlay District
REC	Recreational Overlay District
EX	Extraction District
RCCD	Riparian Corridor Conservation Overlay District
RDD	Riverfront Development Overlay District
VC	Village Commercial District

B. Such districts are herein enumerated and ratified and confirmed as located on the Zoning Maps.

**§ 116-13. Zoning Map. [Amended 3-27-2003 by Ord. No. 769]**

The boundaries of said districts shall be as shown upon the digitized map attached hereto and made part of this chapter, said map entitled "Zoning Map, Whitemarsh Township, Montgomery County, Pennsylvania," prepared by CKS Engineers, Inc., dated November 2002, or the most recent revision thereof, which shall be designated the "Zoning Map." Said map and all notations, references and other things shown thereon shall be made a part of this chapter as if the matters and things shown by said map were fully described herein.<sup>5</sup>

**§ 116-14. Interpretation of boundaries. [Amended 3-28-2013 by Ord. No. 925]**

Where uncertainty exists with respect to the boundaries of the various districts, as shown on the Zoning Map, the following shall apply:

- A. The district boundaries are the center line of roads unless otherwise shown.
- B. Where the district boundaries are not shown to be the center line of roads, the boundaries shall be construed to be property lines or dimensions from the legal rights-of-way of streets or roads or from the edge of expressway or railroad rights-of-way, whichever is applicable.

**§ 116-15. Applicability to property owned or used by governmental agencies or for governmental purposes.**

- A. Whenever federal- or state-owned property or property owned by any federal or state agency or any political subdivision thereof is included in one or more zoning districts, it shall be subject to the provisions of this chapter only insofar as permitted by the Constitution and laws of the United States of America and of the Commonwealth of Pennsylvania.
- B. The provisions of this chapter shall not apply to land and buildings owned and used for the performance of the governmental functions of the Township of Whitemarsh.

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5. Editor's Note: The Zoning Map is included in a pocket at the end of this volume.

ARTICLE IV  
**General District Regulations**

**§ 116-16. Scope.**

For the purposes of this chapter, the following regulations shall govern each district.

**§ 116-17. Contiguous lots in identical ownership. [Amended 10-25-2018 by Ord. No. 988]**

Any group of contiguous lots which are all in identical ownership shall be deemed a single lot when one or more of such lots is nonconforming with respect to lot area.

**§ 116-18. Subdivision plan of lots of record.**

A lot which does not conform to the minimum and maximum regulations of the district in which it is located and which is included in a recorded plan of lots heretofore approved under the provisions of the Whitemarsh Township Subdivision and Land Development Ordinance (Chapter 105), its supplements and amendments, shall not be used unless the minimum and maximum regulations of the district are met, or in the event that such recorded subdivision plan approved by the Township was secured within one year of the effective date of this chapter or a variance is obtained from the Zoning Hearing Board.

**§ 116-19. Reduction of lot area.**

No lot shall be so reduced that the area of the lot or the dimensions of the required open spaces shall be less than herein prescribed.

**§ 116-20. Modification of front yard requirements.**

Where an unimproved lot of record is situated on the same street frontage with two improved lots or one unimproved and one improved lot, the front yard requirement for that district shall be modified so that the front yard shall be an average of the existing and required front yard.

**§ 116-21. Vision obstructions at intersections.**

On any lot, no wall, fence or other structure shall be erected, altered or maintained and no hedge, tree, shrub or other growth shall be planted or maintained which shall interfere with a free and unobstructed view down and across lands located at or near the intersection of any two roads, or a road and railway, or at any curve in any road as may be necessary to assure a full and unobstructed view in all directions at such crossings or curves and to so prevent the use of such lands for any purpose or in any manner which may interfere with or obstruct the vision of persons traveling upon such highways.

**§ 116-22. Removal of topsoil.**

The continuation of adequate topsoil on the land within the Township is considered necessary for the general welfare of the Township in the future development thereof. Thus, the permanent removal of topsoil from the land within the Township shall be prohibited. This prohibition shall not be construed to prohibit an owner of land in

removing topsoil for the purpose of construction of a building and the regrading of the land surrounding the building following construction.

**§ 116-23. Dimensional requirements with respect to sewage disposal and water supply.**

Regulations as to minimum lot size, width of lots at the street line, front yards, side yards, rear yards, height and building coverage shall be maintained in accordance with the requirements of each zoning district, except in the following:

- A. In all residential districts except AAAA Residential which are served by neither an approved sanitary sewage system or an approved public water supply, each lot shall be subject to the following requirements:
  - (1) Lot area shall be at least two acres.
  - (2) Principal buildings shall be located a minimum distance of 60 feet from the nearest property line or boundary of street, whichever shall be closer.
  - (3) Any accessory building shall be located a minimum distance of 30 feet from the nearest property line or boundary of street, whichever shall be closer.
  - (4) Principal buildings shall have a maximum height of 35 feet.
  - (5) Any accessory building shall have a maximum height of 20 feet and shall not exceed one story.
  - (6) Buildings shall not cover more than 15% of total area.
- B. In all residential districts except AAAA Residential which are served by either an approved sanitary sewage system or an approved public water supply, the minimum lot size shall be 1 1/2 acres; all other requirements as to minimum width and yard and maximum building height and coverage shall be in accordance with the specified requirements of each residential zoning district.
- C. In all residential districts which are served by both an approved sanitary sewer system and an approved water supply, the requirements as to lot size, minimum width and yard, and the maximum building height and coverage shall be in accordance with the specified requirements of each residential zoning district.
- D. In all districts where a lot is to be served by an individual sewage disposal system, each application for a zoning permit shall be accompanied by a statement based upon the results of a percolation test prepared by a civil or sanitary engineer holding a registered professional engineering license, which shall certify to the adequacy of the lot to provide effective sanitary sewage disposal and otherwise to accommodate the lot for the use or uses proposed.

**§ 116-24. Accessory uses and structures. [Amended 10-28-1982 by Ord. No. 444]**

- A. Authorization. Accessory uses and structures are permitted in any zoning district, unless qualified below, but only in connection with, incidental to, and on the same lot with a principal use or structure which is permitted within such district.

- B. Permitted accessory uses and structures. Accessory uses and structures shall include the following uses and structures, provided that such use or structure shall be in accordance with the definition of "accessory use" contained in § 116-11:
- (1) Antenna structures, no greater than 40 feet in height.
  - (2) Barns and any other structures that are customarily incidental to an agricultural use.
  - (3) Private carports and garages, provided that no tractor-trailer and not more than one commercial vehicle may be parked in a private carport or enclosed garage in any residential district.
  - (4) Child's playhouse, not to exceed 100 square feet in gross floor area, and child's play equipment.
  - (5) Doghouses, pens and other similar structures for the housing of commonly accepted pets, but not including kennels.
  - (6) Fallout shelters.
  - (7) Gardening.
  - (8) Greenhouses.
  - (9) Guesthouse or rooms for guests in an accessory structure, provided that such house is without kitchen facilities; is used for the occasional housing of guests of the occupants of the principal structure and not as rental units or for permanent occupancy as housekeeping units.
  - (10) Parking and loading spaces, off-street, as regulated by Article XXVI.
  - (11) Parking of one commercial vehicle per dwelling unit in a residential district, but not to include any tractor-trailer or vehicle exceeding 1 1/2 tons' capacity, and limited to vehicles which are operated by an occupant of the lot.
  - (12) Parking of small cargo trailers and major recreational equipment in a residential district, including but not limited to boats, boat trailers, camping trailers, travel trailers, motorized dwellings, tent trailers, houseboats and horse vans, but subject to the following limitations:
    - (a) Such equipment shall not be used for living, sleeping or other occupancy when parked or stored on a lot or in any other location not approved for such use.
    - (b) Such equipment six feet or more in average height, not parked or stored in a garage, carport or other structure:
      - [1] Shall not be located in any required front or side yard.
      - [2] Shall be located at least three feet from all buildings.
    - (c) Upon approval of the Board of Supervisors, may be used for temporary emergency shelters.

- (13) Porches, gazebos, belvederes, terraces, decks, patios, stoops and similar structures. **[Amended 9-25-2008 by Ord. No. 862]**
  - (14) Quarters of a household employee, caretaker or watchman.
  - (15) Residence for a proprietor or storekeeper and his family located in the same building as their place of occupation.
  - (16) Signs, only as permitted by Article XXVIII.
  - (17) Statues, arbors, trellises, barbecue stoves, flagpoles, fences, walls and hedges.
  - (18) Storage structure, incidental to a permitted use, provided that no such structure that is accessory to a single-family detached or attached dwelling shall exceed 200 square feet in gross floor area or 20 feet in height.
  - (19) Swimming pool, subject to the provisions of § 116-31, and private bathhouse.
  - (20) Tennis, basketball or volleyball court and other similar private outdoor recreation uses.
  - (21) Wayside produce stand, subject to the following limitations:
    - (a) A structure shall not exceed 100 square feet in gross floor area.
    - (b) A wayside produce stand shall be permitted only during local crop-growing season, and such structures shall be removed except during such season.
    - (c) A wayside produce stand shall be for the express purpose of sale of agricultural products grown on the same property. For the purpose of this chapter, plants which are balled, burlapped and bedded shall not be considered as growing on the same property.
    - (d) A wayside produce stand shall be located a minimum distance of 30 feet from the curblineline or edge of cartway, but no closer than 10 feet to any side lot line.
    - (e) A wayside produce stand shall be located so as to provide for adequate off-street parking spaces and safe ingress and egress to the adjacent street.
    - (f) Notwithstanding the provisions of Article XXVIII, a wayside stand may have one nonilluminated sign which does not exceed two square feet in area.
  - (22) Solar energy system in accordance with § 116-33.4 and applicable zoning district regulations. **[Added 1-28-2010 by Ord. No. 890]**
- C. Accessory uses not permitted: outdoor storage or overnight parking of commercial buses, commercial trucks or other commercial vehicles exceeding one and one-half tons' capacity in any residential district.
- D. Use limitations.
- (1) No accessory structure shall be occupied or utilized unless the principal

structure to which it is accessory is occupied or utilized contemporaneously.

- (2) All accessory uses and structures shall comply with the use limitations applicable in the zoning district in which it is located.
- (3) All accessory uses and structures combined shall cover no more than 30% of the area of the required rear yard or in the case of a principal building set back farther than the minimum depth of the required rear yard, no more than 30% of the area contained between the rear lot line and the rear principal building plane, as defined herein. **[Amended 3-28-2013 by Ord. No. 925]**
- (4) All accessory uses and structures shall comply with the maximum height regulations applicable in the zoning district in which they are located, except as may be permitted by § 116-32.

E. Location regulations.

- (1) If an accessory-type building is attached to a principal building by any wall or roof construction, it shall be deemed to be a part of the principal building and shall comply in all respects with the requirements of this chapter applicable to a principal building.
- (2) Signs shall be located in accordance with the provisions of Article XXVIII.
- (3) The following regulations shall apply to the location of all accessory structures or uses except those specifically set forth in Subsection E(1) and (2) above: **[Amended 3-28-2013 by Ord. No. 925]**
  - (a) No accessory structure or use shall be located in any front yard or in the case where the principal building is set farther back than the minimum depth of the front yard, no accessory structure or use shall be located any farther forward than the front principal building plane as defined herein, except a statue, arbor, trellis, flagpole, residential parking space, garden, unenclosed porch, ground-story bay, chimney, fence, wall, sign or wayside stand, unless explicitly permitted by the regulations in a specific zoning district.
  - (b) A completely detached accessory building may occupy a required side and rear yard, but shall not be located closer than four feet to any side or rear lot line.
  - (c) No point on a completely detached accessory building or on a completely detached accessory structure with a roof or partial roof shall be any closer than 15 feet to any point on the nearest principal building. **[Amended 10-25-2018 by Ord. No. 988]**

**§ 116-25. Home occupations. [Added 10-28-1982 by Ord. No. 444<sup>6</sup>]**

- A. Authorization. Home occupations are permitted in any dwelling unit or existing building accessory thereto.

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6. Editor's Note: This ordinance also repealed former Section 33-409, Minimum setback of accessory use.

- B. Permitted home occupations. Home occupations shall include the following, and no other:
- (1) Artists and sculptors.
  - (2) Authors and composers.
  - (3) Dressmakers, seamstresses and tailors.
  - (4) Family day-care homes limited to not more than four children residing off the premises.
  - (5) Home crafts.
  - (6) Office facility, provided that no retail or wholesale transactions are made on the premises.
  - (7) Nonresidential school of special education whose enrollment does not exceed four pupils at any given time.
  - (8) The letting for hire, for a minimum of one month, of not more than two rooms for rooming or boarding use for not more than two persons, neither of whom is a transient.
- C. Home occupations not permitted. Permitted home occupations shall not in any event be deemed to include the following:
- (1) Antique shops, gift shops, restaurants and other commercial retail uses involving sale of articles and products produced off the premises.
  - (2) Barbershops or beauty parlors.
  - (3) Funeral chapel or funeral home.
  - (4) Medical or dental clinic or hospital.
  - (5) Renting of trailers.
  - (6) Riding or boarding stable or kennel.
  - (7) Tourist home, rooming, boarding- or lodging house.
  - (8) Veterinary clinic or hospital.
  - (9) Industrial uses.
- D. Use limitations. In addition to the use limitations applicable in the zoning district in which located, all home occupations shall be subject to the following use limitations:
- (1) The home occupation shall be carried on wholly indoors and within a dwelling or other structure accessory thereto.
  - (2) There shall be no use of show windows or display or advertising visible outside the premises to attract customers or clients, other than an accessory sign, as permitted.

- (3) There shall be no exterior storage of materials.
  - (4) No articles shall be sold or offered for sale, except for those produced on the premises.
  - (5) Servicing by commercial vehicles for supplies and materials shall not be permitted.
  - (6) The home occupation shall be carried on only by members of the immediate family residing in the dwelling. **[Amended 2-21-1991 by Ord. No. 618]**
  - (7) The floor area devoted to a home occupation shall not be more than 25% of the ground floor area of the principal residential structure or 400 square feet, whichever is less.
  - (8) Parking shall be provided in accordance with the provisions of Article XXVI.
- E. No-impact home-based businesses. No-impact home-based businesses are permitted except when prohibited by any deed restriction, covenant or agreement restricting the use of land or any master deed, by law or other document applicable to a common-interest ownership community. **[Added 3-24-2003 by Ord. No. 770]**

#### **§ 116-26. Conversions.**

The Zoning Hearing Board may allow as a special exception the conversion of a single-family dwelling into a dwelling for a greater number of families, subject to the following requirements:

- A. A petition in favor of such exception shall be filed with the Zoning Hearing Board, signed by the owners of 60% or more of the frontage in the same street within 500 feet of the designated lot.
- B. Each dwelling unit shall not have less than 750 square feet of the floor area.
- C. The lot area per family is not reduced thereby to an amount less than 75% of that required by this chapter for the district in which the designated lot is located.
- D. The yard and building area requirements for the district in which the building is located shall not be reduced.
- E. There is no external alteration of the building except as may be necessary for reasons of safety. Fire escapes and outside stairways shall, where practical, be located to the rear of the building.
- F. The Zoning Hearing Board shall specify the maximum number of families permitted to occupy such buildings and may prescribe such further conditions and restrictions as the Board may consider appropriate.
- G. The off-street parking requirements of this chapter are met.
- H. The conversion shall be authorized only for a large dwelling with relatively little economic usefulness as a conforming use.

#### **§ 116-27. Junkyards and abandoned automobiles.**

- A. Junkyards and salvage yards are prohibited except as allowed in § 116-155.
- B. The possession of an abandoned automobile or parts thereof other than in a fully enclosed building shall be prohibited except in a junkyard or salvage yard or in an impounding garage or lot authorized by the Board of Supervisors for storage of illegally situated vehicles.
- C. "Abandoned automobile," for the purposes of application of Subsection B, shall, without limitation, be conclusively presumed to include any motor vehicle to which one or more of the following conditions exist:
  - (1) A vehicle for which a certificate of junk has been issued by the Secretary of Revenue, Commonwealth of Pennsylvania, or the official designated by any other state to issue such certificate.
  - (2) The engine or engine parts of which have been removed for more than 15 days.
  - (3) The tires of which have been deflated or wheels removed for more than seven days.
  - (4) A vehicle bearing no official inspection sticker, or a sticker not currently valid, or not bearing a current license tag.
  - (5) A vehicle left unattended for more than three days upon any public highway or street where:
    - (a) The owner or operator does not reside;
    - (b) The owner or operator is not engaged in any lawful business or visiting the owner or occupier of any property abutting the said highway or street; or
    - (c) Said vehicle is not capable of being moved under its own power.

**§ 116-28. Water availability.**

- A. In general.
  - (1) All water requirements shall be stated in application.
  - (2) No permit for construction, building or use of building and/or land shall be issued until satisfactory proof of the availability and supply of water is furnished the Zoning Officer.
  - (3) No wells may be dug or drilled on the premises except by permit.
  - (4) Where available, all potable water services shall be supplied by water distribution companies operating and supervised as municipal or public utilities by virtue of the laws of the commonwealth and the ordinances of this Township.
- B. In commercial and industrial districts:
  - (1) Water required on the premises for commercial or manufacturing purposes, including air conditioning, shall be supplied by water distribution companies

unless the water distribution companies are not available, and provided that a permit is granted by the Township in accordance with the ordinances of the Township.

- (2) Where surface or ground water sources are existing and available or can be developed on the premises without impairment to similar services on adjacent or near properties or to public water supplies, they may be used for air conditioning with water recirculation upon a permit granted by the Board of Supervisors upon the recommendation of the Board of Health and the Township Engineer.

#### **§ 116-29. Waste disposal.**

Whenever the disposal of waste materials is required under ordinances, rules and regulations of the Township, it shall be accomplished by a system or systems for waste disposal approved by the Township.

#### **§ 116-30. Annual occupancy permit.**

Whenever a dwelling is occupied by more than one family, or by an adult person or persons not members of the principal family of the residence, the owner or lessee of the residence shall secure an annual occupancy permit by application in writing showing the name of each adult person being a resident thereof. Such application must be filed on or before April 1 of each year and a permit obtained upon payment of such fee as established from time to time by resolution of the Supervisors.

#### **§ 116-31. Access to streets. [Amended 5-12-1988 by Ord. No. 557]**

Each and every lot hereinafter created by subdivision shall have frontage with a minimum width of 50 feet on a public or private street line, except lots in the C Residential and AD Attached Dwelling Districts, which shall have frontage equal to or greater than the lot width required at the building setback line for that district.

#### **§ 116-31.1. Swimming pools and artificial bodies of water.**

- A. Except when permitted by special exception, no swimming pool or artificial body of water shall be constructed, erected, placed or maintained within any front yard or, in the case where the principal building is set farther back than the minimum depth of the front yard, no swimming pool or artificial body of water shall be located any farther forward than the front principal building plane as defined herein. **[Amended 3-28-2013 by Ord. No. 925]**
- B. Except when permitted by special exception, no swimming pool or artificial body of water capable of holding water to a depth of four feet or more at any point shall be constructed, erected, placed or maintained within any side yard when nearer than 15 feet of the property line, in any rear yard when nearer than 20 feet of the property line, or within 50 feet of a dwelling located on an adjacent lot.
- C. Except for those enclosed within a building, every swimming pool or artificial body of water capable of holding water to a depth of four feet or more at any point shall be entirely enclosed by a fence not less than four feet in height. Such fence shall

contain no vertical interspace of more than two inches and no horizontal rail or component on the outside usable as a footstep, and such fence shall satisfy the appropriate following minimum requirements:

- (1) Wood pickets shall have three-fourths-inch stock;
- (2) Iron pickets shall have one-half-inch iron bars;
- (3) Chain link fences shall have vertical chains of nine gauge wire and a maximum of two inches apart;
- (4) Woven or other solid fences shall be of strength equivalent to one of the three foregoing fences; and
- (5) Each gate in any such fence shall be self-closing and self-latching, and any such latches shall be locked from the exterior with access gained only by key or combination mechanism. Any such lock shall be at least 3 1/2 feet from the ground.

**§ 116-32. Structures excluded from maximum height regulations. [Added 10-28-1982 by Ord. No. 444]**

- A. The height limitations of this chapter shall not apply to silos, residential chimneys, spires, cupolas, gables, flagpoles, flues, monuments, radio towers, water towers, water tanks, transmission towers and cables, smokestacks or other similar roof structures and mechanical appurtenances; provided, however, that:
- (1) No such structure when located on a building roof shall occupy an area greater than 25% of the total roof area.
  - (2) No such structure shall be used for any purpose other than a use incidental to the main use of the building.
  - (3) Air-conditioning units on building roofs shall not be excluded from the maximum height regulations.
  - (4) No such freestanding structure shall be located nearer to a lot line than a distance equal to its height.
  - (5) No such freestanding structure shall be located except in strict accordance with the provisions of § 116-24.
  - (6) The highest point of solar panels on rooftops shall not exceed 12 inches above the permitted height of the zoning district. **[Added 1-28-2010 by Ord. No. 890]**
- B. A parapet wall, cornice or similar projection may exceed the limit established for a given zoning district by not more than three feet, but such projection shall not extend more than three feet above the roof level of any building.

**§ 116-33. Fences, walls and terraces. [Added 10-28-1982 by Ord. No. 444; amended 9-25-2008 by Ord. No. 862]**

- A. Front yards. Fences located within the front yard shall not exceed four feet in

height.

- B. Side and rear yards. Fences located within the side or rear yards shall not exceed six feet in height.
- C. Projections into required yards. **[Amended 2-22-2018 by Ord. No. 984]**
- (1) Except as provided in § 116-85.3E of this chapter, an unenclosed porch and/or deck or terrace, platform, patio, stoop or landing place attached to a principal building, not more than 14 feet in height (with or without a roof, canopy or overhead trellis), may be erected to extend into such side or rear yard, provided that in no case shall it extend into such side or rear yard more than 1/2 the required depth of the yard for the applicable zoning district.
  - (2) An unenclosed porch and/or deck or a terrace, platform, patio, stoop or landing place attached to a principal building, not more than 14 feet in height (with or without a roof, canopy or overhead trellis), may be erected to extend into a required front yard a distance of not more than 10 feet, provided that in no case shall it extend into more than 1/2 the required front yard.
- D. Structures shall not be permitted in the ultimate right-of-way, except where a property owner executes, and the Board of Supervisors approves, a hold-harmless agreement and it is recorded against the property. Where such structures are permitted, they shall not be located within the clear sight triangle of any intersecting streets, unless a full and unobstructed view can be demonstrated to the Township's satisfaction as required by §116-21. A "clear sight triangle" is defined as the triangle bounded by any two intersecting street lines and a straight line drawn between points on each such line 50 feet from the intersection of said lines or extensions thereof. **[Amended 10-25-2018 by Ord. No. 988]**
- E. No fence or wall over six feet in height, except a retaining wall or a wall of a building permitted under the terms of this chapter, shall be erected within three feet of the rear lot line of any single-family attached lot. In instances where the side lot line does not pass through a common wall, no such fence or wall shall be erected within three feet of said lot line.
- F. Walls, steps and similar structures. Basketball poles, steps to decks, decorative walls and other similar structures in excess of six feet above natural grade are permitted to extend into the required setbacks prescribed in this chapter, provided they do not extend more than 1/2 the depth of said setbacks.
- G. Exceptions.
- (1) A fence up to 10 feet in height, used to enclose tennis courts, playgrounds or other recreational areas within residential areas or districts, may be erected within required rear and side yards, provided that said fence is chain link or of similar nonopaque style. Any such fence greater than six feet in height shall be set back a distance equal to half the required side or rear yard dimension.
  - (2) Front yards. A five-foot fence may be erected in the front yard if set back 10 feet from the property line, curb or edge of paving, whichever creates the greatest setback. In addition, a six-foot fence may be erected if set back 15 feet

from the property line, curb or edge of paving, whichever creates the greatest setback.

- (3) Section 116-31.1C applies to swimming pool fences.
  - (4) The provisions of this section shall not pertain to retaining walls or walls of a building. No fence or wall may be erected or maintained which creates a safety hazard as determined by the Whitemarsh Township Police Department.
- H. Except as otherwise provided in this section, no fence or wall within any property in Whitemarsh Township shall exceed six feet in height. **[Added 3-28-2013 by Ord. No. 925]**

**§ 116-33.1. Private-use heliports. [Added 11-17-1983 by Ord. No. 481]**

Private-use heliports shall be subject to the following provisions:

- A. Landing surface and peripheral area.
- (1) The landing surface shall include the following:
    - (a) A touchdown pad which shall be paved and level and which shall be at least 40 feet square or, in the case of a circle, shall be at least 40 feet in diameter.
    - (b) A takeoff and landing area which shall overlay the touchdown pad and shall be not less than 60 feet in diameter or 1 1/2 times the overall length of the largest helicopter expected to use the facility and, if not paved, shall contain a grass cover or other stabilized surface.
  - (2) Peripheral area. There shall be a peripheral area of 10 feet in width surrounding the landing surface which, if not paved, shall contain a grass cover or other stabilized surface.
  - (3) Condition of landing surface and peripheral area. Both the landing surface and the peripheral area shall be well maintained and shall be kept dirt-free to preclude blowing dust or debris caused by rotor downwash and shall contain no structures or other obstacles other than those required for safety purposes.
- B. Setback.
- (1) No landing surface used for piston-engined helicopters having maximum gross weights up to 4,000 pounds or turbine-engined helicopters having maximum gross weights up to 11,500 pounds shall be located closer than any of the following:
    - (a) Fifty feet to the property boundary.
    - (b) Six hundred feet to any residential district; provided, however, that the landing surface may be located no closer than 50 feet to such residential district if the property where the heliport is located and the adjacent property in said residential district are owned by the same owner.
    - (c) Two hundred feet to the center line of any street.

- (2) In addition to the requirements set forth in Subsection B(1) above, any landing surface used for helicopters other than described in Subsection B(1) above shall, in addition to meeting all the requirements of Subsection B(1) above, be located no closer than 800 feet to any residential district.
- C. Unauthorized entry. To alert pedestrians to avoid the helicopter landing area, the perimeter area of the heliport shall be clearly delineated by any of the following: signs, painted lines, a fence, or forms of landscaping such as hedges or shrubbery. Any objects used to delineate the helicopter landing area shall not penetrate the eight-to-one approach surface and two-to-one transitional area surface slopes. When ground-level helipads are located in or adjacent to automobile parking lots, a low barrier shall be used to prevent automobiles from parking on the helipad. Rooftop pads shall be excluded from the above requirements.
- D. Approach lanes. At least two approach lanes to each landing pad shall be provided and maintained free of obstructions and shall be located not less than 90° apart. Each approach lane shall conform to all requirements of the Federal Aviation Administration Regulations and the Pennsylvania Department of Transportation, Bureau of Aviation.
- E. State and federal regulations. In addition to the requirements of the Township, any applicant for a heliport or helistop shall comply with the rules and regulations pertaining thereto of the Bureau of Aviation, Pennsylvania Department of Transportation and the Federal Aviation Administration. No permit for the use of a heliport or helistop shall be issued by the Township until the applicant has:
  - (1) Obtained approval for site development, in accordance with the Pennsylvania Aviation Rules and Regulations from the Bureau of Aviation, Pennsylvania Department of Transportation; and
  - (2) Received such approval and clearance from the Federal Aviation Administration as may be required by the Federal Aviation Regulations.
- F. Exceptions. It shall be unlawful for any person to land, discharge, load or take off in a helicopter from any place within the Township other than at a heliport or helistop which has been authorized in accordance with the foregoing provisions of this section, except an approved occasional landing. It shall further be unlawful for any person to land, discharge, load or take off in a helicopter in accordance with this chapter during the hours of 11:00 p.m. to 7:00 a.m., except in cases of an approved occasional landing.
- G. Zoning Hearing Board conditions. In reviewing any application for a heliport or helistop, the Zoning Hearing Board shall be guided by the standards included in § 116-217 hereof and, in addition, may impose further restrictions on hours of operation, lighting and noise levels, and such other requirements as may be appropriate and reasonable to protect the health, welfare and safety of Township residents and their property, provided that these restrictions and requirements do not compromise air safety or conflict with regulations imposed by the Federal Aviation Administration and the Pennsylvania Department of Transportation, Bureau of Aviation.

**§ 116-33.2. Overlay districts. [Added 9-25-2008 by Ord. No. 862]**

In those areas of Whitemarsh Township where an overlay district applies, should the use of an underlying district be utilized, underlying requirements shall apply. For overlay uses, the requirements of the overlay district shall apply, and in the event of a conflict, the overlay district requirements take precedence over those of the underlying zoning district(s). In the case of multiple overlay districts, unless otherwise stated, the most restrictive overlay district requirements apply. Unless otherwise stated in any section of this chapter, Steep Slope, Riparian and Floodplain overlay provisions shall take precedence over all underlying or overlying provisions.

**§ 116-33.3. Recreational lighting standards. [Added 12-18-2008 by Ord. No. 872]**

- A. Purpose: to require and set minimum standards for outdoor recreational lighting to:
- (1) Provide for and control lighting in outdoor places where public health, safety and welfare are potential concerns.
  - (2) Protect drivers and pedestrians from the glare of nonvehicular light sources.
  - (3) Protect neighbors, the environment and the night sky from nuisance glare and light trespass from improperly selected, placed, aimed, applied, maintained or shielded light sources.
  - (4) Promote energy efficient light design and operation
  - (5) Protect and retain the intended visual character of the Township.
- B. Applicability. All outdoor recreational/sports facilities within the Whitemarsh Township that are proposed to operate during hours of darkness where there is public assembly and traverse.
- C. Criteria.
- (1) Illumination levels. Lighting, where required by this section or otherwise required or permitted by the Township of Whitemarsh, shall have illuminances, uniformities and glare control in accordance with the current recommended practices of the Illuminating Engineering Society of North America (IESNA) as contained in the IESNA Lighting Handbook and applicable Recommended Practices, except as otherwise required by this section and § 105-21B(20) of the Whitemarsh Township Subdivision and Land Development Ordinance.
  - (2) Control of glare.
    - (a) The incident light spill off at the development boundaries shall not exceed 0.10 footcandle at any point along off-street areas and 0.30 footcandle along public roadways.
    - (b) All lighting shall be aimed, located, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring property.

- (c) Vegetation screens shall not be employed to serve as the primary means for controlling glare. Rather, glare control shall be achieved primarily through the use of such means as cutoff fixtures, shields and baffles and appropriate application of fixture mounting height, wattage, aiming angle and placement as approved by the Township. Vegetation screens shall be required as a secondary means for controlling glare. Minimum plant size shall be in accordance with Table 3: Plant Materials List, within § 105-52 of Chapter 105, Subdivision and Land Development. Consistent with proposed location, height and/or intensity of proposed lighting, increased plant sizes, specific plant species and planting density may be required by the Board of Supervisors based upon recommendation by the Shade Tree Commission.
- (d) Light fixtures within 100 feet of any residentially zoned or residentially used property may not exceed 16 feet in height.

D. Plan submission.

- (1) To assist the Township in determining whether an application for illuminating recreational/sport facilities should be permitted as submitted or modified, the Township may require a visual impact plan in accordance with the provisions as follows:
  - (a) Plan views containing a layout of the recreational facility and showing pole locations and the location of residences on adjoining properties.
  - (b) Elevations containing pole and fixture mounting heights, horizontal and vertical aiming angles and fixture arrays for each pole location.
  - (c) Elevations containing average maintained vertical illuminance plots at the boundary of the site, taken at a line-of-sight height of five feet.
  - (d) Elevations containing average maintained vertical illuminance plots on the windowed facades of all residences facing and adjacent to the recreational facility. Such plots shall demonstrate compliance with the light trespass and glare control requirements of this section.
  - (e) Proposed frequency of use of the facility during hours of darkness on a month-by-month basis and proposed time when the sports lighting will be extinguished.
  - (f) A narrative describing the measures proposed to achieve minimum off-site disturbance.
- (2) For subdivision and land development applications where outdoor lighting of recreational/sport facilities is proposed, lighting plans shall be submitted to Whitmarsh Township for review and approval with preliminary subdivision/land development applications in accordance with the provisions of § 105-21B(20) of Chapter 105, Subdivision and Land Development, of the Code of the Township.

**§ 116-33.4. Solar energy systems [Added 1-28-2010 by Ord. No. 890]**

## A. Applicability.

- (1) This section applies to solar energy systems to be installed and constructed after the effective date of the section, and all applications for solar energy systems on existing structures or property. Solar energy systems constructed prior to the effective date of this section shall not be required to meet the requirements of this section; provided that any structural change, upgrade or modification to an existing solar energy system that materially alters the size or placement of the existing solar energy system shall comply with the provisions of this section.
- (2) Solar panels shall be permitted as ground arrays in any district in accordance with the following:
  - (a) All ground arrays shall be set back a distance of 1.1 times the structure height from all property lines in a residential district or in conformance with the bulk standards for accessory structures in nonresidential districts as provided herein.
  - (b) Ground arrays shall not be permitted in a front yard.
  - (c) Ground arrays shall be located so that any reflection is directed away or is properly buffered from an adjoining property.
  - (d) Ground arrays shall not exceed a height, at the highest point of the structure, of 20 feet.
- (3) Any roof-mounted solar panels subject to the provisions of this section shall be permitted in any zoning district and in accordance with the following:
  - (a) Permitted roof-mounted solar panels shall include integrated solar panels as the surface layer of the roof structure with no additional apparent change in relief or projection (the preferred installation), or separate flush-mounted solar panels attached to the roof surface.
  - (b) Integrated or separate flush-mounted solar panels may be located on a rear-, side-, or front-facing roof, as viewed from any adjacent street; provided, however, that on a semidetached dwelling or on an attached dwelling that is attached to another dwelling with a vertical wall, at least one roof surface on each dwelling shall be kept free of any solar panels to allow for emergency access to the uppermost floor in the event of a fire. **[Amended 10-25-2018 by Ord. No. 988]**
  - (c) (Reserved)<sup>7</sup>
  - (d) In no event shall the placement of any solar panels result in a total height exceeding that which is permitted by § 116-32A(6) of this chapter.

## B. Design and installation

- (1) To the extent applicable, the solar energy system shall comply with the

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7. Editor's Note: Former subsection A(3)(c) was repealed 10-25-2018 by Ord. No. 988.

Pennsylvania Construction Code (Act 45 of 1999), 35 P.S. § 7210.101 et seq., as amended, and the applicable regulations adopted by the Department of Labor and Industry, 34 Pa. Code § 401.1 et seq.

- (2) For any solar energy system, the applicant shall demonstrate to the satisfaction of the Township Engineer that the proposed system, as designed, is an effective means for utilizing solar energy on the property. Such information shall be certified by a professional from the list of approved solar electric installers provided on the Pennsylvania Sunshine Program website operated by the Pennsylvania Department of Environmental Protection or from the North American Board of Certified Energy Practitioners (NABCEP).
- C. The design of the solar energy system shall conform to applicable industry standards.
- D. On existing construction, a solar energy system may be installed as long as it meets the requirements of this chapter and all other applicable construction codes.
- E. Easements.
- (1) On plans for new subdivision or land development that propose to provide for solar energy systems, a notation shall be placed on the approved plan stating that restrictions have been placed on the lots in question, pursuant to a recorded deed of easement, concerning the placement of structures and vegetation as they relate to the solar energy systems. The terms of the easement shall be as approved by the Township Solicitor.
  - (2) An applicant submitting a building permit plan not subject to subdivision or land development regulations shall submit evidence that an easement, the terms of which have been approved by the Township Solicitor, has been obtained from adjoining landowner(s) concerning the placement of structures and vegetation as they relate to the proposed solar energy system, if determined necessary by the Township Engineer. **[Amended 10-25-2018 by Ord. No. 988]**
- F. General requirements.
- (1) Abandonment and removal of solar energy systems.
    - (a) Any solar panel (roof or ground) which has not been in active and continuous service for a period of one year shall be removed from the property to a place of safe and legal disposal.
    - (b) All structural enclosures accessory to the solar panels shall be completely removed from the property to a place of safe and legal disposal.
    - (c) The former solar site shall be restored to as natural condition as possible within six months of the removal from the property.
  - (2) Solar energy systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the system. In no case shall any identification be visible from the property line.

- (3) The design of solar energy systems shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment.
- (4) The installation of solar energy systems is subject to all Philadelphia Electric Company (PECO) requirements for interconnection.
- (5) This section's height provisions shall supersede all height provisions of other sections with respect to solar energy systems.

ARTICLE V  
**Residential Districts Generally**

**§ 116-34. Scope.**

The following regulations shall govern the designated residential districts.

**§ 116-35. Permitted uses in AAAA, AAA, AA, A and B Residential Districts.  
[Amended 10-21-1982 by Ord. No. 442]**

Permitted uses on each lot in AAAA, AAA, AA, A and B Residential Districts shall be as follows:

- A. One single-family detached dwelling.
- B. Agriculture or horticulture, except the commercial keeping or handling of farm stock or poultry and except commercial greenhouses or establishments for sale of farm or horticulture products.
- C. Any of the following purposes when authorized as a special exception:
  - (1) Public utility facility, provided that the exterior architectural design shall be of a residential character in conformity with all the regulations of the district and shall at no time be used for the storage of equipment or vehicles or other commercial purposes.
  - (2) Passenger station for public transportation.
- D. An accessory use on the same lot with and customarily incidental to any permitted use, including a home occupation.

**§ 116-36. Permitted uses in C Residential District.**

Permitted uses on each lot in C Residential District shall be as follows:

- A. Any use permitted in B and AD Residential Districts.

**§ 116-36.1. Group home as special exception use. [Added 3-28-2013 by Ord. No. 925]**

In all residential districts, with the exception of CCRC Continuing-Care Retirement Community District, and in the VC Village Commercial District, a group home may be authorized as a special exception subject to compliance with the following criteria:

- A. One parking space shall be provided for each staff member who will customarily be on premises at the same time as any other staff member or who will overlap shifts with another staff member.
- B. One parking space shall be provided for every five residents or fraction thereof; one such space shall be a handicapped (accessible) space, adequate in size for a van.
- C. Buffering of the side and rear of the property shall be provided in accordance with the requirements of the Subdivision and Land Development Ordinance, § 105-52.

- D. The home will conform to the type and outward appearance of the residences in the area in which it is located. This requirement shall in no way restrict the installation of a ramp or other special features required to serve the residents.
- E. Any medical or counseling services provided shall be done for the residents of the group home only.

**§ 116-37. Conditional use procedures.<sup>8</sup> [Added 8-23-1990 by Ord. No. 604; amended 12-13-2007 by Ord. No. 845]**

The procedure for the granting of conditional uses in any zoning district shall be as follows:

- A. The applicant shall file an application for a conditional use permit with the Board of Supervisors. The application shall contain the following material:
  - (1) Appropriate design plans and/or specifications, in conformance with the requirements for a preliminary subdivision or land development plan.
  - (2) Photographs depicting the site.
  - (3) Appropriate engineering responses to any identified or suspected site development problem.
  - (4) Other related information required to support the application.
- B. The Board of Supervisors shall conduct a public hearing pursuant to public notice.
- C. In considering any conditional use application, the Board of Supervisors may consult with the Township Planning Commission, the Montgomery County Planning Commission, the Township Engineer and other technical experts to determine the feasibility of such proposed use.
- D. Conditions of approval. In allowing a conditional use, where such use is permitted, the Board may attach such reasonable conditions and safeguards, as it may deem necessary, to implement the purposes of the Pennsylvania Municipalities Planning Code,<sup>9</sup> as amended, and this chapter.
- E. If the conditional use permit is granted, the applicant shall proceed to meet the other requirements of this chapter and the requirements of Chapter 105, Subdivision and Land Development, and Chapter 58, Grading, Erosion Control, Stormwater Management and Best Management Practices, if applicable.
- F. In any instance where the Board of Supervisors is required to consider a request for a conditional use in accordance with the provisions of this chapter, the Board shall:
  - (1) Determine whether the conditional use is specifically authorized by a provision of this chapter.
  - (2) Determine that the proposed use will be compatible with the character of the neighborhood and that the use of property adjacent to the area of the proposed

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8. Editor's Note: Former § 116-37, Variance of lot area requirement, was repealed 8-25-1983 by Ord. No. 477.

9. Editor's Note: See 53 P.S. § 10101 et seq.

use is adequately safeguarded, if necessary.

- (3) Determine that the proposed use or change will not have a harmful effect on local vehicular or pedestrian traffic due to any of the following:
  - (a) Size or bulk of the proposed use or change.
  - (b) Expected daily and peak hour traffic generated by the proposed use or change.
  - (c) Location of entrance and exit drives or new streets.
  - (d) Design and capacity of off-street parking facilities.
- (4) Determine that the proposed use is consistent with the policies contained within the Whitmarsh Township Comprehensive Plan and the Whitmarsh Township Open Space Plan.
- (5) Determine that the surrounding neighborhood will not be subjected to objectionable noise, lighting, glare, heat, ventilation, smoke, fumes, vapors, dust, dirt, gases or radioactive or electrical disturbances by the proposed use or change.
- (6) Determine that the design of the proposed development minimizes adverse effects, including visual impacts, of the proposed use on adjacent properties.
- (7) Determine that the proposed use will comply with the regulations of the zoning districts in which it is located and this chapter generally, including but not limited to, all lot, yard and bulk regulations, parking and loading regulations, sign regulations, floodplain regulations and all other applicable ordinances.
- (8) Determine that the proposed use or change does not unduly burden sanitary sewers, school, police, fire, park, stormwater management or other public facilities or services, whether or not provided by the Township.

**§ 116-38. (Reserved)<sup>10</sup>**

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10. Editor's Note: Former § 116-38, Planned cluster developments, as amended, was repealed 4-6-2006 by Ord. No. 812.



ARTICLE VI  
**AAAA Residential District**

**§ 116-39. Scope.**

In an AAAA Residential District, the following regulations shall apply.

**§ 116-40. Permitted uses.**

A building may be erected, altered or used on a lot or premises for any uses permitted in § 116-35.

**§ 116-41. Dimensional requirements.**

Each lot shall be subject to the following minimum area, width and yard, and maximum height and building coverage:

- A. Lot area: 90,000 square feet.
- B. Width at building setback line: 250 feet.
- C. Front yard: 60 feet.
- D. Side yard: 60 feet.
- E. Rear yard: 60 feet.
- F. Height.
  - (1) Principal building: 35 feet.
  - (2) Accessory building: 25 feet.
- G. Building coverage: 15% of the lot area.

**§ 116-42. Dimensional standards for conservation design subdivision or land development. [Added 4-6-2006 by Ord. No. 812<sup>11</sup>]**

- A. Option One.
  - (1) Maximum density: one dwelling unit per 10 acres of base site area.
  - (2) Minimum common open space: NA.
  - (3) Minimum lot area: one acre.
  - (4) Minimum lot width: 150 feet.
  - (5) Front yard: 50 feet.
  - (6) Side yard (each): 20 feet.
  - (7) Rear yard: 50 feet.

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11. Editor's Note: This ordinance also repealed former § 116-42, Planned cluster development.

- (8) Height:
    - (a) Principal building: 35 feet.
    - (b) Accessory building: 25 feet.
  - (9) Building coverage: 15% of lot area.
- B. Option Two.
- (1) Maximum density: 0.5 dwelling units per acre of adjusted tract area.
  - (2) Minimum common open space: 50%.
  - (3) Minimum lot area: 30,000 square feet. **[Amended 8-10-2006 by Ord. No. 817]**
  - (4) Minimum lot width: 125 feet.
  - (5) Front yard: 50 feet.
  - (6) Side yard (each): 35 feet.
  - (7) Rear yard: 50 feet.
  - (8) Height:
    - (a) Principal building: 35 feet.
    - (b) Accessory building: 25 feet.
  - (9) Building coverage: 15% of lot area.
- C. Option Three.
- (1) Maximum density: 0.6 dwelling units per acre of adjusted tract area.
  - (2) Minimum common open space: 60%.
  - (3) Minimum lot area: 22,500 square feet.
  - (4) Minimum lot width: 100 feet.
  - (5) Front yard: 40 feet.
  - (6) Side yard (each): 20 feet.
  - (7) Rear yard: 50 feet.
  - (8) Height:
    - (a) Principal building: 35 feet.
    - (b) Accessory building: 20 feet.
  - (9) Building coverage: 15% of lot area.
- D. Tracts where development of fewer than five dwelling units is proposed (total of

both existing and proposed) may be developed using any one of the preceding options or, in the alternative, may be developed according to the area and dimensional regulations specified in § 116-41, Dimensional requirements, of this chapter. Tracts utilizing this exemption shall not interrupt or preclude the implementation of an interconnected greenway network of common open space, which is a principal objective of this chapter. **[Amended 3-28-2013 by Ord. No. 925]**



ARTICLE VII  
**AAA Residential District**

**§ 116-43. Scope.**

In an AAA Residential District, the following regulations shall apply.

**§ 116-44. Permitted uses.**

A building may be erected, altered or used and a lot or premises may be used for any uses permitted in § 116-35.

**§ 116-45. Dimensional requirements.**

Each lot shall be subject to the following minimum area, width and yard, and maximum height and building coverage requirements:

- A. Lot area: one acre.
- B. Width at building setback line: 175 feet.
- C. Front yard: 60 feet.
- D. Side yard: each 30 feet.
- E. Rear yard: 60 feet.
- F. Height.
  - (1) Principal building: 35 feet.
  - (2) Accessory building: 20 feet and not exceeding one story.
- G. Building coverage: 15% of total lot area.

**§ 116-46. Dimensional standards for conservation design subdivision or land developments. [Added 4-6-2006 by Ord. No. 812<sup>12</sup>]**

- A. Option One.
  - (1) Maximum density: one dwelling unit per 10 acres of base site area.
  - (2) Minimum common open space: NA.
  - (3) Minimum lot area: one acre.
  - (4) Minimum lot width: 150 feet.
  - (5) Front yard: 50 feet.
  - (6) Side yard (each): 20 feet.
  - (7) Rear yard: 50 feet.

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12. Editor's Note: This ordinance also repealed former § 116-46, Planned cluster development.

- (8) Height:
    - (a) Principal building: 35 feet.
    - (b) Accessory building: 20 feet.
  - (9) Building coverage: 15% of lot area.
- B. Option Two.
- (1) Maximum density: 0.6 dwelling units per acre of adjusted tract area.
  - (2) Minimum common open space: 50%.
  - (3) Minimum lot area: 29,000 square feet.
  - (4) Minimum lot width: 125 feet.
  - (5) Front yard: 50 feet.
  - (6) Side yard (each): 25 feet.
  - (7) Rear yard: 50 feet.
  - (8) Height:
    - (a) Principal building: 35 feet.
    - (b) Accessory building: 20 feet.
  - (9) Building coverage: 15% of lot area.
- C. Option Three.
- (1) Maximum density: 1.0 dwelling units per acre of adjusted tract area.
  - (2) Minimum common open space: 60%.
  - (3) Minimum lot area: 13,000 square feet.
  - (4) Minimum lot width: 75 feet.
  - (5) Front yard: 30 feet.
  - (6) Side yard (each): 15 feet.
  - (7) Rear yard: 40 feet.
  - (8) Height:
    - (a) Principal building: 35 feet.
    - (b) Accessory building: 20 feet.
  - (9) Building coverage: 25% of lot area.
- D. Tracts where development of fewer than five dwelling units is proposed (total of both existing and proposed) may be developed using any one of the preceding

options or, in the alternative, may be developed according to the area and dimensional regulations specified in § 116-45, Dimensional requirements, of this chapter. Tracts utilizing this exemption shall not interrupt or preclude the implementation of an interconnected greenway network of common open space, which is a principal objective of this chapter. **[Amended 3-28-2013 by Ord. No. 925]**



ARTICLE VIII  
**AA Residential District**

**§ 116-47. Scope.**

In an AA Residential District, the following regulations shall apply.

**§ 116-48. Permitted uses.**

A building may be erected, altered or used and a lot or premises may be used for any uses permitted in § 116-35.

**§ 116-49. Dimensional requirements.**

Each lot shall be subject to the following minimum area, width and yard, and maximum height and building coverage requirements:

- A. Lot area: 30,000 square feet.
- B. Width at building setback line: 135 feet.
- C. Front yard: 50 feet.
- D. Side yard, each: 25 feet.
- E. Rear yard: 50 feet.
- F. Height.
  - (1) Principal building: 35 feet.
  - (2) Accessory building: 20 feet and not exceeding one story.
- G. Building coverage: 15% of total lot area.

**§ 116-50. Dimensional standards for conservation design subdivisions or land developments.<sup>13</sup> [Added 4-6-2006 by Ord. No. 812]**

- A. Option One is not applicable in the AA Residential District.
- B. Option Two is not applicable in the AA Residential District.
- C. Option Three.
  - (1) Maximum density: 1.4 dwelling units per acre of adjusted tract area.
  - (2) Minimum common open space: 50%.
  - (3) Minimum lot area: 11,500 square feet.
  - (4) Minimum lot width: 75 feet.
  - (5) Front yard: 25 feet.

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13. Editor's Note: Former § 116-50, Planned cluster development, was repealed 3-22-1990 by Ord. No. 595.

- (6) Side yard (each): 10 feet.
  - (7) Rear yard: 30 feet.
  - (8) Height:
    - (a) Principal building: 35 feet.
    - (b) Accessory building: 20 feet.
  - (9) Building coverage: 25% of lot area.
- D. Tracts where development of fewer than five dwelling units is proposed (total of both existing and proposed) may be developed using any one of the preceding options or, in the alternative, may be developed according to the area and dimensional regulations specified in § 116-49, Dimensional requirements, of this chapter. Tracts utilizing this exemption shall not interrupt or preclude the implementation of an interconnected greenway network of common open space, which is a principal objective of this chapter. **[Amended 3-28-2013 by Ord. No. 925]**

ARTICLE IX  
**A Residential District**

**§ 116-51. Scope.**

In an A Residential District, the following regulations shall apply.

**§ 116-52. Permitted uses.**

A building may be erected, altered or used and a lot or premises may be used for any uses permitted in § 116-35.

**§ 116-53. Dimensional requirements.**

Each lot shall be subject to the following minimum area, width and yard, and maximum height and building coverage requirements:

- A. Lot area: 15,000 square feet.
- B. Width at building setback line: 90 feet.
- C. Front yard: 40 feet.
- D. Side yard, each: not less than 15 feet, but together having an aggregate of 40 feet.
- E. Rear yard: 40 feet.
- F. Height.
  - (1) Principal building: 35 feet.
  - (2) Accessory building: 20 feet and not exceeding one story.
- G. Building coverage: 20% of total lot area.

**§ 116-54. Dimensional standards for conservation design subdivisions or land developments.<sup>14</sup> [Added 4-6-2006 by Ord. No. 812]**

- A. Option one is not applicable in the A Residential District.
- B. Option two is not applicable in the A Residential District.
- C. Option Three.
  - (1) Maximum density: 2.8 dwelling units per acre of adjusted tract area.
  - (2) Minimum common open space: 40% of tract area.
  - (3) Minimum lot area: 7,600 square feet.
  - (4) Minimum lot width: 60 feet.
  - (5) Front yard: 25 feet.

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14. Editor's Note: Former § 116-54, Planned cluster development, was repealed 3-22-1990 by Ord. No. 595.

- (6) Side yard (each): 10 feet.
  - (7) Rear yard: 30 feet.
  - (8) Height:
    - (a) Principal building: 35 feet.
    - (b) Accessory building: 25 feet.
  - (9) Building coverage: 30% of lot area.
- D. Tracts where development of fewer than five dwelling units is proposed (total of both existing and proposed) may be developed using any one of the preceding options or, in the alternative, may be developed according to the area and dimensional regulations specified in § 116-53, Dimensional requirements, of this chapter. Tracts utilizing this exemption shall not interrupt or preclude the implementation of an interconnected greenway network of common open space, which is a principal objective of this chapter. **[Amended 3-28-2013 by Ord. No. 925]**

ARTICLE X  
**B Residential District**

**§ 116-55. Scope.**

In a B Residential District, the following regulations shall apply.

**§ 116-56. Permitted uses.**

A building may be erected, altered or used and a lot or premises may be used for any uses permitted in § 116-35.

**§ 116-57. Dimensional requirements. [Amended 9-9-2004 by Ord. No. 794]**

Each lot shall be subject to the following minimum area, width and yard requirements and maximum height, building coverage, and impervious ground cover requirements:

- A. Lot area: 10,000 square feet minimum.
- B. Width at building setback line: 80 feet minimum.
- C. Front yard: 30 feet minimum.
- D. Side yard, each: not less than 12 feet, but together having a minimum aggregate of 30 feet.
- E. Rear yard: 30 feet minimum.
- F. Height.
  - (1) Principal building: 35 feet minimum.
  - (2) Accessory building: 20 feet maximum and not exceeding one story.
- G. Building coverage: maximum 20% of the total lot area.
- H. Impervious ground cover: maximum 30% of the total lot area.

**§ 116-58. (Reserved)<sup>15</sup>**

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15. Editor's Note: Former § 116-58, Planned cluster development, was repealed 3-22-1990 by Ord. No. 595.



ARTICLE XI  
**C Residential District (Neighborhood Preservation)**

**§ 116-59. Legislative intent.**

The intent for establishing this district is to encourage the preservation of the existing character and residential life-styles of the Spring Mill area which is essentially fully developed and which exhibits a mixture of single-family detached, single-family semidetached and single-family attached dwellings on smaller lot sizes than those found throughout the Township which were developed prior to the institution of zoning controls in the Township. Furthermore, it is the intent for establishing this District to guide the future development or redevelopment of the area in order to preserve and enhance the present character and thus avoid rapid deterioration or transition to the detriment of the local residents and the general welfare of the Township.

**§ 116-60. Scope.**

In a C Residential District, the following regulations shall apply.

**§ 116-61. Permitted uses.**

A building may be erected, altered or used and a lot or premises may be used for any uses permitted in § 116-36.

**§ 116-62. Dimensional requirements for single-family dwellings. [Amended 9-9-2004 by Ord. No. 794]**

Each single-family dwelling shall be subject to the following minimum area, width and yard requirements and maximum height, building coverage, and impervious ground cover requirements:

- A. Lot area: 6,000 square feet minimum.
- B. Width at building setback line: 40 feet minimum.
- C. Front yard: 20 feet minimum.
- D. Side yard: 10 feet minimum.
- E. Rear yard: 30 feet minimum.
- F. Height.
  - (1) Principal building: 35 feet maximum.
  - (2) Accessory building: 20 feet maximum and not exceeding one story.
- G. Building coverage: 25% maximum of the total lot area.
- H. Impervious ground cover: 40% maximum of the total lot area.

**§ 116-63. Dimensional requirements for attached dwelling units. [Amended 9-9-2004 by Ord. No. 794]**

Each attached dwelling unit shall be subject to the following minimum area, width and yard requirements and maximum height, building coverage, and impervious ground cover requirements:

- A. Lot area: 2,200 square feet minimum.
- B. Width at building setback line: 20 feet minimum.
- C. Front yard: none required.
- D. Side yards, where they occur: not less than 15 feet.
- E. Rear yard: 30 feet minimum. Accessory buildings may be situated in the rear yard.
- F. Height.
  - (1) Principal building: 35 feet maximum.
  - (2) Accessory building: 20 feet maximum and not exceeding one story.
- G. Accessory buildings shall not be situated any closer than five feet from a side lot line.
- H. Fences and walls. No fence or wall over six feet in height, except a retaining wall or a wall of a building permitted under the terms of this chapter, shall be erected within three feet of the rear lot line of any single-family attached residential lot. In instances where the side lot line does not pass through a common wall, no such fence or wall shall be erected within three feet of said side lot line.
- I. Building coverage: maximum of 60% of the total lot area.
- J. Impervious ground cover: 75% maximum of the total lot area.

ARTICLE XII  
**Apartment House District LR and HR**

**§ 116-64. Legislative intent.**

The purpose of establishing planned apartment districts shall be to encourage the logical and timely development of land for apartment purposes in accordance with the objectives, policies and proposals of the Comprehensive or General Plan and Zoning Ordinance; to assure the suitable design of the apartment in order to protect the surrounding environment of adjacent and nearby neighborhoods; and to ensure that the proposed development will constitute a residential environment of sustained desirability and stability and not produce a volume of traffic in excess of the capacity for which access streets are designed. The protective standards contained in this article are intended to minimize any adverse effect of the apartment on nearby property values.

**§ 116-65. Authorization of Map amendments; scope.**

The Board of Supervisors may authorize as an amendment to the Zoning Map the designation of an area as an "Apartment House District LR" or as an "Apartment House District HR" for the location of an integrated apartment development, subject to the regulations of this and any pertinent article. In an Apartment House District, the following regulations shall apply.

**§ 116-66. Use regulations.**

A building may be erected or used and a lot may be used or occupied for the following purposes and no other, provided that the requirements of the sections following are met:

- A. Multiple dwelling, semidetached dwelling and attached dwelling.
- B. Playgrounds, parks, tot lots and open space.
- C. Parking. Off-street automobile parking and off-street delivery/collection facilities shall be required. Such parking area shall not be leased but shall be for the sole use of the occupants of such building and the visitors thereto.
- D. The dwelling accessory uses, limited to satisfy principally the needs of the occupants: restaurant; hair dresser; barbershop; newsstand; dry cleaning; pick-up station; retail sales of food; flowers; clothing; sale or repair of watches and jewelry; drugs; optical goods and household supplies; professional office and studio for physician, dentist, musician, artist, teacher, lawyer, architect or other professional person. The total maximum area for such uses shall not exceed 5% of the total floor area of the building or buildings, excluding basements and garages. Parking for such accessory uses shall be in accordance with the requirements of this article of this chapter. No exterior displays or advertising shall be permitted for accessory uses.
- E. No area shall be zoned for apartment house district use if there exists in the area to be zoned any residential, industrial or other use which would be nonconforming under the terms of this section. The Board of Supervisors may zone the area apartment house district, however, if the developer guarantees the removal or discontinuance of the nonconforming use. The proposed district shall be unified and

contiguous in shape; the creation of odd-shaped areas which exclude nonconforming uses is to be avoided.

**§ 116-67. Dimensional regulations for garden-type multiple dwellings.**

In a development of multiple dwellings, the following regulations shall apply in an Apartment House District LR:

- A. Area of tract. Not less than 10 acres shall be provided for every area to be used in whole or in part as an Apartment House District LR.
- B. Building area. Not more than 15% of the area of each Apartment House District LR may be occupied by buildings.
- C. Setback from streets. There shall be a setback from the ultimate right-of-way of each street on which the Apartment House District LR abuts which shall be not less than 75 feet.
- D. Setback from property lines. There shall be a setback from any property line other than the street line which the Apartment House District LR abuts of not less than 200 feet.
- E. Setback between buildings. The horizontal distance measured in feet at the closest point between any two buildings shall not be less than the height of the taller building, measured in feet. The horizontal distance measured in feet between parallel elements of buildings forming courts and courtyards shall not be less than twice the height of the taller building, measured in feet.
- F. Not less than two off-street automobile parking spaces shall be required for each dwelling unit. Such parking area shall be so placed so as not to interfere with any recreation or service area and shall not be less than 25 feet from the property line or ultimate right-of-way lines.
- G. Dwelling units per acre. There shall be no more than 10 dwelling units per acre. Not more than 1/2 of the total dwelling units shall have two bedrooms or more; furthermore, not more than 1/10 of the total dwelling units shall have three bedrooms or more.
- H. Height regulations. No building in an Apartment House District LR shall exceed 35 feet in height or three stories, exclusive of basements. Appurtenances such as chimneys, flagpoles and mechanical units may be created above the roofline, provided that any structure above the roofline shall be erected within a recession of one foot for each one foot of additional height.
- I. <sup>16</sup>Air conditioners may be of the single-unit or central-unit type. If single unit, they must not protrude from the natural wall line and must be designed in accordance with the overall architectural treatment of the building. If of the central-unit type, with the unit on the roof, the unit must be recessed in accordance with Subsection H above of this section and must be designed in accordance with the overall architectural treatment of the building.

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16. Editor's Note: Former Subsection I, Fire-resistance rating, was repealed 1-26-1989 by Ord. No. 570, which also provided for the redesignation of former Subsection J as this Subsection I.

- J. Impervious ground cover: maximum of 30% of the total lot area. **[Added 9-9-2004 by Ord. No. 794]**
- K. Minimum green space area: 70% of the total lot area. **[Added 9-9-2004 by Ord. No. 794]**

**§ 116-68. Dimensional regulations for high-rise multiple dwellings.**

In a development of multiple dwellings, the following regulations shall apply in an Apartment House District HR:

- A. Area of tract. Not less than 15 acres shall be provided for every area to be used as an Apartment House District HR.
- B. Building area. Not more than 10% of the area of each Apartment House District HR may be occupied by buildings.
- C. Setback from streets. There shall be a setback from the ultimate right-of-way of each street on which the Apartment House District HR abuts which shall be not less than 75 feet in depth, provided that buildings in excess of 35 feet in height shall provide an additional one foot of setback for each additional one foot of height.
- D. Setback from property lines. There shall be a setback from any property line other than the street line which the Apartment House District HR abuts of not less than 100 feet, except where the adjacent property is zoned residential, in which case the setback shall be 200 feet.
- E. Building arrangement. In the case of two or more buildings for any permitted use on one lot, such buildings shall be arranged in a harmonious grouping, and:
  - (1) The distance between any two buildings or wings and single building, regardless of orientation, shall be not less than the height of the taller of the two buildings, or the height of one building if both are of the same height; provided, however, that in no case shall the distance between buildings or wings of a building court be less than 75 feet.
  - (2) When courts are created by construction of a single continuous building being built around a central open area, such court must have not more than 75% of its perimeter surrounded by the subject building.
- F. Not less than two off-street automobile parking spaces shall be required for each dwelling unit. Such parking areas shall be placed so as not to interfere with any recreation or service area and shall not be less than 50 feet from any property line and 25 feet from any ultimate right-of-way line.
- G. Dwelling unit per acre. There shall be no more than 10 dwelling units per acre.
- H. Height regulations. No building shall exceed 120 feet in height, nor shall it exceed 12 habitable stories. Appurtenances such as chimneys, flagpoles and mechanical units may be erected above the roofline, provided that any structure above the roofline shall be erected within a recession of one foot for each one foot of additional height.

- I. <sup>17</sup>Air conditioners may be of the single-unit or central-unit type. If single unit, they must not protrude from the natural wall line and must be designed in accordance with the overall architectural treatment of the building. If of the central-unit type, with the unit on the roof, the unit must be recessed in accordance with Subsection H above of this section and must be designed in accordance with the overall architectural treatment of the building.
- J. Impervious ground cover: maximum of 25% of the total lot area. **[Added 9-9-2004 by Ord. No. 794]**
- K. Minimum green space area: 75% of the total lot area. **[Added 9-9-2004 by Ord. No. 794]**

### **§ 116-69. Development requirements.**

In any development under § 116-67 or 116-68, the general plan shall include evidence and facts showing that consideration has been given and provision has been made for the development and shall be executed in accordance with the following essential conditions:

- A. The development shall be substantially in accordance with the Comprehensive Plan of the Township. Consideration shall be given to the surrounding land features of the area, including but not limited to residences, schools, parks, other reservation of open spaces, locations, width and grade of streets and location and arrangement of parking spaces, local and regional business areas and shopping centers, densities proposed for surrounding areas, and such other features as shall contribute to the harmonious development of the area, with due regard to the character of the neighborhood and its particular suitability for this type of use.
- B. The development shall be constructed in accordance with an overall plan and shall be designed as a unified architectural unit with appropriate landscaping.
  - (1) If the development of the apartment is to be carried out in stages, such stages shall be so planned that the foregoing requirements and the intent of this chapter shall be fully complied with at the completion of any stage. The initial stage of development shall comprise a total floor area of not less than 50,000 square feet.
  - (2) The developer shall assure the provisions of required improvements by means of a proper completion guaranty in the form of an irrevocable letter of credit acceptable to the Township Solicitor or the deposit of funds or securities in escrow to cover the cost of the improvements. **[Amended 1-8-2015 by Ord. No. 948]**
- C. The area shall, as far as possible, have within or through it no major thoroughfare or other physical feature which will tend to destroy the neighborhood or community cohesiveness.
- D. All paved areas for vehicular use shall be constructed to specifications of No. 2

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17. Editor's Note: Former Subsection I, Fire-resistance rating, was repealed 1-26-1989 by Ord. No. 570, which also provided for the redesignation of former Subsection J as this Subsection I.

highways, Pennsylvania Department of Highways. All pedestrian walks and other paved areas shall be constructed in accordance with Township specifications.

- E. Fire lanes as required by the Fire Marshal. Areas for loading and unloading of delivery trucks and other vehicles and for the servicing of refuse collection, fuel and other service shall be provided and shall be adequate in size and shall be so arranged that they may be used without blockage or interference with the use of accessways or automobile parking facilities.
- F. Provision shall be made for safe and efficient ingress and egress to and from public streets and highways serving the apartment without undue congestion to or interference with normal traffic flow.
- G. All utility lines servicing the apartment center shall be placed underground.
- H. All buildings within the center shall be served by a public sanitary sewage disposal system and public water supply or available public utilities.
- I. Signs shall be permitted only pursuant to the provisions of Article XXVIII of this chapter.
- J. Lighting facilities provided shall be arranged in a manner which will protect the highway and neighboring properties from unreasonable direct glare or hazardous interference of any kind. Lighting facilities shall be required where deemed necessary for the safety and convenience of apartment residents.
- K. Landscaping and screening. All front yards, side yards and rear yards shall be landscaped for a depth of 50 feet for the entire length thereof in accordance with landscape plans showing the locations, species and size of shrubs and other proposed landscaping, which plans shall include proposals for screening adjacent residential areas and shall be submitted to the Shade Tree Commission prior to the issuance of the building permit.
- L. The developer shall preserve or incorporate natural features such as woods, streams and open space areas, which add to the overall cohesive development of the Apartment House District and overall Township development.
- M. The developer shall give consideration to the provision of community areas, laundry facilities, playgrounds, open space and tot lots, and other services necessary for the comfort and convenience of apartment residents.
- N. Trash receptacles. All buildings shall be provided with trash receptacles convenient to service entrances and screened as a part of the architectural treatment of the building. Incinerators are not permitted in apartment buildings.
- O. (Reserved)<sup>18</sup>
- P. All mechanical equipment shall be installed and maintained so that no noise therefrom can be heard at the property line.

#### **§ 116-70. Plan requirements and approval.**

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18. Editor's Note: Former Subsection O, Elevator size and number, was repealed 5-14-1998 by Ord. No. 709.

- A. In any development under § 116-67 or § 116-68, the overall development plan shall include the following items without limitation:
- (1) All property lines and names of adjoining owners.
  - (2) Existing contours at two-foot intervals.
  - (3) Finished contours after grading.
  - (4) Existing utility poles.
  - (5) Existing major trees (having a diameter of eight inches or more at a point measured three feet from the ground) and outline of significant tree groups.
  - (6) Outline of proposed buildings, including main floor elevation and estimate of floor area.
  - (7) Location and slopes of all roads and parking lots.
  - (8) Outline of all existing structures and an indication of what structures are going to be demolished.
  - (9) Existing watercourses and floodplain.
  - (10) Road right-of-way, including ultimate right-of-way.
  - (11) Existing and proposed drainage structures.
- B. No building permit application may be submitted until the overall development plan shall have been reviewed and approved by the Board of Supervisors.

**§ 116-71. Procedural requirements.**

All procedural requirements of the Township subdivision regulations shall be adhered to as they apply to apartment house district development.

**§ 116-72. Regulations for semidetached or attached dwellings.**

In a development of semidetached or attached dwellings, the following regulations shall apply:

- A. Building area. The maximum building coverage shall be 20% of the area being developed hereunder.
- B. Yard requirements. Any dwelling constructed hereunder shall have a minimum front yard of 30 feet, a minimum rear yard of 40 feet, and the minimum lot area shall be 3,000 square feet.
- C. Height limits. The maximum height of any principal building on any lot shall be 35 feet, and the maximum height of any accessory building shall be 20 feet.
- D. Area of tract. Any tract to be developed in whole or in part for semidetached or attached dwellings shall contain not less than 10 acres.
- E. Dwelling units per acre. There shall be no more than eight dwelling units per acre.

- F. Building size. No building shall contain more than eight dwelling units in a continuous attached row. No more than three contiguous units shall have a uniform front yard setback from a right-of-way or parking area.
- G. Open space. A minimum of 20% of the area being developed hereunder shall be retained as nonvehicular common open space.
- H. Setback from property lines. The setback from each property line or the zoning district boundary, other than a street line, shall be not less than 100 feet.
- I. Setback between buildings. The horizontal distance measured in feet at the closest point between any two buildings shall be not less than 40 feet.
- J. Parking. Not less than two off-street parking units shall be required for each dwelling unit.
- K. Water and sewers. Any development hereunder must be serviced by public water and sewer systems.
- L. Fences and walls. No fence or wall over six feet in height, except a retaining wall or a wall of a building permitted under the terms of this chapter, shall be erected within three feet of the rear lot line of any residential lot. In instances where the side lot line does not pass through a common wall, no such fence or wall shall be erected within three feet of said lot line. A fence or wall may be used to enclose tennis courts, playgrounds or other recreational areas, which areas are available to the general public.



ARTICLE XIII  
**AD Attached Dwelling District**

**§ 116-73. Scope.**

In an AD Attached Dwelling District, the following shall apply.

**§ 116-74. Permitted uses.**

A building may be erected or used and a lot may be used or occupied for the following purposes and no other:

- A. Any uses permitted in § 116-35.
- B. Attached dwellings.
- C. Combinations of the foregoing permitted uses.
- D. Outdoor recreational facilities and open space for the use of the dwelling occupants, their guests and/or the other residents of the Township.
- E. Zero-lot-line single-family detached dwelling. **[Added 4-24-2014 by Ord. No. 943]**

**§ 116-75. Minimum tract size.**

Minimum tract size for development shall be five acres.

**§ 116-76. Density.**

The overall number of dwelling units per acre shall not exceed six.

**§ 116-77. Dimensional requirements. [Amended 9-9-2004 by Ord. No. 794]**

Each lot shall be subject to the following minimum area, width, yard, and green space requirements and maximum building height, building coverage, and impervious ground cover requirements:

- A. Lot area: 3,000 square feet minimum. Each attached dwelling unit shall have exclusive enjoyment of a private yard, patio or other outdoor area immediately adjacent or contiguous to the dwelling, which area shall contain not less than 400 square feet.
- B. Width at building setback line: 20 feet minimum.
- C. Front yard: 30 feet minimum.
- D. Side yards, where they occur: not less than 15 feet.
- E. Rear yard: 30 feet minimum except where the rear wall is a common wall.
- F. Height: 35 feet maximum.
- G. Building coverage: maximum of 40% of the total lot area.

- H. Impervious ground cover: maximum of 55% of the total lot area.
- I. Minimum required green space area: 45% of the total lot area.
- J. For a subdivision/land development to qualify for the alternative yard requirements in the AD District set forth herein, the subdivision/land development must be comprised of single-family detached dwellings wherein a minimum of 50% of the units are zero-lot-line: **[Added 4-24-2014 by Ord. No. 943]**
  - (1) Front yard: 20 feet minimum.
  - (2) Side yard: 10 feet minimum, one required.
  - (3) Rear yard: 20 feet minimum.

**§ 116-78. Open space. [Amended 4-24-2014 by Ord. No. 943]**

A minimum of 15% of the total tract area shall be provided for open space. Said requirement does not apply to developments where all dwelling units are any combination of single-family detached dwellings and/or zero-lot-line single-family detached dwellings.

**§ 116-79. Distance between buildings.**

For any developments where individual lot requirements are not applicable under other sections herein, the horizontal distance between any buildings shall be not less than the following:

- A. Fifty feet between two exterior walls, each containing windows and/or doors, and where said walls are at an angle of less than 90° to each other.
- B. Forty feet between two exterior walls when only one contains windows and/or doors and where said walls are at an angle of less than 90° to each other.
- C. In no case shall any two structures be closer than 30 feet to one another.

**§ 116-80. Building arrangement.**

No more than three adjacent dwelling units in a single-family attached structure shall have the same front or rear building lines. The minimum variation in building line shall be not less than four feet. Each structure shall encompass no more than eight dwelling units.

**§ 116-81. Parking.**

All parking shall conform to the requirements of Article XXVI of the Whitemarsh Township Zoning Code.

**§ 116-82. Procedural requirements.**

Development and/or subdivision shall conform to the requirements of Chapter 105 of the Whitemarsh Township Code.

**§ 116-83. Landscaping and screening.**

- A. No building, parking or structure in this District shall be situated closer than 50 feet to the boundary of any other zoning district. When the boundary is a street, no building, parking or structure shall be situated closer than 50 feet from the ultimate right-of-way. A permanently landscaped buffer area of at least 50 feet in width shall be provided along all boundary lines except floodplain districts, for which a buffer area of 10 feet in width shall be provided. No combination of buffer strips need exceed 50 feet. However, the requirements of this section shall not apply to developments where all dwelling units are any combination of single-family detached dwellings and/or zero-lot-line single-family detached dwellings except that when the proposed subdivision/land development is adjacent to a nonresidential use or district, there shall be a perimeter buffer comprised of a combination of fencing and vegetation for a width to be approved by the Board of Supervisors while taking into consideration the depth of the rear yard areas of the proposed subdivision/land development. **[Amended 4-24-2014 by Ord. No. 943]**
- B. Buffer areas shall not include required setbacks, yards or parking. Only street and traffic signs located at access points shall be allowed in the buffer areas.
- C. In those areas where the boundary line abuts permanent natural features which function as a buffer, including but not limited to ponds, severe grades or mature woodlands, requirements for a buffer area for that portion of the boundary may be reduced in the proportions that the permanent natural features fulfill the buffer requirement.
- D. In those areas where the boundary line abuts a cemetery or public park, the buffer area for that portion of the boundary may be reduced to 30 feet to the boundary of any other residential district. **[Added 11-15-1984 by Ord. No. 498]**

**§ 116-84. Retention of natural features.**

Existing natural features such as clusters of trees, brooks, ponds, drainage channels and steep slopes shall be retained wherever practicable and shall not be altered without first obtaining permits as required.

**§ 116-85. Maintenance of open space. [Amended 1-8-2015 by Ord. No. 948]**

The proper maintenance and operation of all open spaces, vehicular areas and community facilities not offered for dedication and accepted by the Township shall be secured by financial security acceptable to the Township Solicitor, from an appropriate organization with the legal responsibility for same, organized in a manner found by the Township Solicitor to be legally effective and able to carry out its maintenance and operation responsibilities.

**§ 116-85.1. Fences and walls.**

No fence or wall over six feet in height, except a retaining wall or wall of a building permitted under the terms of this chapter, shall be erected within three feet of the rear lot line of any residential lot. In instances where the side lot line does not pass through a common wall, no such fence or wall shall be erected within three feet of said lot line.

A fence or wall may be used to enclose tennis courts, playgrounds or other recreational areas, which areas are available to the general public.

**§ 116-85.2. Reduced density, reduced impervious coverage and increased open space option. [Added 7-24-2003 by Ord. No. 774]**

For any subdivision/land development providing a maximum density of 4.5 units/acre, a maximum impervious coverage of 40% and a minimum open space of 20% of the total tract area, the following optional dimensional requirements may apply in lieu of the specific requirements of §§ 116-77A, 116-77C, 116-79, 116-80 and 116-83B:

- A. Lot area: 2,200 square feet; provided, however, that property subject to a declaration under the Pennsylvania Uniform Community Act, 68 Pa.C.S.A. § 501,<sup>19</sup> or the Pennsylvania Uniform Condominium Act, 68 Pa.C.S.A. § 3101 (planned communities), shall not be required to have lot lines and shall not be subject to the minimum lot area requirements provided for in this Subsection A or subject to the width at building setback line requirement provided for in § 116-77B. Each attached dwelling unit shall have the exclusive enjoyment of a private yard, patio and/or deck immediately adjacent or contiguous to the dwelling, which area shall contain not more than 400 square feet.
- B. Front yard setback: 30 feet; provided, however, that any dwelling unit constructed adjacent to an access driveway of an off-street parking facility having a minimum width of 30 feet shall be required to have a minimum setback of 45 feet measured from the center line of said access driveway;
- C. Distance between buildings. The horizontal distance between buildings shall be a minimum of 40 feet between two exterior walls.
- D. Landscaping and screening. Buffer areas may include required setbacks, access driveways, private yards, grade level patios or ground level decks, when augmented by a landscaped earthen berm of at least three feet in height, but not include parking areas.
- E. Building arrangements. A minimum variation in building lines shall not be required.

**§ 116-85.3. Additional requirements for zero-lot-line single-family detached dwellings. [Added 4-24-2014 by Ord. No. 943]**

For any zero-lot-line single-family detached dwellings, the following additional provisions shall apply:

- A. There shall be no exterior door of any kind in a wall built on the property line. A maximum of 10% of the total horizontal area of a wall built on the property line may be devoted to windows. Where a house exists on the adjacent lot or where the location of windows are known for a house to be built on the adjacent lot, windows shall not be placed directly opposite ones on said adjacent lot. Whenever an alternative location is technically feasible and meets applicable building and fire codes, no exhaust vents nor heating, air conditioning, or ventilating units of any

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19. Editor's Note: See now 23 Pa.C.S.A. § 3507.

kind, shall be incorporated in or adjacent to a wall built on the property line. Exceptions may be made for windows, vents and similar features enumerated herein on a zero lot line when said line is adjacent to open space or the right-of-way of a public or private street.

- B. There shall be a perpetual maintenance easement declared by the property owner of the adjacent property to allow for maintenance of any part of the dwelling built on the property line. Alternatively, a blanket maintenance easement shall be included in the homeowners' association declaration, if such an association is being created. Said easement shall be kept free of structures, including walls and fences. Said easement shall be approved by the Township Solicitor; the easement shall be shown on any subdivision plan and included in the deed of any affected lot.
- C. Roof overhangs may project up to two feet into the easement on the adjacent lot; provided, however, that any roof drainage shall be confined to the easement area.
- D. Notwithstanding the definition of "street" in this chapter, for developments containing a minimum of 50% zero-lot-line single-family detached dwellings, a private street right-of-way of less than 50 feet may be approved by the Board of Supervisors, upon recommendation from the Township Engineer that a lesser proposed right-of-way of a specified width is adequate.
- E. An unenclosed porch and/or deck or a terrace, platform, patio, stoop or landing place attached to a principal building, with or without a roof, canopy or overhead trellis, not more than 14 feet in height, may be erected to extend into a required rear yard or side yard, provided that any such projection is set back a minimum of eight feet from the associated rear property line and/or side property line and shall not exceed 500 square feet. **[Added 2-22-2018 by Ord. No. 984]**



ARTICLE XIV  
**MHP Mobile Home Park District**

**§ 116-86. Use regulations.**

In a MHP Mobile Home Park District, a building may be erected, altered or used, and a lot may be used or occupied, for any of the following purposes and no other:

- A. Mobile home park.
- B. Mobile home for residential use.
- C. Office for sale of mobile homes, as well as the sale of fixtures and structures customarily incidental to the use, maintenance, servicing and well-being of mobile homes located on the same site. Retail sales, including sales of bottled gas, are prohibited. The area devoted to such sale shall not exceed one acre of the site area, and any area devoted to such use shall be deducted from the site area for computation of the residential density for the mobile home park.
- D. Accessory uses and structures customarily incidental to the use, maintenance, servicing and well-being of mobile home park residents, including but not limited to storage sheds and enclosed porches.
- E. Attached dwellings, subject to the requirements of §§ 116-77, 116-79 through 116-85 and 116-85.1 and the following regulations:
  - (1) Maximum density: six dwelling units per developable acre.
  - (2) Minimum open space: 35% of the total tract area shall be provided for open space, no more than 1/3 of which may be required setback area, pursuant to § 116-83.

**§ 116-87. Density.**

The total number of lots in a mobile home park shall not exceed a maximum density of five mobile homes per acre. If for any reason this maximum density is not attainable on a given site due to the need to conform to the requirements of § 116-88, the maximum permissible density shall be reduced accordingly.

**§ 116-88. Site design.**

- A. Setback from site boundary. No mobile home, accessory structure or other primary building may be located closer than 40 feet to any boundary of a mobile home park regardless of whether that boundary abuts a lot, water body, street or other right-of-way. No paved area shall be permitted within said forty-foot setback except for approved access to a street. A Class B-type buffer, as described in the Whitemarsh Township Subdivision and Land Development Ordinance,<sup>20</sup> shall be provided along the entire length of the site boundary.
- B. Setback from streets. In no case shall the long side of a mobile home, or any side of another primary building or accessory use, be located closer than 25 feet to the

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20. Editor's Note: See Ch. 105, Subdivision and Land Development.

ultimate right-of-way line of any public interior street or to the edge of any common pedestrian walkway within a mobile home park; provided, however, that the short side of a mobile home may be located no closer to these facilities than 20 feet. No more than four mobile homes in a row shall have the same setback; where varied setbacks are utilized, the setback variance shall be at least four feet.

- C. Setback from common parking facilities. No mobile home or accessory use shall be located within 25 feet of any common parking area.
- D. Lot size. All mobile home lots within a mobile home park shall have a minimum lot size of 5,000 square feet when on-lot parking is provided, except that a mobile home lot may be reduced to no less than 4,500 square feet when parking for such lot is provided in a common parking area.
- E. Lot width. No individual mobile home lot shall be less than 55 feet in width at the building setback line, although this may be reduced to 45 feet where roofed additions are prohibited or where the applicant can demonstrate that roofed additions can be added without violating the provisions of Subsections F and G herein. No individual mobile home lot shall be less than 25 feet in width at the right-of-way line of a street.
- F. Side and rear setbacks. No mobile home or accessory building may be located closer than four feet to any side or rear lot line of an individual mobile home lot; provided, however, that all minimum requirements of Subsection G herein must be met, and provided further that accessory buildings may be located on the lot line if physically joined to each other with a common wall located on the lot line.
- G. Distance between structures. Mobile homes and roofed structures or areas attached thereto shall be separated from each other and from other buildings and structures, other than accessory structures, at their closest points by a minimum of 20 feet; provided, however, that whenever two mobile homes have their longer sides parallel or essentially parallel to each other for more than 25% of the length of either, the minimum distance between the two mobile homes shall be considered essentially parallel if they form an angle of less than 45° when extended to intersect.
- H. Lot coverage. The maximum coverage of any individual mobile home lot by all primary and accessory buildings and structures, including covered patios or decks, shall be no more than 25% of the total lot area. Impervious ground cover shall be no greater than 45% of the total lot area. **[Amended 9-9-2004 by Ord. No. 794]**
- I. Height. No structure built in a mobile home park shall exceed a height of one story nor be more than 20 feet in height.
- J. Travel trailers and motor homes shall be expressly prohibited from having permanent or temporary occupancy within a mobile home park.
- K. Minimum required green space area: 55% of the total lot area. **[Added 9-9-2004 by Ord. No. 794]**

### **§ 116-89. Common open space.**

At least 20% of the site area of the mobile home park shall be in common open space,

no more than 1/3 of which may be required setback area, pursuant to § 116-38D.

**§ 116-90. Additional provisions.**

The above provisions of the Mobile Home Park District are in addition to those specifically set forth in Articles I, II, III, IV, and XXII through XXXII of the Whitemarsh Township Zoning Ordinance, except insofar as the same may be inconsistent or in conflict with §§ 116-86 through 116-89 above.



ARTICLE XV  
**CR Commercial Retail District**

**§ 116-91. Legislative intent.**

The purpose of this article is to encourage and provide for establishment of planned commercial districts and to serve Township residents in a manner consistent with the goals of the Comprehensive Plan.

**§ 116-92. Authorization of Map amendments; scope.**

The Board of Supervisors may authorize as an amendment to the Zoning Map the designation of an area as a CR-H Commercial Retail District-High or as a CR-L Commercial Retail District-Low for the location of commercial development. In a CR-H or CR-L District, the following regulations shall apply.

**§ 116-93. Dimensional regulations.**

- A. District area. The minimum area which may be classified as a CR Commercial Retail District shall be five acres.
- B. Lot area. The minimum area for a single structure or development shall be determined by the land use, parking and other requirements.
- C. Lot coverage. Maximum building coverage shall be no more than 40% of the total lot area. Impervious ground cover shall be no greater than 65% of the total lot area. Each lot shall have a minimum green space area of 35% of the total lot area. **[Amended 9-9-2004 by Ord. No. 794]**
- D. Rear and side yards shall have a minimum depth of 100 feet from any residential zoning district boundary and no parking shall be permitted within 50 feet of any residential district boundary except where permitted by special exception. Pursuant to the provisions of a special exception, parking may be permitted as close as 20 feet from a residential district boundary line, provided that a permanent visual screen, including a planting area approved by the Shade Tree Commission, shall be installed.
- E. Front yards. Minimum front yards shall be 50 feet, and no parking shall be permitted on the required minimum front yard.
- F. Side yards. Except as provided in Subsection D above, every property in a Commercial Retail District shall have two minimum side yards of 20 feet each, except corner property. **[Amended 3-28-2013 by Ord. No. 925]**
- G. Rear yards. Except as provided in Subsection D above, rear yards shall be a minimum of 50 feet in depth.
- H. Planned development consisting of a grouping of uses in one or more structures, portions of which are held in separate ownerships, may be permitted by special exception.

**§ 116-94. Height regulations.**

The maximum height of any building erected or used in this District shall be 35 feet, except that the height of any building may be increased to a maximum of 65 feet, provided that for every foot of height increase in excess of 35 feet there shall be added to each yard requirement one corresponding foot of width or depth. Structures, except chimneys and flagpoles, may be erected above the roofline, shall be erected within a recession of one foot for each one foot of additional height, and must be designed to be compatible with the architectural treatment of the building.

**§ 116-95. (Reserved)**

21

**§ 116-96. Outside display and/or sale of merchandise.**

No merchandise shall be displayed, sold or leased outside the walls of a building, except:

- A. Where specifically authorized by special exception.
- B. Seasonal or other special sales, where authorized by permit from the Zoning Officer for a period or periods not exceeding in the aggregate 20 calendar days in any single calendar year.

**§ 116-97. Noise.**

Noise levels shall conform to Township, state and federal regulations, but in no case shall outside speakers for music or voice amplification be permitted.

**§ 116-98. Lighting.**

Lighting shall be arranged in a manner which will protect the highway and neighboring properties from direct glare or hazardous interference of any kind.

**§ 116-99. Landscaping and screening.**

Front, rear and side yards shall be landscaped and, where adjacent to residential districts or where otherwise required, screened by use of plantings and/or walls, berms or fences of suitable height and composition to effectively protect adjacent properties. All landscaping and screening plans shall be reviewed by the Shade Tree Commission and shall include size, location and species of all new or existing plant materials proposed to be used and size and location of all walls, berms or fences.

**§ 116-100. Control of dust, smoke, vapors, gases, vibration and other nuisances or hazards.**

No use shall be permitted which does not meet Township, state or federal standards.

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21. Editor's Note: Former §116-95, Parking, was repealed 10-25-2018 by Ord. No. 988.

**§ 116-101. Utilities and waste disposal.**

All utilities shall be located underground, and all waste storage and disposal facilities shall be screened as part of the architectural treatment of the building.

**§ 116-102. Air conditioners.**

Air conditioners may be of the single-unit or central-unit type. If single unit, they must not protrude from the natural wall line and must be designed in accordance with the overall architectural treatment of the building. If of the central-unit type, with the unit on the roof, the unit must be recessed in accordance with § 116-94 above of this article.

**§ 116-103. Application and review by Planning Commission. [Amended 7-28-2011 by Ord. No. 907]**

A. When deemed appropriate by the Zoning Officer, plans for any Commercial Retail CR-H or CR-L use shall be submitted to the Planning Commission prior to the issuance of any zoning permit or certificate of occupancy as provided in Article XXX, and such plans shall include, in addition to other applicable requirements, the following: **[Amended 3-28-2013 by Ord. No. 925]**

- (1) The site plan shall include detailed information concerning the following:
  - (a) The location of all present and proposed buildings, sidewalks and other areas to be devoted to pedestrian use, drives, fire lanes, parking lots, loading and unloading areas and other construction features; and all buildings, streets, highways, streams, floodplains, and other topographical features of the lot within 200 feet of any lot line.
  - (b) The location, size in square feet, dimensions and arrangements of areas and buildings devoted to any purpose.
  - (c) A description of any land uses proposed, including approximate number of employees and/or residents and an indication of the number of visitors, in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, water pollution, fire hazards or safety hazards.
  - (d) Engineering and architectural plans for the treatment and disposal of liquid and solid wastes, including the general storm drainage system.
  - (e) Access provisions for fire equipment.
  - (f) The stages, if any, which will be followed in the construction and/or alteration.
  - (g) A statement of financial responsibility as to the developer's ability to proceed with the alterations and/or construction if the plans are approved.
  - (h) Landscaping and screening plans as required by § 116-99 of this article.
  - (i) Any other data or evidence that the Planning Commission may require.
- (2) The architectural drawings shall include evidence and facts showing that the

proposed alterations and/or new construction shall be compatible with architectural qualities prevalent in the district. As such it shall include suitable information concerning the following essential considerations:

- (a) The exterior changes to be made or the exterior character of the structure to be erected.
  - (b) A list of the surrounding structures with their general exterior characteristics.
  - (c) The effect of the proposed change upon the general architectural nature of the district.
  - (d) The appropriateness of exterior architectural features.
  - (e) The general design, arrangement, texture, material and color of the building or structure and the relation of such factors to similar features of buildings or structures in the district.
  - (f) The appropriateness of the work proposed as it will preserve the architectural quality and nature of the district.
- B. The Planning Commission shall review all plans for commercial uses submitted to it and shall submit these plans, together with any recommended conditions for the issuance of a permit, to the Zoning Officer. **[Amended 3-28-2013 by Ord. No. 925]**
- C. (Reserved)
- D. As a guide for recommendations by the Planning Commission on any commercial plan, the following provisions shall be considered:
- (1) That the plan is consistent with the Comprehensive Plan for the orderly development of the Township with the purpose of this chapter to promote the health, safety, morals and the general welfare of the Township.
  - (2) That the appropriate use of the properties adjacent to the area included in the plan will be safeguarded.
  - (3) That the development will consist of a harmonious grouping of buildings, service and parking area circulation and open spaces, planned as a single unit, in such manner as to constitute a safe, efficient and convenient commercial site.
  - (4) That the uses to be included are limited to those permitted by § 116-104 of this article.
  - (5) That there is adequate provision made for safe and efficient pedestrian and vehicular traffic circulation within the boundaries of the site.
  - (6) That provision is made for safe and efficient ingress and egress to and from public streets and highways serving the site without undue congestion to or interference with normal traffic flow, including pedestrian traffic, within the Township.

- (7) That adequate off-street parking and loading space is provided (in accordance with Article XXVI and § 116-95 of this article) as an integral part of the plan.
  - (8) That all buildings within the development shall be served by a central sanitary sewage disposal system.
  - (9) That, if the development is to be carried out in progressive stages, each stage shall be so planned that the foregoing requirements and intent of this chapter shall be fully complied with by the development or completion of any stage.
- E. This process applies to applications that do not otherwise constitute a subdivision and/or land development as defined by Chapter 105 of the Township Code. **[Added 7-28-2011 by Ord. No. 907]**

**§ 116-104. Use regulations.**

- A. CR-H Commercial Retail-High. In a CR-H Commercial District, a building may be erected or used and a lot may be used or acquired for the following purposes:
- (1) Sale at retail of any of the following: dry goods, variety and general merchandise, clothing, food, beverages, flowers, pharmaceuticals, household supplies or furniture, sale or repair of jewelry, watches, clocks, optical goods, musical, professional or scientific instruments.
  - (2) Barbershops, hairdressers, tailor shops, laundry and dry-cleaning pickup station, self-service automatic laundry, dry cleaning and other similar shops providing personal services.
  - (3) Bank or financial institution, telephone exchange, public utility office, business office, or the following professional offices: architect, chiropractor, dentist, osteopath, podiatrist, physician, professional engineer, certified public accountant, attorney.
  - (4) Buildings for municipal use, police or fire protection.
  - (5) Bakery or confectionery, for the production of articles to be sold at retail on the premises, provided that all baking or processing on the premises shall be only incidental or accessory to the retail sale outlet which shall be the principal use.
  - (6) The following additional uses when authorized by a special exception:
    - (a) Restaurants, tearoom, cafe, taproom, confectionery or similar establishment serving food or beverage within the building on the premises, but excluding establishments that permit eating and drinking on the premises outside of the building.
    - (b) Any use permitted in Institutional District. **[Added 10-21-1982 by Ord. No. 442]**
    - (c) Clubs, fraternities, lodges, residential clubs, boardinghouses and rooming houses. **[Added 2-14-1985 by Ord. No. 505]**
    - (d) Cabarets. **[Added 10-24-1985 by Ord. No. 522]**

- (7) A commuter rail station (CRS), when authorized by the Board of Supervisors as a conditional use. The Board of Supervisors may grant approval for a CRS, provided that the following conditions are satisfied: **[Added 1-25-2001 by Ord. No. 734]**
- (a) The CRS shall be located at a passenger train stop, authorized by the local passenger rail authority or such entity authorized to provide passenger train service.
  - (b) If more than one parcel comprises the CRS, the parcels shall be contiguous, adjoining or functionally related by pedestrian or vehicular access as demonstrated through the plan submitted by the applicant.
  - (c) The combined areas of the parcels of land, on both sides of the track, shall not be less than four acres.
  - (d) The application for development shall be accompanied by a plan or plans, which shall comply with all requirements of Chapter 105, Subdivision and Land Development, and Chapter 116, Zoning, of the Whitemarsh Township Code and any other applicable ordinances and/or chapters of the Whitemarsh Township Code. The plan or plans shall clearly designate the proposed use of each area of the parcel(s).
  - (e) The parcel(s) of land shall be in single ownership and shall be developed in accordance with the plan or plans.
  - (f) When a commuter rail station is permitted as a conditional use, the following regulations shall apply:
    - [1] Parking stall dimensions may be nine feet wide by 18 feet long.
    - [2] All yard setbacks shall be no less than 20 feet. When adjacent to a residential use, the Board of Supervisors may require buffering in accordance with Chapter 105, the Subdivision and Land Development Regulations of the Whitemarsh Township Code. Any such buffering shall have a maximum width of 20 feet and shall be located within required yard areas.
    - [3] A maximum of 30 parking spaces may be placed in a row and a maximum of 45 parking spaces may be placed together in any parking area. A curved planter island, not less than nine feet in width, shall be located at the end of each parking row. Opposing rows of parking spaces are permitted without any landscaping or paved separation.
    - [4] Customary signage for a commuter rail station shall be permitted, including but not limited to the following:
      - [a] One entrance sign at each entrance, such sign not to exceed 30 square feet.
      - [b] Parking instruction signs not to exceed 40 square feet.

[c] Parking space identification signs.

(8) Sales of consumer fireworks shall be permitted by conditional use, subject to compliance with the Pennsylvania Fireworks Law and the following regulations. **[Added 10-25-2018 by Ord. No. 989]**

- (a) Such use shall not be located within 1,500 feet of any premises selling alcohol, malt or brewed beverages for consumption on or off premises.
- (b) Such use shall not be located within 1,500 feet of any local or state park, school or child day-care facility, recreational establishment, house of worship, dwelling, hospital, group home or nursing home.
- (c) No sales shall be made to minors.
- (d) Any structure containing quantities of consumer fireworks exceeding 50 pounds shall be located no closer than 150 feet to any building, state highway, railway, local street or alley, waterway, or utility right-of-way, including, but not limited to, a natural gas line.
- (e) Such use shall not be located within 1,500 feet of any premises selling firearms.
- (f) Hours of operation shall be confined to the hours of 9:00 a.m. to 7:00 p.m.
- (g) All sales of consumer fireworks shall be conducted only within a facility approved by the Pennsylvania Department of Agriculture, pursuant to the Pennsylvania Fireworks Law, such facility being exclusively dedicated to the storage and sale of consumer fireworks and related items.
- (h) The operator of the facility shall provide security thereon, 24 hours per day/seven days per week.
- (i) All plans for construction, use or renovation of an existing building for the purposes of selling consumer fireworks shall be reviewed by a Township code enforcement officer for compliance with all required firesafety codes, including, but not limited to, the International Fire Code, and such review comments and/or report shall be submitted to the Township-designated fire company.
- (j) If the facility in which the sale of consumer fireworks is conducted is a temporary structure, the facility shall comply with the following regulations, in addition to the other regulations set forth in Subsection A(8)(a)-(h):

[1] The sale of consumer fireworks from the temporary structure is limited to the following types:

- [a] Helicopter, aerial spinner (APA 87-1, 3.1.2.3).
- [b] Roman candle (APA 87-1, 3.1.2.4).
- [c] Mine and shell devices not exceeding 500 grams.

- [2] The sales period shall be limited to June 15 through July 8 and December 21 through January 2 of each year.
- [3] The temporary structure shall be in use for a period of 20 consecutive calendar days or less.
- [4] The area of the temporary structure shall not exceed 2,500 square feet.
- [5] Written consent from the property owner must be submitted to the Township by any person or company proposing to sell consumer fireworks from a temporary structure that does not own the property on which sales are to occur.
- [6] Parking shall be made available in the amount of one space for each person involved in the sale of consumer fireworks, plus a minimum of three additional spaces. For shared parking arrangements, the person or company proposing to operate a temporary structure must provide proof of written consent from the property owner or his/her designee to share the required number of parking spaces.
- [7] The temporary structure shall be located no closer than 250 feet from a facility storing, selling or dispensing gasoline, propane or other flammable products.
- [8] The temporary structure shall be located one of the following distances from a permanent facility licensed to sell consumer fireworks under the Act of May 15, 1939 (P.L. 134, No. 65), at the time of the effective date of this article:
  - [a] Prior to January 1, 2023, at least five miles.
  - [b] Beginning January 1, 2023, at least two miles.
- [9] A minimum of two ABC five-pound fire extinguishers must be kept on site at all times.
- [10] Consumer fireworks not on display for retail sale shall be stored in an outdoor storage unit, permitted as an accessory use to the sale of consumer fireworks, and shall be separated from the wholesale or retail sales area to which a purchaser may be admitted by appropriately rated fire separation.
- [11] No live displays may occur on site.
- [12] All signage must be stored within the temporary structure when sales are not occurring.
- [13] Exit signs must be visible inside the temporary structure, and an evacuation plan shall be posted in a conspicuous location in accordance with NFPA 1124.
- [14] Any lighting shall be directed toward the temporary structure, and no glare shall extend off site or onto adjacent roadways.

[15] The temporary structure shall comply with NFPA 1124, as it relates to retail sales of consumer fireworks in temporary structures.

[16] The temporary structure shall have a minimum of \$2,000,000 in public and product liability insurance.

(k) All permanent facilities shall comply with all other zoning requirements governing this district.

B. CR-L Commercial Retail. In a CR-L Commercial District, a building may be erected or occupied for the following purposes:

- (1) Any use permitted in CR-H District.
- (2) Carpentry, cabinetmaking, furniture or upholstery shop, electrician shop, metalworking, blacksmith, tinsmith, plumbing and gas, steam or hot-water fitting shop, paint or paperhanger shop.
- (3) Funeral homes.
- (4) Laboratories.
- (5) A gasoline service station, when authorized as a special exception. A finding that the proposed gasoline service station is within 500 feet of a church, school, public library, public recreation area or other gasoline service station may alone support a conclusion by the Zoning Hearing Board that the proposed gasoline service station would be contrary to the general welfare of the community. Gasoline service stations authorized pursuant to this provision shall conform to the following additional requirements:
  - (a) The doors giving access to the service areas or bays of the principal building shall be located to the rear or side of the main building so that, to the extent that it is reasonable, they shall not be visible from the street or streets upon which the site has frontage.
  - (b) Parallel to and along the entire length of the streets upon which the site has frontage, with the exception of the driveway areas, a planted area of a minimum width of four feet shall be maintained.
  - (c) No vehicles shall be parked within 60 feet of the street or streets upon which the site has frontage, although automobiles may stop in these areas at the service islands to receive gasoline, oil, water, and for minor servicing.
- (6) Any other lawful use in the category of retail or wholesale sales or customer service, when authorized as a special exception.
- (7) A commuter rail station (CRS), when authorized by the Board of Supervisors as a conditional use, as per § 116-104A(7) above. **[Added 1-25-2001 by Ord. No. 734]**

#### **§ 116-105. Special exceptions.**

In considering the application for use under special exception in a CR Commercial Retail

District, the Zoning Hearing Board shall without limitation determine that the use is in compliance with the following requirements:

- A. That the proposed use and plan is consistent with the Comprehensive Plan for the orderly development of the Township with the purpose of this chapter being to promote the health, safety, morals and the general welfare of the Township.
- B. That the appropriate use of the properties adjacent to the area included in the plan will be safeguarded.
- C. That the development will consist of a harmonious grouping of buildings, service and parking area, traffic circulation and open spaces and that it is planned as a single unit in such manner as to constitute a safe, convenient and efficient commercial site.
- D. That the proposed use will not create a traffic problem for either vehicular or pedestrian traffic.
- E. That adequate services of the same or similar nature are not presently available within the normal travel limits for such services.
- F. That all other Township requirements are adhered to.

ARTICLE XVI  
**AR Administrative and Research District**

**§ 116-106. Legislative intent; scope.**

In expansion of the declaration of legislative intent contained in § 116-2, it is hereby declared to be the intent of this article, with respect to administrative and research districts, to establish reasonable standards for the height and size of buildings, the area and dimensions of yards and open spaces, the provision of facilities to minimize traffic congestion, overcrowding of land, inadequate provision for water and sewage facilities and inadequate transportation, and to establish reasonable standards for an administrative and research district suitable with the general character of the adjoining district. In an AR Administrative and Research District, the following regulations shall apply.

**§ 116-107. Use regulations.**

- A. In an AR Administrative and Research District, a building may be erected, altered or used, and a lot may be used or occupied for any of the following purposes and no other:
- (1) Offices for administrative, executive, professional, sales and other similar uses, the normal attributes of which do not involve the actual storage, exchange or delivery of merchandise on the premises.
  - (2) Laboratory for scientific, agricultural or industrial research and development.
  - (3) Conference center, on a lot of not less than 25 acres.
  - (4) Private-use heliport, subject to the provisions of § 116-33.1, when authorized as a special exception. [Added 11-17-1983 by Ord. No. 481]
  - (5) Public or private golf course. [Added 10-11-2001 by Ord. No. 739]
- B. Notwithstanding the foregoing, no exterior storage of materials or equipment shall be permitted and no use shall be permitted which may be noxious or offensive by reason of odor, dust, fumes, smoke, gas, vibration or noise, or which may constitute a public hazard either by fire, explosion or otherwise.

**§ 116-108. Height regulations.**

The maximum height of any building erected or used for any use permitted in § 116-107 herein shall be 40 feet.

**§ 116-109. Dimensional requirements. [Amended 9-23-1993 by Ord. No. 649; 10-11-2001 by Ord. No. 739; 9-9-2004 by Ord. No. 794]**

Required minimum lot area, width, yard and green space area requirements and maximum lot, building and impervious ground covers are as follows:

- A. Lot area: minimum five acres, except in the case of conference center use where the minimum lot area shall be 25 acres.

- B. Front yard: 100 feet minimum.
- C. Side yard: two, each not less than 35 feet, but together having a minimum aggregate of 100 feet, and provided that any side yard abutting a street shall have a width of not less than 100 feet.
- D. Rear yard: 50 feet minimum, and provided that any rear yard abutting a street shall have a depth of not less than 100 feet and minimum width at the street line of 300 feet.
- E. Lot coverage. Maximum building coverage shall be no more than 25% of the total lot area. Impervious ground cover shall be no greater than 45% of the total lot area. Each lot shall have a minimum green space area of 55% of the total lot area.
- F. Lots near residential districts. No building or structure shall be erected nearer than 150 feet to any residential district unless the residential district boundary line is located on the same property as the proposed building in the AR Administration and Research District, so long as said residential district is at least 150 feet from any adjoining property line.

#### **§ 116-110. Screening.**

All front yards and other areas delimited by any side or rear lot line abutting or directly across the street from a residential district and for a depth of 50 feet for the entire length thereof shall be maintained as green areas and planted in grass, shrubs and/or trees, except for necessary ways of access there through.

#### **§ 116-111. Development requirements.**

The general plan of any AR Administrative and Research District shall include specific evidence and facts showing that it has considered and made provisions for, and the development shall be executed in accordance with, the following essential conditions:

- A. The AR Administrative and Research District shall be consistent with the Comprehensive Plan upon which this chapter is based and with the purpose of the chapter to promote the health, safety, morals and the general welfare of the Township.
- B. The development shall consist of a building or structure, service and parking areas, and circulation and open spaces planned and designed as an integrated unit in such manner as to constitute a safe and efficient AR Administrative and Research District.
- C. The appropriate use of property adjacent to the Administrative and Research District shall be safeguarded.
- D. The portion of the lot area not occupied by buildings or services and parking areas shall be landscaped in accordance with plans submitted to and approved by the Supervisors, and thereafter the lots shall be maintained in an orderly and harmonious manner.

**§ 116-112. Off-street parking.**

No parking area shall be permitted within the front yard of any lot in this District, nor closer than 150 feet to any residential district unless authorized as a special exception, but in no case shall any parking area be permitted closer than 50 feet to any residential district.

**§ 116-113. Water availability.**

AR Administrative and Research Districts shall be subject to the provisions of § 116-28 of the Zoning Ordinance, amended hereby.

**§ 116-114. Waste disposal.**

The treatment and disposal of sanitary waste of whatsoever character shall be in accordance with the ordinances of the Township and the laws and regulations of the Commonwealth of Pennsylvania. No use shall be conducted in such a way as to discharge any treated or untreated sewage or other waste into any stream.

**§ 116-114.1. Signs permitted in AR Districts. [Added 1-19-1995 by Ord. No. 669]**

In AR Districts, the following signs shall be permitted and no other:

- A. Any sign permitted in any residential district, provided that the use to which it refers is permitted in an AR District.
- B. Any property with uses permitted in the district may erect signs under one of the following provisions:
  - (1) One sign may be erected for a property in single and separate ownership where such sign is not connected with the building. The total area of the face of any such sign shall not exceed 25 square feet.
  - (2) One or more signs may be attached to or mounted on the building front, provided that the total area of such sign or signs does not exceed 35 square feet, plus one additional square foot of sign for each two feet of setback in excess of the minimum required for such districts.
- C. All signs shall conform to § 116-209 of the Whitemarsh Township Code.



ARTICLE XVII  
(Reserved)<sup>22</sup>

**§ 116-115. through § 116-118. (Reserved)**

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22. Editor's Note: Former Art. XVII, SC Shopping Center District, was repealed 1-28-2010 by Ord. No. 893.



ARTICLE XVIII  
**CLI Campus-Type Limited Industrial District**

**§ 116-119. Legislative intent.**

In expression of the declaration of legislative intent contained in § 116-2 of this chapter, it is hereby declared to be the intent of this article with respect to the uses permitted herein to establish reasonable standards for the height and size of buildings, the area and dimensions of open spaces, the provision of facilities to minimize traffic congestion, noise, glare and pollution and to minimize overcrowding of land and burdens on water, sewage and transportation facilities and to establish reasonable standards for campus-type limited industrial uses harmonious with the general character of adjoining districts.

**§ 116-120. Use regulations.**

In a Campus-Type Limited Industrial (CLI) District, a building may be erected, altered or used, and a lot may be used or occupied for any of the following purposes and no other:

- A. Administrative or executive offices, or offices for architects, professional engineers, certified public accountants or lawyers. **[Amended 7-13-1989 by Ord. No. 582]**
- B. Laboratory for scientific, agricultural or industrial research and development.
- C. Manufacturing, fabricating, assembling and/or processing of the following: scientific and precision instruments and controls; electronic components, including computers, pharmaceutical and optical goods; metallized and coated plastic film, photographic reproduction, film and equipment; jewelry and timepieces; clothing and other textile products (but excluding dyeing and manufacturing of textiles); small electrical appliances and supplies, such as lighting fixtures, wiring, toasters, radios, medical and dental equipment; hand tools; small machine parts; musical instruments; toys; novelties; small products from previously prepared paper, plastic, rubber (excluding the manufacture of rubber or synthetic rubber), wood, tools and hardware.
- D. The following processing of small metal pieces (capable of being held in one hand by the average worker) related to the uses indicated in Subsection C above: finishing, plating, grinding, sharpening, polishing, cleaning, rustproofing and heat treating.
- E. Accessory uses incidental to any of the above-permitted uses, including a cafeteria and other similar services operated by or for the employer for the exclusive use of its employees and business visitors.
- F. Warehousing of products manufactured on the site or products incidental to the use or manufacturing of the products so manufactured.
- G. Any use of the same general character as any of the above, including distribution plant for small parcels (capable of being hand-delivered), when such use is authorized as a special exception by the Zoning Hearing Board, and provided that such use shall be subject to such reasonable restrictions as the Zoning Hearing

Board may determine, but excluding use by health-care professionals or use as a truck terminal or general public warehouse; no use shall be permitted which may be noxious or hazardous; no exterior storage of material or equipment shall be permitted, except temporary storage which is not noxious or offensive by reason of odor, dust, fumes, smoke, gas, vibration, noise or risk of fire explosion, and provided that such temporary storage shall not continue for periods of more than 72 hours at any one time; and provided further that said temporary storage shall be fully concealed by fencing or landscaping and shall be within the area which could be utilized for building on the lot. **[Amended 7-13-1989 by Ord. No. 582]**

- H. Private-use heliport, subject to the provisions of § 116-33.1, when authorized as a special exception. **[Added 11-17-1983 by Ord. No. 481]**

**§ 116-121. Dimensional requirements; additional standards.**

- A. District area. The minimum area which may be classified as CLI District under this article shall be 20 acres.
- B. Lot area. The minimum area for any one lot or plant site of any one owner within a CLI District shall be 10 acres.
- C. Building height. The maximum height of any building erected or used for any use permitted in a CLI District shall be 40 feet.
- D. Setback. Front, side and rear yards shall be a minimum of 150 feet from any residential zoning district, 50 feet from any property line, except where the property abuts a railroad right-of-way, where no minimum setback shall be required.
- E. Lot coverage. Maximum building coverage shall be no more than 25% of the total lot area. Impervious ground cover shall be no greater than 50% of the total lot area. Each lot shall have a minimum green space area of 50% of the total lot area. **[Amended 9-9-2004 by Ord. No. 794]**
- F. Control of dust, dirt, smoke, vapors and gases. No emission shall be made which can cause any damage to health, to animals or to vegetation or to other form of property or which can cause any significant soiling at any point outside the operations. Table I, Chapter V, Industrial Hygiene Standards, Maximum Allowable Concentrations, Air Pollution Abatement Manual, Manufacturing Chemists Association, 1951, Washington, D.C., shall be used as a guide in determining what is a toxic gas.
- G. Control of radioactivity or electrical disturbances. There shall be no activities which emit dangerous or harmful radioactivity or electrical disturbances on or beyond the lot line.
- H. Control of odors. There shall be no emission of odorous gases or other odorous matter in such quantities as to be offensive at or beyond the lot line or which exceeds the standards of Table III (odor threshold), Chapter V, Industrial Hygiene Standards, Maximum Allowable Concentrations, Air Pollution Abatement Manual, Manufacturing Chemists Association, 1951, Washington, D.C. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary

safeguard system should fail.

- I. Control of glare and heat. Any operation producing intense glare or heat shall be performed within an enclosed building or behind a solid fence in such a manner as to be completely imperceptible from any point on or beyond the lot lines.
- J. Control of noises. At no point on or beyond the boundary of a residential or commercial district shall the sound-pressure level of any operation exceed the maximum of that permitted.

**Sound Levels**

**Maximum Permitted Sound Level**

**(decibels)**

<b>Octave Band (cycles per second)</b>	<b>Along Residential District Boundaries (Re: 0.0002 microbars)</b>	<b>At Any Other Point on Lot Boundary (Re: 0.0002 microbars)</b>
0 to 75	72	79
75 to 150	67	74
150 to 300	59	66
300 to 600	52	59
600 to 1,200	46	53
1,200 to 2,400	40	47
2,400 to 4,800	34	41
Above 4,800	32	39

- K. Conformity to federal, state, regional and local standards. Any use permitted under the provisions of this chapter shall conform to all appropriate federal, state, regional and local standards relative to water or air pollution, particle emission, noise, electrical disturbances, waste disposal, light, glare, heat, vibration, radioactivity and outdoor storage of materials.

**§ 116-122. Landscaping and screening.**

All front yards, side yards and rear yards shall be landscaped for a depth of 50 feet for the entire length thereof in accordance with a landscape plan showing the location, species and size of trees and shrubs and other proposed landscaping, which plan shall include proposals for screening adjacent residential areas and shall be submitted to and approved by the Shade Tree Commission prior to issuance of a building permit.

**§ 116-123. Off-street parking.**

- A. Adequate off-street parking shall be provided at all times, but the requirement for the same shall not be less than those specified in Article XXVI relating to off-street parking and loading, as contained in this chapter.
- B. No parking area shall be permitted within the front yard of any unit in a CLI

District, nor closer than 150 feet to a residential district, unless authorized as a special exception, but in no case shall any parking area be permitted closer than 50 feet to any residential district or to any property line of a property in residential use and the parking area shall not exceed 25% of the total lot area unless authorized as a special exception.

**§ 116-124. Traffic to and from public roads.**

Provisions shall be made for safe and efficient ingress and egress to and from public streets and highways serving the site without undue congestion to or interference with the normal traffic flow within the Township. Plans showing the locations and engineering details of all entrances and exits shall be submitted for approval by the Police and Engineering Departments prior to the issuance of building permits.

**§ 116-125. Signs.**

In a CLI District, signs advertising the name of the occupant and/or the principal product or service of the permitted land use upon which the signs are located shall be permitted, provided that:

- A. The total sign area erected by all occupants on any one street frontage shall not exceed 100 square feet, except that if street frontage is on a limited access toll road of not less than four lanes, the total signage for all sides of the building facing on the limited access toll road shall not exceed 300 square feet, provided that any such sign shall be attached to a building wall and shall not project higher than the main cornice line of the building. [Amended 3-22-1990 by Ord. No. 594]
- B. In addition thereto, one ground sign may be erected at the entrance indicating the name of the occupant(s) and/or the product sold or services performed on the premises, provided that the total area of the sign shall not exceed 35 square feet. [Amended 7-21-1994 by Ord. No. 662]
- C. All signs shall conform to § 116-209 of the Whitemarsh Township Code. [Amended 7-21-1994 by Ord. No. 662]

**§ 116-126. Application and review by Planning Commission. [Amended 9-25-2008 by Ord. No. 862]**

- A. When deemed appropriate by the Zoning Officer, plans for any CLI Campus Limited Industrial use shall be submitted to the Planning Commission prior to the issuance of any zoning permit or certificate of occupancy as provided in Article XXX, and such plans shall include, in addition to other applicable requirements, the following: [Amended 7-28-2011 by Ord. No. 907; 3-28-2013 by Ord. No. 925]
  - (1) A plot plan of the lot showing the location of all present and proposed buildings, drives, parking lots, waste disposal fields and other constructional features on the lot and all buildings, streets, alleys, highways, streams and other topographical features of the lot and within 200 feet of any lot line.
  - (2) Architectural plans for any proposed building.
  - (3) A description of the industrial operations proposed in sufficient detail to

indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, water pollution, fire hazards or safety hazards.

- (4) Engineering and architectural plans for the handling and disposal of sewage and industrial waste.
  - (5) Engineering and architectural plans for the handling of any excess traffic congestion, noise, glare, air pollution, water pollution, fire hazard or safety hazard.
  - (6) Designation of the fuel proposed to be used and any necessary architectural and engineering plans for controlling smoke.
  - (7) The proposed number of shifts to be worked and the maximum of employees on each shift.
  - (8) Any other data or evidence that the Planning Commission may require.
- B. The Planning Commission shall review all plans for CLI Campus Limited Industrial uses submitted to it and shall submit these plans, together with any recommended conditions for the issuance of a permit, to the Zoning Officer. **[Amended 3-28-2013 by Ord. No. 925]**
- C. As a guide for recommendations by the Planning Commission, on any CLI Campus Limited Industrial plan, there shall be consideration of the following:
- (1) Whether the plan is consistent with the Comprehensive Plan for the orderly development of the Township with the purpose of this chapter to promote the health, safety, morals and the general welfare of the Township.
  - (2) Whether the appropriate use of the property adjacent to the area included in the plan will be safeguarded.
  - (3) Whether the development will consist of a harmonious grouping of buildings, service and parking area circulation and open spaces, planned as a single unit, in such manner as to constitute a safe, efficient and convenient industrial site.
  - (4) Whether the uses to be included are limited to those permitted by § 116-120.
  - (5) Whether there is adequate provision made for safe and efficient pedestrian and vehicular traffic circulation within the boundaries of the site.
  - (6) Whether provision is made for safe and efficient ingress and egress to and from public streets and highways serving the site without undue congestion to or interference with normal traffic flow within the Township.
  - (7) Whether adequate off-street parking and loading space is provided (in accordance with Article XXVI and § 116-123) as an integral part of the plan.
  - (8) Whether all buildings within the development shall be served by a central sanitary sewage disposal system.
  - (9) Whether the development is to be carried out in progressive stages; each stage shall be so planned that the foregoing requirements and intent of this chapter

shall be fully complied with by the development at the completion of any stage.

- D. This process applies to applications that do not otherwise constitute a subdivision and/or land development as defined by Chapter 105 of the Township Code.

**§ 116-127. Nonconforming residential properties.**

If any property located in a CLI District was held in single and separate ownership and was being used for residential purposes immediately prior to the enactment of the amendment to the Zoning Ordinance changing the zoning classification of said property to CLI District, the owner or owners, and their successors in title, of such property shall have the right to continue using the property for residential purposes and, for purposes of building expansion or modification, the front, side and rear yard setback requirements, height and area coverage limitations and use regulations in effect immediately prior to the enactment of said amendment to the Zoning Ordinance shall remain in effect, provided that such rights shall terminate if the owner or owners, or their successors, of the property formally subdivide the property or abandon the residential use continuously for a period of one year or more.

ARTICLE XIX  
**CLI-X Modified Campus-Type Limited Industrial District**

**§ 116-128. Permitted uses.**

In a CLI-X Modified Campus-Type Limited Industrial District, a building may be erected, altered or used and a lot may be used or occupied for any of the following purposes and no other:

- A. Administrative or executive offices, or offices for architects, professional engineers, certified public accountants or lawyers. **[Amended 7-13-1989 by Ord. No. 582]**
- B. Laboratory for scientific, agricultural or industrial research and development.
- C. Manufacturing, fabricating, assembling and/or processing of the following: scientific and precision instruments and controls; electronic components, including computers; pharmaceutical and optical goods; metallized and coated plastic film, photographic reproduction, film and equipment; jewelry and timepieces; clothing and other textile products (but excluding dyeing and manufacturing of textiles); small electrical appliances and supplies, such as lighting fixtures, wiring, toasters, radios, medical and dental equipment; hand tools; small machine parts; musical instruments; toys; novelties; small products from previously prepared paper, plastic, rubber (excluding the manufacture of rubber or synthetic rubber), wood, tools, and hardware.
- D. The following processing of small metal pieces (capable of being held in one hand by the average worker) related to the uses indicated in Subsection C above: finishing, plating, grinding, sharpening, polishing, cleaning, rustproofing and heat treating.
- E. Accessory uses incidental to any of the above-permitted uses, including a cafeteria and other similar services operated by or for the employer for the exclusive use of its employees and business visitors.
- F. Warehousing of products manufactured on the site or products incidental to the use or manufacturing of the products so manufactured.
- G. Any use of the same general character as any of the above, including distribution plant for small parcels (capable of being hand-delivered), when such use is authorized as a special exception by the Zoning Hearing Board, and provided that such use shall be subject to such reasonable restrictions as the Zoning Hearing Board may determine, but excluding use by health-care professionals or use as a truck terminal or general public warehouse; no use shall be permitted which may be noxious or hazardous; no exterior storage of material or equipment shall be permitted, except temporary storage which is not noxious or offensive by reason of odor, dust, fumes, smoke, gas, vibration, noise or risk of fire explosion, and provided that such temporary storage shall not continue for periods of more than 72 hours at any one time, and provided further that said temporary storage shall be fully concealed by fencing or landscaping and shall be within the area which could be utilized for building on the lot. **[Amended 7-13-1989 by Ord. No. 582]**

- H. The following indoor recreational uses when authorized as a special exception by the Zoning Hearing Board: badminton, basketball, gymnastics, handball, squash and tennis, ice skating rink, provided that any such building shall have a waiting or spectator area which will comfortably accommodate no more than two times the maximum number of participants in any such recreational facilities on the premises, if they are being used to full capacity.
- I. Private-use heliport, subject to the provisions of § 116-33.1, when authorized as a special exception. **[Added 11-17-1983 by Ord. No. 481]**

**§ 116-129. Dimensional requirements; additional standards.**

- A. District area. The minimum area which may be classified as a CLI-X District shall be 20 acres.
- B. Lot area. The minimum area for any one lot shall be two acres, provided that the average size of all lots within any subdivision hereunder shall be not less than four acres. If any application for subdivision approval hereunder contains any lot with a minimum area of less than four acres, the applicant shall also submit a document to be entered of public record, restricting in perpetuity further subdivision of any lot containing six acres or more in such subdivision; such document, creating the restriction, shall be fully executed and approved as to form by the Township Solicitor prior to final approval of the subdivision. The Board of Supervisors shall agree in writing to remove any such deed restriction upon request from an owner of any lot, upon such owner's request for further subdivision, provided that the total number of lots in the entire tract which was originally subdivided shall have an average area of four acres after such further subdivision is approved. It shall be a condition of any such further subdivision that any proposed lot containing six acres or more shall be restricted against further subdivision as above provided.
- C. Building height. The maximum height of any building shall be 40 feet.
- D. Setbacks. Front, side and rear yards shall be a minimum of 150 feet from any residential district and 50 feet from any property line, except where the property abuts a railroad right-of-way, where no minimum setback is required. Notwithstanding the foregoing, where the ground elevation of the building is lower than the elevation of the midpoint of any residential line bounding the lot, the aforesaid one-hundred-fifty-foot minimum setback of any building from any residential zoning district shall be reduced by an amount calculated by multiplying 2.5 by the difference between 40 and the height of such building, provided that in no event shall the setback line from any residential zoning district be less than a minimum of 100 feet.
- E. Lot coverage. Maximum building coverage shall be no more than 30% of the total lot area. Impervious ground cover shall be no greater than 55% of the total lot area. Each lot shall have a minimum green space area of 45% of the total lot area. **[Amended 9-9-2004 by Ord. No. 794]**
- F. Control of dust, dirt, smoke, vapors and gases. No emission shall be made which can cause any damage to health, to animals or to vegetation or to other forms of property or which can cause any significant soiling at any point outside the

operations. Table I, Chapter V, Industrial Hygiene Standards, Maximum Allowable Concentrations, Air Pollution Abatement Manual, Manufacturing Chemists Association, 1951, Washington, D.C., shall be used as a guide in determining what is a toxic gas.

- G. Control of radioactivity or electrical disturbances. There shall be no activities which emit dangerous or harmful radioactivity or electrical disturbances on or beyond the lot line.
- H. Control of odors. There shall be no emission of odorous gases or other odorous matter in such quantities as to be offensive at or beyond the lot line or which exceeds the standards of Table III (odor threshold), Chapter V, Industrial Hygiene Standards, Maximum Allowable Concentration, Air Pollution Abatement Manual, Manufacturing Chemists Association, 1951, Washington, D.C. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system should fail.
- I. Control of glare and heat. Any operation producing intense glare or heat shall be performed within an enclosed building or behind a solid fence in such a manner as to be completely imperceptible from any point on or beyond the lot lines.
- J. Control of noises. At no point on or beyond the boundary of a residential or commercial district shall the sound-pressure level of any operation exceed the maximum of that permitted:

**Sound Levels**

**Maximum Permitted Sound Level**

(decibels)

<b>Octave Band</b>	<b>Along Residential District Boundaries</b>	<b>At Any Other Point on Lot Boundary</b>
<b>(cycles per second)</b>	<b>(Re: 0.0002 microbars)</b>	<b>(Re: 0.0002 microbars)</b>
0 to 75	72	79
75 to 150	67	74
150 to 300	59	66
300 to 600	52	59
600 to 1,200	46	53
1,200 to 2,400	40	47
2,400 to 4,800	34	41
Above 4,800	32	39

- K. Conformity to federal, state, regional and local standards. Any use permitted hereunder shall conform to all appropriate air pollution, particle emission, noise, electrical disturbances, waste disposal, light, glare, heat, vibration, radioactivity and outdoor storage of materials.

**§ 116-130. Landscaping and screening.**

All front yards, side yards and rear yards which abut a residential district shall be landscaped for a depth of 50 feet for the entire length thereof in accordance with a landscape plan showing the location, species, the size of trees and shrubs, grass and open areas, and other proposed landscaping, which plan shall include proposals for screening adjacent residential areas and shall be submitted for approval by the Township Shade Tree Commission prior to issuance of a building permit.

**§ 116-131. Parking.**

- A. Adequate off-street parking shall be provided at all times, but the requirement for same shall not be less than those specified in § 116-184, relating to off-street parking and loading, as contained in this chapter.
- B. No parking area shall be permitted within the front yard of any unit in a CLI-X District (except front yards facing an internal road wholly within an industrial park) nor closer than 100 feet to a residential district unless authorized as a special exception, but in no case shall any parking area be permitted closer than 50 feet to any residential district or to any property line of a property in residential use. The parking area shall not exceed 25% of the total lot area (unless authorized as a special exception) unless the total building area of buildings on such lot is less than 40% of the total lot area, in which event the difference between the 40% of the total area which could have been covered and the area actually covered by building area may be used for parking.
- C. On-street parking shall not be permitted.

**§ 116-132. Traffic to and from public roads.**

Provisions shall be made for safe and efficient ingress and egress to and from public streets and highways serving the site without undue congestion to or interference with the normal traffic flow within the Township. Plans showing the locations and engineering details of all entrances and exits shall be submitted for approval by the police and engineering departments prior to the issuance of building permits.

**§ 116-133. Signs.**

Advertising signs shall be permitted subject to the following requirements and limitations:

- A. Any sign permitted in any residential district (provided that the use to which it refers is permitted in a CLI-X District) shall be permitted on any portion of a lot or building.
- B. Where a property fronts on a street across from a residential district, one ground sign may be erected indicating the name(s) of the occupants, provided that such sign is mounted within the building setback area and is not connected to the building. The sign area of the side of any such sign shall not exceed 35 square feet. One additional square foot of sign area shall be allowed for each two feet that the sign is set back in excess of the minimum front yard required setback for a CLI-X District. **[Amended 7-21-1994 by Ord. No. 662]**

- C. No signs may be erected facing a residential district except as permitted under Subsections A and B above.
- D. Where a sign faces a nonresidential district, the total sign area erected by all occupants on any one street frontage shall not exceed 100 square feet, except that if street frontage is on a limited access toll road of not less than four lanes, the total signage for all sides of the building facing on the limited access toll road shall not exceed 300 square feet, provided that any such sign shall be attached to a building wall and shall not project higher than the main cornice line of the building. **[Amended 3-22-1990 by Ord. No. 594]**
- E. In addition thereto, where a property fronts on a street across from a nonresidential district, one ground sign may be erected at the entrance of the property out of the clear site area and no closer to the road than half the front yard setback indicating the name of the occupant(s), provided that the total area erected on any one street frontage shall not exceed 35 square feet. **[Amended 7-21-1994 by Ord. No. 662]**
- F. All signs shall conform to § 116-209 of the Whitemarsh Township Code. **[Amended 7-21-1994 by Ord. No. 662]**

**§ 116-133.1. District references.**

All references to residential districts in §§ 116-128 through 116-133, inclusive, shall include any zoning district in which any type of dwellings are a permitted use.



ARTICLE XX  
**LIM and LIM-X Limited Industrial Districts**

**§ 116-134. Legislative intent.**

In expansion of the declaration of legislative intent contained in § 116-2 of the Zoning Ordinance, it is hereby declared to be the intent of this article with respect to industrial zones to establish reasonable standards for the height and size of buildings, the area and dimensions of yards and open spaces, and the provision of facilities and operation of industries to minimize traffic congestion, noise, glare, vibration, air pollution, water pollution and fire and safety hazard in LIM and LIM-X Industrial Districts. It is the further intent to provide for the rehabilitation of extractive uses when completed.

**§ 116-135. Authorization of Map amendments; scope.**

The Board of Supervisors may authorize as an amendment to the Zoning Map the designation of an area as an LIM Limited Industrial District or as an LIM-X Limited Industrial District for the location of an industrial development. In an LIM or LIM-X Limited Industrial District, the following regulations shall apply.

**§ 116-136. District area.**

No Limited Industrial District shall be less than 10 acres.

**§ 116-137. Dimensional requirements; additional standards.**

- A. No industrial lot size shall be less than four acres.
- B. Lot area coverage and yard regulations.
  - (1) Lot coverage. Maximum building coverage shall be no more than 40% of the total lot area. Impervious ground cover shall be no greater than 60% of the total lot area. Each lot shall have a minimum green space area of 40% of the total lot area. **[Amended 9-9-2004 by Ord. No. 794]**
  - (2) No building or structure may be erected closer than 200 feet to any residential district; open areas shall be landscaped in accordance with a landscape plan showing the location, species and size of trees and shrubs and other proposed landscaping, which plan shall include proposals for screening adjacent residential areas and shall be submitted to and approved by the Shade Tree Commission prior to issuance of a building permit.
  - (3) No side or rear yard shall be required for the side or rear of a building or structure abutting on an existing railroad right-of-way except as provided in Subsection B(2) above.
  - (4) Front yard. The required minimum depth of a front yard shall be 50 feet except as provided in Subsection B(2) above.
  - (5) Side yard. On each interior lot, there shall be two side yards each having a width of not less than 50 feet, except as provided in Subsection B(2) and (3) above.

- (6) On each corner lot, there shall be two side yards, each having a width of not less than 50 feet, the side yards abutting the street having the width of not less than 50 feet and the side yard not abutting the street having a width of not less than 50 feet, except as provided in Subsection B(2) and (3) hereof.
  - (7) Rear yards. There shall be a rear yard on each lot, the depth of which shall not be less than 50 feet, except as provided in Subsection B(2) and (3) hereof.
- C. Height regulations.
- (1) The maximum height of buildings and other structures erected in this district measured at the building line of all required yards shall be 35 feet, but any portion of a building erected above such height limit shall be erected within a recession at the rate of one foot of recession for each one foot of additional height, provided that a height of 40 feet or more shall require a special exception, with no structure to be erected over 65 feet.
  - (2) The following appurtenances of buildings may be erected above the recession plane, provided that such structure shall not reduce the width or depth of a court or yard to less than the minimum required:
    - (a) Chimneys and stacks.
    - (b) Penthouses (not more than one story).
    - (c) Tanks and tank towers.
    - (d) Flagpoles and aerals.
- D. Control of dust, dirt, smoke, vapors and gases. No emission shall be made which can cause any damage to health, to animals, or to vegetation or to other form of property or which can cause any detrimental soiling at any point outside the operations. Table I, Chapter V, Industrial Hygiene Standards, Maximum Allowable Concentrations, Air Pollution Abatement Manual, Manufacturing Chemists Association, 1951, Washington, D.C., shall be used as a guide in determining what is a toxic gas.
- E. Control of radioactivity or electrical disturbances. There shall be no activities which emit dangerous or harmful radioactivity or electrical disturbances on or beyond the lot line.
- F. Control of odors. There shall be no emission of odorous gases or other odorous matter in such quantities as to be offensive at or beyond the lot line or which exceeds the standards of Table III (odor threshold) Chapter V, Industrial Hygiene Standards, Maximum Allowable Concentrations, Air Pollution Abatement Manual, Manufacturing Chemists Association, 1951, Washington, D.C. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system should fail.
- G. Control of glare and heat. Any operation producing intense glare or heat shall be performed within an enclosed building or behind a solid fence in such a manner as to be completely imperceptible from any point on or beyond the lot lines.

- H. Control of noises. At no point on or beyond the boundary of a residential or commercial district shall the sound-pressure level of any operation exceed the maximum of that permitted.

**Sound Levels**

**Maximum Permitted Sound Level**

(decibels)

<b>Octave Band</b>	<b>Along Residential District Boundaries</b>	<b>At Any Other Point on Lot Boundary</b>
<b>(cycles per second)</b>	<b>(Re: 0.0002 microbars)</b>	<b>(Re: 0.0002 microbars)</b>
0 to 75	72	79
75 to 150	67	74
150 to 300	59	66
300 to 600	52	59
600 to 1,200	46	53
1,200 to 2,400	40	47
2,400 to 4,800	34	41
Above 4,800	32	39

- I. Conformity to federal, state, regional and local standards. Any use permitted under the provisions of this chapter shall conform to appropriate federal, state, regional and local standards relative to water or air pollution, particle emission, noise, electrical disturbances, waste disposal, light, glare, heat, vibration, radioactivity and outdoor storage of materials.

**§ 116-138. Traffic to and from streets.**

Provision shall be made for safe and efficient ingress and egress to and from streets and highways serving the site. All means of access to any tract in a Limited Industrial District from any street shall be so located and designed as to minimize the effect on existing traffic and adjacent land uses. All access and internal circulation streets shall be constructed or treated so as to be substantially dust-free and mud-free. A traffic circulation and control plan shall be prepared and filed with the Township for approval. The Township may require the owners in a Limited Industrial District to provide traffic control by various means when vehicles are entering or crossing streets for the safe movement of vehicular and pedestrian traffic.

**§ 116-139. Signs.**

Signs in a Limited Industrial District shall be regulated in accordance with Article XXVIII of this chapter of the Whitmarsh Township Code, as amended.

**§ 116-140. Off-street parking and loading.**

Adequate off-street parking and loading shall be provided at all times, but requirements for same shall not be less than those specified in Article XXVI, relating to off-street

parking and loading, as contained in the Whitemarsh Township Zoning Ordinance. No parking area shall be permitted within the minimum required front yard of any lot in a Limited Industrial District, nor closer than 100 feet to a residential district.

**§ 116-141. Outdoor storage and disposal of hazardous wastes.**

- A. No flammable or explosive liquids, solids or gases shall be stored in bulk above the ground; provided, however, that tanks or drums directly connecting with energy devices, heating devices, or appliances located on the same lot as the tanks or drums are excluded from this provision.
- B. All outdoor storage facilities for fuel, raw materials and products stored outdoors, including those permitted in Subsection A hereinabove, shall be enclosed by a fence of a type, construction and size as shall be adequate to protect and conceal the facilities from any adjacent properties. Fencing shall not only encompass the question of safety but also of screening, and the screening may be in the nature of trees, shrubbery, etc.
- C. No materials or wastes shall be deposited upon a lot in such a form or manner that may be transferred off the lot by natural causes or forces.
- D. All materials or wastes which might cause fumes or which constitute a fire hazard or which may be edible or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.

**§ 116-142. Power facilities.**

Every use requiring power shall be so operated, constructed and installed, etc., to be an integral part of the architectural features of the plant, or if visible from abutting residential properties shall be concealed by coniferous planting.

**§ 116-143. Application and review by Planning Commission. [Amended 9-25-2008 by Ord. No. 862]**

- A. When deemed appropriate by the Zoning Officer, plans for any use in a Limited Industrial District shall be submitted to the Planning Commission prior to the issuance of any zoning permit or certificate of occupancy as provided in Article XXX, and such plans shall include, in addition to other applicable requirements, the following: **[Amended 3-28-2013 by Ord. No. 925]**
  - (1) A plot plan of the lot showing the location of all present and proposed buildings, drives, parking lots, waste disposal facilities and other constructional features on the lot and all buildings, streets, alleys, highways, streams and other topographical features of the lot and within 200 feet of any lot line.
  - (2) Architectural plans for any proposed building and/or addition.
  - (3) A description of the industrial operations proposed in sufficient detail to indicate water pollution, fire hazard or safety hazards.
  - (4) Engineering and architectural plans for the handling and disposal of sewage

and industrial waste.

- (5) Engineering and architectural plans for the handling of any excess traffic congestion, noise, glare, air pollution, water pollution, fire hazard or safety hazard.
  - (6) Designation of the fuel proposed to be used and any necessary architectural and engineering plans for controlling smoke.
  - (7) The proposed number of shifts to be worked and the maximum number of employees on each shift.
  - (8) Landscaping plan for all front yards, side yards and rear yards, which shall show the location, species and size of trees and shrubs and area to be in lawn, and which plan shall be submitted to the Shade Tree Commission for approval prior to the issuance of any permit.
  - (9) Any other data that the Planning Commission may require.
- B. The Planning Commission shall review all plans and the data submitted to it and shall submit such plans and data, together with any recommended conditions for the issuance of a permit, to the Zoning Officer. **[Amended 3-28-2013 by Ord. No. 925]**
- C. As a guide for recommendations by the Planning Commission, the following provisions shall be considered:
- (1) The plan is consistent with the Comprehensive Plan for the orderly development of the Township with the purpose of this chapter to promote the health, safety, morals and the general welfare of the Township.
  - (2) The appropriate use of the property adjacent to the area included in the plan will be safeguarded.
  - (3) The development will consist of harmonious groupings of buildings, service and parking area circulation and open spaces, planned as a single unit, in such manner as to constitute a safe, efficient and convenient industrial site.
  - (4) The uses to be included will be limited to those permitted by § 116-144.
  - (5) There is adequate provision made for safe and efficient pedestrian and vehicular traffic circulation within the boundaries of the site.
  - (6) Provision is made for safe and efficient ingress and egress to and from public streets and highways serving the site without undue congestion to or interference with normal traffic flow within the Township.
  - (7) Adequate off-street parking and loading space will be provided in accordance with Article XXVI and §§ 116-138 and 116-140 of this article as an integral part of the plan.
  - (8) All buildings within the development shall be served by a central sanitary sewage disposal system.

- (9) If the development is to be carried out in progressive stages, each stage shall be so planned that the foregoing requirements and intent of this chapter shall be fully complied with by the development at the completion of any stage.
- D. This process applies to applications that do not otherwise constitute a subdivision and/or land development as defined by Chapter 105 of the Township Code.

**§ 116-144. Use regulations.**

- A. A building may be erected, altered or used and a lot or premises may be used for any of the following purposes and no other:
- (1) Cinema, radio and television productions.
  - (2) Distribution plant for small parcels (capable of being hand delivered), cold storage plants and bottling plants.
  - (3) Electric-transforming substations, or other necessary public service uses.
  - (4) Laboratories, experimental manufacturing and research.
  - (5) Manufacture, compounding, assembly or treatment of articles or merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, rope, cord and twine, plastics, natural and synthetic rubber, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plaster, metals, precious or semiprecious stones, shell, tobacco, textiles, wood (excluding planing mill), yarns.
  - (6) Manufacturing, compounding, processing, packaging or treatment of such products as candy, cosmetics, dairy products, drugs, perfume, pharmaceuticals and toiletries.
  - (7) Manufacture of ceramic products, using only previously pulverized clay.
  - (8) Manufacture and assembly of electrical or electronic devices; home, commercial and industrial appliances and instruments; including the manufacture of accessory parts or assemblies.
  - (9) Manufacture of musical instruments, toys and novelties.
  - (10) Manufacture of textiles or textile products, including spinning and weaving, but not including wool pulling or scouring, or jute or burlap processing or reconditioning.
  - (11) Manufacture of paper or cardboard boxes, containers and novelties from previously prepared paper or cardboard.
  - (12) Offices and office record storage.
  - (13) Printing, publishing, lithographing, binding and kindred arts.
  - (14) Parking or garage, for pleasure or commercial vehicles.
  - (15) Warehouse as an accessory use to a manufacturing process.

- (16) Office buildings.
- (17) Banking facilities.
- (18) Medical facilities.
- (19) Restaurants.
- (20) Accessory uses on the same lot with and customarily incidental to any specific permitted use.
- (21) Any industrial use not hereinafter specifically excluded, which meets the provisions of §§ 116-136 through 116-143, inclusive, of this article when authorized as a special exception.
- (22) Any use permitted in an Institutional District. **[Added 10-21-1982 by Ord. No. 442]**
- (23) Private-use heliport, subject to the provisions of § 116-33.1, when authorized as a special exception. **[Added 11-17-1983 by Ord. No. 481]**
- (24) Apartment buildings and condominiums, age-restricted, when authorized by the Board of Supervisors as a conditional use. The Board of Supervisors may grant approval of such use, provided that the following conditions are satisfied: **[Added 12-18-2003 by Ord. No. 784]**
  - (a) Lot size shall not be less than 40 acres.
  - (b) The lot shall abut, on some portion of its perimeter, land zoned AD, Apartment - LR, Apartment - HR, or MHP.
  - (c) A minimum of 50% of the site shall be set aside as common open space which shall be owned and maintained by the property owner, if an apartment project, or the condominium association, if a condominium regime is established. For the purposes of open space calculation, open space shall not include public or private streets and driveways, public street rights-of-way, parking area, any areas within 25 feet of any principal building, or other public improvements, nor shall it include the fifty-foot buffer area along the perimeter of the site.
  - (d) Unit occupancy shall be no more than three persons on a permanent basis, at least one of whom shall be 55 years of age or older. Further, no person under the age of 19 shall occupy a dwelling for more than three months in a calendar year.
  - (e) Declaration of age restriction. At the time of conditional use approval, the developer shall record a declaration against the entire site area, in a form acceptable to the Township, binding the entire property and all owners and subsequent owners and occupants to adhere to the requirements set forth in Subsection A(24)(d) hereinabove with regard to unit occupancy.
  - (f) The application for development shall be accompanied by a plan or plans, which shall comply with all requirements of Chapter 105 (Subdivision and Land Development) and Chapter 116 (Zoning) of the Whitmarsh

Township Code and any other applicable ordinances and/or chapter of the Whitemarsh Township Code. The plan shall clearly designate the proposed use for each area of the parcel(s).

- (g) The parcel(s) of land shall be in single ownership and shall be developed in accordance with the plan.
- (h) When apartment buildings and condominium, age-restricted, is permitted as a conditional use, the following regulations shall apply:
  - [1] Maximum density shall not exceed six dwelling units per acre within the site area.
  - [2] All interior roads shall be undedicated and have a minimum width of 30 feet.
  - [3] Building setbacks on interior undedicated roadways or parking areas shall be a minimum of 20 feet measured from the curblines.
  - [4] No building shall contain more than 30 dwelling units. The maximum length of any building shall not exceed 220 feet, and the maximum depth shall not exceed 140 feet.
  - [5] The exterior facade shall present sufficient variation in elevation by way of balconies, varied roofline, setbacks and indentation.
  - [6] Principal and accessory buildings shall not cover more than 15% of the site area.
  - [7] Impervious coverage shall not exceed 25% of the site area.
  - [8] No building or structure may be erected closer than 200 feet to any residential zoning district. Setbacks from nonresidential zoning districts shall be in accordance with the provisions of § 116-137.
  - [9] No two buildings shall be closer than 60 feet to one another at any point along the external walls.
  - [10] The maximum building height shall be 50 feet with not more than three stories/floors of residential occupancy.
  - [11] Provisions for walking trails, gardens and public gathering places shall be incorporated into the required open space.
  - [12] A minimum of two off-street parking spaces shall be provided for each dwelling unit and such additional guest parking as established by the conditional use hearing to be appropriate. If ground floor parking beneath residential units is in a building as provided, the provisions of § 116-256J shall govern the design of the underground parking spaces.
  - [13] A maximum of one sign identifying the name of the development owner and/or manager to not exceed 16 square feet on one face and 32 square feet total area may be permitted at each regular permanent

entrance serving the development.

[14] One sign may be provided for each separate building identifying the building, provided that the area of any one side of such sign shall not exceed eight square feet.

[15] Accessory structures and uses shall be limited to those that are accessory to the apartment buildings and condominiums, age-restricted, development. No other "limited industrial" uses are permitted.

(25) Attached dwellings subject to the following site and design criteria: **[Added 10-14-2010 by Ord. No. 897]**

- (a) Site shall not be less than 40 acres.
- (b) The site shall abut, on some portion of its perimeter, land zoned AD, Apartment – LR, Apartment – HR, or MHP.
- (c) Maximum density shall not exceed 3.2 units per acre within the site area.
- (d) The following provisions set forth at Article XIII, AD Attached Dwelling District, shall be applicable: § 116-81, 116-82, 116-85, 116-85.1.
- (e) The maximum impervious coverage shall be 40% and the minimum open space requirement shall be 20% of the total tract area. The development criteria set forth at § 116-85.2A, B and D shall apply.
- (f) The following additional design criteria shall apply:
  - [1] Height: 35 feet maximum.
  - [2] Width at building setback line: 20 feet minimum.
  - [3] Side yard, from adjacent private road or drive or right-of-way of dedicated road: 15 feet.
  - [4] Distance between buildings where orientation of two buildings is side to side shall be a minimum of 30 feet between two exterior walls.
  - [5] Distance between buildings where orientation other than side to side shall be a minimum of 40 feet between two exterior walls.
  - [6] The provisions of § 116-83A shall apply with the exception that a deck or patio affixed to an attached dwelling may encroach to a maximum of 10 feet into the fifty-foot buffer/setback.

(26) Mobile home park in accordance with the requirements of §§116-87 through 116-90. **[Added 10-25-2018 by Ord. No. 988]**

- B. Uses not permitted in industrial districts pursuant to the provisions of Article XXI, § 116-155, shall not be permitted in any limited industrial district.
- C. Extraction of mineral deposits and removal of same shall not be permitted in an

LIM District but shall be permitted in an LIM-X District in strict compliance with further requirements of §§ 116-155 and 116-157 of the Whitemarsh Township Code, but no stockpiles shall be permitted except stockpiles of topsoil or overburden not exceeding 50 feet in height.

- D. Any permitted use shall be conducted wholly within a completely enclosed building or in a court, enclosed on all sides by buildings, except for on-site parking, loading and storage incidental thereto.

ARTICLE XXI  
**HVY Districts**

**§ 116-145. Legislative intent. [Amended 3-28-2013 by Ord. No. 925<sup>23</sup>]**

In expansion of the declaration of legislative intent contained in § 116-2, it is hereby declared to be the intent of this article with respect to industrial zones to establish reasonable standards for the height and size of buildings, the area and dimensions of yards and open spaces, and the provisions of facilities and operation of industries to minimize traffic congestion, noise, glare, vibration, air pollution, water pollution and fire and safety hazard in the HVY Industrial District. It is the further intent to provide for the rehabilitation of extractive uses when completed.

**§ 116-146. Authorization of Map amendments; scope. [Amended 3-28-2013 by Ord. No. 925]**

The Board of Supervisors may authorize as an amendment to the Zoning Map the designation of an area as an HVY Industrial District for the location of an industrial development. In an HVY Industrial District, the following regulations shall apply.

**§ 116-147. District area.**

No industrial district shall be less than 20 acres.

**§ 116-148. Dimensional requirements; additional standards.**

- A. Lot area. No industrial lot size shall be less than two acres.
- B. Lot area coverage and yard regulations.
  - (1) Lot coverage. Maximum building coverage shall be no more than 40% of the total lot area. Impervious ground cover shall be no greater than 60% of the total lot area. Each lot shall have a minimum green space area of 40% of the total lot area. **[Amended 9-9-2004 by Ord. No. 794]**
  - (2) No building or structure may be erected closer than 200 feet to any residential district; open areas shall be landscaped in accordance with a landscape plan showing the location, species and size of trees and shrubs and other proposed landscaping, which plan shall include proposals for screening adjacent residential areas and shall be submitted to and approved by the Shade Tree Commission prior to issuance of a building permit.
  - (3) No side or rear yard shall be required for the side or rear of a building or structure abutting on an existing railroad right-of-way except as provided in Subsection B(2) above.
  - (4) Front yard. There shall be a front yard on each lot located across from an industrial or commercial zone of not less than 20 feet in depth, except as provided in § 116-153.

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23. Editor's Note: This ordinance also amended the title of this article from "HVY and HVY-X Industrial Districts" to "HVY District."

- (5) Side yards. On each interior lot there shall be two side yards having an aggregate width of not less than 40 feet, neither side yard having a width of less than 15 feet, except as provided in Subsection B(2) and (3) above and in § 116-153.
  - (6) On each corner lot, there shall be two side yards having an aggregate width of not less than 40 feet, the side yards abutting the street having the width of not less than 25 feet and the side yard not abutting the street having a width of not less than 15 feet, except as provided in Subsection B(2) and (3) hereof and in § 116-153.
  - (7) Rear yards. There shall be a rear yard on each lot, the depth of which shall not be less than 20 feet, except as provided in Subsection B(2) and (3) hereof and in § 116-153.
- C. Maximum height of buildings. No building shall exceed one foot in height for each one foot of setback from the property line or ultimate right-of-way line, whichever is closer to the building, and no building shall exceed 120 feet in height exclusive of equipment, devices and appurtenances such as stacks, tanks, silos, elevators or air-pollution control equipment.
- D. Control of dust, dirt, smoke, vapors and gases. No emission shall be made which can cause any damage to health, to animals or to vegetation or to other form of property or which can cause any detrimental soiling at any point outside the operations. Table I, Chapter V, Industrial Hygiene Standards, Maximum Allowable Concentrations, Air Pollution Abatement Manual, Manufacturing Chemists Association, 1951, Washington, D.C., shall be used as a guide in determining what is a toxic gas.
- E. Control of radioactivity or electrical disturbances. There shall be no activities which emit dangerous or harmful radioactivity or electrical disturbance on or beyond the lot line.
- F. Control of odors. There shall be no emission of odorous gases or other odorous matter in such quantities as to be offensive on or beyond the lot line or which exceeds the standards of Table III (odor threshold), Chapter V, Industrial Hygiene Standards, Maximum Allowable Concentrations, Air Pollution Abatement Manual, Manufacturing Chemists Association, 1951, Washington, D.C. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system should fail.
- G. Control of glare and heat. Any operation producing intense glare or heat shall be performed within an enclosed building or behind a solid fence in such a manner as to be completely imperceptible from any point on or beyond the lot line.
- H. Control of noises. At no point on or beyond the boundary of a residential or commercial district shall the sound-pressure level of any operation exceed the maximum of that permitted.

**Sound Levels**  
**Maximum Permitted Sound Level**  
**(decibels)**

<b>Octave Band</b> <b>(cycles per second)</b>	<b>Along Residential</b> <b>District Boundaries</b> <b>(Re: 0.0002 microbars)</b>	<b>At Any Other Point on</b> <b>Lot Boundary</b> <b>(Re: 0.0002 microbars)</b>
0 to 75	72	79
75 to 150	67	74
150 to 300	59	66
300 to 600	52	59
600 to 1,200	46	53
1,200 to 2,400	40	47
2,400 to 4,800	34	41
Above 4,800	32	39

- I. Conformity to federal, state, regional and local standards. Any use permitted under the provisions of this chapter shall conform to appropriate federal, state, regional and local standards relative to water or air pollution, particle emission, noise, electrical disturbances, waste disposal, light, glare, heat, vibration, radioactivity and outdoor storage of materials.

**§ 116-149. Traffic to and from streets. [Amended 3-28-2013 by Ord. No. 925]**

Provision shall be made for safe and efficient ingress and egress to and from streets and highways serving the site. All means of access to any tract in an HVY Industrial District shall be so located and designed as to minimize the effect on existing traffic and adjacent land uses. All access and internal circulation streets shall be constructed or treated so as to be substantially dust-free and mud-free. A traffic circulation and control plan shall be prepared and filed with the Township for approval. The Township may require the owners in an HVY District to provide traffic control by various means when vehicles are entering or crossing streets for the safe movement of vehicular and pedestrian traffic.

**§ 116-150. Signs.**

Signs in an industrial district shall be regulated in accordance with Article XXVIII of the Whitemarsh Township Code, as amended.

**§ 116-151. Off-street parking and loading.**

Adequate off-street parking and loading shall be provided at all times, but requirements for same shall not be less than those specified in Article XXVI, relating to off-street parking and loading, as contained in the Whitemarsh Township Code (Chapter 116). No parking area shall be permitted within the required minimum front yard of any lot in an industrial district, nor closer than 100 feet to a residential district.

**§ 116-152. Application and review by Planning Commission. [Amended 9-25-2008 by Ord. No. 862]**

- A. When deemed appropriate by the Zoning Officer, plans for any use in an industrial district shall be submitted to the Planning Commission prior to the issuance of any zoning permit or certificate of occupancy, as provided in Article XXX, and such plans shall include, in addition to other applicable requirements, the following: **[Amended 7-28-2011 by Ord. No. 907; 3-28-2013 by Ord. No. 925]**
- (1) A plot plan of the lot showing the location of all present and proposed buildings, drives, parking lots, waste disposal facilities and other constructional features on the lot and all buildings, streets, alleys, highways, streams and other topographical features of the lot and within 200 feet of any lot line.
  - (2) Architectural plans for any proposed building and/or addition.
  - (3) A description of the industrial operations proposed in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, water pollution, fire hazards or safety hazards.
  - (4) Engineering and architectural plans for the handling and disposal of sewage and industrial waste.
  - (5) Engineering and architectural plans for the handling of any excess traffic congestion, noise, glare, air pollution, water pollution, fire hazard or safety hazard.
  - (6) Designation of the fuel proposed to be used and any necessary architectural and engineering plans for controlling smoke.
  - (7) The proposed number of shifts to be worked and the maximum number of employees on each shift.
  - (8) Landscaping plan for all front yards, side yards and rear yards, which shall show the location, species and size of trees and shrubs and area to be in lawn, and which plan shall be submitted to the Shade Tree Commission for approval prior to the issuance of any permit.
  - (9) Any other data that the Planning Commission may require.
- B. The Planning Commission shall review all plans and the data submitted to it and shall submit such plans and data, together with any recommended conditions for the issuance of a permit, to the Zoning Officer. **[Amended 3-28-2013 by Ord. No. 925]**
- C. As a guide for recommendations by the Planning Commission, the following provisions shall be considered:
- (1) The plan is consistent with the Comprehensive Plan for the orderly development of the Township with the purpose of this chapter to promote the health, safety, morals and the general welfare of the Township.
  - (2) The appropriate use of the property adjacent to the area included in the plan

will be safeguarded.

- (3) The development will consist of a harmonious grouping of buildings, service and parking area circulation and open spaces, planned as a single unit, in such manner as to constitute a safe, efficient and convenient industrial site.
- (4) The uses to be included will be limited to those permitted in § 116-155 of this article.
- (5) There is adequate provision made for safe and efficient pedestrian and vehicular traffic circulation within the boundaries of the site.
- (6) Provision is made for safe and efficient ingress and egress to and from public streets and highways serving the site without undue congestion to or interference with normal traffic flow within the Township.
- (7) Adequate off-street parking and loading space will be provided in accordance with Article XXVI and §§ 116-149 and 116-151 and as an integral part of the plan.
- (8) All buildings within the development shall be served by a central sanitary sewage disposal system.
- (9) If the development is to be carried out in progressive stages, each stage shall be so planned that the foregoing requirements and intent of this chapter shall be fully complied with by the development at the completion of any stage.

D. This process applies to applications that do not otherwise constitute a subdivision and/or land development as defined by Chapter 105 of the Township Code.

### **§ 116-153. Expansion.**

Where any business or industry existing in an industrial district is made nonconforming by adoption of this chapter, by reason of existing lot coverage or by reason of any one or more of the following: existing front, rear, side yard or setbacks, then the provisions of Article XXVII regulating nonconforming uses shall not apply, and in that event, such business or industry may expand in any one or more directions to the ultimate right-of-way line of any street and to the property line of property held in single and separate ownership and zoned "industrial" at the time of enactment of this chapter, except where such street or property line is a residential district boundary line; expansion or change of a nonconforming use within the setback area shall be permitted only under the provisions of a special exception.

### **§ 116-154. Right to continue or expand. [Amended 3-28-2013 by Ord. No. 925]**

Nothing herein shall be interpreted or construed to restrict any industry or business existing within an HVY Industrial District at the adoption of this chapter from continuing or expanding, subject to the provisions of this chapter, within such district or within such new industrial districts as may be created from time to time.

### **§ 116-155. Use regulations.**

A. A building may be erected, altered or used and a lot or premises may be used for

any lawful purpose; however, the following shall not be permitted except as an accessory use customarily incidental to a permitted use:

Abattoirs

Acetylene gas manufacture

Ammonia, bleaching powder and chlorine manufacture

Arsenal

Automobile dismantling or junk establishment, unless carried on in an enclosed building

Bakery, wholesale

Beryllium processing

Blast furnace

Brewing

Celluloid manufacture

Coke oven

Commercial advertising on billboards, except advertising of a business or industry conducted on the premises

Creosote treatment or manufacture

Distillation of bones, coal, wood, petroleum, refuse or grain

Dwellings, except such as are for the residence of a caretaker, watchman or custodian on the same lot with the principal use to which it is accessory, and located at least 10 feet from any such building

Dye-stuff manufacture

Fat rendering

Fireworks or explosive manufacture

Fish smoking and curing

Glue, size or gelatin manufacture

Incineration, reduction, storage or dumping of slaughterhouse refuse, rancid fats, garbage, dead animals or offal

Lampblack manufacture

Oil cloth or linoleum manufacture

Oiled goods manufacture

Oil, turpentine or varnish manufacture

Organic fertilizer manufacture

Petroleum or asphalt refining

Plating works

Printing ink manufacture

Pyroxylin manufacture

Retail commercial

Soda and soda compound manufacture

Steel mill

Stockyard and piggery

Sulfuric, nitric or hydrochloric acid manufacture

Tallow, grease or lard manufacture or refining, tanning, curing or storage of leather, rawhide or skins

Tar distillation or manufacture

Vinegar manufacture

Wool pulling or scouring

Yeast plant

Any other use which is or may be, in comparable degree to any of the foregoing, noxious or offensive by reason of odor, dust, fumes, smoke, gas, vibration, illumination or noise, or which is or may be dangerous to the public health, welfare, safety or which constitutes or may constitute a public nuisance or hazard, whether by fire, explosion or otherwise

- B. Extraction of mineral deposits, stockpiling, the processing of the removed materials and on-site operations appurtenant to mineral extraction shall not be permitted uses in an HVY Industrial District. **[Amended 3-28-2013 by Ord. No. 925]**
- C. Private-use heliport, subject to the provisions of § 116-33.1, shall be permitted, when authorized as a special exception. **[Added 11-17-1983 by Ord. No. 481]**
- D. Sales of consumer fireworks shall be permitted by conditional use, subject to compliance with all conditions set forth in § 116-104A(8). **[Added 10-25-2018 by Ord. No. 989]**

**§ 116-156. (Reserved)<sup>24</sup>**

**§ 116-157. (Reserved)<sup>25</sup>**

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24. Editor's Note: Former § 116-156, Additional regulations, was repealed 3-28-2013 by Ord. No. 925.

25. Editor's Note: Former § 116-157, Time for compliance, was repealed 3-28-2013 by Ord. No. 925.



ARTICLE XXII  
**Floodplain Conservation Overlay District<sup>26</sup>**

**§ 116-158. Compliance required.**

No structure or land shall hereafter be used and no structure shall be located, relocated, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of this chapter and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this chapter.

**§ 116-159. District description.**

The Floodplain Conservation District shall include areas adjoining any watercourse, drainage course or body of water subject to periodic inundation or overflow. The most extensive of those areas described in the following sources determine the outermost boundary of the Floodplain Conservation District:

- A. One-hundred-year flood boundary, as delineated in the Flood Insurance Study dated December 19, 1996, and the accompanying maps prepared by the Federal Emergency Management Agency (FEMA), or the most recent revision thereof. **[Amended by Ord. No. 693]**
- B. Fifty-year flood, as delineated in the Floodplain Information Report on Wissahickon Creek, Montgomery County, Pennsylvania, Corps of Engineers, United States Army District, Philadelphia, March 1965.
- C. The Floodplain District shall be extended to include land areas which contain soil characteristics clearly indicating flooding conditions, hereinafter referred to as "floodplain soils." The floodplain soils shall include any one or combination of the following soil classifications as defined in the Soil Survey of Montgomery County, Pennsylvania, prepared by the United States Department of Agriculture, Soil Conservation Service: Bermudian silt loam, Bouldery alluvial land, Bowmansville silt loam, Codorus silt loam, Hatboro silt loam and Rowland silt loam. **[Amended 7-15-1993 by Ord. No. 645]**

**§ 116-160. Determination of Floodplain Conservation District. [Amended 7-15-1993 by Ord. No. 645]**

The Floodplain Conservation District is established as hereinabove described. Where the specific one-hundred-year elevation has not been detailed on the Flood Insurance Study, the floodplain soils shall govern unless the applicant for the proposed use, development and/or activity determines this elevation is in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analysis shall be undertaken at the expense of the applicant by professional engineers or others of demonstrated qualifications, who shall certify that the methods used correctly reflect currently accepted technical concepts. Soil mapping may be verified by the applicant by on-site testing. Studies, analysis, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Township.

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26. Editor's Note: This article title was amended, to include the word "overlay," 1-28-2010 by Ord. No. 893. Said ordinance also provided that all references to said district would be construed to be the name as amended.

**§ 116-161. Overlay concept.**

- A. The Floodplain Conservation District shall be an overlay to the existing underlying districts as shown on the Zoning Map. As such, the provisions for the Floodplain Conservation District shall serve as a supplement to the underlying district provisions.
- B. Where there is any conflict between the provisions or requirements of the Floodplain Conservation District and those of any underlying district, the more restrictive provisions shall apply.

**§ 116-162. District boundary changes.**

The delineation of the Floodplain Conservation District may be revised by the Board of Supervisors where natural or man-made changes have occurred or where more detailed studies conducted or undertaken by a qualified agency or individual document the suitability for such change. Prior to any such revision, approval shall be obtained from the Federal Insurance Administration.

**§ 116-163. Interpretation of district boundaries.**

Initial interpretations of the boundaries of the Floodplain Conservation District shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of the district, the Zoning Hearing Board shall make a determination, pursuant to § 116-216. The person questioning the location of the district boundary shall have the burden of proving the actual location of the boundary in question.

**§ 116-164. General restrictions.**

- A. No use, activity or development shall adversely affect the capacity of the channels or floodways of any watercourse, drainage course or any other drainage facility or system.
- B. Prior to undertaking any alteration or relocation of any stream or watercourse within the Township:
  - (1) A permit shall be obtained from the Pennsylvania Department of Environmental Resources, Dams and Encroachment Division; and
  - (2) Notification of the proposed alteration or relocation shall be given to all affected adjacent municipalities. Copies of such notifications shall be forwarded to both the Federal Insurance Administration and the Pennsylvania Department of Community Affairs.
- C. In the Floodplain Conservation District, no development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate local, state and federal authorities as required above.
- D. Any structure to be located in the Floodplain Conservation District which will be used for the production or storage of any of the following materials or substances or which will be used for any activity requiring the maintenance of a supply (more

than 550 gallons or other comparable volume, or any amount of radioactive substances) of any of the following materials or substances on the premises shall be prohibited: **[Added 1-13-1983 by Ord. No. 458]**

Acetone

Ammonia

Benzene

Calcium carbide

Carbon disulfide

Celluloid

Chlorine

Corrosive liquids, flammable liquids or solids, highly toxic materials or similar substances determined to be hazardous by the Fire Marshal

Hydrochloric acid

Hydrocyanic acid

Magnesium

Nitric acid and oxides of nitrogen

Pesticides (including insecticides, fungicides and rodenticides)

Petroleum products (gasoline, fuel oil, etc.)

Phosphorus

Potassium

Radioactive substances, insofar as such substances are not otherwise regulated

Sodium

Sulphur and sulphur products

**§ 116-165. Permitted uses. [Amended 5-14-1998 by Ord. No. 708]**

- A. In the Floodplain Conservation District, dwellings, except for mobile or manufactured homes, are permitted within the floodway fringe, provided that they are in compliance with the provisions of the underlying district; they cause no increase in the elevation of the one-hundred-year-frequency recurrent interval flood by more than one foot at any point; and are not prohibited by any other ordinances or regulations.
- B. In the Floodplain Conservation District, the following additional uses and activities are permitted, provided that they are in compliance with the provisions of the underlying district and are not prohibited by another ordinance and provided they do not require structures, fill or storage of materials or equipment:
  - (1) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild-crop harvesting, operating pursuant to recognized soil conservation practices.
  - (2) Public and private recreational uses and activities, such as parks, day camps,

picnic grounds, golf courses, boat launching and swimming areas, hiking, horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries and fishing areas.

- (3) Front, side or rear yards and required lot area.
- (4) Pervious parking and loading areas.

**§ 116-166. Special exception uses.**

- A. The following uses and activities may be permitted in the floodway by special exception, provided that they are in compliance with the provisions of the underlying district; they cause no increase in flood heights or velocities; and are not prohibited by any other ordinance:
  - (1) Water-related uses and activities such as marinas, docks, wharves and piers.
  - (2) Dams, culverts and bridges approved by the Pennsylvania Department of Environmental Resources.
  - (3) Retention basins and appurtenant facilities approved by the Pennsylvania Department of Environmental Resources.
- B. The following uses and activities may be permitted in the floodway fringe by special exception, provided that they are in compliance with the provisions of the underlying district; they cause no increase in the elevation of the one-hundred-year-frequency recurrent interval flood by more than one foot at any point; and are not prohibited by any other ordinance: **[Amended 5-14-1998 by Ord. No. 708]**
  - (1) Any use permitted in Subsection A above.
  - (2) Structures accessory to the uses and activities described in § 116-165.
  - (3) Utilities and public facilities and improvements, such as railroads, streets, transmission lines, pipelines, water- and sewage-treatment plants and other similar or related uses.
  - (4) Extraction of sand, gravel and other materials.
  - (5) Storage of materials and equipment, provided that they are not buoyant, flammable or explosive and are not subject to major damage by flooding.
  - (6) Other similar uses and activities.
- C. Any new construction, development or substantial improvements granted by special exception must be in full compliance with 44 CFR 60.3(a) through (d) of the National Flood Insurance Program regulations. **[Added 12-12-1996 by Ord. No. 693]**

ARTICLE XXIII  
**Steep Slope Overlay**

**§ 116-167. Title.**

This article shall be known and may be cited as the "Whitemarsh Township Steep Slope Overlay Ordinance."

**§ 116-168. Legislative intent.**

In amplification of § 116-2, the specific intent of this article is:

- A. To conserve and protect those areas having steep slopes, as defined herein, from inappropriate development and excessive grading.
- B. To minimize stormwater runoff, accelerated soil erosion and resultant stream siltation which may create a danger to life and/or property.
- C. To relate the intensity of development to the steepness of terrain in order to minimize grading, the removal of vegetation, runoff and erosion.
- D. To protect the Township from development in areas of steep slopes which may cause a subsequent expenditure for public works and disaster relief, which affects the welfare of the Township and its residents.
- E. To implement Article I, § 27, of the Constitution of the Commonwealth of Pennsylvania, which decrees that the people have a right to clean air, pure water and to the preservation of the natural, scenic, historic and aesthetic values of the environment.

**§ 116-169. Modification of regulations. [Amended 9-18-1986 by Ord. No. 537]**

The requirements of the following zoning districts shall be modified in accordance with the provisions of this article on all land having a slope of 8% or more as delineated on a plan which meets the requirements of a preliminary plan as specified in the Whitemarsh Township Subdivision and Land Development Ordinance.<sup>27</sup>

- A. Every lot having a steep slope ratio of 15% or more, which is the ratio of the total area of all steep slopes on the site to the overall site area based upon contour lines measured at vertical intervals of two feet, and proposed for residential use shall meet the following average lot area and maximum impervious ground cover requirements. Unless otherwise provided in Subsection C hereof, the requirements set forth in this section shall be applicable to all lots, whether currently in existence or hereafter created; provided, further, that the average lot area and maximum impervious ground cover requirements do not apply to lots created in new subdivisions or land developments designed in accordance with the requirements of Article XXXVI of this chapter, the Conservation Design Overlay District. **[Amended 3-16-1995 by Ord. No. 672; 2-28-2002 by Ord. No. 751; 3-28-2013 by Ord. No. 925; 10-25-2018 by Ord. No. 988]**

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27. Editor's Note: See Ch. 105, Subdivision and Land Development.

**Average Lot Area**

**(Square Feet)**

**Steep Slope Ratio**

<b>District</b>	<b>15% to 50%</b>	<b>50% to 75%</b>	<b>75% or More</b>
AAAA	90,000	90,000	90,000
AAA	50,000	56,000	65,000
AA	34,600	39,000	45,000
A	17,250	19,500	22,500
B	11,500	13,000	15,000

**Maximum Impervious Ground Cover**

**(per lot)**

**Steep Slope Ratio**

<b>District</b>	<b>15% to 50%</b>	<b>50% to 75%</b>	<b>75% or More</b>
AAAA	0.08	0.07	0.06
AAA	0.09	0.09	0.08
AA	0.12	0.11	0.10
A	0.18	0.17	0.16
B	0.24	0.22	0.19

- B. In all zoning districts, for those portions of sites having slopes greater than 15% based upon contour lines measured at vertical intervals of two feet, the following standards shall also apply for all proposed uses: **[Amended 3-16-1995 by Ord. No. 672]**
  - (1) Fifteen percent to 25%: No more than 30% of the total area of such portions shall be regraded and/or stripped of vegetation.
  - (2) Twenty-five percent or more: No more than 15% of the total area of such portions shall be regraded and/or stripped of vegetation.
- C. Exemptions. These regulations shall not apply to the following: **[Amended 3-28-2013 by Ord. No. 925]**
  - (1) Disturbance of soil for agricultural or food-production purposes.
- D. No grading shall be undertaken prior to the granting of necessary grading permits pursuant to Chapter 58, Grading, Erosion Control, Stormwater Management and Best Management Practices, of the Whitemarsh Township Code.

ARTICLE XXIV  
**Institutional Overlay District<sup>28</sup>**  
**[Added 10-21-1982 by Ord. No. 442]**

**§ 116-170. Title.**

This article shall be known and may be cited as the "Whitemarsh Township Institutional District Ordinance."

**§ 116-171. Legislative intent.**

In amplification of § 116-2, the specific intent of this article is as follows:

- A. To provide suitable areas within the Township to accommodate institutional uses.
- B. To provide appropriate design standards for institutional uses.

**§ 116-172. District description.**

The Institutional District shall include those areas described on a map or maps designated as the "Whitemarsh Township Institutional Map," which is hereby made a part of this article and which shall be made available to the public at the Township Building.

**§ 116-173. Overlay concept; conflicts. [Amended 9-25-2008 by Ord. No. 862]**

Priority of application of overlay shall be as described in § 116-33.2 of this chapter.

**§ 116-174. District boundary changes.**

The delineation of the Institutional District may be revised by the Board of Supervisors pursuant to § 116-236 et seq.

**§ 116-175. Special exception uses. [Amended 8-30-1984 by Ord. No. 494; 2-24-1994 by Ord. No. 659; 9-25-2008 by Ord. No. 862]**

In the Institutional District, the following uses and activities, and no others, are permitted by special exception:

- A. Place of worship: Access shall be to major collector or arterial streets.
- B. School: Minimum lot size is 10 acres with access to major collector or arterial. Outdoor play areas shall be sufficiently screened and insulated so as to protect the neighborhood from inappropriate noise and other disturbances.
- C. Commercial school.
- D. Library.
- E. Museum.

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28. Editor's Note: This article title was amended, to include the word "overlay," 1-28-2010 by Ord. No. 893. Said ordinance also provided that all references to said district would be construed to be the name as amended.

- F. Park or recreational facility: subject to the following additional provisions:
- (1) A minimum lot size of five acres is required.
  - (2) Amusement parks, wild animal parks, zoos, gun ranges and race courses shall not be included in this use.
  - (3) Day camp shall operate between 9:00 a.m. and 5:00 p.m., excluding Saturdays and Sundays.
  - (4) Outdoor play areas shall be sufficiently screened and insulated so as to protect the neighborhood from inappropriate noise and other disturbances.
- G. Private club: subject to the following additional provisions:
- (1) The use shall not be conducted as a private gainful business.
  - (2) The use shall be for members and their authorized guests only.
- H. Community center: subject to the following additional provisions:
- (1) The use shall not be conducted as a private gainful business.
  - (2) No outdoor recreation area shall be located nearer to any lot line than 100 feet.
- I. Child day-care center: Outdoor play areas shall be sufficiently screened and insulated so as to protect the neighborhood from inappropriate noise and other disturbances.
- J. Hospital: subject to the following provisions:
- (1) Any such establishment providing convalescent care or care for the chronically sick shall provide an additional lot area of not less than 1,000 square feet per each bed in use for long-term care. For the purposes of this article, "long-term care" shall mean care in excess of one month.
  - (2) Emergency and service entrances shall be located where they are not offensive to adjoining neighbors.
  - (3) Said use shall take access from major collector or arterial streets.
- K. Clinic.
- L. Nursing home.
- M. Cemetery.
- N. Monastery or convent: subject to the following provisions:
- (1) When situated on the same lot as a place of worship, four acres is required for both uses.
- O. Conference center: subject to the following provisions:
- (1) A minimum lot size of 25 acres is required.

- (2) Recreational facilities, service stores and other similar facilities for use by conference participants and employees shall be permitted in conjunction with this use.

P. (Reserved)<sup>29</sup>

Q. (Reserved)

**§ 116-176. Dimensional requirements.**

A. Minimum lot and area regulations. Unless more restrictive provisions are required hereinabove, the following minimum lot and area regulations shall apply: **[Amended 8-30-1984 by Ord. No. 494]**

(1) Uses described in § 116-175A through O:

(a) Lot area: two acres, except in the case of conference center use, where the minimum lot area shall be 25 acres. **[Amended 9-23-1993 by Ord. No. 649]**

(b) Front yard: 50 feet.

(c) Side yards: 50 feet.

(d) Rear yard: 50 feet.

(e) Lot width: 200 feet.

(2) Uses described in § 116-175P: **[Amended 2-24-1994 by Ord. No. 659]**

(a) Lot area: 30,000 square feet.

(b) Front yard: 50 feet.

(c) Side yards: 25 feet.

(d) Rear yard: 50 feet.

(e) Lot width: 135 feet.

B. Height requirements. The maximum height of any building erected or used for any use permitted in an Institutional District shall be 40 feet.

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29. Editor's Note: Former Subsection P, Community residential facility, was repealed 3-28-2013 by Ord. No. 925.



ARTICLE XXV  
**Recreational Overlay District<sup>30</sup>**  
**[Added 10-21-1982 by Ord. No. 442]**

**§ 116-177. Title.**

This article shall be known and may be cited as the "Whitemarsh Township Recreational District Ordinance."

**§ 116-178. Legislative intent.**

In amplification of § 116-2, the specific intent of this article is as follows:

- A. To provide suitable areas within the Township to accommodate spacious recreational uses.
- B. To provide appropriate design standards for spacious recreational uses.

**§ 116-179. District description; map.**

The Recreational District shall include those areas described on a map or maps designated as the "Whitemarsh Township Recreational Map," which is hereby made a part of this article and which shall be made available to the public at the Township Building.

**§ 116-180. Overlay concept; conflicts. [Amended 9-25-2008 by Ord. No. 862]**

Priority of application of overlay shall be as described in § 116-33.2 of this chapter.

**§ 116-181. District boundary changes.**

The delineation of the Recreational District may be revised by the Board of Supervisors pursuant to § 116-236 et seq.

**§ 116-182. Permitted uses.**

In the Recreational District the following uses and activities, and no others, are permitted:

- A. Park or recreational facility: an outdoor park or recreational facility, including day camp, driving range, swim club, tennis club, stables and athletic fields, subject to the following additional provisions:
  - (1) Amusement parks, wild animal parks, zoos, gun ranges and race courses shall not be included in this use.
  - (2) Day camps shall operate between 9:00 a.m. and 5:00 p.m., excluding Saturdays and Sundays.
  - (3) Outdoor play areas shall be sufficiently screened and insulated so as to protect

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30. Editor's Note: This article title was amended, to include the word "overlay," 1-28-2010 by Ord. No. 893. Said ordinance also provided that all references to said district would be construed to be the name as amended.

the neighborhood from inappropriate noise and other disturbances.

- B. Country clubs: including but not limited to a golf course, swimming pool, clubhouse, restaurant and other accessory uses, provided that these are clearly accessory to the country club, subject to the following provisions:
  - (1) A lot area of not less than 60 acres shall be required.
  - (2) No building shall be closer than 100 feet to any lot line.
- C. Museum: museum or gallery open to the public and not conducted as a private gainful business.
- D. Cemetery: burial place or graveyard, including mausoleum, crematory or columbarium.

**§ 116-183. Dimensional requirements.**

- A. Minimum lot and area regulations. Unless more restrictive provisions are required hereinabove, the following minimum lot and area regulations shall apply:
  - (1) Lot area: 20 acres.
  - (2) Front yard: 150 feet, except that this setback may be reduced to 100 feet for a pump house building on a public or private golf course when: **[Amended 10-11-2001 by Ord. No. 739]**
    - (a) Such pump house building must have access to a body of water partially located within the front yard setback;
    - (b) Such pump house building is less than 1,000 square feet; and
    - (c) Such pump house building is buffered from view from the street by additional landscaping approved by the Board of Supervisors.
  - (3) Side yards: 100 feet.
  - (4) Rear yard: 100 feet.
  - (5) Lot width: 500 feet.
- B. Height requirements. The maximum height of any building erected or used for any use permitted in a Recreational District shall be 40 feet.

ARTICLE XXVI  
**Off-Street Parking and Loading**

**§ 116-184. Required off-street parking facilities. [Amended 10-21-1982 by Ord. No. 442; 10-28-1982 by Ord. No. 444; 7-25-1985 by Ord. No. 518; 10-24-1985 by Ord. No. 522; 5-16-2002 by Ord. No. 755; 1-28-2010 by Ord. No. 891; 3-28-2013 by Ord. No. 925]**

Any building or other structure erected, altered or used and a lot used or occupied for any of the following purposes shall be provided with minimum off-street parking spaces as set forth below, together with adequate passageways or driveways or other means of circulation and access to and from a street, provided that the number of such spaces which shall be handicapped (accessible) spaces shall be based upon the requirements set forth in the latest edition of the International Building Code and associated ANSI standards, as implemented by the Township in accordance with the Construction Code Act, 35 P.S. 7210.101 to 7210.1103, as amended, and the Uniform Construction Code, 34 Pa. Code, Part XIV, as amended:

- A. Dwelling: two all-weather parking spaces per family. Except for attached dwellings, each space shall be independently accessible to the street.
- B. Rooming house: one all-weather parking space for each room for rent, on the same lot therewith or on land adjacent thereto.
- C. For any of the following uses the required parking space shall be all-weather and shall be located on the same lot therewith or on land adjacent thereto:
  - (1) Place of worship: one off-street parking space for each four seats provided for public assembly, or at least one off-street parking space for each 40 square feet of floor area used or intended to be used for service of patrons, guests or members, whichever requires the greater number of off-street parking spaces, plus one additional space for each full-time employee.
  - (2) School or college.
    - (a) Day nursery and kindergarten: one off-street parking space for each faculty member and employee plus two additional spaces per classroom.
    - (b) Elementary school: one off-street parking space for each faculty member and employee plus one space per two classrooms and offices.
    - (c) Junior high school: one off-street parking space for each faculty member and employee plus one space per two classrooms and offices.
    - (d) Senior high school: one off-street parking space per faculty member and employee plus one space per 10 students of projected building capacity.
    - (e) College and junior college: one off-street parking space per faculty member and employee plus one space for each 10 classroom seats, or one off-street parking space for each 10 auditorium seats, whichever requires the greater number of off-street parking spaces.
    - (f) Commercial school: one off-street parking space per faculty member and

employee, plus one space per three students.

- (3) Park or recreational facility, private club or community center: one off-street parking space for each five persons of total capacity, or at least one off-street parking space for each 50 square feet of floor area used or intended to be used for service to customers, patrons, clients, guests or members, whichever requires the greater number of off-street parking spaces, plus one additional space for each employee.
  - (4) Library or museum: one space per five seats or one space per 250 square feet of floor area where no seats are provided.
  - (5) Hospital: one off-street parking space for each patient bed, plus one off-street parking space for every two employees or staff members.
  - (6) Nursing home: one off-street parking space for every two patient beds, plus one off-street parking space for every two employees or staff members.
  - (7) Clinic: one off-street parking space for every two patients and employees or staff members.
  - (8) Monastery or convent: one off-street parking space for every two residents.
  - (9) Cemetery: one off-street parking space for each employee and one off-street space for each four visitors in total capacity of mausoleum, crematory or columbarium.
  - (10) Conference center: one off-street parking space for each guest room or suite, plus one additional off-street parking space for each employee.
  - (11) Emergency services: three off-street parking spaces for every four employees on the two major shifts at maximum employment, or four off-street parking spaces for each emergency vehicle where no community room is a part of the building, whichever requires the greater number of parking spaces. Where a community room is provided, two off-street parking spaces for each emergency vehicle, plus one off-street parking space for each 100 square feet of floor area.
  - (12) Country club: one off-street parking space per four people of total capacity, including accessory uses, plus one additional space for each employee.
  - (13) Continuing-care retirement community: two off-street parking spaces for each single-family detached, single-family semidetached and attached dwelling independent living unit, plus one off-street parking space for each multiple-dwelling independent living unit, plus one off-street parking space for every two assisted living facility beds, plus one off-street parking space for every three skilled nursing care facility beds, plus one off-street parking space for every one employee or staff member on the largest shift.
- D. For any of the following uses, required parking spaces shall be all-weather and shall be paved, and such parking spaces shall be located on the same lot therewith except as provided in § 116-185 below:

- (1) Retail store or shop: one parking space for every 100 square feet of floor area.
- (2) Department store or supermarket: one parking space for every 50 square feet of floor area.
- (3) Indoor theater: one parking space for every four seats.
- (4) Hotel, tourist home, automobile court: one parking space for each rental unit.
- (5) Office building: one parking space for each 200 square feet of gross floor area. However, for an office building or complex of office buildings, all or the majority of which is within 1/4 mile of a regional rail station, parking may be reduced to one space for each 250 square feet of gross floor area. **[Amended 3-28-2013 by Ord. No. 925]**
- (6) Restaurants, cafes, taverns, bars and cabarets.
  - (a) Restaurant, cafe, tearoom, tavern or bar: one off-street parking space for every 50 square feet of floor space devoted to patron use or one off-street parking space for every three persons of design capacity based on the Table of the Maximum Floor Area Allowance Per Occupant in the current edition of the Whitemarsh Township Building Code or the maximum occupancy allowance under the provisions of the Whitemarsh Township Fire Prevention Code, whichever number of parking spaces is greater.
  - (b) Cabaret: one off-street parking space for every 1 1/2 persons of design capacity based on the Table of the Maximum Floor Area Allowance Per Occupant in the current edition of the Whitemarsh Township Building Code or the maximum occupancy allowance under the provisions of the Whitemarsh Township Fire Prevention Code, whichever number of parking spaces is greater.
- (7) Laboratory or industrial establishment: one parking space for every two employees.
- (8) Other commercial buildings: one parking space for every 1,000 square feet of floor area, or fraction thereof, except when otherwise authorized as a special exception consistent with the requirements set forth herein for comparable establishments. Buildings with mixed uses shall be required to allow parking space in accord with the various uses included.
- (9) Open area for commercial purposes: one parking space for every 1,500 square feet of area or fraction thereof.
- (10) Home occupation uses.
  - (a) One off-street parking space for any home occupation as described in § 116-25B in addition to spaces otherwise required. This requirement shall not apply to artists and sculptors, authors and composers and home crafts.
  - (b) Offices of dentists and physicians shall be provided with three off-street parking spaces in addition to spaces otherwise required.

- (c) Ingress and egress shall be safe and convenient and subject to the approval of the Zoning Officer.
- E. Parking areas. A maximum of 30 individual parking spaces may be placed together in any parking area. No dimension of any parking area may exceed 150 feet. Parking areas shall be separated from each other by planting strips not less than 10 feet in width. Where a double row of parking spaces is provided, a ten-foot-wide planted strip is required to separate each row. Such planting strips shall be planted and maintained with grass and/or ground cover and trees as approved by the Shade Tree Commission.
- F. No parking shall occur within 10 feet of any structure except the entrance to an approved garage.
- G. All parking shall conform to the requirements of the Whitemarsh Township Fire Prevention Code as enacted and amended.

#### **§ 116-185. Off-site parking spaces.**

The parking spaces required in § 116-184D herein may be located elsewhere than on the same lot when authorized as a special exception, subject to the following conditions:

- A. That the owners of two or more establishments shall submit with their application for special exception a site plan showing joint use and location of a common off-street parking area.
- B. That some portion of the common off-street parking area lies within 200 feet of an entrance, regularly used by patrons, into the building served thereby.
- C. That the Zoning Hearing Board may, in its discretion, reduce the required aggregate amount of required parking space upon determination that the greater efficiency is effected by joint use of a common parking area, but in no case shall the ratio of total off-street parking area to total sales-floor area be reduced less than 25%.

#### **§ 116-186. Reduction of facilities.**

Off-street parking facilities existing at the effective date of this chapter shall not subsequently be reduced to an amount less than required hereunder for a similar new building or new use. Off-street parking facilities provided to comply with the provisions of this chapter shall not subsequently be reduced below the requirements of this chapter.

#### **§ 116-187. Required off-street loading and unloading.**

In addition to required off-street parking spaces, the foregoing uses shall be provided with adequate off-street loading space.

#### **§ 116-188. Special events.**

In addition to the parking permitted under other sections of this chapter, the owner of a lot in any zoning district may permit public parking for a fee upon such lot for the express and sole purpose of serving a special event which is occurring within 1/2 mile of any portion of such lot upon the following conditions:

- A. Such use shall be limited to a maximum of seven consecutive days.
- B. Such lot shall not be used for this purpose more frequently than once in any six-month period.
- C. The owner of such lot shall be responsible for compliance with all Township ordinances, resolutions and regulations relating to parking, including obtaining requisite permits.
- D. A special event shall include any event which occurs not more frequently than once every six months.



## ARTICLE XXVII

**Nonconforming Lot, Structure and Use**

**[Amended 1-13-1983 by Ord. No. 458; 8-25-1983 by Ord. No. 477; 3-30-1989 by Ord. No. 577; 8-23-1990 by Ord. No. 604]**

**§ 116-189. Nonconforming lot.**

Nonconforming lots may continue but shall be subject to regulations covering nonconforming uses.

**§ 116-190. Nonconforming structures.**

A nonconforming structure may continue in its present location but shall be subject to the regulations covering nonconforming uses.

**§ 116-191. Structures under construction.**

A structure for which a valid permit has been issued and/or is actually under construction to the extent of completion of footings may be completed as a nonconforming use. Structures not under actual construction at the time of passage of this chapter shall be built in conformity with its requirements.

**§ 116-192. Change of use.**

A nonconforming structure or use shall be considered as such unless and until it complies with the regulations of the district in which it is located. Such use shall not be changed to a use designated for a district having less restrictive regulations.

**§ 116-193. Discontinued use of nonconforming lots or structures.**

A nonconforming use or structure or lot, when discontinued or abandoned, may be resumed any time within one year from such discontinued or abandoned date, but not after, as the same class of use or structure but cannot be resumed as a conforming use or structure of a lower class.

**§ 116-194. Extensions or alterations.**

- A. Nonconforming structures being used or proposed to be used for a conforming purpose may continue and may be extended or altered if the extension or alteration does not increase the nonconformity of the structure with respect to the height, setback, yard and coverage regulations of the district in which it is located. In the case of a nonconforming use, such extension or alteration shall also meet the requirements of Subsections B and C of this section.
- B. Nonconforming uses of a portion of a structure may be extended throughout the structure. Nonconforming uses may continue and may be extended or altered in accordance with the following provisions:

- (1) That the floor area of the structure housing such use shall not be increased by more than a total 25% of the floor area of said structure existing on the date the use first became nonconforming.

- (2) That any extension of such use shall conform to the area, height, setback, width, yard and coverage regulations of the district in which it is located and Subsection C of this section.
- C. Existing structures and/or uses located in the Floodplain Conservation District shall not be expanded or enlarged unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements.

**§ 116-195. Determination of permissible change or resumption of nonconforming use. [Amended 9-25-2008 by Ord. No. 862]**

The Zoning Hearing Board, by special exception, shall allow a resumption or change of nonconforming use if it is of the same class of use or of a more restrictive nature than the existing nonconforming use.

**§ 116-196. Structures destroyed by fire, explosion, accident and calamity.**

A nonconforming structure which has been damaged or destroyed by fire, explosion, accident or calamity (as contrasted to deterioration due to time or neglect) may be reconstructed and used for the nonconforming use, provided that the reconstructed structure shall not exceed in height, area and volume the structure destroyed; and that structure reconstruction shall be started within one year from the date the structure was destroyed and shall be carried on without interruption.

**§ 116-197. Condemned structures.**

A nonconforming structure which has been legally condemned shall not be rebuilt or used except in accordance with the provisions of this chapter.

**§ 116-198. Temporary nonconforming use.**

A temporary nonconforming use, which will benefit the public health or welfare or promote proper development of a district in conformity with the intent of this chapter, may be permitted for a period of not more than one month, on the approval of the Zoning Hearing Board, but any such use to be permitted for a longer period shall require a public hearing thereon, after which a Zoning Hearing Board certificate may be issued for a period not exceeding one year in any case.

**§ 116-199. (Reserved)<sup>31</sup>**

**§ 116-200. Abatement of certain nonconforming uses.**

All nonconforming junkyards on the same lot with a plant, sales facility or a factory shall be discontinued or otherwise made to conform within 10 years of the adoption of this chapter.

**§ 116-201. Nonconforming use permit.**

Use permits shall be required for a nonconforming use existing at the time of passage

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31. Editor's Note: Former § 116-199, Signs, was repealed 9-25-2008 by Ord. No. 862.

of this chapter and shall be issued by the Zoning Officer stating that the use is nonconforming. The Zoning Officer shall notify the occupant of property being used as a nonconforming use, whereupon said occupant shall apply for a permit within 30 days after receipt of the notice.

**§ 116-202. Lots forming part of development plan.**

- A. The owner of any lot forming a part of a development plan shall have the right to build upon such lot, including additions to existing structures, in accordance with the requirements of this chapter as of June 22, 1966, relating to front, side and rear yards, building heights and building area coverage of principal and accessory buildings, provided that, on or before June 23, 1966:
  - (1) A permanent residence had been erected or was under construction upon such lot; or
  - (2) The street or streets abutting such lot, as shown on the development plan had been installed or were under construction.
- B. The requirements as of June 22, 1966, pertaining to the several residential districts, are as follows:

<b>Require-ments</b>	<b>District AAA</b>	<b>District AA</b>	<b>District A</b>	<b>District B</b>	<b>District C</b>
Front yard	60 ft.	50 ft.	40 ft.	30 ft.	30 ft.
Side yards	30 ft.	20 ft.	12 ft. each; 35 ft. total	10 ft. each; 25 ft. total	8 ft. each; 20 ft. total
Rear yards	60 ft.	40 ft.	30 ft.	30 ft.	25 ft.
Building height	25 ft.	25 ft.	35 ft.	35 ft.	35 ft.
Building area coverage	15%	15%	20%	20%	30%

- C. The owner of any lot forming a part of a recorded subdivision plan promulgated under the requirements of Ordinance Nos. 205 and 286 (lot averaging) shall have the right to build upon such lot, including additions to existing structures, in accordance with the requirements of Ordinance Nos. 205 and 286.
- D. The owner of any developed lot forming part of a recorded subdivision plan approved pursuant to Ordinance No. 332 (Planned Cluster Development), enacted October 20, 1977, for AAAA, AAA, AA, and A Residential Districts shall build modifications and/or additions to existing structures and accessory buildings in accordance with the setback requirements of Ordinance No. 332. **[Amended 4-6-2006 by Ord. No. 812]**

**§ 116-203. Area and setback.**

When authorized as a special exception, a structure may be erected or altered for the uses permitted in the zoning district upon any lot which is not of the required minimum area or width or is of such unusual dimensions that a strict application of the area, front yard,

side yard, building coverage or rear yard requirements would impose an unnecessary hardship upon the owner of the lot; provided, however, that in no event shall building coverage be permitted to exceed 50%.

**§ 116-204. Alteration of structure in Floodplain Conservation District.**

- A. The modification, alteration, repair, reconstruction or improvements of any kind to a structure and/or use located in the Floodplain Conservation District to an extent or amount of less than 50% of its market value shall be elevated and/or floodproofed to the greatest extent possible.
- B. The modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use within the Floodplain Conservation District to an extent or amount of 50% or more of its market value shall be undertaken only in full compliance with the provisions of this chapter and any other applicable ordinance.
- C. The modification, alteration, repair, reconstruction or improvements of any kind to a structure used for the production or storage or maintenance of a supply (more than 550 gallons or other comparable volume, or any amount of radioactive substances) of any of the materials or substances described in § 116-164D hereinabove shall be undertaken only in full compliance with the following provisions: **[Added 1-13-1983 by Ord. No. 458]**
  - (1) The structure shall be elevated or designed and constructed to remain completely dry up to at least 1 1/2 feet above the one-hundred-year-flood elevation.
  - (2) The structure shall be designed to prevent pollution from the structure or activity during the course of a one-hundred-year flood.
  - (3) Any such structure or part thereof that will be built below the elevation described in Subsection C(1) above, shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-proofing Regulations," United States Army Corps of Engineers, June 1972, or with some other equivalent watertight standard.

## ARTICLE XXVIII

**Signs****§ 116-205. Signs permitted in residential districts.**

In all residential districts, the following signs shall be permitted and no others:

- A. Official street and traffic signs, and any signs required by law.
- B. Professional, accessory use, home occupation or name signs on the same lot with and indicating the name, profession or activity of the occupant of the dwelling, provided that the area of any one side of any such sign shall not exceed two square feet, and provided that not more than one such sign shall be erected for each permitted use or dwelling.
- C. Sign for a school, church, hospital, sanatorium, club or other institution of a similar nature, on the same lot therewith, for the purpose of displaying the name of the institution and its activities or services, provided that the area of one side of such sign shall not exceed 15 square feet, and provided that not more than one such sign shall be erected on any one street frontage of any property in single and separate ownership.
- D. Trespassing signs and signs indicating private ownership of roadways or other property, on the same premises therewith, provided that the total area on any one side of such sign shall not exceed one square foot and shall be spaced at intervals of not less than 100 feet of street frontage.
- E. Real estate signs, as follows:
  - (1) For advertising the sale or rental of the premises upon which the sign is erected, provided that the total area of any side of such sign on any one street frontage of any property in single and separate ownership shall not exceed six square feet.
  - (2) For advertising on the premises, the sale or development of homes within a subdivision, the recorded plan of which contains less than 10 lots, provided that the area of any one side of such sign shall not exceed 15 square feet, and provided that not more than one such sign shall be erected within any such subdivision.
  - (3) For advertising on the premises the sale or development of homes within a subdivision or the initial sale, contract to occupy, or other like conveyance of independent living units in a continuing-care retirement community, the recorded plan of which contains 10 or more lots or dwelling units, provided that the area of any one side of any such sign shall not exceed 35 square feet, and provided that not more than two such signs shall be erected within any such subdivision or land development. **[Amended 5-16-2002 by Ord. No. 755]**
  - (4) Signs as permitted in Subsection E(2) and (3) above shall be permitted only for a period of one year from the date of issuance of a permit, or until the date of sale of the last lot, whichever first occurs; such signs may be maintained

thereafter but only upon granting of a special exception by the Zoning Hearing Board, but in no event shall the Board be permitted to grant a total period longer than two years from the date of the original permit.

- (5) Auction sale signs. An auction sale sign shall conform to the several provisions of the several subsections under Subsection E of this section; however, a permit for such signs shall not be issued for a period greater than 90 days from the date of issuance.
- F. Signs in connection with the identification, operation or protection of any public utility or municipal activity, on the same lot therewith, provided that the total sign area on any one street frontage of any property in single and separate ownership shall not exceed eight square feet.
- G. For the sale of agricultural products, grown or produced on the premises, signs on the same lot therewith indicating the name of the owner or occupant and the product sold, provided that the total sign area on any one street frontage of any property in single and separate ownership shall not exceed 16 square feet.
- H. Temporary signs of a contractor, erected and maintained on the premises where the work is being performed, provided that the area of any one such sign shall not exceed 12 square feet and provided that the area for all such signs erected by all contractors at any property in single and separate ownership shall not exceed 36 square feet and provided that such signs shall be removed upon completion of the work. **[Amended 7-21-1994 by Ord. No. 662]**
- I. (Reserved)<sup>32</sup>
- J. For an apartment house or continuing-care retirement community development, one sign identifying the name of the development and the name of the owner or manager, not exceeding 16 square feet on face and 32 square feet total area, may be permitted at each regular permanent entrance serving the development. **[Amended 5-16-2002 by Ord. No. 755]**
- K. One sign on each separate apartment building, or congregate building within a continuing-care retirement community, identifying the building, provided that the area of any one side of any such sign shall not exceed eight square feet. **[Amended 5-16-2002 by Ord. No. 755]**

**§ 116-206. Signs permitted in CR Commercial District. [Amended 10-28-1982 by Ord. No. 444; 7-21-1994 by Ord. No. 662; 3-28-2013 by Ord. No. 925]**

- A. In CR Commercial Retail Districts, the following signs shall be permitted and no other:
- (1) Any sign permitted in any residential district, provided that the use to which it refers is permitted in a CR Commercial Retail District.
  - (2) Any property with uses permitted in the district may erect signs under one of the following provisions:

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32. Editor's Note: Former Subsection I, which restricted temporary signs advertising elections, fairs and social events, as amended, was repealed 7-21-1994 by Ord. No. 662.

- (a) One sign may be erected for a property in single and separate ownership where such sign is not connected with the building. The total area of the face of any such sign shall not exceed 25 square feet.
  - (b) One or more signs may be attached to or mounted on the building front, provided that the total area of such sign or signs does not exceed 35 square feet plus one additional square foot of sign for each two feet of setback in excess of the minimum required for such districts.
  - (3) Any property with uses permitted in the district may erect signs which are contained totally within the building, including advertising and window displays of merchandise sold on the premises; provided, however, that signs and/or merchandise cannot cover more than 50% of the glazed area of each window.
  - (4) Any property which has two or more uses permitted in the district shall be permitted an additional directory sign attached to a building listing only the name, address and primary products or services for each firm or business. Each business in single and separate ownership shall be entitled to not more than a three square feet of signage, and the total area of all the directory sign shall not exceed 30 square feet per building.
- B. (Reserved)
- C. Special events. In CR Commercial Retail Districts, each business in single, separate ownership may erect temporary signs upon issuance of a zoning permit by the Zoning Officer for a period not to exceed 14 days, subject to the following:
- (1) Such signs shall not exceed 25 square feet in area.
  - (2) Such signs may only be used to advertise events considered to be beyond the day-to-day operation, such as "grand opening," "going-out-of-business," "bankruptcy" and "fire sales."
  - (3) Each sponsoring business is limited to no more than two temporary sign permits per calendar year.
  - (4) Such signs must be permitted, in writing, by the property owner and must conform to all setback requirements of § 116-209.

**§ 116-207. Signs permitted in Limited Industrial and Industrial Districts.  
[Amended 7-21-1994 by Ord. No. 662]**

In Limited Industrial and Industrial Districts, the following signs shall be permitted and no others:

- A. Any sign which may be permitted in any residential district, provided that the use advertised by such sign is permitted as a legal use in the Limited Industrial or Industrial District.
- B. In addition, one or more ground, facial or projecting signs for the purpose of identifying the use or occupancy of such property, provided that the total sign area of all such signs does not exceed one square foot of area for each one foot of

building frontage along the street on which such said signs are displayed or 200 square feet, whichever is less, and further provided that not more than 50 square feet of the permitted sign may be on signs located within the required minimum front yard.

**§ 116-207.1. Signs permitted in Village Commercial District. [Added 9-25-2008 by Ord. No. 863]**

A. In the Village Commercial District, the following signs shall be permitted and no others:

- (1) Any sign that may be permitted in any residential district, provided that the use advertised by such sign is permitted as a legal use in the Village Commercial District.
- (2) Historic identification signs may be installed to identify and explain the historic significance of particular structures, areas, objects or events in the district. These signs shall be no larger than three square feet and shall not be counted toward signage area limits described elsewhere in this section.
- (3) Permanent building signs. A maximum of two of the following shall be permitted per use for VC-1 and VC-3 permitted and conditional uses; only one of the following shall be permitted for VC-2 permitted and conditional uses: **[Amended 12-22-2011 by Ord. No. 912]**
  - (a) Projecting signs. No portion of a projecting sign may extend more than four feet from the building facade. A clear space of not less than eight feet shall be provided below all parts of the projecting sign. The sign may be no greater than six square feet.
  - (b) Signs painted on shop windows or other types of window graphics are permitted, provided they do not take up more than 30% of the clear window area, but in no event shall they exceed 25 square feet. Total window area is the aggregate area of all windows within a building/space utilized for a specific use.
  - (c) Wall signs are permitted, provided:
    - [1] They do not exceed 5% of the wall area, but in no event shall they exceed 25 square feet; provided, however, for a parcel with a lot area of five acres or greater, the size of the wall signs shall not exceed 5% of the wall area, but in no event shall they exceed 35 square feet.
    - [2] They do not extend past the roof eaves.
    - [3] They do not block windows or hide cornices and other trim.
- (4) Fire-resistant canvas awnings may be used for signs, provided the text is located on the vertical face of the awning flap.
  - (a) Numbers and letters shall be no taller than six inches.
  - (b) Plastic, backlit awning signs are prohibited.

- (c) Business logos or emblems are permitted on the top or angled portion of the awning up to a maximum of three square feet. No more than one emblem or logo is permitted on an awning.
  - (5) Temporary signs. One temporary and moveable sidewalk sandwich board sign shall be permitted in addition to the above signs, provided:
    - (a) The sign face shall be no larger than four square feet per side.
    - (b) The sign shall be located directly in front of the store and may only be located along the sidewalk during business hours.
    - (c) The sign shall not create an obstruction to pedestrian traffic; the sign must also conform to ADA accessibility standards.
  - (6) Freestanding and directory signs. **[Amended 3-28-2013 by Ord. No. 925; 10-25-2018 by Ord. No. 988]**
    - (a) One freestanding sign shall be permitted on each street on which a property fronts, and said sign shall be a monument sign. The area of a freestanding sign shall be no larger than 25 square feet per side, with a maximum height of 10 feet. The base of a monument sign shall be landscaped, and the sign may be accented with indirect lighting.
    - (b) A directory sign shall be permitted in lieu of a freestanding sign. A directory sign shall be a low, pedestrian-oriented, monument sign no higher than 10 feet and with an area no greater than 25 square feet per side. The base of a directory sign shall be landscaped, and the sign may be accented with indirect lighting.
  - (7) Signs giving credit to the donor of an amenity installed in a public space in the VC District shall be permitted, provided no such sign shall exceed 36 square inches. Only one such sign shall be permitted for any amenity.
- B. General provisions (for VC-1, VC-2 and VC-3). **[Amended 12-22-2011 by Ord. No. 912]**
- (1) Signs must:
    - (a) Maintain a style that is compatible with the historic nature of the district and unify the streetscape within the VC.
    - (b) Be pedestrian oriented and be in proportion with the architecture of the building, yet be sufficiently legible to a passing motorist.
  - (2) Signs shall be designed and constructed to give the appearance of natural materials and be complementary in their use of shape.
  - (3) Signs shall not be internally illuminated or use neon lights; provided however, that window graphics as permitted herein may be neon.
  - (4) Signs shall not hide architectural features of the associated buildings.
  - (5) Signs shall use colors that are vivid, varied and interesting, and be legible,

while compatible with the colors of the building.

- (6) The combined square footage of all signs associated with one VC use shall not exceed 25 square feet; provided, however, for parcels with an area of five acres or greater, the combined square footage of all signs associated with one use shall not exceed 35 square feet. That includes the aggregate area of all permanent building signs and all freestanding signs; provided however, that in a multiuse development each use may have twenty-five-square-foot permanent building signs; for parcels with an area of five acres or greater, said limit shall be 35 square feet. In addition, the entire development may have only one freestanding sign or directory sign as defined herein for each street the development fronts on. For parcels with an area of five acres or greater, the regulations for freestanding or directory signs as defined herein shall apply, except that the area for either sign type shall not exceed 35 square feet.

**§ 116-208. Signs permitted in any district. [Amended 9-25-1981 by Ord. No. 421; 8-26-1993 by Ord. No. 647; 7-21-1994 by Ord. No. 662]**

The following signs are permitted in all districts and are exempted from the requirements of this chapter except those specifically provided for herein:

- A. Interior property parking and traffic control signs not exceeding four square feet, where such signs are authorized by the Zoning Officer on the advice of the Police Department. The sign shall not contain the name of the business or describe any products of the business.
- B. Special information signs, including the following: "men," "women," "rest rooms," "hours of operation," "credit cards accepted," "state inspection station," gasoline pump identification and gallonage register. Such signs shall be permitted only where attached to the building or equipment. No letter in excess of four inches of vertical height shall be permitted in such signs. The total area of such signs shall not be included in calculating permitted sign areas.
- C. Temporary signs, banners, flags or advertising matter pertaining to activities or events proposed to take place within Whitemarsh Township sponsored by any nonprofit organization incorporated in the Commonwealth of Pennsylvania, and qualified as tax-exempt pursuant to the Internal Revenue Code, or of any agency of Whitemarsh Township, where a permit is issued for such signs by the Zoning Officer, provided that: **[Amended 3-28-2013 by Ord. No. 925]**
  - (1) Temporary banners, signs, flags or advertising matter shall not be erected or posted more than 30 days prior to the occurrence of the activity or event and must be removed within three days after the date of the occurrence of the event.
  - (2) Each sponsoring agency shall be limited to no more than four temporary sign permits per calendar year.
  - (3) When permitted to be located in the public right-of-way, the applicant agrees in writing to indemnify, defend and hold the Township harmless for any ensuing damages or claims which may occur on the standard form provided by the Township. Further, for signs located in a right-of-way, the applicant must

provide written proof of permission by the property owner in front of whose property the sign is located.

- (4) Such signs shall not be placed upon trees or utility poles within any street rights-of-way.
- D. The legal display of the flag of the United States of America, the flag of the Commonwealth of Pennsylvania, the flag of Whitemarsh Township and the flag of any recognized governmental authority shall be exempt from these regulations.
- E. A sign with an area not exceeding one square foot bearing only property number, street address, post box numbers or the names of the occupants in residential districts.
- F. A governmental insignia, public monument, historic identification signs or plaques and municipal identification signs.
- G. A legal notice.
- H. One or more signs applied to a windowpane, giving store hours or the name or names of credit or charge institutions, when the total area of all such signs does not exceed two square feet.
- I. A sign which is a permanent architectural feature of a building or structure, such as a cornerstone or identifying letters carved into or embossed on a building, provided that the letters are not made of a reflective material and do not contrast in color with the building.
- J. An emblem, logo, insignia or badge displayed to signify membership in or affiliation with any trade association, craftsman group, labor union, civic or fraternal group or similar organization, and not to exceed one square foot.
- K. Off-site real estate signs for the purpose of directing and identifying the location of homes for sale can be placed on private property with the owner's permission on the day of an open house. These signs must be removed within one hour after the event.

**§ 116-209. General sign regulations for all districts. [Amended 9-25-1981 by Ord. No. 421; 10-28-1982 by Ord. No. 444]**

In all districts, the following general sign regulations shall apply, in addition to those regulations contained in § 116-24:

- A. Obstruction. No sign shall be so located or arranged that it interferes with traffic through glare, through blocking of reasonable sight lines for streets, sidewalks or driveways, through confusion with a traffic control device (by reasons of color, location, shape or other characteristics), or through any other means.
- B. Number of signs. Not more than one sign shall be permitted on any residential lot held in single or separate ownership. Not more than one sign shall be permitted for any one nonresidential use or establishment. If any primary use has walls fronting on two or more streets, one sign may be permitted on each frontage. The area for each sign for each street frontage shall be computed separately.

- C. Yard requirements. Except for residential and professional name signs, residential real estate signs, official street and traffic signs, public service signs and temporary signs, no portion of a sign shall be located closer to any street line than 1/2 the distance required of the front yard. If this requirement cannot be met, then signs shall be attached to or mounted on the building front or signs may be permitted within the ROW if approved by the Board of Supervisors. **[Amended 9-25-2008 by Ord. No. 863]**
- D. Zoning information. No sign shall be erected containing information which states or implies that a property may be used for any purpose not permitted under the provisions of the Zoning Ordinance in the zoning district in which the property to which the sign relates is located.
- E. No sign or portion of any sign shall project more than 24 inches over a public walkway, and the lower edge of such projecting sign shall be not less than 10 feet above the walk level.
- F. No sign shall project above the roofline of a building unless it has been screened so as to be visible only from the street on which the building fronts.
- G. Moving signs. No sign shall be erected upon any property or within any building which contains flashing, revolving, moving, sound-producing or animated parts, with the exception of a sign that displays time and/or temperature exclusively or barber poles. **[Amended 7-21-1994 by Ord. No. 662]**
- H. In lieu of erecting temporary signs under § 116-208C, nonprofit organizations such as schools, churches and governmental entities may erect one additional permanent bulletin-board-type sign along each street frontage for the purposes of announcing organization events. Such signs shall not exceed 20 square feet and shall not be subject to the setback limits of Subsection C above; provided, however, that such signs shall not be located within a right-of-way and must conform to the vision obstruction provisions of § 116-21 of this chapter. **[Added 7-21-1994 by Ord. No. 662]**

#### **§ 116-210. Illumination.**

- A. In all residential districts, the following permitted signs may be illuminated and no other:
  - (1) Professional sign of a physician, dentist and such other person whose services in emergency are customarily considered essential to the public health, safety and welfare, provided further that the total illumination for any such sign shall not exceed the equivalent of that given by a twenty-five-watt incandescent light source.
  - (2) Sign of a school, church, hospital, sanatorium, club or other institution of a similar nature, continuing-care retirement community, laboratory or municipal building, provided that the illumination is white light only, and provided further that the total illumination for any such sign shall not exceed the equivalent of that given by a sixty-watt incandescent light source. **[Amended 5-16-2002 by Ord. No. 755]**

- (3) Signs for regulation of traffic or marking of hazards.
- B. In apartment and nonresidential districts, any permitted sign may be illuminated.
- C. Any permitted illumination of signs in any district shall be subject to the following regulations:
  - (1) There shall be no illumination of a flashing, intermittent or moving type.
  - (2) Floodlighting shall be so shielded that the source of light shall not be visible from any point of the lot on which the sign, building or structure being illuminated is erected, and so that only the sign is directly illuminated.

**§ 116-211. Permits.**

No sign shall be erected other than those provided in § 116-205A and E as pertains to the sale or rental of single-family dwellings and § 116-208A and B except pursuant to the provisions of a permit. Fees for permits shall be established by resolution of the Board of Supervisors.

**§ 116-212. Removal of signs. [Amended 7-21-1994 by Ord. No. 662]**

- A. Repair or replacement of signs. Once an existing sign is removed for any reason other than maintenance or repair, including repair as a result of an act of God or an accident, the replacement sign must comply with all the provisions of this chapter. Modernization or changes in graphics, format or copy in the sign exceeding 50% shall require that the sign conform to the provisions of this chapter.
- B. Dangerous or hazardous signs. Any sign or its support shall be immediately removed from a property upon notification from the Zoning Officer that the sign has become dangerous and/or hazardous to public health or safety.
- C. Nonpermitted signs. Any sign which violates the provisions of this chapter and which does not have a valid zoning permit issued by the Zoning Officer shall be made to conform to the provisions of this chapter or removed.
- D. Legally nonconforming signs.
  - (1) Any sign which violates the provision of this chapter but which has a valid zoning permit issued by the Zoning Officer shall be deemed legally nonconforming and shall be removed within five years of July 21, 1994, unless its continued use beyond that date is permitted as a special exception by the Zoning Hearing Board.
  - (2) Any legally nonconforming sign that is located on or related to the use of a property which becomes vacant and unoccupied for a continuous period of 12 months or more, or any sign which was erected for an occupancy or business unrelated to the present occupancy or business or any sign which relates to a time, event or purpose which is passed, shall be deemed to have been abandoned. An abandoned sign is prohibited and shall be removed immediately by the owner of the sign or owner of the property.

**§ 116-213. Gasoline price signs.**

At every gasoline service station one two-faced sign may be erected and maintained at the station upon the following conditions:

- A. Each sign shall contain the following information and no other on both faces:
  - (1) The designation of each grade of the gasoline dispensed at the station.
  - (2) The price of each grade of gasoline in cents (United States currency) and tenths of a cent. No symbol for cents or dollars shall be used.
- B. Each sign shall be posted not more than 10 feet from the street line.
- C. Each such sign shall be perpendicular to the street line. If such street line is not straight, the angles formed by extending the sign's plane to the street line shall be equal.
- D. The face of each sign shall be 14 inches in height for each grade of gasoline dispensed at the station and 16 inches in width, unless the price indicated is more than \$0.99, in which event the width may be increased to a maximum of 18 inches. The signs shall be rectangular.
- E. The numbering and lettering of all signs shall be clear.
  - (1) Numbers denoting price to the left of a decimal shall be eight inches in height and four inches in width, except for the number "1" which shall be at least 1/2 inch in width.
  - (2) Numbers denoting price to the right of a decimal shall be four inches in height and two inches in width, except for the number "1" which shall be at least 1/4 of an inch in width.
  - (3) Only capital letters shall be used, and all letters shall be two inches in height.
  - (4) Any number or letter may vary a maximum of 1/2 inch from the aforesaid dimensions.
- F. The bottom edge of each sign shall be not less than one foot nor more than two feet from the ground, and each sign shall be erected in such a manner that the view of the sign shall be unobstructed from the street nearest to the sign.
- G. If any gasoline service station has frontage on more than one street, it may have one complete set of signs, as above described, for each street upon which it has frontage.
- H. The signs which shall be erected hereunder shall be in addition to those signs permitted under §§ 116-205 through 116-212, inclusive, and shall not cause a reduction in the number of signs permitted on any property under said sections.

**§ 116-213.1. Off-site outdoor advertising signs. [Added 7-13-1995 by Ord. No. 681; amended 1-14-2010 by Ord. No. 889]**

Off-site outdoor advertising signs (also known as "billboards") shall be permitted only on those properties zoned CLI-X Campus Limited Industrial – Modified District or

Institutional (Overlay) District, and which abut Route I-276 (the Pennsylvania Turnpike), subject to the following regulations:

- A. Sign area. The sign area of an off-site outdoor advertising sign shall be a maximum of 672 square feet.
- B. Height. An off-site outdoor advertising sign shall not exceed 40 feet in height from the elevation of Route I-276 (the Pennsylvania Turnpike) closest to the location of the sign's support structure, to the highest point of the sign.
- C. Distance between signs. Each off-site outdoor advertising sign shall be located not less than 1,000 feet from any other off-site outdoor advertising sign on the same side of the Pennsylvania Turnpike, not less than 500 feet from any other off-site outdoor advertising sign on the opposite side of the Pennsylvania Turnpike, and not less than 500 feet from a residential zoning district within the Township.
- D. Commonwealth requirements. All requirements of the Commonwealth of Pennsylvania and any of its agencies that have jurisdiction over the location and placement of off-site outdoor advertising signs along Route I-276 (the Pennsylvania Turnpike) shall be met, and proof thereof shall be submitted to the Township prior to the issuance of a permit for an off-site outdoor advertising sign.
- E. Landscaping. In addition to all other landscaping, buffering and berming requirements under this chapter, an off-site outdoor advertising sign visible from any residential zoning district shall be landscaped in order to shield its visibility from such residential district(s).
- F. Digital display. Notwithstanding any other provision of this chapter to the contrary, digital off-site outdoor advertising signs shall be permitted subject to compliance with the following operating standards:
  - (1) All messages/displays shall remain unchanged for a minimum of five seconds;
  - (2) The time interval to change from one complete message/display to the next complete message/display shall be a minimum of one second;
  - (3) There shall be no appearance of a visual dissolve or fading, in which any part of one electronic message/display appears simultaneously with any part of a second electronic message/display;
  - (4) There shall be no appearance of any flashing or sudden burst of light and no appearance of animation, movement or flow of the message/display;
  - (5) Any illumination intensity or contrast of light levels shall remain constant; and
  - (6) Any operating standards or regulations adopted by the Pennsylvania Department of Transportation or other governmental entity with appropriate jurisdiction.



ARTICLE XXIX  
**Zoning Hearing Board**

**§ 116-214. Establishment; membership; terms of office; vacancies.**

- A. A five-member Zoning Hearing Board is established to replace the three-member Board as it existed on January 7, 1980, in order that the objectives of this chapter may be fully and equitably achieved and that a means of competent interpretation of this chapter be provided.
- B. The Board of Supervisors shall appoint Zoning Hearing Board members to terms as provided by the Pennsylvania Municipalities Planning Code, as amended.<sup>33</sup> **[Amended 8-23-1990 by Ord. No. 604]**
- C. The Zoning Hearing Board shall promptly notify the Board of Supervisors of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term.
- D. Members of the Zoning Hearing Board shall hold no other Township office. **[Amended 8-23-1990 by Ord. No. 604]**

**§ 116-215. Compensation.**

Members of the Zoning Hearing Board may receive compensation for the performance of their duties, as may be fixed by the Board of Supervisors, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Board of Supervisors.

**§ 116-216. Powers and duties.**

The powers and duties of the Zoning Hearing Board shall be as set forth in the Pennsylvania Municipalities Planning Code and its amendments.<sup>34</sup>

**§ 116-217. Standards for actions.**

- A. In any instance where the Zoning Hearing Board is required to consider a request for a special exception or variance in accordance with the provisions of this chapter, the Board shall:
  - (1) Determine whether the special exception is specifically authorized by a provision of this chapter or the variance represents relief from a prohibition or requirement of this chapter.
  - (2) Determine that the proposed change will not substantially injure or detract from the use of neighboring property or from the character of the neighborhood and that the use of property adjacent to the area of the proposed use or change is adequately safeguarded.
  - (3) Determine that the proposed use or change will not have a harmful effect on

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33. Editor's Note: See 53 P.S. § 10101 et seq.

34. Editor's Note: See 53 P.S. § 10101 et seq.

local vehicular or pedestrian traffic due to any of the following:

- (a) Size or bulk of the proposed use or change.
  - (b) Expected daily and peak hour traffic generated by the proposed use or change.
  - (c) Location of entrance and exit drives or new streets.
  - (d) Design and capacity of off-street parking facilities.
- (4) Determine that the proposed use or change is consistent with the policies contained within the Whitemarsh Township Comprehensive Plan.
  - (5) Determine that the surrounding neighborhood will not be subjected to objectionable noise, lighting, glare, heat, ventilation, smoke, fumes, vapors, dust, dirt, gases or radioactive or electrical disturbances by the proposed use or change.
  - (6) Determine that the proposed use or change does not unduly burden sanitary, school, police, fire, park or other public facilities.
- B. In the case of a variance, the Board may grant a variance pursuant to the standards set forth in the Pennsylvania Municipalities Planning Code, as amended.
  - C. The Board may impose such conditions as are necessary to assure that the intent of the Zoning Ordinance is complied with.
  - D. The Zoning Hearing Board may request the review and recommendation of technical agencies, such as the Montgomery County Planning Commission, or other planning agencies to assist in determining the impact of the proposed uses. **[Added 8-23-1990 by Ord. No. 604]**

#### **§ 116-218. Burden of proof.**

The burden of proof shall always be on the applicant before the Zoning Hearing Board to sustain his appeal before the Zoning Hearing Board, and in any application for a special exception, the burden shall be upon the applicant to prove that approval of the application will not be detrimental to the health, safety and general welfare of the community.

#### **§ 116-219. Orders.**

In exercising the above-mentioned powers, the Zoning Hearing Board may reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from and may make such additional order, requirement, decision or determination as ought to be made, and to that end, shall have all the powers of the officer from whom the appeal is taken.

#### **§ 116-220. Rules of procedure; forms.**

The Zoning Hearing Board shall adopt rules of procedure and forms in accordance with the Zoning Ordinance and the Pennsylvania Municipalities Planning Code and its

amendments.

**§ 116-221. Meetings, hearings and notices. [Amended 8-23-1990 by Ord. No. 604]**

- A. Upon the filing with the Board of an appeal or of an application for any matter within its jurisdiction, the Board shall fix a reasonable time and place for a public hearing thereon, and shall:
- (1) Provide public notice, written notice to the applicant and post the building or lot in question, as provided by the Pennsylvania Municipalities Planning Code, as amended.<sup>35</sup>
  - (2) Mail notice thereof to every resident or association of residents of the Township who shall have registered, in writing, their names and addresses for this purpose with the Zoning Hearing Board or the Township Manager on or after January 1 of the calendar year when said public hearing is held but prior to the conclusion of any such public hearing. Any such registration of name(s) effected prior to January 1 of any calendar year in which a public hearing is held by the Zoning Hearing Board will not be recognized as a registration for the purpose of this section.
  - (3) Mail notice thereof to the owner or owners, if their residence is known, or to the occupier or occupiers of every lot within 500 feet of said lot or building, provided that failure to give a notice required by this subsection shall not invalidate any action taken by the Board.
- B. Notices herein required shall state the location of the building or lot and the general nature of the question involved.

**§ 116-222. Evidence.**

The Zoning Hearing Board shall consider in making its official findings or decisions only evidence properly submitted at hearings, with the exception of legal briefs, provided that all parties are given an equal opportunity to submit legal briefs and any responses thereto, but the allowance of the submission of such legal briefs and responses thereto shall be entirely within the discretion of the Zoning Hearing Board. Information from federal, state or county agencies when submitted on official stationery shall be admitted as evidence only at public hearings, and the Zoning Hearing Board, in its sole discretion, shall determine the weight to be given to such evidence. Information from the Whitemarsh Township Planning Commission or from any other Township agency, board, commission or committee shall be submitted to the Zoning Hearing Board only at public hearings as authorized by the Board of Supervisors or the Township Manager, but this shall not prevent any member of an official agency, board, commission or committee of Whitemarsh Township from appearing and being heard as a private citizen.

**§ 116-223. Expiration of granted appeals. [Amended 6-16-1994 by Ord. No. 661; 9-25-2008 by Ord. No. 862]**

- A. Unless otherwise specified by the Board, all approvals granted by the Zoning

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35. Editor's Note: See 53 P.S. § 10101 et seq.

Hearing Board shall automatically expire 365 days after the date of the decision unless:

- (1) The applicant has acted upon the approval by obtaining the required permit(s) and paying the prescribed fees for same; or
  - (2) The Zoning Hearing Board decision is on appeal to the courts, at which point the approval, if upheld on appeal, shall expire 365 days after final determination on appeal.
- B. The Zoning Hearing Board may extend the expiration date of approvals for a period of 180 days upon request by the applicant, provided that the applicant is, in the opinion of the Zoning Hearing Board, diligently pursuing governmental and/or regulatory approvals as required. Requests for extensions shall be in writing and submitted to the Zoning Hearing Board at least 30 days before any applicable expiration date. Only one extension may be provided for any application.

#### **§ 116-224. Appeals from Board.**

Appeals from the decisions of the Zoning Hearing Board shall be in accordance with the Rules of Procedure of the Zoning Hearing Board and the Pennsylvania Municipalities Planning Code and its amendments.

#### **§ 116-225. Fees.**

The fees for applications to the Zoning Hearing Board, for cost of stenographic record of the same, and for subpoenas, shall be in accordance with a schedule adopted by resolution of the Board of Supervisors.

#### **§ 116-226. Copies of decisions and findings.**

In addition to the requirements of § 908 of the Pennsylvania Municipalities Planning Code and its amendments, a copy of the decision or findings of the Zoning Hearing Board shall be mailed or delivered promptly to each of the following: the Chairman of the Board of Supervisors, the Chairman of the Whitemarsh Township Planning Commission, the Township Manager, the Township Secretary and the Township Zoning Officer.

#### **§ 116-227. Variances and special exceptions.**

- A. In passing upon applications for special exceptions and variances or appeals of decisions of the Zoning Officer within the Floodplain Conservation District, the Zoning Hearing Board shall consider all relevant factors and procedures specified in other sections of the Zoning Ordinance in addition to the following:
- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments subject to the following: **[Amended 5-14-1998 by Ord. No. 708]**
    - (a) In the floodplain fringe, no special exception or variance shall be granted for any proposed use, development or activity that will cause any increase in the flood elevation of the one-hundred-year-frequency recurrent

interval flood by more than one foot at any point.

- (b) In the floodway, no special exception or variance shall be granted for any proposed use, development or activity that will cause any increase in flood levels during the one-hundred-year flood.
  - (2) The danger that materials may be swept onto other lands or downstream to the injury of others.
  - (3) The proposed water supply and sanitation systems and the ability of these systems to perform properly and to prevent disease, contamination and unsanitary conditions.
  - (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
  - (5) The importance of the services provided by the proposed facility to the community.
  - (6) The requirements of the facility for a waterfront location.
  - (7) The availability of alternative locations not subject to flooding for the proposed use.
  - (8) The relationship of the proposed use to the Whitemarsh Township Comprehensive Plan and any floodplain management programs for the area.
  - (9) The safety, availability and means of access to the property for emergency services and vehicles in time of flooding.
  - (10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.
  - (11) Such other factors which may be relevant.
- B. The Zoning Hearing Board may refer any application and accompanying documentation pertaining to any requests for special exceptions, variances or appeals of decisions of the Zoning Officer, to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters.
- C. Special exceptions or variances shall only be issued after the Zoning Hearing Board has determined that the granting of such will not result in:
- (1) Increases in flood heights.
  - (2) Additional threats to public safety.
  - (3) Additional public expense.
  - (4) The creation of nuisances.
  - (5) Fraud on or victimization of the public.

- (6) Conflict with local laws or ordinances.
- D. The Zoning Officer shall notify the applicant in writing that:
- (1) The issuance of a variance or special exception to construct a structure below the base flood level will result in increased premium rates for flood insurance; and
  - (2) Such construction below the base flood level increases risks to life and property.
- E. The Zoning Officer shall report all such variances and special exceptions in an annual report to the Federal Insurance Administrator.
- F. The granting of a variance for the construction, modification, alteration, repair, reconstruction or improvements of any kind to the following obstructions and activities shall be conditioned upon the subsequent issuance of a special permit in accordance with the Pennsylvania Floodplain Management Act (Act 166 of 1978)<sup>36</sup> and regulations adopted by the Department of Community Affairs, as amended: **[Added 1-13-1983 by Ord. No. 458]**
- (1) Hospitals, public or private.
  - (2) Nursing or convalescent homes, public or private.
  - (3) Jails.
  - (4) Mobile home parks or mobile home subdivisions.

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36. Editor's Note: See 32 P.S. § 679.101 et seq.

ARTICLE XXX  
**Administration**

**§ 116-228. Appointment, term and compensation of Zoning Officer.**

The provisions of this chapter shall be enforced by the Zoning Officer with the aid of the Police Department and other municipal agencies. The Zoning Officer shall be appointed at the first meeting of the Township Board of Supervisors following the adoption of the chapter, to serve until the first Monday of January next following, and shall thereafter be appointed annually to serve a term of one year and/or until his successor is appointed. The Zoning Officer may succeed himself. He shall receive such compensation as the governing body by resolution shall provide.

**§ 116-229. Powers and duties of Zoning Officer.**

It shall be the duty of the Zoning Officer, and he shall have power to:

- A. Keep a permanent record of all plans and applications for permits and all permits issued, with notations as to special conditions attached thereto. All records shall be open for public inspection and shall be the property of the Township.
- B. Review applications for zoning permits for erections or alterations of structures or changes of use, determine whether such construction or use is in accordance with the general requirements of this chapter, all other applicable ordinances and with the laws and regulations of the commonwealth.
- C. Conduct inspections and surveys to determine compliance or noncompliance with the terms of this chapter. In carrying out such surveys, the Zoning Officer or his representative may enter upon any land or building.
- D. Make written orders requiring compliance with the provisions of this chapter to be served personally or by registered mail.
- E. Institute proceedings in courts of proper jurisdiction for the enforcement of provisions of this chapter.
- F. Maintain a map showing the current zoning classification of all land.
- G. Maintain a map and register showing the registration, identification, location and type of all nonconforming use.
- H. Participate in all proceedings before the Zoning Hearing Board, present facts and information to assist the Board in reaching a decision, resist and oppose any deviations from the standard provisions of this chapter and have decisions of the Board reviewed in a court of proper jurisdiction when, in the judgment of the Zoning Officer, such review is desirable.

**§ 116-230. Zoning permit required.**

Hereafter, no use listed herein may be established or changed; no structure shall be erected, constructed, reconstructed, altered, razed or removed; and no building used or occupied, or changed in use, until a zoning permit has been secured from the Zoning Officer. Upon completion of changes in use or construction, reconstruction, alteration or

moving of structures, the applicant shall notify the Zoning Officer of such completion. No permit shall be considered as complete or as permanently effective until the Zoning Officer has noted on the permit that the work or occupancy and use have been inspected and approved as being in conformity with the provisions of this chapter.

**§ 116-231. Application for zoning permit; certificate of approval.**

- A. All applications for zoning permits shall be made in writing by the owner, tenant, vendee under contract of sale or authorized agent on a form supplied by the Township, and shall be filed with the Zoning Officer. The application shall include four copies of the following information:
- (1) A statement as to the proposed use(s) of the building or land.
  - (2) A site layout drawn to scale showing the location, dimensions and height of proposed buildings, structures or uses and any existing buildings in relation to property and street lines. If the application relates to property scheduled to be developed in successive stages, such plans shall show the relationship of the portion scheduled for initial development to the proposed layout of the entire property.
  - (3) The location, dimensions and arrangements of all open space, yards and buffer yards, including methods to be employed for screening.
  - (4) The location, size, arrangement and capacity of all areas to be used for motor vehicle access, off-street parking, off-street loading and unloading and provisions to be made for lighting such areas.
  - (5) The dimensions, location and methods of illumination for signs, if applicable.
  - (6) The location and dimensions of sidewalks and all other areas to be devoted to pedestrian use.
  - (7) Provisions to be made for treatment and disposal of sewage and industrial wastes, water supply and storm drainage.
  - (8) The capacity and arrangement of all buildings used or intended to be used for dwelling purposes, including the proposed density in terms of number of dwelling units per acre of land.
  - (9) A description of any proposed industrial or commercial operations in sufficient detail to indicate effects of those operations in producing noise, glare, air pollution, water pollution, fire hazards, traffic congestion or other safety hazards.
  - (10) Description of methods to be employed in controlling any excess noise, air pollution, smoke, fumes, water pollution, fire hazards or other safety hazards.
  - (11) Steep slope calculations. **[Added 9-18-1986 by Ord. No. 537]**
  - (12) Any other data deemed necessary by the Zoning Officer to enable him to determine the compliance of the proposed development with the terms of this chapter. **[Amended 9-18-1986 by Ord. No. 537]**

- B. No permit for any new use or construction which will involve the on-site disposal of sewage or waste, and no permit for a change in use or an alteration which will result in an increased volume of sewage or waste to be disposed of on the site, shall be issued until a certificate of approval has been issued by the Pennsylvania Department of Environmental Resources and conforms to all applicable Township regulations.
- C. Nonresidential zoning permit applications, with the exception of permits for repairs, shall be referred to the Whitemarsh Township Planning Commission for review and comment prior to the issuance of said permits. **[Amended 2-23-1984 by Ord. No. 485]**

**§ 116-232. Period of validity of permit.**

Any erection, construction, reconstruction, alteration or moving of a building or other structure, including a sign authorized by a zoning permit, shall be commenced, and any change in use of a building or land authorized by a zoning permit shall be undertaken, within one year after the date of issuance of the permit. If not, the permit shall be considered null and void. However, in case of erection or construction of a building, the right to proceed with construction may be extended annually without additional fees for an aggregate period of not more than three years, provided that the construction pursuant to said permit has commenced within the first one-year period.

**§ 116-233. Certificate of occupancy.**

- A. Hereafter, no structure erected, constructed, reconstructed, altered, extended or moved, and no land or building changed in use, ownership or tenancy under a zoning permit, shall be occupied or used in whole or in part for any use whatsoever, until the owner and authorized agent has been issued a certificate of occupancy by the Zoning Officer, indicating that the building or use complies with the terms of zoning as provided in this chapter.
- B. No certificate shall be issued until the premises in question has been inspected and found by the Zoning Officer to be in compliance with the Zoning Ordinance.
- C. The issuance of a certificate of occupancy in no way absolves the owner or authorized agent from compliance with the intent of this chapter.

**§ 116-234. Appeals from decision of Zoning Officer. [Amended 8-23-1990 by Ord. No. 604]**

Appeals to the Board may be taken by any landowner, developer or person affected by any decision of the Zoning Officer. Such appeal shall be taken within the time limitations established by the Pennsylvania Municipalities Planning Code, as amended, by filing a notice of appeal with the Board, specifying the grounds thereof.

**§ 116-235. Permit fees.**

The applicant for a permit shall, at time of making the application, pay to the Zoning Officer for the use by cash payments to the Township in accordance with a fee schedule adopted by resolution of the Board of Supervisors upon the enactment of this chapter or

as such schedule may be amended by resolution of the Board of Supervisors.

ARTICLE XXXI  
Amendments

**§ 116-236. Amendment by governing body.**

The Board of Supervisors of Whitmarsh Township may, from time to time, amend, supplement, change, modify or repeal this chapter, including the Zoning Map.

**§ 116-237. Amendment procedure. [Amended 8-23-1990 by Ord. No. 604]**

- A. The Board of Supervisors, by motion passed at a regular or special meeting, shall fix the date, time and place of a public hearing on any proposed amendment and shall: **[Amended 9-25-2008 by Ord. No. 862]**
- (1) Provide public notice thereof as required by the Pennsylvania Municipalities Planning Code, as amended.<sup>37</sup>
  - (2) Conspicuously post notice thereof at points deemed sufficient by the Township along the perimeter of the tract.
  - (3) Mail a notice thereof to every resident or association of residents of the Township who shall have registered, in writing, their names and addresses for this purpose with the Township Manager on or after January 1 of the calendar year when said public hearing is held but prior to the conclusion of any such public hearing. Any such registration of name(s) effected prior to January 1 of any calendar year in which a public hearing on a proposed amendment is held will not be recognized as a registration for the purpose of this section.
  - (4) Mail a notice thereof to the owner, owners or occupiers of every lot within 500 feet of an area or areas whose zoning classification is proposed to be changed, if their residence is known.
- B. Said notice shall state the general nature of the proposed amendment and that full opportunity to be heard will be given to any citizen and all parties in interest attending such hearing.

**§ 116-238. Application for amendment by citizen.**

Every application for amendment of the Zoning Ordinance shall first be presented to the Zoning Officer and shall contain the following:

- A. The applicant's name and address, and his representative and the interest of every person represented in the application.
- B. A plan showing the extent of the area to be rezoned, street bounding and intersecting the area, the land use and zone classification of abutting districts, and photographs of the area to be rezoned and abutting areas.
- C. A statement of the circumstances in the proposed district and the abutting districts and any other factors on which the applicant relies as reasons for supporting the proposed rezoning.

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<sup>37</sup>. Editor's Note: See 53 P.S. § 10101 et seq.

- D. The approximate time schedule for the beginning and completion of development in the area.
- E. A site plan to scale, indicating the location of structures, uses, areas for off-street parking and loading.
- F. Information about the market area to be served by the proposed development, if a commercial use, including population, effective demand for proposed business facilities, and any other information describing the relationship of the proposed development to the needs of the market area as the Zoning Officer, Planning Commission or governing body shall prescribe.

#### **§ 116-239. Petition.**

Whenever the owners of 50% or more of the property owners within any district or the property owners of property fronting on the same street or streets or abutting on the property sought to be changed, and situate within 1,000 feet of the property sought to be changed, shall present to the Board of Supervisors a petition duly signed and acknowledged, requesting an amendment, supplement, change, modification or repeal of the regulations prescribed, or of the Zoning Map, including such district, it shall be the duty of the Board of Supervisors to hold a public hearing thereon and cause notice thereof to be given in the manner prescribed in § 116-237 herein.

#### **§ 116-240. Referral to Planning Commission. [Amended 8-23-1990 by Ord. No. 604]**

In the case of an amendment other than that prepared by the Township's Planning Commission, the Board of Supervisors shall submit each such amendment to the Township's Planning Commission and other technical agencies, such as the Montgomery County Planning Commission, at least 30 days prior to the hearing on such proposed amendment to provide these planning agencies an opportunity to submit recommendations.

#### **§ 116-241. Citizens' protest against amendment.**

In case of a protest against such amendment, change, modification or repeal, signed by the owners of 20% or more, either of the area or the lots included in such proposed changes or of those situated within 1,000 feet of the property, such amendment, supplement, change or modification shall not become effective except by the favorable vote of 2/3 of all the members of the governing body.

#### **§ 116-242. Fees for amendment applications and legal and engineering costs.**

- A. For the purpose of defraying expenses of advertising, etc., applications for amendments shall be accompanied by cash payments to the Township in accordance with a fee schedule adopted by resolution of the Board of Supervisors upon the enactment of this chapter or as such schedule may be amended by resolution of the Board of Supervisors.
- B. Legal and engineering costs. It shall be the obligation of any person or persons who apply to or petition the Board of Supervisors for a change of zoning classification

of the Zoning Map or for modification of any provisions of the Zoning Code, including a petition for a curative amendment, to reimburse the Township for all legal, engineering or other expenses reasonably incurred by the Township in processing and considering said petition; provided, however, that where litigation occurs in any manner related to any such application or petition, the person or persons making such application or petition shall be responsible only for legal fees related to such litigation as the court shall assess in the matter as a part of its verdict.

**§ 116-243. Posting of notice. [Amended 9-25-2008 by Ord. No. 862]**

If any person or persons who have an interest (as legal or equitable owner or lessee, contingent or otherwise) in any tract, apply for an amendment to the Zoning Ordinance, which change would affect said tract, such person or persons shall cause a sign or signs to be posted upon each street upon which the tract has frontage; such sign or signs shall conform to the following requirements:

- A. The face of each sign shall contain a minimum of 12 square feet and a maximum of 24 square feet of area.
- B. A sign shall be posted upon the subject tract within 15 feet of the existing right-of-way of each street upon which the tract has frontage.
- C. Each sign shall be erected parallel to the street and shall be erected so that its face shall be unobstructed and clearly visible from the street upon which it is posted. The precise location of each sign shall be approved by the Township Supervisors who shall not unreasonably withhold such approval.
- D. The sign shall be white and contain black letters and numbers which shall be clearly legible from the street upon which the sign is posted; all of such letters and numbers shall be at least four inches in height and two inches in width.
- E. The sign shall contain the following language:

"Notice is hereby given that application has been made to change the zoning of this tract from \_\_\_\_\_ to \_\_\_\_\_; the tract contains \_\_\_\_\_ acres. A hearing on the application scheduled for \_\_\_\_\_ in the Whitmarsh Township Building at 616 Germantown Pike, at \_\_\_\_\_ p.m."

The blank spaces shall be filled with the present zoning district, the proposed zoning district, the number of acres affected by the application for rezoning, the date of the hearing and the hour of the hearing, respectively.

- F. Any such sign shall be erected at least 20 days prior to the original hearing on such application and shall be removed within five days after the original hearing on such application.
- G. If any sign required hereunder is not erected as herein provided, the Township may cause such sign to be prepared and erected, and all reasonable expenses incurred by the Township shall be reimbursed by the applicant prior to the original hearing on the application.
- H. The provisions of this section shall apply in all districts, and the signs required hereunder shall be in addition to the maximum number of signs permitted on any

property, other provisions of this chapter to the contrary notwithstanding.

- I. Persons erecting signs under this section shall not be required to obtain sign permits or pay a sign permit fee.

**§ 116-244. Applicability of sign restrictions.**

None of the provisions of this article (§ 116-236 et seq.) shall apply to the signs required under § 116-243, which requires temporary posting of notice upon certain applications for change in zoning districts.

ARTICLE XXXII  
**Enforcement**

**§ 116-245. Compliance.**

Unless otherwise provided by law or in this chapter, no building or structure shall be erected, constructed, reconstructed, altered, repaired, converted or maintained, and no building, structure or land shall be used or occupied, except for the purposes permitted herein.

**§ 116-246. Notice of violation. [Amended 8-23-1990 by Ord. No. 604]**

If the Zoning Officer shall find that any of the provisions of this chapter are being violated, he shall initiate enforcement proceedings by sending an enforcement notice as provided in the Pennsylvania Municipalities Planning Code, as amended.<sup>38</sup>

**§ 116-247. Fines, penalties and other remedies. [Amended 12-8-1988 by Ord. No. 565; 8-23-1990 by Ord. No. 604]**

- A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney's fees incurred by the Township as a result thereof, as provided in the Pennsylvania Municipalities Planning Code, as amended.<sup>39</sup> Each day that a violation continues shall constitute a separate violation.
- B. The Township may proceed with any and all other remedies as provided in the Pennsylvania Municipalities Planning Code, as amended. The Zoning Officer may institute in the name of the Township any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

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38. Editor's Note: See 53 P.S. § 10101 et seq.

39. Editor's Note: See 53 P.S. § 10101 et seq.



ARTICLE XXXIII  
**EX Extraction District**  
[Added 2-28-2002 by Ord. No. 747<sup>40</sup>]

**§ 116-248. Legislative intent.**

In expansion of the declaration of legislative intent contained in § 116-2, it is hereby declared to be the intent of this article with respect to the uses permitted herein to establish reasonable standards for the height and size of buildings, the area and dimensions of yards and open spaces, and the provision of facilities and operation of industries to minimize traffic congestion, noise, glare, vibration, air pollution, water pollution and fire and safety hazard in the EX Extraction District. It is the further intent of this article to promote the rehabilitation of areas formally used for extraction uses for residential uses compatible with neighboring property, as defined herein.

**§ 116-249. Authorization of Map amendments; scope.**

The Board of Supervisors may authorize as an amendment to the Zoning Map the designation of an area as an Ex Extraction District for the location of extractive uses and residential uses following rehabilitation of the area of extraction. In an Ex Extraction District, the following regulations shall apply.

**§ 116-250. Use regulations.**

In an Ex Extraction District, a building may be erected, altered or used and a lot may be used or occupied for any of the following purposes and no other:

- A. Extraction of mineral deposits, stockpiling, the processing of the removed materials and on-site operations appurtenant to mineral extraction as set forth in Article XXI, § 116-156A through M.
- B. Any use permitted in Article V, § 116-35, following rehabilitation, as defined in § 116-156K through M.

**§ 116-251. Dimensional requirements; additional standards; extractive use standards.**

- A. Dimensional requirements and additional standards shall be those provisions set forth in Article XXI: § 116-147, District area; § 116-148, Dimensional requirements; additional standards; § 116-149, Traffic to and from streets; § 116-150, Signs; § 116-151, Off-street parking and loading; § 116-152, Application and review by Planning Commission; approval or disapproval by Board of Supervisors; and § 116-153, Expansion.
- B. Extractive use standards shall be those provisions set forth in Article XXI, § 116-156A through M.

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40. Editor's Note: This ordinance also repealed Ord. No. 740, adopted 10-18-2001, which ordinance added Article XXXIII, EX Extraction District.

**§ 116-252. Residential use standards.**

Residential use standards shall be those applicable provisions in Article VII (AAA Residential District), § 116-43 et seq.

ARTICLE XXXIV  
**CCRC Continuing-Care Retirement Community District**  
**[Added 5-16-2002 by Ord. No. 755]**

**§ 116-253. Legislative intent.**

In amplification of § 116-2, the specific intent of this article is as follows:

- A. To provide suitable areas within the Township to accommodate housing for the elderly.
- B. To provide appropriate design standards for continuing-care retirement communities.

**§ 116-254. Use regulations.**

A building may be erected or used and a lot may be used or occupied for the following purposes and no other, provided that the requirements of the sections following are met:

- A. Continuing-care retirement community. Such continuing-care retirement community shall consist of a congregate building and independent living units, as follows:
  - (1) The congregate building shall contain all of the following components:
    - (a) Assisted living facilities providing room, board and personal care assistance with activities of daily living (such as bathing, grooming and meal preparation) for individuals able to retain a moderate degree of independence.
    - (b) Skilled nursing care facilities providing professionally supervised nursing care and related medical or other health services to individuals not in need of hospitalization, but whose needs are above the level of assisted living.
    - (c) Services for the exclusive use of residents and their guests, limited to the following:
      - [1] Dining facilities.
      - [2] Medical treatment facilities.
  - (2) The congregate building may contain the following additional components, which shall be strictly limited to occupancy in the congregate building:
    - (a) Independent apartment living units consisting of multiple dwellings.
    - (b) Services for the exclusive use of residents and their guests, limited to the following:
      - [1] Rehabilitation and physical therapy facilities, including wellness center, swimming pools and Jacuzzis.
      - [2] Auditoriums.

- [3] Activity rooms, craft rooms, libraries, lounges and similar recreation facilities.
  - [4] On-site retail and service facilities, limited to barbershop; beauty parlor; convenience store; pharmacy; newsstand; gift shop; bank; postal services; snack bar/coffee shop; bakery; and handicraft shop, staffed solely by residents of the continuing-care retirement community. In the aggregate, such facilities shall be limited to no more than 5,000 square feet of floor area.
  - [5] Administrative offices used in the management of the continuing-care retirement community.
  - [6] Not more than four overnight guest rooms.
- (3) The independent living units may consist of single-family detached, single-family semidetached, attached and multifamily dwellings. **[Amended 2-27-2014 by Ord. No. 936]**
- B. Golf use, so long as the use does not exceed 5% of the site and does not include a chip and putt course or a driving range. The use shall be adjacent and contiguous to an existing golf course.
- C. Accessory uses, subject to the provisions of § 116-24.

#### **§ 116-255. Dimensional regulations.**

In a continuing-care retirement community development, the following dimensional regulations shall apply:

- A. Minimum lot area: 90 acres.
- B. Minimum lot width at building setback line: 300 feet.
- C. Minimum setback from existing public streets on which the Continuing-Care Retirement Community District abuts.
  - (1) Congregate building: 500 feet.
  - (2) Other buildings, off-street parking facilities, refuse collection stations, and stormwater management basins and artificial bodies of water: 100 feet.
- D. Minimum setback from other property lines:
  - (1) Congregate building: 300 feet, or 500 feet from any existing dwelling, whichever is greater.
  - (2) Single-family detached, single-family semidetached, and attached dwelling independent living units: 100 feet.
  - (3) Off-street parking facilities and refuse collection stations: 100 feet.
  - (4) Facility entrance at a public street: 100 feet from side and rear lot lines.
  - (5) Accessory buildings: 50 feet, or 100 feet from existing residential lots.

- (6) Stormwater management facilities: 100 feet from existing residential lots, or as otherwise required by § 116-31.1B.
  - (7) Multifamily independent dwellings: 125 feet. **[Added 2-27-2014 by Ord. No. 936]**
- E. Minimum building setback from common off-street parking facilities with the capacity of the six or more vehicles or entrance and exit roads: 20 feet. Entrance and exit roads shall include the main road from the site entrance up to the first internal intersection of two or more roads which intersection is the beginning point of a loop road. Minimum building setback from all other interior roads that connect to the entrance and exit road and common off-street parking facilities with the capacity of five or fewer vehicles shall be 15 feet. Building setback criteria are not to be applied to loading docks, porte-cochere areas and service areas. **[Amended 2-27-2014 by Ord. No. 936]**
- F. Distance between buildings.
- (1) The horizontal distance between buildings, measured in feet at the closest point between any two buildings, shall not be less than the height of the taller building.
  - (2) In no case shall any two structures be closer than 30 feet to one another.
- G. Maximum density: 3.70 dwelling units per acre. For the purpose of this subsection, every three beds in the assisted living facilities and skilled nursing care facilities shall be deemed the equivalent of one dwelling unit.
- H. Minimum open space: 30% of the lot area. For the purposes of open space calculation in the CCRC District, "open space" shall not include public or private streets and driveways, public street rights-of-way, parking areas, any areas within 25 feet of any principal building, or other public improvements; nor shall it include the fifty-foot buffer area along the perimeter of the site.
- I. Maximum height.
- (1) Independent living units that are single-family detached, single-family semidetached and attached dwellings: 30 feet; and multifamily dwellings: 35 feet. **[Amended 2-27-2014 by Ord. No. 936]**
  - (2) Congregate building: 45 feet.
  - (3) Accessory buildings: 20 feet and not exceeding one story.
- J. Maximum building area: 15%.
- K. Maximum impervious ground cover: 35%.

#### **§ 116-256. Development requirements.**

In a continuing-care retirement community development, the following development requirements shall apply:

- A. The number of assisted living facility beds and skilled nursing care facility beds

- shall not exceed 30% of the total number of independent living dwelling units.
- B. The number of apartment units shall not exceed 75% of the total number of independent living dwelling units.
  - C. Buildings shall be in accordance with an overall plan and shall be designed as a single architectural scheme. No single wall face shall have a horizontal dimension in excess of 175 feet.
  - D. Class A buffers shall be provided along all abutting street lines and Class B buffers shall be provided along all other abutting lot lines, as required by the Whitemarsh Township Subdivision and Land Development Ordinance.<sup>41</sup>
  - E. Outdoor refuse collection stations shall be adequately screened and landscaped so as to be out of view of adjacent properties and public streets.
  - F. Any outdoor lighting shall be arranged so that no direct rays from such lighting shall fall upon a neighboring property or street; nor shall any high brightness surface of the luminaries be visible from neighboring residential lots or from a public street. The incident spill light level off of a property shall not exceed 0.3 footcandle at the lot line and shall not exceed 0.5 footcandle at the street line. No lighting fixture shall have a height in excess of 14 feet.
  - G. No deliveries or solid waste collection activities shall be permitted between the hours of 5:00 p.m. and 7:00 a.m.
  - H. Any development must be serviced by public water and sanitary sewage systems.
  - I. Walking trails, gardens and public gathering spaces shall be incorporated into the required open space. **[Amended 10-21-1982 by Ord. No. 442]**
  - J. Off-street parking. Off-street parking shall be in accordance with Article XXVI of this chapter and § 105-38 of the Whitemarsh Township Subdivision and Land Development Ordinance. Where a CCRC parking garage is utilized to provide off-street parking spaces, the following standards shall apply: **[Added 12-18-2003 by Ord. No. 783]**
    - (1) Parking spaces within or upon a CCRC parking garage may be located within 10 feet of a structure.
    - (2) Planting strips shall not be required to separate parking areas within a CCRC parking garage.
    - (3) Interior landscaping shall not be required.
    - (4) Piers and/or columns may be located along the perimeter of a parking space. In no case shall supportive piers or columns reduce the overall required width of a parking space by more than 12 inches.
    - (5) A two-way aisle may be reduced to a width of 20 feet in locations where such aisle does not serve (in part) as a back-up area for an abutting parking space.

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41. Editor's Note: See Ch. 105, Subdivision and Land Development.

- (6) Impervious coverage or building coverage, whichever is greater, shall be reduced on the site to an amount equal to the area of the planting strips and aisle reduction granted above.



ARTICLE XXXV  
**RCCD Riparian Corridor Conservation Overlay District<sup>42</sup>**  
**[Added 3-24-2003 by Ord. No. 768<sup>43</sup>]**

**§ 116-257. Legislative intent.**

In expansion of the declaration of legislative intent contained in § 116-2, it is hereby declared to be the intent of this article with respect to the uses permitted herein to establish reasonable standards and controls for governing the conservation, management, disturbance, and restoration of riparian corridors under authority of Article I, Section 27 of the Pennsylvania Constitution, Act 247 the Municipalities Planning Code, as amended,<sup>44</sup> and other commonwealth and federal statutes, in conformance with the goals of the Comprehensive Plan, Open Space and Environmental Resource Protection Plan, and the following objectives:

- A. Improve surface water quality by reducing the amount of nutrients, sediment, organic matter, pesticides, and other harmful substances that reach watercourses, wetlands, subsurface, and surface water bodies by using scientifically proven processes including filtration, deposition, absorption, adsorption, plant uptake, and denitrification, and by improving infiltration, encouraging sheet flow, and stabilizing concentrated flows.
- B. Improve and maintain the safety, reliability, and adequacy of the water supply for domestic, agricultural, commercial, industrial, and recreational uses along with sustaining diverse populations of aquatic flora and fauna.
- C. Preserve and protect areas that intercept surface water runoff, wastewater, subsurface flow, and/or deep groundwater flows from upland sources and function to remove or buffer the effects of associated nutrients, sediment, organic matter, pesticides, or other pollutants prior to entry into surface waters, as well as provide wildlife habitat, moderate water temperature in surface waters, attenuate flood flow, and provide opportunities for passive recreation.
- D. Regulate the land use, siting, and engineering of all development to be consistent with the intent and objectives of this article and accepted conservation practices, and to work within the carrying capacity of existing natural resources.
- E. Assist in the implementation of pertinent state laws concerning erosion and sediment control practices, specifically erosion control, of the Pennsylvania Clean Streams Law, Act 394, P.L. 1987,<sup>45</sup> Chapter 102 of the Administrative Code (as amended October 10, 1980 Act 157 P.L.), Title 25, and any subsequent amendments thereto, as administered by the Pennsylvania Department of Environmental Protection and the Montgomery County Conservation District.

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42. Editor's Note: This article title was amended, to include the word "overlay," 1-28-2010 by Ord. No. 893. Said ordinance also provided that all references to said district would be construed to be the name as amended.

43. Editor's Note: This article originally provided for the adoption of this article as § 116-253 through § 116-262, but was amended 7-24-2003 by Ord. No. 776 to redesignate the sections as § 116-257 through § 116-266 to correct a numbering conflict.

44. Editor's Note: See 53 P.S. § 10101 et seq.

45. Editor's Note: See 35 P.S. 691.1 et seq.

- F. Conserve natural features important to land or water resources such as headwater areas, groundwater recharge zones, floodway, floodplain, springs, streams, wetlands, woodlands, prime wildlife habitats, and other features that provide recreational value or contain natural amenities whether on developed or undeveloped land.
- G. Work with floodplain, steep slope, and other requirements that regulate environmentally sensitive areas to minimize hazards to life, property, and riparian features.
- H. Recognize that natural features contribute to the welfare and quality of life of the township residents.
- I. Conserve natural, scenic, and recreation areas within and adjacent to riparian areas for the community's benefit.

**§ 116-258. Application and width determination.**

- A. Application. The Riparian Corridor Conservation District is an overlay district that applies to the streams, wetlands, and water bodies, and the land adjacent to them, as specified in the following table:

**Water Feature Surface**

**Minimum Corridor Width**

- |   |  |
|---|--|
| <p>1. Perennial streams. All perennial streams identified in the Soil Survey<sup>1</sup> (Perennial streams are shown as solid lines on the Soil Survey maps.)</p>  | <p>Zone 1: Minimum width of 25 feet from each defined edge of the watercourse at bank full flow, measured perpendicular to the edge of the watercourse. Zone 2: Minimum width of 50 feet from the outer edge of Zone 1, measured perpendicular to the edge of Zone 1, or equal to the extent of the one-hundred-year floodplain<sup>3</sup>, or 25 feet beyond the outer edge of a wetland along the stream, whichever is greater. (Total minimum width of Zones 1 and 2 = 150 feet plus the width of the stream.)</p> |
| <p>2. Intermittent streams. Intermittent streams identified in the Soil Survey<sup>1</sup> or any stream otherwise identified on the applicant's plan that have an upstream drainage area of 75 acres or more<sup>2</sup>. (Intermittent streams are shown as dotted and dashed lines on the Soil Survey maps.)</p> | <p>Zone 1: Minimum width of 25 feet from each defined edge of the watercourse at bank full flow, measured perpendicular to the edge of the watercourse. Zone 2: Minimum width of 50 feet from the outer edge of Zone 1, measured perpendicular to the edge of Zone 1, or equal to the extent of the one-hundred-year floodplain<sup>3</sup>, or 25 feet beyond the outer edge of a wetland along the stream, whichever is greater. (Total minimum width of Zones 1 and 2 = 150 feet plus the width of the stream.)</p> |
| <p>3. Wetlands and water bodies. Wetlands not located along a stream, and water bodies, where the wetland and/or water body is greater than 10,000 square feet in area.</p>   | <p>Zone 1: Minimum width of 25 feet from the outer edge of the wetland or water body, measured perpendicular to the edge. For wetlands located at the edge of a water body, the measurement shall be made from the outer edge of the wetland. Zone 2: Does not apply.</p>  |

NOTES:

<sup>1</sup>Soil Survey shall mean the most recent edition of the Soil Survey of Montgomery County.

<sup>2</sup>Upstream drainage area is measured from where the stream exits the applicant's site.

<sup>3</sup>One-hundred-year floodplain as identified on the Flood Insurance Rate Map (FIRM) prepared by FEMA, or as calculated by the applicant where FEMA data does not apply.

- B. Zone width adjustments for steep slopes. Where steep slopes in excess of 25% are located within Zone 1 along a stream identified in Subsection 1 or 2 of the table above, Zone 1 shall be extended over the steeply sloped area as follows:
- (1) If the extent of the steeply sloped area is more than 75 feet, Zone 1 shall extend to the seventy-five-foot maximum corridor width, and Zone 2 shall not be required.
  - (2) If the extent of the steeply sloped area is less than 75 feet, Zone 1 shall extend to the limit of the steeply sloped area, and the width of Zone 2 shall be adjusted so that the total corridor width (Zone 1 plus Zone 2) will be 75 feet maximum.
- C. Identification and width determination. The applicant shall be responsible for the following:
- (1) Identifying the watercourses, wetlands, and/or water bodies on and abutting the applicant's site, and locating these features accurately on the applicant's plans.
  - (2) Initial width determination of the riparian corridor(s) in compliance with Subsection 1 of the table above, herein, and for identifying these areas on any plan that is submitted for subdivision, land development, or other improvements that require plan submissions or permits. The initial determination(s) shall be subject to review and approval by the Township Planning Commission, with the advice of the Township Engineer.
- D. Conflict with floodplain regulations. Where a conflict exists between these Riparian Corridor Conservation District regulations and the Floodplain Conservation District regulations (Article XXII), the stricter regulation shall apply.

### § 116-259. Permitted uses.

The following uses are permitted by right in the Riparian Corridor Conservation District in compliance with the requirements of this article:

- A. General regulations. There shall be a setback from the boundary of the Riparian Corridor Conservation District. Said setback shall be equal to at least 1/2 of the setback applicable on that portion of any individual lot. **[Amended 3-28-2013 by Ord. No. 925]**
- B. Zone One.
- (1) Open space uses that are primarily passive in character shall be permitted to extend into the area defined as Zone One, including:
    - (a) Wildlife sanctuaries, nature preserves, forest preserves, fishing areas, passive areas of public and private parklands, and reforestation.
    - (b) Streambank stabilization, in accordance with best management practices.
  - (2) Forestry operations approved by the Montgomery County Conservation District.
  - (3) Corridor crossings.

- (a) Agricultural crossings by farm vehicles and livestock.
- (b) Driveways serving one or two single-family detached dwelling units, provided the mitigation requirements of § 116-264B are satisfied. The corridor crossing standards of § 116-264A should be considered during design of the driveway.
- (c) Driveways serving more than two single-family detached dwelling units, or roadways, recreational trails, railroads, and utilities, provided the mitigation requirements of § 116-264B and the corridor crossing design standards of § 116-265A are satisfied.

C. Zone Two.

- (1) Open space uses including wildlife sanctuaries, nature preserves, forest preserves, passive areas of public and private parklands, recreational trails, and reforestation.
- (2) Agricultural uses conducted in compliance with methods prescribed in the Department of Environmental Protection's Erosion and Sediment Pollution Control Manual, 1990, as amended.
- (3) Corridor crossings:
  - (a) Agricultural crossings by farm vehicles and livestock.
  - (b) Driveways serving one or two single-family detached dwelling units, provided the mitigation requirements of § 116-264B are satisfied. The corridor crossing standards of § 116-265A should be considered during design of the driveway.
  - (c) Driveways serving more than two single-family detached dwelling units, or roadways, recreational trails, railroads, and utilities, provided the mitigation requirements of § 116-264B and the corridor crossing design standards of § 116-265A are satisfied.
- (4) Residential accessory structures having an area equal to or less than 200 gross square feet.
- (5) Forestry operations approved by the Montgomery County Conservation District.
- (6) Passive use areas such as camps, campgrounds, picnic areas, and golf courses. Active recreation areas such as ball fields, playgrounds, and courts, provided these uses are designed in a manner that will not permit concentrated flow of stormwater runoff.
- (7) Centralized sewer and/or water lines and public utility transmission lines running along the corridor. When proposed as part of a subdivision or land development, the mitigation requirements of § 116-264B shall be satisfied. In all cases, these lines shall be located as far from Zone One as practical.

**§ 116-260. Uses specifically prohibited.**

Any use or activity not authorized within § 116-259, herein shall be prohibited within the Riparian Corridor Conservation District, and the following activities and facilities are specifically prohibited:

- A. Clearing of existing vegetation, except where such clearing is necessary to prepare land for a use permitted under § 116-259, herein, and where the effects of these actions are mitigated by reestablishment of vegetation, as specified under § 116-264, herein.
- B. Storage of any hazardous or noxious materials.
- C. Roads or driveways, except where permitted as corridor crossings in compliance with § 116-259, herein.
- D. Motor or wheeled-vehicle traffic in any area not designed to accommodate adequately the type and volume.
- E. Parking lots.
- F. Any type of permanent structure, including fences, except structures needed for a use permitted in § 116-259, herein.
- G. Subsurface sewage disposal areas.
- H. Sod farming.
- I. Stormwater basins, including necessary berms and outfall facilities.

**§ 116-261. Nonconforming structures and uses.**

- A. A lot containing a residential dwelling that was in existence at the time this article was adopted may be permitted to expand the principal building or to install a permitted structure into Zone Two. This expansion shall not be more than 25% of the footprint of the principal building that was in existence at the time this article was adopted. Such an expansion may be either singular or cumulative. For purposes of this section, "footprint" shall mean "building footprint" (which, for purposes of this chapter, is defined the same as "building area" in Article II, § 116-11) and shall include the following regardless of their inclusion or exclusion in the definition of "building area" bay windows with floor space, porches, and decks. **[Amended 3-28-2013 by Ord. No. 925]**
- B. Any other nonconformity for either a structure or uses shall be regulated under Article XXVII, Nonconforming Lot, Structure and Use, herein.

**§ 116-262. Boundary Interpretation and Appeals Procedure**

- A. When an applicant disputes the Zone 1 and/or 2 boundaries of the Riparian Corridor or the defined edge of a watercourse, surface water body, or wetland, the applicant shall submit evidence to the Township that shows the applicant's proposed boundary and provides justification for the proposed boundary change.
- B. The Township Engineer, and/or other advisors selected by the Board of

Supervisors, shall evaluate all material submitted and provide a written determination to the Board of Supervisors, Township Planning Commission, and landowner or applicant.

- C. Any party aggrieved by any such determination or other decision or determination under this section may appeal to the Zoning Hearing Board under the provisions of Article XXIX, Zoning Hearing Board, of this chapter. The party contesting the location of the district boundary shall have the burden of proof in case of any such appeal.

**§ 116-263. Inspection.**

- A. Lands within or adjacent to an identified Riparian Corridor Conservation Overlay District will be inspected by the Township Code Enforcement Officer when:
- (1) A subdivision or land development plan is submitted.
  - (2) A building permit is requested.
  - (3) A change or resumption of nonconforming use is proposed.
- B. The district may also be inspected periodically by the Code Enforcement Officer and/or other representatives designated by the Board of Supervisors for compliance with an approved restoration plan, excessive or potentially problematic erosion, hazardous trees, or at any time when the presence of an unauthorized activity or structure is brought to the attention of Township officials.

**§ 116-264. Management.**

- A. Riparian corridor planting. Reestablishment of forest cover and woodland habitat shall be required consistent with the requirements of the landscape regulation within the Township Subdivision and Land Development Ordinance.<sup>46</sup>
- B. Mitigation measures. Uses permitted in § 116-259 involving corridor crossings or other encroachment within the riparian corridor shall be mitigated by increasing the width of the corridor as replacement for the area lost due to the encroachment or disturbance, so that the total area of the corridor (Zone 1 and Zone 2) for each applicable side of the stream or watercourse is equal to that required by § 116-258A.
- C. Corridor area is the product of the corridor width required by § 116-258A (the whole table) and the total length for each applicable side of the stream or watercourse for which a riparian corridor is being established. Perimeter shall be used in place of length for determining wetland buffer area. The increased width shall be spread throughout the corridor to the maximum extent possible. For stream and watercourses the increased width shall not be concentrated into an area less than 1,000 feet in length or the full length of the corridor on the affected property, whichever is less.

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46. Editor's Note: See Ch. 105, Subdivision and Land Development.

**§ 116-265. Corridor crossings standards.**

Corridor crossing criteria. Review by the Board of Supervisors regarding uses permitted in § 116-259B and C and involving corridor crossings should include, but not be limited to, consideration of the following design standards:

- A. The width of the right-of way should not be greater than the minimum right-of-way width required by the Township Subdivision and Land Development Ordinance.<sup>47</sup>
- B. Crossings should be designed to cross the riparian corridor at direct right angles to the greatest extent possible in order to minimize disturbance of the corridor.
- C. Corridor crossings should be separated by a minimum of 1,000 feet of buffer length.
- D. Bridges should be used in place of culverts when crossings would require a 72 inch or greater diameter pipe. When culverts are installed they should consist of slab, arch or box culverts. Corrugated metal pipe shall not be utilized for culverts. Natural materials shall be utilized to maintain the character of the stream channel through the corridor crossing, without adversely affecting the hydraulic capacity of the structure. The design of the corridor crossing shall preclude erosion of the adjoining watercourse by limiting flow velocities to that permitted by the Grading, Erosion Control, and Stormwater Management Ordinance.<sup>48</sup>

**§ 116-266. Use of technical terminology.**

Technical terminology used in this article shall be interpreted to have the meanings used by recognized sources and experts in the fields of forestry, woodland or meadow management, streambank protection, wetlands management, erosion and sedimentation control, or other relevant fields.

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47. Editor's Note: See Ch. 105, Subdivision and Land Development.

48. Editor's Note: See Ch. 58, Grading, Erosion Control, Stormwater Management and Best Management Practices.

ARTICLE XXXVI  
**Conservation Design Overlay District**  
**[Added 4-6-2006 by Ord. No. 812]**

**§ 116-267. Legislative intent.**

In amplification of § 116-2, the specific intent of this article is to:

- A. Conserve open land, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, floodplains and wetlands, by setting them aside from development;
- B. Provide greater design flexibility and efficiency in the location of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the amount of paving required for residential development;
- C. Reduce erosion and sedimentation by the retention of existing vegetation, and the minimization of development on steep slopes;
- D. Implement adopted Township policies to conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the Township's Conservation Features Map in the Comprehensive Plan, including provisions for reasonable incentives to create a system of common open space for the benefit of present and future residents;
- E. Implement adopted land use, transportation, and community policies, as identified in the Township's Comprehensive Plan;
- F. Create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space, and with a strong neighborhood identity;
- G. Provide for the conservation and maintenance of open land within the Township to achieve the above-mentioned goals and for active or passive recreational use by residents;
- H. Provide multiple options for landowners in order to minimize impacts on environmental resources (including but not limited to sensitive lands, such as wetlands, floodplain, and steep slopes) and disturbance of natural or cultural features (including but not limited to mature woodlands, hedgerows and tree lines, critical wildlife habitats, historic buildings, and fieldstone walls); and
- I. Conserve scenic views and elements of the Township's character, and minimize perceived density, by minimizing views of new development from existing roads.

**§ 116-268. Overlay concept; conflicts.**

- A. The Conservation Design Overlay District shall be an overlay to the existing underlying AAAA, AAA, AA and A Residential Districts as shown on the Zoning Map. As such, the provisions for the Conservation Design Overlay District shall replace the underlying district provisions for all property; provided, however, that where development is proposed of fewer than five dwelling units (total of both existing and proposed), such property may be developed according to the area and

dimensional regulations of the underlying district. Property for which this exemption is utilized shall not interrupt or preclude the implementation of an interconnected greenway network of common open space, which is a principal objective of this chapter. **[Amended 12-21-2006 by Ord. No. 826]**

- B. (Reserved)<sup>49</sup>
- C. Where there is any conflict between the provisions or requirements of the Conservation Design Overlay District and those of any underlying district, the more restrictive provisions shall apply.

**§ 116-269. District boundary changes.**

The delineation of the Conservation Design Overlay District may, from time to time, be revised by the Board of Supervisors pursuant to § 116-236 of this chapter et seq.

**§ 116-270. Development options. [Amended 3-28-2013 by Ord. No. 925]**

- A. This article provides for flexibility in designing new single-family detached residential subdivisions by allowing three forms of by-right development options in certain residential districts, as summarized below:

	<b>Residential District AAAA</b>	<b>Residential District AAA</b>	<b>Residential District AA</b>	<b>Residential District A</b>
Option One	X	X	NA	NA
Option Two	X	X	NA	NA
Option Three	X	X	X	X

- (1) Option One: providing for very low-density residential uses with no common open space, appropriate to rural areas, with flexible and reduced design standards in instances where a permanent conservation easement is offered to maintain such uses. Option One is permitted in AAAA and AAA Residential Districts only.
- (2) Option Two: providing for residential uses at the density permitted by the existing underlying zoning with common open space. Option Two is permitted in AAAA and AAA Residential Districts only.
- (3) Option Three: providing for higher-density residential uses with a higher percentage of common open space. Option Three is permitted in AAAA, AAA, AA and A Residential Districts.

**§ 116-271. Minimum design standards.**

The design of all new subdivisions in the Conservation Design Overlay District shall comply with the following minimum standards:

- A. Ownership. The tract of land may be held in single and separate ownership or in

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49. Editor’s Note: Former Subsection B, which provided regulations for developed tracts existing as of the effective date of this article, was repealed 12-21-2006 by Ord. No. 826.

multiple ownership. However, when a tract is held in multiple ownership, it shall be planned as a single entity with common authority and common responsibility. This provision shall not apply to developments consisting of fewer than five dwelling units.

- B. Site suitability. As evidenced by the existing resources and site analysis plan (the ERSAP), the preliminary plan, and the final plan, the tract incorporating the Conservation Design Overlay District design option shall be suitable for supporting development in terms of environmental conditions, size, and configuration.
- C. Disturbance of primary and secondary conservation features. The design process set forth in § 105-21B(14), Five Step Design Process for Conservation Design Overlay Districts, of Chapter 105, Subdivision and Land Development, of the Code of Whitemarsh Township shall be followed in designing both the common open space and development areas. Primary conservation areas shall not be disturbed and shall be included in protected common open space. Secondary conservation areas to be protected shall be determined at sketch plan stage in discussion with the Township Planning Commission. Common open space shall be designed in accordance with the design standards in § 116-274, Design standards for conservation subdivisions, § 116-275, Common open space land use and design standards, both of this chapter and § 105-95, Common open space design review standards, of Chapter 105, Subdivision and Land Development, of the Code of Whitemarsh Township.
- D. Community wastewater systems. In developments that are proposed to be served by community wastewater disposal systems, the selection of a wastewater treatment technique shall be based upon the policies established in the Township's wastewater facilities plan and shall be consistent with and meet all requirements of § 105-79, Private sewer systems, of Chapter 105, Subdivision and Land Development, of the Code of Whitemarsh Township.

#### **§ 116-272. Use regulations.**

Land in the Conservation Design Overlay District may be used for the following purposes:

- A. Single-family detached dwellings.
- B. Common open space as part of a conservation design subdivision or land development.
- C. Nonresidential uses. The following nonresidential uses in accordance with the standards of § 116-275, Open space land use and design standards, of this chapter.
  - (1) Agricultural uses, including horticultural, wholesale nurseries, and the raising of crops, and buildings related to the same.
  - (2) Woodlots, arboreta, and other similar silvicultural uses.
  - (3) Woodland preserve, game preserve, wildlife sanctuary, or other similar conservation use.
  - (4) Municipal or public uses, public park or recreation areas owned and operated

by a public or private nonprofit agency, governmental or public utility building or use. Municipal or public uses permitted under this section do not include business facilities, storage of materials, trucking or repair facilities, the housing of repair crews, or private or municipal sanitary landfills.

- D. Accessory uses shall be permitted in connection with, incidental to, and on the same lot with a principal use or structure permitted within the Conservation Overlay Design District and in accordance with § 116-24, Accessory uses and structures, of this chapter.
- E. Accessory dwelling units (ADU) including, but not limited to, elder cottages for relatives and tenant houses for employees of a farm or estate and proposed in Option One subdivisions, are permitted within the Conservation Overlay Design District subject to the following provisions:
- (1) The ADU may be located within the principle dwelling, in an existing historic structure or, on tracts 15 acres or larger, in a new structure;
  - (2) There shall be a maximum of one ADU on any legal building lot in an Option One subdivision containing less than 10 acres and a maximum of two ADUs on any legal building lot containing 10 or more acres, provided all performance and dimensional standards for a primary dwelling unit of this chapter are met;
  - (3) The gross floor area in the first ADU shall not exceed 900 square feet. In the second ADU, where permitted, the gross floor area shall not exceed 750 square feet; however, on lots exceeding 15 acres, the gross floor area of the second ADU shall not exceed 1,800 square feet. Under this section, existing historic accessory buildings more than 75 years old that exceed these gross floor area limits may be permitted to be used as ADUs without having to meet the dimensional setback requirements of this chapter;
  - (4) Building permits for ADUs shall not be issued until the applicant demonstrates that a restrictive conservation easement has been placed on the subject property prohibiting future enlargement of the ADUs, the creation of additional ADUs beyond the limits described above and any further future subdivision of the tract. Issuance of permits for ADUs shall be contingent upon the Montgomery County Department of Health approval for any on-site sewage disposal systems needed; and
  - (5) Any ADU permitted under this subsection shall be limited to a height of 25 feet, with the exception of historic buildings; and
  - (6) The ADU shall be located on the same lot as the principle dwelling and shall not be located on its own lot.

**§ 116-273. Site capacity calculations.**

The following calculations shall be used to determine the maximum number of lots permitted for a subdivision on a tract of land in the AAAA, AAA, AA, and A Residential Zoning Districts. The calculations shall be completed by the applicant and submitted with all sketch plan and preliminary plan applications.

A. Base site area.

- (1) Tract area: \_\_\_\_\_ acres.
- (2) Subtract:
  - (a) Existing road right-of-way: \_\_\_\_\_ acres.
  - (b) Utility right-of-way: \_\_\_\_\_ acres.
  - (c) Land with different zoning: \_\_\_\_\_ acres.
- (3) Equals base site area: \_\_\_\_\_ acres.

B. Constrained lands calculation.

- (1) Constrained lands consists of the natural resources listed below. The area of the resource is multiplied by a protection factor to arrive at the constrained land.

<b>Resource</b>	<b>Protection Factor</b>	<b>Area of Resource</b>	<b>Constrained Land</b>
(a) Floodway	100% (1.0)	x _____ acres	= _____ acres
(b) Floodplain	50% (.50)	x _____ acres	= _____ acres
(c) Wetlands	95% (.95)	x _____ acres	= _____ acres
(d) Steep slopes (25%+)	85% (.85)	x _____ acres	= _____ acres
(e) Steep slopes 15-25%	25% (.25)	x _____ acres	= _____ acres
(f) Total area of resources		x _____ acres	= _____ acres
(g) Constrained land			= _____ acres

- (2) In the event two or more resources overlap, only the resource with the highest protection ratio shall be used in the calculations.

C. Adjusted tract area calculation. Adjusted tract area is the base site area minus the constrained land.

- (1) Base site area [from Subsection A(3) above]: \_\_\_\_\_ acres.
- (2) Subtract the constrained land [from Subsection B(1)(g) above]: \_\_\_\_\_ acres.
- (3) Equals adjusted tract area: \_\_\_\_\_ acres.

D. Common open space. This calculation determines the minimum required common open space.

- (1) Adjusted tract area [from Subsection C(3) above]: \_\_\_\_\_ acres.
- (2) Multiplied by the minimum common open space: (use the percentage required in Option One, Two or Three as applicable): \_\_\_\_\_ %.

- (3) Equals: \_\_\_\_\_ acres.
  - (4) Plus constrained lands [from Subsection B(1)(g) above]: \_\_\_\_\_ acres.
  - (5) Equals minimum required common open space: \_\_\_\_\_ acres.
- E. Development area calculation. Development area is the acreage that may be developed, i.e., upon which dwelling units or other related structures may be located.
- (1) Adjusted tract area: \_\_\_\_\_ acres.
  - (2) Minus minimum required common open space [Subsection D(5) above]: \_\_\_\_\_ acres.
  - (3) Equals development area: \_\_\_\_\_ acres.
- F. Maximum number of dwelling units calculation. This determines the maximum number of dwelling units permitted on the subject tract of land.
- (1) Adjusted tract area [from Subsection C(3) above]: \_\_\_\_\_ acres.
  - (2) Times maximum density factor: (in dwelling units per acre, as defined by the district dimensional standards for the development option that has been chosen): \_\_\_\_\_.
  - (3) Equals maximum number of dwelling units: \_\_\_\_\_ dwelling units.
- G. Summary of calculations.
- (1) Tract area: \_\_\_\_\_ acres.
  - (2) Base site area [Subsection A(3) above]: \_\_\_\_\_ acres.
  - (3) Constrained lands [Subsection B(1)(g) above]: \_\_\_\_\_ acres.
  - (4) Adjusted tract area [Subsection C(3) above]: \_\_\_\_\_ acres.
  - (5) Minimum required common open space [Subsection D(5) above]: \_\_\_\_\_ acres.
  - (6) Development area [Subsection E(3) above]: \_\_\_\_\_ acres.
  - (7) Maximum number of dwelling units [Subsection F(3) above]: \_\_\_\_\_.

**§ 116-274. Design standards for conservation subdivisions.**

- A. Lots shall not encroach upon primary conservation features, and their layout shall respect secondary conservation features as defined and described in both this Zoning Chapter and the Subdivision and Land Development Chapter.
- B. All new dwellings shall meet the following setback requirements:
- (1) From all external road ultimate right-of-way: 100 feet.
  - (2) From all other tract boundaries: 50 feet.

- (3) From cropland or pasture land: 100 feet.
  - (4) From buildings or barnyards housing livestock: 200 feet.
  - (5) From active recreation areas such as courts or playfields (not including tot-lots): 150 feet.
- C. Standards pertaining to the quantity, quality, configuration, ownership, and maintenance of the common open space land created under this article are contained in §§ 116-275 through 116-277 of this chapter and Article X, Conservation Design Overlay District, of Chapter 105, Subdivision and Land Development of the Code of Whitemarsh Township.

**§ 116-275. Common open space land use and design standards.**

Common open space in all subdivisions shall meet the following standards:

- A. Uses permitted in common open space shall be as follows:
- (1) Conservation of open land in its natural state, including, but not limited to, woodland, fallow field, or managed meadow;
  - (2) Agricultural and horticultural uses, including raising crops or livestock, wholesale nurseries, and associated buildings, excluding residences, that are specifically needed to support an active, viable agricultural or horticultural operation. Specifically excluded are commercial livestock operations involving swine, poultry, mink, and other animals likely to produce highly offensive odors;
  - (3) Pastureland for horses used solely for recreational purposes. A noncommercial stable and/or shelter(s) may be located in the pastureland for the horses owned by the residents of the subdivision;
  - (4) Forestry, in keeping with established best management practices for selective harvesting and sustained yield forestry;
  - (5) Passive, noncommercial recreation areas, including but not limited to, village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses when such areas are developed in accordance with § 105-53, Park and recreational facilities, land and/or fees, of Chapter 105, Subdivision and Land Development of the Code of Whitemarsh Township. Specifically excluded from permitted common open space recreational uses are motorized off-road vehicles, shooting ranges, and other uses similar in character and potential impact as determined by the Board of Supervisors;
  - (6) Active, noncommercial recreation areas, such as playfields, playgrounds, courts, and bikeways, provided such areas do not consume more than 50% of the minimum required common open space or five acres, whichever is less and further provided that such areas are developed in accordance with, and in addition to, the requirements of § 105-53, Park and recreational facilities, land and/or fees, of Chapter 105, Subdivision and Land Development, of the Code of Whitemarsh Township. Playfields, playgrounds, and courts shall not be

located within 100 feet of abutting properties. Parking facilities for the same shall also be permitted, and they shall generally be gravel-surfaced, unlighted, properly drained, provide safe ingress and egress, and contain no more than 10 parking spaces. Parking areas shall be setback from property lines a minimum of 100 feet;

- (7) Golf courses, including their parking areas and associated structures, may comprise up to 50% of the minimum required common open space, but shall not include stand-alone driving ranges or miniature golf;
- (8) Easements for drainage, access, sewer or water lines, or other public purposes;
- (9) Underground utility rights-of-way. Above-ground utility and street rights-of-way may traverse common open space, but shall not count toward the minimum required common open space; and
- (10) Active and/or passive noncommercial municipal or public recreation uses, public park or recreation areas owned and operated by a public or private nonprofit agency, governmental or public utility building or use. Municipal or public uses permitted under this section do not include business facilities, storage of materials, trucking or repair facilities, the housing of repair crews or private or municipal sanitary landfills.

B. Common open space design standards.

- (1) Common open space shall be laid out in general accordance with the Township's Conservation Features Map, as included in the Comprehensive Plan, to ensure that an interconnected network of common open space will be provided. The common open space shall consist of a mixture of all of the primary conservation features and certain secondary conservation features and shall further be developed in accordance with Chapter 105, Subdivision and Land Development, of the Code of Whitemarsh Township.
- (2) In Options Two and Three, the common open space may be owned and maintained by the individual lot owners, a homeowners' association, land trust, or other conservation organization acceptable to the Township. However, in no case shall less than 30% of the land comprising the adjusted tract area be available for the common use and passive enjoyment of the subdivision residents. These ownership options may be combined so that different parts of the common open space may be owned by different entities.
- (3) Where the proposed development adjoins public parkland, a natural greenway buffer at least 150 feet in depth shall be provided within the development along its common boundary with the parkland, within which no new structures shall be constructed, nor shall any clearing of trees or understory growth be permitted, except as may be necessary for trail construction. Where this buffer is not wooded, the Board of Supervisors may require vegetative screening to be planted, or that it be managed to encourage natural forest succession through no-mow policies and the periodic removal of invasive plant and tree species.

C. Other requirements.

- (1) No portion of any building lot may be used to meet the minimum common open space requirements.
- (2) Common open space shall be readily accessible to all development residents, or, in the case of common open space dedicated to the Township, shall be easily and safely accessible to the general public. At least one side of the common open space shall abut a street for a minimum distance of 50 feet for access of emergency and maintenance vehicles.
- (3) All common open space that is not wooded shall be managed in accordance with the landscaping requirements of Chapter 105, Subdivision and Land Development, of the Code of Whitmarsh Township.

**§ 116-276. Permanent common open space protection through conservation easements.**

- A. Option One. In Option One developments, applicants shall place a restrictive conservation easement preventing future subdivision on the newly created tracts consistent with the Comprehensive Plan and the Conservation Features Map. Such easement shall be executed between the applicant and either the Township or, with Township consent, a conservation organization qualified to accept charitable donations of conservation easements.
- B. Option Two and Option Three. In Option Two and Option Three developments the common open space shall be subject to permanent conservation easements prohibiting future development and defining the range of permitted activities consistent with § 116-275, Common open space land use and design standards, of this chapter. (For example, the clearing of woodland habitat shall generally be prohibited, except as necessary to create trails, active recreation facilities, and to install subsurface septic disposal systems or spray irrigation facilities.) Such easement shall be executed between the applicant and either the Township or, with Township consent, a conservation organization qualified to accept charitable donations of conservation easements.

**§ 116-277. Ownership and maintenance of common open space.**

- A. Development restrictions. All common open space shall be permanently restricted from future subdivision and development. Under no circumstances shall any development be permitted in the common open space at any time, except for those uses listed in § 116-275, Common open space land use and design standards, of this chapter.
- B. Ownership methods. The following methods may be used, either individually or in combination, to own common open space. Common open space shall not be transferred to another entity except for transfer to another method of ownership permitted under this section, and then only when there is no reduction in the common open space of the overall development. Ownership methods shall conform to the following:
  - (1) Fee simple dedication to the Township. The Township may, but shall not be required to, accept all or any portion of the common open space, provided that:

- (a) There is no cost of acquisition to the Township; and
  - (b) The Township agrees to and has access to maintain such common open space.
- (2) Community association. Common open space may be held in common ownership for the use of all residents of the subdivision or land development and shall thereby be controlled and maintained by a homeowner's association or condominium association (the community association) formed in accordance with all applicable laws of the Commonwealth of Pennsylvania. The elements of the community association document shall include, but shall not be limited to, the following:
- (a) A description of the common open space to be owned by the community association. This description shall include a map of the proposal highlighting the precise location of all aspects of the common open space;
  - (b) Statements setting forth the powers, duties, and responsibilities of the community association, including the services to be provided;
  - (c) A declaration of covenants, conditions, and restrictions (the declaration), giving perpetual easement to the lands and facilities owned by the community association. The declaration shall be a legal document providing for automatic membership for all owners in the subdivision or land development and shall describe the mechanism by which owners participate in the community association, including voting, elections, and meetings. Furthermore, the declaration shall give power to the community association to own and maintain the common open space and to make and enforce rules;
  - (d) Statements prescribing the process by which community association decisions are reached and setting forth the authority to act;
  - (e) Statements requiring each owner within the subdivision or land development to become a member of the community association;
  - (f) Statements setting cross covenants or contractual terms binding each owner to all other owners for mutual benefit and enforcement;
  - (g) Requirements for all owners to provide a pro rata share of the cost of the operations of the community association;
  - (h) A process of collection and enforcement to obtain funds from owners who fail to comply;
  - (i) A process for transition of control of the community association from the developer to the unit owners;
  - (j) Statements describing how the common open space of the community association will be insured, including limit of liability;
  - (k) Provisions for the dissolution of the community association; and
  - (l) Stormwater management facility maintenance agreements as described in

Chapter 58, Grading, Erosion Control, Stormwater Management and Best Management Practices.

- (3) Private conservation organization or the county. With permission of the Township, an owner may transfer either fee simple title of the common open space or easements on the common open space to a private nonprofit conservation organization (the conservation organization) or to Montgomery County, provided that:
  - (a) The conservation organization is acceptable to the Township and is a bona fide conservation organization intended to exist indefinitely;
  - (b) The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the conservation organization becomes unwilling or unable to continue carrying out its functions;
  - (c) The common open space is permanently restricted from future development through a conservation easement and the Township is given the ability to enforce these restrictions; and
  - (d) A maintenance agreement acceptable to the Township is established between the owner and the conservation organization.
- (4) Dedication of easements to the Township. The Township may, but shall not be required to, accept easements for public use of any portion of the common open space. In such cases, the common open space shall remain in the ownership of the community association or private conservation organization while the Township holds the easements. In addition, the following regulations shall apply:
  - (a) There shall be no cost of acquisition to the Township;
  - (b) Any such easements for public use shall be fully accessible to the residents of the Township; and
  - (c) A satisfactory maintenance agreement shall be reached between the owner and the Township.
- (5) Noncommon private ownership. Up to 80% of the common open space may be included within one or more lots of at least 10 acres, provided the land contained therein is permanently restricted from future development (except for those uses listed in § 116-275, Common open space land use and design standards, of this chapter) through a conservation easement and that the Township is given the ability to enforce these restrictions.
- (6) Maintenance. In the event that the entity established to maintain the common open space, or any successor organization thereto, fails to maintain all or any portion thereof in reasonable order and condition, the Township may enter the premises and take corrective action, including extended maintenance. The costs of such corrective action may be charged to the property owner, condominium association, homeowners' association, conservation organization, or individual property owners who make up a condominium or homeowners' association and may include administrative costs and penalties.

Such costs shall become a lien on said properties. Notice of such lien shall be filed by the Township in the office of the Prothonotary of Montgomery County. In addition, any escrow funds may be forfeited and any permits may be revoked or suspended.

ARTICLE XXXVII  
**Riverfront Development Overlay District (RDD)<sup>50</sup>**  
**[Added 12-13-2007 by Ord. No. 845]**

**§ 116-278. Legislative intent.**

The legislative intent of this article with respect to the Riverfront Development District (RDD) is to recognize the unique character and natural resources of the Schuylkill Riverfront and to preserve and enhance the public's access to the area. It is further the intent to establish reasonable standards for the height and size of buildings, the areas and dimensions of yards and open spaces, the provision of facilities to minimize traffic congestion, noise, glare and pollution so as to lessen the danger to the public safety and surrounding building values from traffic congestion, overcrowding of land and inadequate transportation and to establish reasonable standards for the riverfront area. It is further the intent of the RDD to:

- A. Allow mixed use development and redevelopment with a distinction between the area that is riverfront and the supporting area beyond (to be known as the "RDD-1 and RDD-2 Subdistricts" respectively).
- B. Provide a uniformity of design and orderly arrangement of buildings, land uses and parking areas.
- C. Acknowledge the unique character of both the area along the riverfront and the area immediately beyond the riverfront.
- D. Recognize the proximity of the rail station and the need for transit-oriented development and redevelopment.
- E. Ensure greater public access to the riverfront and provide for a greenbelt along the river.
- F. Implement the Comprehensive Plan.
- G. Implement transfer of development rights as a tool to promote development and redevelopment while conserving land in other areas of the Township.
- H. Promote redevelopment to correct inadequate street patterns and access, abandoned industrial buildings that are obsolete in terms of economic feasibility, or are incompatible with surrounding uses, in order to allow better use of the waterfront properties.

**§ 116-279. Application.**

- A. Areas where the RDD-1 and RDD-2 subdistricts apply are shown on the Zoning Map of Whitemarsh Township.
- B. The RDD shall be deemed to be an overlay on the area designated on the Zoning Map of Whitemarsh Township.

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50. Editor's Note: This article title was amended, to include the word "overlay," 1-28-2010 by Ord. No. 893. Said ordinance also provided that all references to said district would be construed to be the name as amended.

- (1) In those areas of Whitemarsh Township where the RDD applies, the requirements of the RDD shall be additive to the requirements of the underlying zoning district(s) and in the event of a conflict, take precedence over the underlying zoning district(s).
- (2) Should the RDD boundaries be revised as a result of legislative or administrative actions or judicial decision, the zoning requirements applicable to the area in question shall revert to the requirements of the underlying zoning district(s) without consideration of this article.
- (3) If a structure is otherwise permitted by virtue of the requirements of the RDD, relief from the Zoning Hearing Board from the provisions of Article XXXV, Riparian Corridor Conservation District, shall not be required, provided approval is recommended to the Board of Supervisors by the Township Engineer.

**§ 116-280. Use regulations.**

A. Residential uses.

- (1) Single-family detached.
- (2) Single-family attached.
- (3) Multifamily.

B. Commercial uses.

- (1) Retail (with a maximum floor area limit for any individual use of 30,000 square feet).
- (2) Office.
- (3) Restaurant, including outdoor dining and take-out service.
- (4) Bank or other financial institution.
- (5) Child or adult day-care center.
- (6) Parking structure, provided that a freestanding parking structure is considered a building for purposes of computation of building coverage and all other dimensional requirements of this district.
- (7) Clubhouse facility as part of a residential development.
- (8) Mixed use including any permitted use in the appropriate RDD-1 or RDD-2 Subdistrict.

C. Public/semi-public uses.

- (1) Municipal facility.
- (2) Firehouse or ambulance station, which may include a supporting social club building or facility.

- D. Any use of the same general character as any of the uses above is permitted when authorized as a conditional use, provided that:
- (1) The applicant can demonstrate that traffic and other impacts are similar to those of permitted uses.
- E. Conditional uses.
- (1) More intensive development pursuant to § 116-281A(7)(d) herein.
- F. Additional conditional uses permitted in the RDD-1 Subdistrict (Riverfront Area):
- (1) Hotel, including meeting room facilities when ancillary and subordinate to the hotel.
  - (2) Recreational open space, boat club/boathouse, river-oriented recreation and marina.
  - (3) Community center or library.
  - (4) Cultural center or museum.
  - (5) School, public or private, primary or secondary.
  - (6) Fitness center, health club, or racquet club.
  - (7) Theater.
  - (8) Places of worship.
  - (9) Public/private utilities including telecommunication facilities, satellite antennas and similar equipment on proposed buildings and structures.
  - (10) Continuing care retirement community, pursuant to the provisions of § 116-281C, including: **[Added 4-28-2011 by Ord. No. 906]**
    - (a) Independent senior units.
    - (b) Assisted-living facilities.
    - (c) Skilled nursing facilities.
    - (d) Ancillary services for use of senior residents and their guests, in the aggregate limited to no more than 20,000 square feet of floor area and limited to the following activities and uses:
      - [1] Dining facilities.
      - [2] Medical treatment facilities.
      - [3] Rehabilitation and physical therapy facilities.
      - [4] Auditorium and activity rooms.
      - [5] On-site retail and services facilities.
      - [6] Administrative offices used in the management of the facility.

[7] Guest overnight accommodations.

[8] Accessory uses.

- G. Drive-in or drive-through uses are specifically prohibited in the RDD-1 and RDD-2 Subdistricts.
- H. In the RDD-1 Subdistrict, a minimum of 2% of the footprint area of a residential development must contain a permitted nonresidential use(s); provided, however, that such area shall not be less than 2,000 square feet.

### § 116-281. Dimensional requirements.

A. RDD-1 Subdistrict.

- (1) Minimum lot area: three acres
- (2) Minimum width at building setback line: 200 feet.
- (3) Minimum building setbacks:
  - (a) Perimeter: From all property lines, 20 feet for up to four habitable stories above the floodplain; any portion of the building above four habitable stories must be setback a minimum of 30 feet; any portion of the building above six habitable stories must be setback a minimum of 35 feet. The minimum setback from the ultimate right-of-way of abutting streets shall be 10 feet with an average of 20 feet. For a building with greater than six habitable stories, the minimum setback from the ultimate right-of-way of abutting streets shall be 15 feet with an average of 25.
  - (b) From other unattached buildings on the same site, the minimum setback shall be 40 feet, so long as the average setback is equal to the height of the taller building, up to a maximum of 70 feet. **[Amended 8-14-2008 by Ord. No. 857]**
  - (c) From public trails, buildings shall be set back 10 feet. For stairs associated with public trails, buildings shall be set back five feet. **[Amended 10-13-2011 by Ord. No. 908]**
  - (d) In the event that a property abuts a utility or railroad, the setback from any utility or railroad right-of-way shall be 10 feet.
- (4) Minimum parking setback: 15 feet from all property lines.
- (5) Building coverage: maximum of 40% of the total lot area, unless an integrated parking structure is utilized, in which case the building coverage may be increased as long as overall impervious coverage requirements are met. A freestanding parking structure is considered a building for purposes of computation of building coverage.
- (6) Density: Residential density shall not exceed 30 dwelling units per gross acre, except as otherwise provided in § 116-281A(7)(d), below.
- (7) Building height.

- (a) Maximum building height is four habitable stories above the floodplain except in the case of single-family houses which shall be a maximum of three habitable stories above the floodplain. The number of stories of an attached parking garage is not regulated as long as it does not exceed the height of the lowest building to which it is attached. In addition, no portion of the parking garage shall be visible from the riverfront access and open space as required by § 116-284 herein.
  - (b) A freestanding parking structure shall not exceed a height of 60 feet.
  - (c) One hundred percent of a building, other than a freestanding parking structure, shall be permitted to be constructed to the maximum habitable stories above the floodplain as long as no more than 75% of the footprint is at one height with the remainder being at least one story lower. This requirement applies to any building of four stories or higher.
  - (d) For buildings other than freestanding parking structures, residential density may be increased to 50 dwelling units per gross acre and building height may be increased to a maximum of six habitable stories above the floodplain, as a conditional use, provided the following conditions are met:
    - [1] A right-of-way of at least 25 feet in width is provided to the Township perpendicular to the Schuylkill River to provide public access to the river in accordance with § 116-284D.
    - [2] A red shale macadam area of at least 10 feet in width shall be provided within the right-of-way.
    - [3] Building height shall be varied to allow vistas to the river in accordance with § 116-281A(7)(c) herein.
    - [4] The building includes more than one level of structured parking above grade and no more than 10% of the parking shall be surface parking.
    - [5] At least 75% of the building is residential.
    - [6] A minimum of 5% of the parking spaces provided are designated for public use.
    - [7] At least one of the public amenity(ies) is provided in accordance with § 116-283B herein.
  - (e) Notwithstanding the provisions of § 116-32B, a parapet wall, cornice or similar projection of sufficient height to screen mechanical equipment on the roof of a building (as seen from the ground) shall be provided but may be excluded in the calculation of height, provided that it shall be no higher than 12 feet.
- (8) Impervious ground cover: 75% maximum of the total lot area if the maximum building height is four habitable stories above the floodplain or less. If the maximum building height is greater than four habitable stories above the

floodplain, the maximum impervious cover shall be 65%.

- (9) Building and impervious coverage are calculated on the area of the tract, excluding the area of riverfront open space along riverfront parcels, in accordance with the requirements of § 116-284A, B, or C, whichever is applicable.

B. RDD-2 Subdistrict.

- (1) Each single-family detached dwelling shall be subject to the following minimum area, width and yard requirements and maximum height, building coverage, and impervious ground cover requirements:
  - (a) Minimum lot area: 6,000 square feet.
  - (b) Minimum width at building setback line: 40 feet.
  - (c) Minimum front yard: 20 feet.
  - (d) Minimum side yard: 10 feet.
  - (e) Rear yard: 30 feet.
  - (f) Maximum height: 35 feet for the principal building and 20 feet, not exceeding one story, for an accessory building.
  - (g) Maximum building coverage: 25% of the total lot area.
  - (h) Maximum impervious ground cover: 40% of the total lot area.
- (2) Each attached single-family dwelling unit shall be subject to the following minimum area, width and yard requirements and maximum height, building coverage, and impervious ground cover requirements:
  - (a) Minimum lot area: 2,200 square feet.
  - (b) Minimum width at building setback line: 20 feet.
  - (c) Minimum front yard: none required.
  - (d) Minimum side yard, where they occur: 15 feet.
  - (e) Minimum rear yard: 30 feet minimum. Accessory buildings may be situated in the rear yard, but not any closer than five feet from a side lot line.
  - (f) Fences and walls. No fence or wall over six feet in height, except a retaining wall or a wall of a building permitted under the terms of this chapter, shall be erected within three feet of the rear lot line of any single-family attached residential lot. In instances where the side lot line does not pass through a common wall, no such fence or wall shall be erected within three feet of said side lot line.
  - (g) Maximum height: 35 feet for the principal building and 20 feet, not exceeding one story, for an accessory building.

- (h) Maximum building coverage: 60% of the total lot area.
- (i) Maximum impervious ground cover: 75% of the total lot area.
- (3) Buildings other than single-family detached or attached dwelling units shall be subject to the following minimum area, width and yard requirements and maximum height, building coverage, and impervious ground cover requirements.
  - (a) Minimum lot area: 10,000 square feet.
  - (b) Minimum width at building setback line: 75 feet.
  - (c) Minimum front yard: none required.
  - (d) Minimum side yard: 15 feet.
  - (e) Minimum rear yard: 30 feet.
  - (f) Maximum height: three habitable stories above the floodplain with a maximum of 35 feet for the principal building and 20 feet, not exceeding one story, for an accessory building.
  - (g) Maximum building coverage: 60% of the total lot area.
  - (h) Maximum impervious ground cover: 75% of the total lot area.
- C. Continuing care retirement community as permitted by § 116-280F(10): **[Added 4-28-2011 by Ord. No. 906]**
  - (1) Minimum lot size: 4.0 acres.
  - (2) Minimum lot width at building setback line: 200 feet.
  - (3) Minimum front yard: 15 feet.
  - (4) Minimum side yard: 25 feet.
  - (5) Minimum rear yard: 100 feet in accordance with the standards found in § 116-284C.
  - (6) Maximum height: six stories residential/plus no more than three stories of garage parking: nine stories maximum.
  - (7) Maximum building coverage: 50%.
  - (8) Maximum impervious coverage: 75%.
  - (9) Density: Senior housing density shall not exceed 85 independent units per gross acre. Assisted and skilled beds should be allowed up to 25% of the independent beds. For the purposes of this subsection, every three beds in the assisted-living facilities and skilled nursing care facilities shall be deemed the equivalent of one dwelling unit.

**§ 116-282. Off-street parking and loading.**

- A. Parking structures, whether freestanding or integral with other uses in the same building, shall have another permitted first floor use on any portion of the structure visible from any streets, required pathways, or riverfront access or suitable architectural treatment shall be provided. For any parking structures, whether freestanding or integral with other uses in the same building, which contain three or more parking levels, another permitted first floor use on any portion of the structure visible from any streets, required pathways, or riverfront access, shall be mandatory, if the first floor is out of the floodplain. If the first floor is within the floodplain, suitable architectural treatment shall be provided. Any additional floors of exposed parking structures shall also have suitable architectural treatment. Suitable architectural treatment shall be as defined in Subsections B, C and D below and § 116-283A(2) and (4) herein.
- B. When part of a development with other principal uses, a parking structure must use the dominant exterior materials of the adjoining building and be of a similar vernacular style.
- C. Exterior materials utilized for parking structures shall effectively and attractively obscure the view to the interior of all parking decks.
- D. Parking structures shall be designed such that sloping circulation bays are internal to the structure and not expressed in the exterior treatment of the parking structure.
- E. Required off-street parking facilities shall be in accordance with § 116-184, except that 1.75 parking spaces per dwelling unit shall be required for residential uses and residential uses shall not be subject to the overflow parking requirements of Chapter 105, Subdivision and Land Development § 105-38W. As a conditional use, the total number of parking spaces for all of the uses may be reduced based on the following: **[Amended 8-14-2008 by Ord. No. 857]**
- (1) In the case of a unified development plan in which there are efficiencies derived by shared parking for uses which have complementary peak demands, the applicant shall submit parking generation data based upon standard methodology (such as that published by the ITE, Institute of Transportation Engineers) sufficient for the Board of Supervisors to determine the appropriate reduction.
  - (2) In the case of a unified development consisting solely of two or more contiguous uses of the same classification, the Board of Supervisors may permit a reduction of the aggregate amount of required parking based upon a determination that greater efficiency is effected by joint use of a common parking area, but in such case the required number of off-street parking spaces shall not be reduced by more than 25%.
  - (3) In the case of a continuing care retirement community as permitted in § 116-280F(10), parking shall be provided in accordance with the following standards: **[Added 4-28-2011 by Ord. No. 906]**
    - (a) 1.0 space for each independent unit.
    - (b) 0.3 space for each assisted or skilled bed.

- F. Parking may be permitted in the floodplain and riparian corridor in the RDD without relief from the Zoning Hearing Board from the provisions of Article XXII, Floodplain Conservation District, and Article XXXV, Riparian Corridor Conservation District, provided that a parking evacuation plan is provided by the applicant and is approved by the Board of Supervisors.
- G. When approved as a conditional use in accordance with § 116-37, residential parking structures integrated with other uses in the same building may utilize a parking stall size of nine feet by 18 feet with a minimum drive aisle width of 24 feet. [Added 8-14-2008 by Ord. No. 857]

**§ 116-283. Design standards.**

A. Architectural criteria.

- (1) Variations in rooflines shall be used to screen HVAC, telecommunications, utility or other similar equipment and to provide interest and reduce the scale of large buildings. Roofs should provide a variety of vertical dimensions. Multiplaned and intersecting rooflines are encouraged. Flat-roofed designs are discouraged. However, if utilized, then flat roofs shall include architecture/details such as cornices, decorative facings and arches to provide interest to the roofline. Additionally, all roof types should have at least one of the following features:
  - (a) Overhanging eaves of at least three feet;
  - (b) Sloping roofs with an average slope of between three to one and one to one that do not exceed the average height of the supporting walls; or
  - (c) Three or more roof slope planes.
- (2) Specific permitted dominant materials. Each development should be of a single, unified architectural style. The exterior building skin shall be composed of one dominant facing material and not more than two additional materials. The dominant material shall comprise 60% or greater of each building elevation, with the exception of any side that is hidden or otherwise cannot be viewed from an abutting street or from the riverfront. The requirements for dominant building materials herein shall also be applicable to freestanding parking structures and parking structures attached to another principal building.
  - (a) Dominant exterior materials may include:
    - [1] Wood (to also include fiber-cement exterior siding with wood texture and finish or equivalent).
    - [2] Brick.
    - [3] Stone, or stone veneer (cultured stone or equivalent).
    - [4] Concrete masonry unit (CMU). CMU is allowed only as split face block or block molded with a textured surface.

- [5] Architectural precast concrete panels.
  - [6] Glass, warm and cool tones.
  - [7] Stucco and synthetic stucco.
- (b) Dominant exterior materials may not include:
- [1] Aluminum siding.
  - [2] Vinyl siding.
  - [3] Smooth-faced CMU.
  - [4] Tilt-up concrete panels.
  - [5] Glass, highly reflective/mirrored.
- (3) Architectural style of the development shall be designed to avoid the massive scale and uniform impersonal appearances of a big box structure through facade ornamentation, building offsets, window treatments, variation in rooflines, entry treatments and upgraded building materials. The focus should be on varying the spaces among groups of buildings to avoid creating a walled corridor of long, unbroken rows of buildings along a setback, or a monotonous pattern of buildings across a site. Facades should be divided into increments through the use of architectural features such as bay windows, offsets, recesses and other devices that break or minimize scale. Strong vertical and horizontal reveals, offsets and three-dimensional details between surface planes should be incorporated into building design to create shadow lines and to further break up flat surfaces.
- (4) Building facades greater than 100 feet in length, including separate buildings that are attached, shall incorporate one or more architectural features over at least 20% of the length of the facade. There shall be no uninterrupted length of facade that exceeds 100 feet. These requirements shall also be applicable to freestanding parking structures and parking structures attached to another principal building.
- (5) Building facades greater than 250 feet in length, including separate buildings that are attached, shall incorporate setbacks of at least 20 feet over at least 50% of the length of the facade. When approved as a conditional use in accordance with § 116-37, one building facade of parallel building facades on separate unattached buildings in which both facades are greater than 250 feet in length and no greater than an average of 90 feet apart may be set back 20 feet along 50% of the facade, provided that the other facade contains some compensatory embellishment such as facade ornamentation, window treatments, recesses, height differential or other devices to break or minimize the scale of the facade; and/or where a facade is parallel to a railroad, the twenty-foot setback shall be at least 35% of the length of the facade, with a minimum length of 80 feet. In addition, when said buildings contain only one story, they shall include facades that appear to be two stories in height and have architectural features that complement those of the ground floor. Sixty percent of facades of said buildings which face a street or the riverfront shall be two stories in height or

appear to be two stories in height, and all buildings proposed on corner locations shall be or appear to be two stories. When a corner location does not contain a building, a compatible architectural feature shall be provided at the corner and be of a height similar to a two-story facade. **[Amended 8-14-2008 by Ord. No. 857]**

- (6) All ground-mounted exposed HVAC units or other utility equipment shall be screened from view. This shall be accomplished through the use of masonry walls and landscaping.
  - (7) All signage shall be in accordance with § 116-286 herein and Article XXVIII of the Zoning Chapter. **[Amended 8-14-2008 by Ord. No. 857]**
  - (8) For commercial or office uses, loading facilities shall be provided through screened delivery courtyards, via underground service corridors, or in a similar fashion which is not visually or functionally obtrusive to patrons using the parking areas. Waste receptacles shall be located in areas convenient for on-site use and accessible for collections. Loading areas and trash enclosures shall be screened from views by the use of masonry walls, landscaping, or similar measure as approved by the Township.
- B. Public amenities shall include the following when required in this district:
- (1) Restrooms that are available to the public and will be maintained by the property owner.
  - (2) Boat launches using the most current specifications of the Pennsylvania Fish and Boat Commission. Boat launches shall include a minimum of five parking spaces or be in accordance with § 116-184C(3), whichever requires a greater number of spaces. No overnight parking of boats or other recreational vehicles shall be permitted in any development in this district. A minimum of 50% of the required parking spaces must be tandem spaces to allow for the parking of vehicles with boat trailers.
  - (3) Scenic overlook. Scenic overlook areas shall be ADA accessible, and regularly maintained. They shall be made of durable, permanent materials that meet all ANSI specifications. Scenic overlooks shall be lit and designed so that all public safety and security issues are adequately addressed.
  - (4) Recreation facilities. If any public recreational facilities are provided, they shall conform to standards set forth by their respective associations (i.e., tennis facilities shall meet United States Tennis Association guidelines). All passive recreation, if surfaced in permanent material, such as asphalt or concrete pathways, shall be ADA compliant.
  - (5) Public gathering places. All public gathering spaces shall be designed to safely provide pedestrians with ingress and egress, shall be adequately lit, and shall be ADA compliant. Adequate seating and trash receptacles shall be provided.
  - (6) Sculpture garden. Sculpture gardens shall have ADA compliant access and be adequately lit. All landscaped and hardscaped areas shall be designed so that all public safety and security issues are addressed. There shall be no areas

within public gardens where individuals can hide from view. Only sculptures made of durable, permanent material shall be placed in public gardens. If sculpture contains any dangerous or hazardous edges or points, especially around the base, it shall be located a safe distance from the public's reach. Designed elements such as ha-has or barricades, approved by the Township, may be utilized.

- (7) Botanical garden. Botanical gardens may not include any species considered invasive to the southern Pennsylvania region. Any pathways or walks provided in the public garden shall be ADA compliant. Species that include nonedible, poisonous fruit, thorns, or prickles shall not be utilized.
- (8) Fountain. Construction drawings for all public fountains shall be approved by the Township prior to their installation. Once installed, all fountains must be regularly maintained and meet public health standards.
- (9) Similar amenities: a similar amenity when deemed appropriate by the Board of Supervisors. The design of each amenity shall be consistent with the overall design of the development of which it is a part. In addition, uses in the riverfront open space shall be designed in a manner in which they coordinate with nearby facilities along the river, even if these facilities are in adjacent or nearby developments. Durable, attractive materials shall be utilized, with natural colors appropriate to the setting. Use of any bright or deep hues for accent purposes shall only be permitted with the express approval of the Board of Supervisors.
- (10) When required, public amenities shall encompass a minimum of 5% of the lot area of a development.

C. Landscaping and screening.

- (1) Street trees shall be planted in accordance with § 105-48 of the Subdivision and Land Development Ordinance for Whitemarsh Township.
- (2) Parking lot landscaping shall be in accordance with § 105-39 of the Subdivision and Land Development Ordinance for Whitemarsh Township except that all trees planted shall be a minimum of 2.5 inches caliper.
  - (a) Parking lots consisting of 20 vehicles or more, shall be screened from view by buildings on the site or by incorporating decorative walls, fences, landscaping, or a combination thereof.
  - (b) In no case shall tree trunks or shrubs negatively impact required sight triangles, or interfere with the opening of vehicle doors.
  - (c) Where a freestanding parking structure or an attached parking structure with a facade that is exposed to a public street or that is otherwise visible by the public is constructed, the landscaping required in Chapter 105, Subdivision and Land Development, § 105-52B(2), Option A(1), shall be utilized to enhance the exterior of the parking structure. **[Amended 8-14-2008 by Ord. No. 857]**
- (3) Buffer yards shall be landscaped in accordance with § 105-52 of the

## Subdivision and Land Development Ordinance of Whitemarsh Township.

- (4) Public amenity landscaping.
  - (a) Planters and other vessels for containerized landscaping are encouraged, especially at building entrances. All planters shall be safely and securely anchored.
  - (b) Trees located in plazas, sidewalk areas, courtyards, or other highly traveled areas shall include tree grates and guards and be subject to Township approval.
- (5) Lighting fixtures shall be of a style as approved by the Board of Supervisors.

## D. Pedestrian-oriented development.

- (1) For all developments the following elements shall be included to create a pedestrian oriented development:
  - (a) Lighting along all street frontages with lighting fixtures to be of a style as approved by the Board of Supervisors.
  - (b) Benches, trash receptacles, bicycle racks and other street furniture in a style approved by the Board of Supervisors.
  - (c) Wide sidewalks and other pedestrian amenities, landscaping, shade trees.
  - (d) A variety of pavement materials for street surfaces and sidewalks.
  - (e) Planting strips, located between the curb and sidewalk.

**§ 116-284. Riverfront access and open space.**

- A. An area of not less than 150 feet in width, parallel to the river, measured from the mean water elevation of the Rivers of the United States/Pennsylvania, shall be provided along the length of the river on each development site. This area shall be offered for dedication to the Township. If the area is not accepted for dedication, an easement for public use must be provided along with maintenance agreements acceptable to the Township. This area shall include:
  - (1) A red shale macadam trail of at least 10 feet in width, the length of the river, to connect to adjoining property trails.
  - (2) Seating areas at intervals of not more than 300 feet.
  - (3) Landscaping to enhance the trail, which at a minimum shall include trees in a naturalized setting at the rate of one tree per every 50 feet of trail. Other landscape treatments may be utilized if approved by the Township.
  - (4) Appropriate lighting fixtures shall be of a style as approved by the Board of Supervisors.
  - (5) Street furniture located in the floodway shall be anchored in accordance with the requirements of Article II, Floodplain Regulations, § 42-7 of the Building Construction Code.

- B. The width of the riverfront area may be reduced to no less than 125 feet, provided at least one public amenity is provided for buildings four stories or less, the suitability of which shall be determined by the Board of Supervisors. If the building is greater than four habitable stories, then one additional public amenity must be provided in addition to the requirements of § 116-281A(7)(d).
- C. The width of the riverfront area may be reduced to no less than 100 feet, provided at least two public amenities are provided for buildings four stories or less, the suitability of which shall be determined by the Board of Supervisors. If the building is greater than four habitable stories, then two additional public amenities must be provided in addition to the requirements of § 116-281A(7)(d).
- D. Public riverfront access is required in accordance with Chapter 105, Subdivision and Land Development § 105-47K.
- E. Other public access. For all parcels with frontage on Hector Street which do not have riverfront access, a connection perpendicular to said street and the Montgomery County Schuylkill River Trail shall be provided. Said right-of-way shall be 15 feet in width or of a width that includes the limits of an alternative trail configuration and is subject to the following: **[Amended 10-13-2011 by Ord. No. 908]**
- (1) This right-of-way shall not be contained within any road right-of-way.
  - (2) The right-of-way shall be offered for dedication to the Township. If the area is not accepted for dedication, an easement for public use must be provided along with maintenance agreements acceptable to the Township.
  - (3) A red shale macadam pathway with a minimum of 10 feet in width shall be provided and separated from any vehicular traffic. Alternative materials for the pathway may be used if approved by the Board of Supervisors. Alternate configurations of the pathway, such as, but not limited to, two five-foot lanes divided by landscaping may be considered as long as the combined total hardscape width of the path is determined to be equivalent to a ten-foot pathway.
  - (4) Lighting fixtures shall be installed along the pathway and shall be of a style as approved by the Board of Supervisors.
  - (5) The access shall contain appropriate signage to direct pedestrians to the Montgomery County Schuylkill River Trail.

**§ 116-285. Transfer of development rights option.**

A. Intent.

- (1) The primary purpose of the transfer of development rights (TDR) section is to permanently preserve open land, agricultural land, sensitive natural areas, and community character that would be lost if the land were developed. In addition, this section is intended to protect property rights by allowing landowners whose land is intended for preservation to transfer their right to develop to other areas of Whitemarsh Township. Specific objectives include:

- (a) To effectively achieve the land use planning goals identified in Whitemarsh Township's Comprehensive Plan while preserving existing property rights.
    - (b) To preserve unique community features in residential districts while creating a more efficient land use pattern and provision of services and infrastructure in areas the municipality proposed for growth.
    - (c) To promote redevelopment of the riverfront area in the Township.
- B. This section is enacted pursuant to the authority granted by § 603(c)(2.2) and 619.1 of the Pennsylvania Municipalities Planning Code, under the terms of which development rights are acknowledged to be severable and separately conveyable from a sending area to a receiving area. Compliance with the provisions of this chapter shall be prerequisites to the use of the transfer of development rights option.
- C. Establishment of sending and receiving districts.
  - (1) Any zoning district, including but not limited to the RDD-1 Subdistrict, may qualify as a sending district for the purposes of the TDR program.
  - (2) The number of development rights which may be sold shall be computed using the methodology prescribed in this chapter.
  - (3) The RDD-1 Subdistrict described herein shall be the receiving district for the purposes of the transfer of development rights program.
- D. Calculation of transfer development rights.
  - (1) The total number of development rights available to be severed from a sending area tract shall be determined by multiplying the gross tract area, minus a percentage of any constrained lands as required in Subsection D(4) below, by 0.51, subtracting from such product the number of retained development rights. Products resulting in fractions may be rounded to the nearest whole number; fractions of 1/2 may be rounded up.
  - (2) Development rights previously severed or land previously restricted from development by covenant, easement or deed restriction shall not be eligible for severance or transfer under this chapter and shall be subtracted from any applicable calculation of transferable development rights to the extent of the restriction(s) in force unless and until such time as said covenant, restriction or easement is dissolved or rescinded with agreement of all beneficiaries of such covenant, restriction or easement.
  - (3) Any sending area tract shall retain at least one development right, unless the tract is joined in a single deed with an adjacent tract or tracts with retained or remaining development right(s). All remaining development rights may be severed from the tract.
  - (4) Constrained lands.
    - (a) When calculating eligible development rights for the sending area, a reduction of 50% in development rights shall be made for any portion of

that area consisting of the following constrained lands:

- [1] Any area within the Floodplain District.
- [2] Any area comprising wetlands under the jurisdiction of the United States Army Corps of Engineers and/or the Pennsylvania Department of Environmental Protection.
- [3] Any area of steep slope, as defined herein and where the ratio of the change in elevation over the horizontal distance as measured between consecutive two-foot contour intervals exceed 15%.

(b) For the purpose of development right determination, areas of constrained lands identified in Subsection D(4)(a)[1], [2], and [3] above may be determined by an applicant or landowner utilizing current Township mapping, Montgomery County Soils Survey maps, and National Wetlands Inventory information, unless more accurate site data is available and found acceptable to the Township.

E. Right to transfer development rights.

- (1) Each transferor shall have the right to sever all or a portion of the rights to develop from the parcel in a sending district and to sell, trade, or barter all or a portion of those rights to a transferee consistent with the purposes above.
- (2) The transferee may retire the rights, resell them, or apply them to property in a receiving district in order to obtain approval for development at a density or intensity of use greater than would otherwise be allowed on the land, up to the maximum permitted in Subsection E(3) below.
- (3) Development rights may be utilized by the transferee to increase the allowable residential density of a receiving parcel above the applicable base or conditional limits in § 116-281A(6) and (7)(d). Acquisition of one development right shall entitle the receiving parcel to an increase of five residential dwelling units over the applicable base density of 30 dwelling units per gross acre or conditional use density of 50 dwelling units per gross acre. In no event shall the use of transfer development rights result in an increase in the base or conditional use density by greater than 10 dwelling units per gross acre. For each 10 development rights purchased, there shall be a corresponding decrease in the required park and recreation obligation in accordance with the following:

<b>TDRs</b>	<b>Land To Be</b>	<b>Fee-In-Lieu</b>	<b>Fee-In-Lieu</b>
<b>Purchased</b>	<b>Dedicated</b>	<b>(residential)</b>	<b>(nonresidential)</b>
10 to 19	8%	\$800.00	\$0.40
20 to 29	6%	\$600.00	\$0.30
30 to 39	4%	\$400.00	\$0.20
40 to 49	2%	\$200.00	\$0.10
50 or more	0%	\$0.00	\$0.00

- (4) Any transfer of development rights pursuant to this article authorizes only an increase in density and shall not alter or waive the development standards of the receiving district, including standards for floodplains, wetlands, and other environmentally sensitive areas, nor shall it allow a use otherwise prohibited in a receiving district.
- F. Covenant restrictions. Except for retained development rights (not to be severed), if any, the sending tract must be permanently restricted from future development by a declaration of restriction of development or other restrictive covenant which meets the following requirements:
- (1) Except where any retained development rights are specified, the restrictive covenant shall permanently restrict the entire sending tract from future development of any nonagricultural uses, except for public park land, conservation areas, municipal facilities and similar uses. Where development rights will be severed from less than an entire parcel, the portion of the parcel from which the development rights are transferred shall be clearly identified on a plan of the entire parcel, drawn to scale, the accuracy of which shall be satisfactory to the Township. Such plan shall also include a notation of the number of development rights applicable to the entire parcel, the number of development rights applicable to the identified portion of the parcel from which the development rights are to be severed, and the number of development rights which remain available to the remaining portion of the parcel. This plan shall be a part of the restrictive covenant and shall be recorded.
  - (2) The restrictive covenant shall be approved by the Board of Supervisors of the Township, in consultation with the Township Solicitor. Final plan approval of any subdivision or land development plan proposing the severance or use of TDRs, and endorsement of any deed of transferable development rights, will be contingent upon the recording of the restrictive covenant at the Montgomery County Recorder of Deeds.
  - (3) The restrictive covenant shall designate the Township, and/or a bona fide conservation organization acceptable to the Township at its sole discretion, as the beneficiary/grantee, but shall also designate both all future owners of all or a portion of the sending parcel, and all future owners of any portion of the receiving parcel as having separate and independent enforcement rights with respect to the restrictive covenants.
  - (4) The restrictive covenant shall apply to the tract of land from which development rights are sold, and shall specify the number of development rights to be transferred as well as any to be retained. No portion of the tract area used to calculate the number of development rights to be transferred shall be used to satisfy minimum yard setbacks or lot area requirements for any development rights which are to be retained or for any other development.
  - (5) All owners of the tract from which development rights are severed shall execute the restrictive covenant(s). All lienholders of the tract from which development rights are severed shall execute a joinder and/or consent to the restrictive covenant(s).

- (6) Agricultural uses not in keeping with the intent statement of this article may be restricted or denied by the Township.
- (7) Should the Township acquire ownership of the sending tract, the land may be used for passive recreation coincidental with municipal purposes that allow for possible municipal uses and continue to promote the conservation of open space and preservation of viewsheds.

G. Plan submittal process.

- (1) All applicants for use of transferable development rights shall submit a conditional use application in accordance with the provisions of this Code. In addition, an applicant shall submit a preliminary subdivision and/or land development plan showing development with purchase of development rights; this plan shall meet the requirements of the Township's Subdivision and Land Development Ordinance.<sup>51</sup>
- (2) Along with the preliminary plan, an applicant shall submit:
  - (a) An agreement of sale for all development rights proposed to be purchased from sending area sites.
  - (b) A note on the plan showing the total number of dwelling units proposed on the site.
  - (c) A note on the plan showing the total number of dwelling units that could be built on the site when development rights are purchased, the number of dwelling units that can be built without the additional development rights, and the difference between the two. This difference represents the number of additional units that could be constructed on the site.
  - (d) A note on the plan which shows the proposed number of additional dwelling units and the number of development rights that must be purchased, based on the proposed number of additional dwelling units determined in § 116-285D above.
  - (e) A plan of all sending sites from which the applicant proposes to purchase development rights. This plan shall show all information needed to determine the number of development rights which may be sold. In addition, the plan shall be accompanied by metes and bounds description of the property(ies), as well as each property's parcel number, owner name, and tax block and unit number. If the applicant is purchasing development rights from a portion of a sending area site, this portion shall be shown on the plan and described with metes and bounds.
  - (f) In order to receive final plan approval, the applicant must agree to record restrictive covenants for all sending area land whose development rights are being used by the applicant. These restrictive covenants must meet the requirements of § 116-285F above. The restrictive covenant on the sending area land shall be recorded first, followed by the deed of transfer

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51. Editor's Note: See Ch. 105, Subdivision and Land Development.

which transfers the development rights from the sending area landowner to the receiving area landowner.

- H. Public acquisition. The Township may purchase development rights and may accept ownership of development rights through transfer by gift. All such development rights may be resold or retired by the Township. Any such purchase or gift shall be accompanied by restrictive covenants as specified above.
- I. Amendment and/or extinguishment. The Township reserves the right to amend this article in the future, and the Township expressly reserves the right to change the manner in which the number of development rights shall be calculated for a tract in the sending area and the manner in which development rights can be conveyed. The Township further expressly reserves the right to terminate its transferable development rights program at any time. No owner of the land or owner of development rights shall have any claim against the Township for damages resulting from a change in this article relating to the regulations governing the calculation, transfer and use of development rights or the abolition of the transferable development rights program. If the transferable development rights program is abolished by the Township, no developer may attach development rights to any tract in the receiving area after the effective date of the ordinance abolishing the transferable development rights program unless an application in conformity with the provisions of this article was filed prior to the effective date of such ordinance and thereafter is continuously processed to approval, and, following such approval, a complete subdivision and/or land development application complying such rights is thereafter filed within six months from the date of such approval.

**§ 116-286. Signs permitted in RDD Riverfront Development District.**

- A. General provisions.
  - (1) All signs in the RDD Riverfront Development District shall be consistent with the overall design concept for the development and be appropriate to the type of activity to which they pertain.
  - (2) Design elements, such as the size, shape, materials, lighting, color, lettering style and the number and arrangement of signs, should present a unified appearance.
  - (3) The color of individual commercial or office signage should coordinate with any awnings that are provided.
  - (4) Signs anchored in the ground shall not exceed 10 feet in height and shall be of a monument type.
  - (5) All signs must be approved by the Board of Supervisors.
  - (6) Signs shall be illuminated in accordance with § 116-210 with the exception that there shall be no internally illuminated box signs.
- B. In the Riverfront Development District, the following signs shall be permitted and no other:
  - (1) Any sign which may be permitted in any residential district, provided that the

use to which it refers is permitted in the RDD Riverfront Development District.

- (2) Along each street frontage building facade, one wall sign for each use. The total sign area may be 5% of the wall area on which it is placed not to exceed 35 square feet.
- (3) Any property which has two or more uses permitted in the district shall be permitted a directory sign. Each business in single and separate ownership shall be entitled to not more than three square feet of signage, and the total area of the directory sign shall not exceed 30 square feet. **[Amended 7-28-2011 by Ord. No. 907]**
- (4) In the RDD-1 District, one freestanding sign is permitted for each property entrance. The area of the sign shall be no larger than 24 square feet.
- (5) Interior property parking and traffic control signs are permitted in accordance with § 116-208A. Signs are also permitted to direct people to the public trail or other public amenities, provided the signs do not exceed four square feet in area.
- (6) Each use located in a building fronting along the river, may have one sign to identify it from the riverfront trail. Said sign may either be on the building or be a monument sign. Said sign shall not exceed 12 square feet.

**§ 116-287. Application and review of development proposals.**

- A. The submission of a sketch plan, in accordance with § 105-20 of the Township's Subdivision and Land Development Ordinance, is strongly encouraged. In addition to the requirements of § 105-13, the sketch plan shall include building setbacks, building heights, and the size and dimensions for all buildings. However, a sketch plan submission is neither required nor mandatory. The sketch plan is not subject to a formal review by Township professionals.
- B. All submissions, including sketch, preliminary and final plans, shall include:
  - (1) A site plan to include buildings, pedestrian access, river access (both physical and visual) and open space areas.
  - (2) Architectural plans for any proposed buildings in adequate detail to indicate building setback, footprint dimensions, building heights, and building mass. Architectural elevations or sections in adequate detail to indicate how proposed buildings will affect views to the river and across the river to the hills and ridges. Architectural drawings showing concepts for facades, roof design and materials for buildings, structured parking facilities, signs as well as proposed lighting, street furniture and sidewalk design.
  - (3) Landscape plan showing the general location of all landscaping and buffer areas and the mature height of all proposed vegetation, differentiating between trees and shrubs.
  - (4) Any other pertinent data as the Planning Commission or Board of Supervisors may require.

- (5) A transportation impact study (TIS) is required for all applications in the RDD-1 Subdistrict. Applications in the RDD-2 Subdistrict are required to submit a TIS in accordance with the provisions of § 105-21B(9)(c) of the Subdivision and Land Development Ordinance.
- C. In a review of a sketch plan, the Planning Commission shall provide the applicant with general guidance as to whether the design, layout and other features of the proposed development are in keeping with the intent and purposes of this article and will consider whether any of the following criteria have been met:
- (1) The plan meets or exceeds applicable provisions.
  - (2) The plan is in best interest of the health, safety and welfare.
  - (3) General site considerations (including site layout, open space, and topography; orientation and location of buildings; circulation and parking; setbacks; height; walls; fences and similar elements) and general architectural considerations (including the character, scale and quality of design) have been designed and incorporated to invite pedestrian circulation in this area, will maintain a usable open space area along the river, will provide unobstructed views of the river from nearby streets and will not unduly restrict view of the ridges and hills across the Schuylkill River.



ARTICLE XXXVIII  
**Village Commercial District (VC)**  
[Added 9-25-2008 by Ord. No. 863; amended 1-28-2010 by Ord. No. 893;  
12-22-2011 by Ord. No. 912]

**§ 116-288. Legislative intent.**

It is the intent of the Village Commercial District (VC) to permit the development or redevelopment of land for limited commercial, office and residential uses, while preserving and restoring the distinct architectural character of historic areas of Whitemarsh Township. In addition, the specific intent of this article is as follows:

- A. To provide areas to accommodate nonresidential uses which do not generate large volumes of traffic, which minimize adverse impacts on abutting residential properties and which maintain or improve the visual character and architectural scale of existing development.
- B. To prohibit development of strip-type, highway-oriented commercial uses which create traffic hazards and congestion because they generate higher traffic volumes and require multiple individual curb cuts.
- C. To provide regulating standards which are necessary to encourage orderly, well-planned development and to ensure the compatibility of development with the character of the district and the surrounding areas.
- D. Provide incentives for building restorations of existing historic structures or buildings built prior to 1940.
- E. Use building scale, building orientation and landscaping to establish or preserve community identity.
- F. Encourage the retention, rehabilitation, and reuse of existing historic structure(s) or building(s) built prior to 1940.
- G. That new buildings or building additions and restorations have an architectural scale and character commensurate with the existing pre-1940 architecture of the area.
- H. Encourage bicycle- and pedestrian-accessible developments, reflecting a village center rather than auto-oriented commercial strip development.
- I. Provide incentives that encourage shared access points, parking areas and public spaces.
- J. Protect, to the greatest extent possible, the natural features of the district, including the open spaces, steep slopes and large trees.
- K. To provide a distinction for those areas where only less intensive uses are appropriate and those areas where more permissive uses may be allowed, through the creation of subdistricts to be known as "VC-1," "VC-2" and "VC-3."
- L. Implement the Comprehensive Plan.

- M. To create a subdistrict known as VC-4 which promotes the development of an internalized, destination style of commercial center in accordance with the design guidelines and intent of the Village Commercial District on tracts of land 15 acres and larger. **[Added 12-5-2013 by Ord. No. 931]**

**§ 116-289. Applicability. [Amended 12-5-2013 by Ord. No. 931]**

The regulations, requirements, and restrictions set forth in this article are mandatory and subdivision/land development applications within the VC-1, VC-2, VC-3, and VC-4 Zoning Districts shall comply with the requirements of this article, as well as the corresponding VC Subdivision and Land Development Ordinance (SLDO) sections.

**§ 116-290. Use regulations.**

- A. A building may be erected, altered or used and a lot or premises may be used for any of the following purposes and no other in VC-1, VC-2, VC-3 and VC-4: **[Amended 12-5-2013 by Ord. No. 931]**
- (1) Single-family detached residence.
  - (2) Two-family residence.
  - (3) Multifamily conversion; no more than four units.
  - (4) Family child day-care home.
  - (5) Library or museum.
  - (6) Antique store.
  - (7) Bed-and-breakfast.
  - (8) Place of worship.
  - (9) Live/work units for artisans, professionals and service providers, provided that the office and/or workshop area does not exceed 50% of the gross floor area of the dwelling unit.
  - (10) Business or professional office and insurance agencies.
  - (11) Music, dance, art or martial arts studio or school of similar uses.
- A.1. A building or buildings may be erected, altered or used and a lot or premises may be used for any of the following purposes and no other in VC-4: **[Added 12-5-2013 by Ord. No. 931]**
- (1) Retail.
  - (2) Retail for food and beverage.
  - (3) Bakery.
  - (4) Restaurant, tearoom, cafe, confectionary, or similar establishment producing and serving food and beverages to be sold at retail on the premises.

- (5) Outdoor dining in accordance with the requirements of § 116-290B(11).
  - (6) Bank or financial institution.
  - (7) Medical office.
  - (8) Catering.
- B. The following uses may be permitted as conditional uses in VC-1, VC-2, and VC-3, provided they meet the requirements of § 116-37, Conditional use procedures, as well as the conditions listed in § 116-291, Conditions of approval for all uses, and § 116-292, Conditions of approval for all conditional uses: **[Amended 10-25-2018 by Ord. No. 988; 10-10-2019 by Ord. No. 997]**
- (1) Townhomes, apartments, and condominiums.
  - (2) Child day-care center.
  - (3) School-age care.
  - (4) Group child day-care home.
  - (5) Multifamily conversion; with over four units but no more than eight residential units.
  - (6) Multiple buildings on the same property, meeting permitted use or conditional use standards.
  - (7) Club, fraternal organization or lodge.
  - (8) Educational, religious, or philanthropic use.
  - (9) Buildings containing permitted uses when in excess of maximum building footprint in accordance with § 116-294 herein.
  - (10) Restaurant, tearoom, cafe, confectionery, bakery, or similar establishment producing and serving food and beverages to be sold at retail on the premises. In the case of VC-2, floor space devoted to patron use shall not exceed 2,000 square feet. For VC-3, see Subsections D and E of this section, below.
  - (11) Outdoor dining.
    - (a) Adequate sidewalk area shall be provided for proper circulation.
    - (b) The outdoor area shall not remove required parking areas.
    - (c) Additional parking shall be provided for the outdoor seating area in accordance with the requirements of this chapter.
    - (d) The outdoor area shall be lit to the satisfaction of the Township Engineer.
- B.1. The following uses may be permitted as conditional uses in VC-4, provided that they meet the requirements of § 116-37, Conditional use procedures, as well as the conditions listed in § 116-291, Conditions of approval for all uses, and § 116-292, Conditions of approval for all conditional uses: **[Added 12-5-2013 by Ord. No. 931]**

- (1) Personal service shops dealing directly with retail customers, including the following and similar uses: barbershop, beauty parlor, dry cleaner (provided no flammable liquids are used), spa, or tailor shop. **[Amended 10-25-2018 by Ord. No. 988]**
  - (2) Drive-through in accordance with the requirements of § 116-290E(5)(a) through (f).
- C. The following uses may be permitted as additional conditional uses in the VC-1 subdistrict only, provided they meet the requirements of § 116-37, Conditional use procedures, as well as the conditions listed in § 116-291, Conditions of approval for all uses, and § 116-292 Conditions of approval for all conditional uses:
- (1) Retail, maximum building size of 10,000 square feet.
  - (2) Personal service shops dealing directly with retail customers, including the following and similar uses: barbershop, beauty parlor, dry cleaner (provided no flammable liquids are used), spa, or tailor shop. **[Amended 10-25-2018 by Ord. No. 988]**
  - (3) Medical/dental office.
  - (4) Bank or financial institution.
- D. The following uses may be allowed as additional permitted uses in the VC-3 subdistrict, provided such uses meet the requirements listed in § 116-291, Conditions of approval for all uses:
- (1) Retail, maximum building size of 10,000 square feet.
  - (2) Personal service shops dealing directly with retail customers, including the following and similar uses: barbershop, beauty parlor, dry cleaner (provided no flammable liquids are used), spa, or tailor shop. **[Amended 10-25-2018 by Ord. No. 988]**
  - (3) Medical/dental office, maximum building footprint of 6,000 square feet.
  - (4) Bank or financial institution.
  - (5) Restaurant, tearoom, cafe, confectionery, bakery, or similar establishment producing and serving food and beverages to be sold at retail on the premises, provided the floor space devoted to patron use shall not exceed 2,000 square feet.
- E. The following uses may be permitted as additional conditional uses in the VC-3 subdistrict only, provided such uses meet the requirements of § 116-37, Conditional use procedures; the conditions listed in § 116-291, Conditions of approval for all uses; § 116-292, Conditions of approval for all conditional uses; and the specific requirements enumerated herein:
- (1) Carpentry, cabinetmaking, furniture or upholstery shop, electrician shop, metalworking, blacksmith, tinsmith, paint or paperhanger shop, or similar trades shop, provided that:

- (a) Tractor-trailer trucks are not required on a regular basis to pick up or deliver goods.
  - (b) All operations are confined to an enclosed building.
  - (c) There is no outside storage.
  - (d) The building containing said use(s) maintains a retail appearance along the street(s) upon which it fronts.
- (2) Medical/dental office, clinic with a maximum building footprint of 12,000 square feet.
  - (3) Restaurant, tearoom, cafe, confectionery, bakery, or similar establishment producing and serving food and beverages to be sold at retail on the premises, whose floor space devoted to patron use exceeds 2,000 square feet.
  - (4) Specialty vehicle service facilities, including but not limited to, auto upholstery shop, sound system installation, or similar use, provided that:
    - (a) Tractor-trailer trucks are not required on a regular basis to pick up or deliver goods.
    - (b) All operations are confined to an enclosed building.
    - (c) There is no outside storage.
    - (d) There is no recurring noise audible off site.
    - (e) The operation does not require garage doors to remain open during the normal operation of the facility.
    - (f) The building containing said use(s) maintains a retail appearance along the street(s) upon which it fronts.
  - (5) Drive-through windows for permitted banks and retail uses, provided that:
    - (a) A transportation impact study is submitted in accordance with the applicable standards of § 105-21B(9) of the Subdivision and Land Development Ordinance.
    - (b) The drive-through window shall not require the installation of any additional access driveways to existing roads.
    - (c) The drive-through window shall be located behind the building or otherwise shielded from view from an abutting street. On a corner lot, the drive-through window shall be shielded from view, at a minimum, from the abutting street on which the primary building facade is located, that being the street which the Village Commercial District parallels, not an intersecting (side) street.
    - (d) The traffic and vehicle stacking area for the drive-through window shall not conflict with internal site circulation or block access to any parking spaces, with stacking for an appropriate number of vehicles as determined by the transportation impact study.

- (e) When a drive-through window is located adjacent to a residential use or district, a decorative fence shall be installed, with landscaping provided on the outside (residential side) of the fence; adequate area shall be provided to allow for maintenance of the landscaping.
  - (f) A drive-through window shall not constitute the sole access for a use; the use must have at least one pedestrian entrance.
  - (g) A drive-through window shall not be allowed for any restaurant, tearoom, cafe, confectionery, bakery, or similar establishment producing and serving food and beverages to be sold at retail on the premises.
- F. Accessory uses and structures shall be in accordance with § 116-24 and shall include the following additional uses and structures by conditional use:
- (1) Structured parking.
    - (a) All parking structures shall be subject to review by appropriate Township officials regarding designs for safety, traffic flow, and aesthetics.
    - (b) Architectural appearance.
      - [1] A parking structure must use the dominant exterior materials of the buildings with which it is associated and be of a similar vernacular style.
      - [2] Exterior materials shall effectively and attractively obscure the view to the interior of all parking decks.
      - [3] Parking structures shall be designed such that sloping circulation bays are internal to the structure and not expressed in the exterior treatment of the parking structure.
      - [4] Any use allowed in this district is encouraged to be integrated into any portion of the ground level facing the public street.
    - (c) Parking structure dimensions.
      - [1] A freestanding parking structure shall be permitted, provided the structure is considered a building for purposes of computation of building coverage and all other dimensional requirements in accordance with §§ 116-294 and 116-295 of this district; provided, however, parking structures shall be located to the side or rear of principal buildings when not part of the building.
      - [2] In no event shall the building height be increased beyond what is allowed in this district by the use of structured parking.
- G. A nonconforming structure may be permitted to be expanded in the VC District without relief from the Zoning Hearing Board from the provisions of § 116-194B(1) or from the VC District setback requirements, provided that parking, landscaping, applicable public space requirements, impervious coverage limitations, and all required setbacks from residential uses or districts are met. This exemption from Zoning Hearing Board approval shall not be applicable to parcels

with a lot area of five acres or greater.

- H. For any parcel with a lot area of five acres or greater, the following additional uses shall be permitted as conditional uses within the VC-1 or VC-3 subdistricts, subject to meeting the requirements of § 116-37 Conditional use procedures, as well as the conditions listed within § 116-291, Conditions of approval for all uses, and § 116-292, Conditions of approval for all conditional uses:
- (1) Indoor recreation facility, including fitness center, health club, and racquet club.
  - (2) Assisted-living facility.
  - (3) Nursing home.
  - (4) Theater for the performing arts, excluding movie theater
  - (5) Hotel.

**§ 116-291. Conditions of approval for all uses.**

- A. General standards. These standards shall apply to all permitted and conditional uses in the VC-1, VC-2, VC-3, and VC-4 Districts unless otherwise noted: **[Amended 3-28-2013 by Ord. No. 925; 12-5-2013 by Ord. No. 931]**
- (1) All uses shall be served by public water and sewer service. The Board of Supervisors may, upon recommendation of the Township Engineer that on-site septic and water is satisfactory, allow on-site facilities for historic buildings as described in § 116-288D herein.
  - (2) All utility lines serving all uses shall be placed underground from the edge of the right-of-way to the place of service. The Board of Supervisors may, upon recommendation of the Township Engineer that underground utilities would be disruptive to the site, allow them to remain above ground for historic buildings.
  - (3) Drive-through windows are prohibited for all uses within the district except as permitted in VC-4 or as specified in § 116-290E(5) herein. **[Amended 12-5-2013 by Ord. No. 931]**
  - (4) Driveways, parking areas/parking structures and traffic circulation patterns shall be designed as shared facilities whenever feasible. The design of these elements shall create a unified site plan between lots. The goal is to gain parking efficiencies, reduce the number of access points and improve internal and external vehicular circulation patterns. Driveways on parcels with a lot area five acres or greater shall be no closer than 100 feet to any adjacent residential use.
  - (5) The Board of Supervisors may, by conditional use, reduce the total amount of required parking, provided the applicant demonstrates that the number of Code-required parking spaces exceeds the actual development needs given the proposed use or mix of uses and/or varied peak activity times. The amount of reduction permitted by the Board of Supervisors shall be based upon a

recommendation by the Township Engineer who shall recommend a specific percentage reduction upon review and interpretation of appropriate information provided by the applicant from the latest edition of "Parking Generation" published by the Institute of Transportation Engineers or based upon a review and interpretation of other evidence for a reduction of parking prepared by a qualified professional. If a parking reduction is approved based upon the provisions of this subsection, a conditional use for parking between the street line and, the front principal building plane, under Subsection A(7) of this section, shall not be permitted.

(6) If parking between the street line and the front principal building plane is otherwise permitted by virtue of the requirements of the VC District, relief from the Zoning Hearing Board from the provisions of Article XXVI, § 116-24E(3)(a), shall not be required, regardless of the proposed use(s).

(7) Parking.

(a) Parking for parcels with a lot area up to five acres.

[1] No parking shall be permitted between the street line and the front principal building plane unless an existing building prevents the applicant from meeting the parking requirements to the rear and side of a principal building, and the applicant demonstrates that parking between the street line and the front principal building plane is the only option after a bona fide attempt has been made to secure a shared parking arrangement with an adjacent or nearby property.

[2] In such case, a maximum of 25% of the parking may be placed between the street line and the front principal building plane as a conditional use, provided that the applicant installs a decorative wall or fence between the parking area and the ultimate right-of-way line.

[3] Said fence shall not be chain link and shall be between 30 and 42 inches in height. Low evergreen landscaping may be used to soften the appearance of the fence or wall from the street. Openings in the fence or wall no more than four feet in width are permitted for drainage or pedestrian access.

[4] A minimum of 50% of the required parking shall be placed between the rear lot line and the rear principal building plane; any remaining parking may be located between a side lot line(s) and the respective side principal building plane(s).

(b) Parking for parcels with a lot area of five acres or greater:

[1] Parking between the street line and the front principal building plane is limited to a maximum of 25% of the total parking; provided, however, a conditional use shall not be required.

[2] The decorative wall or fence as stipulated herein shall be required to screen parking areas from adjacent roadways.

[3] Low evergreen landscaping to soften the appearance between the

wall and the street is required.

- (8) Notwithstanding the building height provisions noted in the table Building Dimensions, Location and Setback Standards, § 116-295, no portion of a building located within 45 feet of an existing one- or two-family dwelling in a residential zoning district shall be permitted to exceed 35 feet in height; provided, however, that for parcels with a lot area of five acres or greater, said forty-five-foot distance shall be increased to 65 feet.
  - (9) Curb cuts. Each lot shall have no more than one curb cut per street frontage for a two-way driveway for vehicular access. If sufficient room is not available for one two-way driveway, the Board of Supervisors may approve two curb cuts, subject to PennDOT approval where required. Driveway width shall be in accordance with § 105-38B of the Subdivision and Land Development Ordinance. For development on a parcel with a lot area of five acres or greater, access points shall be limited to a maximum of two per street frontage.
  - (10) The minimum land area necessary to qualify for the VC-4 District shall be 15 contiguous acres, which may consist of an assemblage of smaller tracts. **[Added 12-5-2013 by Ord. No. 931]**
- B. Building design. Within the VC-1, VC-2, and VC-3, the following requirements shall apply to all new and rehabilitated structures and, to the extent practicable, to all other structures except as may be modified in accordance with Subsection B(6) herein. **[Amended 12-5-2013 by Ord. No. 931]**
- (1) Placement and access. A building's public access points shall be articulated and visible from the main roadway.
    - (a) Main building entrances shall be located along the frontage of the main roadway.
    - (b) Building entrances shall incorporate arcades, roofs, porches, alcoves and/or awnings that protect pedestrians from the sun and rain.
    - (c) If the building has frontage on more than one street, the building shall provide, at a minimum, public access points oriented towards both streets, or a single access point to the corner where the two streets intersect.
    - (d) All buildings must be placed to encourage continuous uninterrupted pedestrian accessways that link windows, doorways and open spaces.
    - (e) Additional side or rear access is encouraged.
  - (2) Facades. A building's primary front facade shall be located along the main roadway frontage and designed with clear windows, public access points and signage.
    - (a) Multistory buildings shall articulate the line between the ground and upper levels with a cornice, canopy, balcony, arcade, or other visual device.
    - (b) The ground floor of the primary front facade(s) shall contain a minimum

of 20% windows with a maximum of 60%; windows shall not be tinted unless for purposes of energy conservation nor shall they be of reflective glass.

- (c) Blank walls are not permitted along the main roadway.
  - (d) Blank walls, if visible from a right-of-way or accessway, shall be articulated by two or more of the following:
    - [1] Details in masonry courses;
    - [2] The provision of blank window openings trimmed w/frames, sill and lintels;
    - [3] If the building is occupied by a commercial use, recessed or projecting display window cases.
  - (e) Upper stories of a primary front facade, except those floors used for residential purposes, shall contain a minimum of 20% windows with a maximum of 40%; windows shall not be tinted unless for purposes of energy conservation nor shall they be of reflective glass. To the extent possible, upper story windows shall be vertically aligned with the location of windows and doors on the ground level, including storefront or display windows.
  - (f) Required window areas must be designed to allow views into working areas or lobbies, pedestrian entrances, or merchandise display areas; windows shall not be tinted unless for purposes of energy conservation nor shall they be of reflective glass.
  - (g) The facade treatment of walls facing residential uses or residential zoning districts shall be similar to the primary front facade.
- (3) Massing. The mass of a building or buildings shall be deemphasized in a variety of ways, including the use of projecting and recessed elements such as porches, windows and roof dormers. The intent is to reduce the apparent overall bulk and volume of a structure, to enhance visual quality and contribute to human-scale development. Such breaks in the facades and roof lines shall occur not less frequently than every 100 feet. Building length: Multiple buildings fronting on the main roadway shall vary in building length. The maximum building length shall not exceed 120 feet, for those buildings on parcels with a lot area less than five acres or 150 feet for those buildings on parcels with a lot area of five acres or greater.
- (a) Building facade width: The primary building facade along the main roadway shall not exceed 75 feet in length, for buildings on parcels with a lot area of less than five acres. The primary building facade along the main roadway shall not exceed 100 feet in length, for buildings on parcels with a lot area of five acres or greater.
  - (b) All principal buildings shall relate in scale, massing and style to the surrounding buildings.

- (c) For buildings on parcels with a lot area five acres or greater:
  - [1] Architectural style shall be designed to avoid the massive scale and uniform and impersonal appearance of a big-box structure through the use of such elements as facade ornamentation, building offsets, window treatments, variations in rooflines, entry treatments, and upgraded building materials. Focus should be primarily on variation in spaces among groups of buildings to avoid creating a walled corridor of long, unbroken rows of buildings along a setback, or a monotonous pattern of buildings across a site. There shall be no uninterrupted length of facade that exceeds 100 feet. Building facades greater than 100 feet in length, including separate buildings that are attached shall incorporate one or more architectural feature over 20% of that facade.
  - [2] For buildings with a footprint greater than 15,000 square feet, the building must be designed to appear as multiple buildings.
- (4) Materials. Exterior wall material may be a combination of brick with a consistent or complementary shape, color and texture as found within the adjacent neighborhood, architectural or real stone, stucco, concrete and/or wood siding.
  - (a) Windows shall have detailed mullions and shutters with hardware when these architectural features are employed.
  - (b) The following building materials are prohibited: exterior insulation and finishing systems (EFIS), aluminum or vinyl siding; white, tan or painted brick; T-111 or similar plywood siding.
  - (c) Except on rear walls, not visible from any public way, all forms of visible concrete masonry units shall be prohibited.
  - (d) Existing buildings built before 1940 can be restored to their original conditions or surfaced with brick or stone with wood trim and details.
  - (e) All exposed concrete walls shall be stuccoed or painted. Painted concrete block may not exceed 36 inches in height above the ground.
  - (f) For buildings on parcels with a lot area five acres or greater, materials shall comply with the requirements in § 116-283A(2) of this chapter, regulating dominant building materials in the Riverfront Redevelopment District.
- (5) Roof design. The roof shall be designed with either overhanging eaves or cornices on all sides extending a minimum of 12 inches beyond the building wall.
  - (a) A variety of ridge heights and/or dormers, masonry-finished chimneys and cupolas shall be included in the design of the buildings.
  - (b) Roofing materials shall vary on buildings to feature porches, cupolas, or bay windows.

- [1] Roofing materials may include fiberglass architectural shingles that represent slate or wood, natural slate, shakes, shingle (either wood or asphalt composite), standing seam metal roofs and metal formed to resemble standing seams. Specifically prohibited are white, tan, or blue shingles, red clay tiles, and corrugated plastic or metal.
  - [2] Fascias, dormers and gables or similar architectural features shall be employed to provide visual interest.
- (c) Flat roof surfaces shall be prohibited on one-story buildings.
  - (d) Flat roofs may be used on buildings of two or more stories. In these instances, all visibly exposed walls shall have articulated cornices and parapets that project horizontally from the vertical building wall plane. Architectural features that serve a function and add visual interest to roofs shall be included in the design of such buildings.
  - (e) All rooftop mechanical equipment, including antennas, shall be screened visually and acoustically through the use of parapets. Such screening shall be integral to the architectural design of the building.
  - (f) Any roof-mounted solar panel installations shall comply with all applicable requirements and procedures set forth in § 116-33.4 of this chapter. The design of such installations shall be consistent with the roof design criteria of Subsections B(5)(a) through (e) herein to the extent practical without compromising the effectiveness of the proposed installation. The Township Engineer shall review any proposed solar installation to confirm that it is an effective means of utilizing solar energy, in compliance with § 116-33.4B(2) of this chapter.
- (6) The Board of Supervisors, by conditional use, upon consideration of recommendations from the Township Planning Commission, may permit minor modifications to the building design requirements contained in this district, provided that the applicant satisfactorily demonstrates compliance with the following criteria:
    - (a) The intent of the Village Commercial District and applicable subdistricts is respected.
    - (b) The character of the building will be similar to that which would result from the building being developed/rehabilitated in strict compliance with the building design requirements.
    - (c) The modification represents the least modification required to accommodate the proposed use(s).
  - (7) Additional design standards:
    - (a) All ground-mounted exposed HVAC units or other utility equipment shall be screened from view. This shall be done through the use of masonry walls and landscaping.
    - (b) Trash Enclosures shall be located in areas convenient for on-site use and

accessible for collection. They shall be screened through the use of masonry walls, landscaping, or similar measures approved by the Board of Supervisors. In no case shall any portion of a trash enclosure be closer than a distance equal to the applicable minimum required building side/rear yard as prescribed in § 116-295 herein from a residential use or district.

B.1. Building design for VC-4. The following requirements shall apply to all new and rehabilitated structures and, to the extent practicable, to all other structures except as may be modified in accordance with Subsection B(6) herein: **[Added 12-5-2013 by Ord. No. 931]**

- (1) Placement and access.
  - (a) Building entrances shall incorporate arcades, roofs, porches, alcoves and/or awnings that protect pedestrians from the sun and rain.
  - (b) All buildings must be placed to encourage continuous uninterrupted pedestrian accessways that link windows, doorways and open spaces.
  - (c) Additional side or rear access is encouraged.
- (2) The maximum building area, for a single building, permitted in VC-4 is 70,000 square feet; provided, however, that no one tenant shall occupy a space greater than 20,000 square feet.
- (3) Facades.
  - (a) Multistory buildings shall articulate the line between the ground and upper levels with a cornice, canopy, balcony, arcade, or other visual device.
  - (b) Blank walls are not permitted.
  - (c) The facade treatment of walls facing residential uses or residential zoning districts shall be similar to the primary front facade.
- (4) Massing. The mass of a building or buildings shall be deemphasized in a variety of ways, including the use of projecting and recessed elements such as porches, windows and roof dormers. The intent is to reduce the apparent overall bulk and volume of a structure, to enhance visual quality and contribute to human-scale development. Such breaks in the facades and roof lines shall occur not less frequently than every 100 feet.
- (5) Building length. Multiple buildings fronting on the main roadway shall vary in building length.
  - (a) For buildings on parcels with a lot area 15 acres or greater:
    - [1] Architectural style shall be designed to avoid the massive scale and uniform and impersonal appearance of a big-box structure through the use of such elements as facade ornamentation, building offsets, window treatments, variations in rooflines, entry treatments, and upgraded building materials. Focus should be primarily on variation

in spaces among groups of buildings to avoid creating a walled corridor of long, unbroken rows of buildings along a setback or a monotonous pattern of buildings across a site. There shall be no uninterrupted length of facade that exceeds 130 feet. Building facades greater than 200 feet in length, including separate buildings that are attached, shall incorporate one or more architectural features over 20% of that facade.

- [2] For buildings with a footprint greater than 40,000 square feet, the building must be designed to appear as multiple buildings.
- (6) Materials. Exterior wall material may be a combination of brick with a consistent or complementary shape, color and texture as found within the adjacent neighborhood, architectural or real stone, split face block, stucco, concrete and/or wood siding, and glass.
- (a) The following building materials are prohibited: exterior insulation and finishing systems (EIFS), aluminum or vinyl siding; white, tan or painted brick; T-111 or similar plywood siding.
- (b) Existing buildings built before 1940 can be restored to their original conditions or surfaced with brick or stone with wood trim and details.
- (c) All exposed concrete walls shall be stuccoed or painted. Painted concrete block may not exceed 36 inches in height above the ground.
- C. Buffers and landscaping. All buffers shall be prescribed in accordance with Subdivision and Land Use Ordinance § 105-52; provided, however, that the width of the buffers shall be based upon the required setbacks as prescribed in § 116-295. On any parcel with a lot area of five acres or greater, a buffer yard of Class B shall be installed adjacent to all surrounding parcels, regardless of the buffer yard class that might otherwise be required pursuant to Table 1 as cross-referenced in said § 105-52. Decorative fences may be incorporated into a required buffer, provided that an appropriate amount of landscaping shall be placed on the outside of the fence abutting adjacent properties; gates or openings in the fence shall be provided to allow for proper maintenance of the landscaping. If necessary, easements shall be provided on adjacent properties for said maintenance. The amount and type of landscaping provided in any buffer may differ from that prescribed in the Subdivision and Land Use Ordinance, § 105-52, if recommended by the Township Shade Tree Commission and approved by the Board of Supervisors.
- D. Lighting. Streetlighting shall be of a design approved by the Board of Supervisors. All other site lighting shall meet the following requirements: **[Added 10-25-2018 by Ord. No. 988]**
- (1) The incident light spill-off at the development boundaries shall not exceed 0.10 footcandle at any point along off-street areas and 0.30 footcandle along public or private roadways. In addition, the illumination level shall be no more than 0.30 footcandle measured at any point at a height of five feet above grade.
- (2) All lighting shall be aimed, located, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely

traverse streets and sidewalks/pedestrian facilities and so as not to create a nuisance by projecting or reflecting light onto a neighboring property.

- (3) Glare control onto neighboring properties and onto any public or private thoroughfare, including parking areas, shall be achieved through the use of such means as cutoff fixtures, shields and baffles and appropriate application of fixture mounting height, wattage, aiming angle and placement as approved by the Township. Vegetative screens may be required as a secondary means for controlling glare in appropriate situations. The plant composition of all vegetative screens shall be approved by the Board of Supervisors based upon recommendation by the Shade Tree Commission.
- (4) Light fixtures within 50 feet of any residentially zoned or residentially used property may not exceed a mounting height of 16 feet.

**§ 116-292. Conditions of approval for all conditional uses.**

All conditional uses shall comply with the following standards. The conditions in this section are additive to those in § 116-291; provided, however, that in the event of conflict with § 116-291, these conditions shall apply.

- A. Shared driveways and parking. Notwithstanding the provisions of § 116-291A(7), all conditional uses shall have either a shared driveway with an adjacent property or shared parking or both; provided, however, that if a permitted or conditional use is being converted to a new conditional use, this requirement shall not apply.
- B. Buffers and landscaping. In addition to the requirements contained in § 116-291C herein, for all required landscaping and buffers required for any conditional use, deciduous trees shall be a minimum of 2.5 inches in caliper and evergreen trees shall be planted at a size of six to eight feet in height.
- C. All parking areas shall have at least one tree of 2.5 inches minimum caliper for every five parking spaces in single bays and two trees of 2.5 inches minimum caliper for every 10 parking spaces in double bays. A combination of deciduous and evergreen shrubs shall also be included within parking lot islands.
- D. The maximum density for townhomes, apartments and/or condominiums shall be eight dwelling units per acre. For a mixed-use development, the density shall be computed on the area of that portion of the site used for the residential development and its associated uses (including, but not limited to, parking, recreational facilities and the like). In the case of mixed-use buildings, the maximum number of dwelling units shall be reduced proportionally, based upon the proportion of the building(s) used for nonresidential purposes. (For example, with a single mixed-use building, 1/3 of which is used for nonresidential purposes, the maximum number of allowable units shall be reduced by 1/3.)
- E. The maximum density for nursing homes and assisted-living facilities shall be 10 dwelling units per acre. In order to compute density for these uses, every three beds shall be deemed to be the equivalent of one dwelling unit.

**§ 116-293. Retention and adaptive reuse of historic structures.**

- A. For historic structures as described in § 116-288D herein. If the requirements of this section are in conflict with § 116-291B herein, this section shall take precedence.
- (1) Retention and use of existing principal and accessory buildings (including barns) constructed prior to 1940.
    - (a) The proposed development shall retain and use the existing principal building(s) and barn(s), or portions thereof, built before 1940 on the lot and shall retain the general appearance, character and types of building materials of the front and side facades of the existing building, existing front and side porches and window openings.
    - (b) Expansion shall be permitted only to the sides and rear of the existing principal building and not toward a street frontage. Building expansion may not go in front of the existing building line unless to replace an original building element, as documented by historical photographs or drawings.
    - (c) Expansion to the side shall conform in general appearance, scale, and building materials to the front facade of the existing building.
    - (d) Expansion to the rear shall conform in scale to the existing building.
    - (e) Rooflines shall be similar or complimentary to those of the existing building.
  - (2) Historic buildings from elsewhere are encouraged to be relocated to this district. The Board of Supervisors may, upon recommendation from the Township Planning Commission, allow exterior materials and building style to be modified for such a building relocation to this district.
- B. For a parcel with a lot area of five acres or greater and/or a parcel in the VC-3 subdistrict, the Board of Supervisors may allow minor modifications to the requirements in Subsection A herein by conditional use, upon consideration of recommendations from the Township Planning Commission, provided compliance with the following criteria is demonstrated:
- (1) The intent of the Village Commercial District is respected.
  - (2) Without the requested modification, it would not be possible to preserve the building.
  - (3) The essential character of the building as seen from the fronting street(s) is not altered.
  - (4) The modification represents the least modification necessary to accommodate the proposed use(s) and preserve the building.

**§ 116-294. Dimensional and coverage standards. [Amended 3-28-2013 by Ord. No. 925; 12-5-2013 by Ord. No. 931]**

Dimensional and coverage standards for all VC-1, VC-2, VC-3, and VC-4 uses shall be in compliance with the following:

<b>Dimensional and Coverage Standards</b>	<b>Permitted Uses</b>	<b>Conditional Uses</b>	<b>Sites 5 Acres to 15 Acres</b>	<b>Sites 15 Acres or Greater</b>
1. Maximum nonresidential building footprint for new construction only	6,000 square feet	8,000 square feet, except for retail, in which a maximum of 10,000 square feet is permitted	30,000 square feet	70,000 square feet
2. Maximum residential building footprint for new construction only	4,000 square feet	8,000 square feet	15,000 square feet	15,000 square feet
3. Maximum building footprint for a pre-1940 building with additions	8,000 square feet	10,000 square feet	10,000 square feet	10,000 square feet
4. Maximum building height	3 stories, provided the building height does not exceed 42 feet	3 stories, provided the building height does not exceed 42 feet	3 stories, provided the building height does not exceed 42 feet	3 stories, provided the building height does not exceed 50 feet
5. Maximum building front facade width	75 feet	75 feet	100 feet	130 feet
6. Maximum building coverage	30%	40%	40%	40%
7. Maximum impervious coverage	50% (65% for nonresidential VC-3 uses)	65%	65%	65%

<b>Dimensional and Coverage Standards</b>	<b>Permitted Uses</b>	<b>Conditional Uses</b>	<b>Sites 5 Acres to 15 Acres</b>	<b>Sites 15 Acres or Greater</b>
8. Maximum impervious coverage if provisions* are made for shared parking with shared driveways to adjacent properties that are concurrently zoned VC-1, VC-2, VC-3 or VC-4 for a use permitted by right, or optional public space requirements are met per § 116-297	60%	75%	75%	75%
9. Minimum vegetated open space, trees or landscaping**	50%	35%	35%	35%
10. Minimum lot width at building setback line	100 feet	100 feet	250 feet	500 feet
11. Minimum street frontage	50 feet	50 feet	100 feet	500 feet
12. Minimum building separation	15 feet	15 feet	25 feet	25 feet

NOTES:

\* "Provisions" shall be interpreted as the construction of shared parking and driveways or the provision of optional public spaces; if adjacent parcel does not have any nearby parking or driveway, aisles and easements that would facilitate shared parking and driveways when the adjacent parcel is further developed must be provided.

\*\* Said percentages may be reduced commensurate with any increase in impervious coverage permitted by Standard No. 7 for nonresidential VC-3 permitted uses, by Standard No. 8 in this section, or by conditional use in accordance with the provisions of § 116-297 herein.

**§ 116-295. Building dimensions, location and setback standards. [Added 12-5-2013 by Ord. No. 931]**

Building dimensions, location and setback standards shall be as follows:

<b>Lot Area</b>	<b>Front Yard Requirements</b>	<b>Side/Rear Yard Requirements</b>
Less than 2 acres	A minimum of 50% and a maximum of 90% of the building facade(s) shall be located 10 feet from the ultimate right-of-way, with the remaining facade setback further.	If/when adjacent to a residentially zoned and/or used property, the minimum setback shall be 25 feet. In all other cases, minimum side/rear yard setbacks shall be five feet.
2 acres to 5 acres (not inclusive)	A minimum of 40% and a maximum of 80% of the building facade(s) shall be located 10 feet from the ultimate right-of-way, with the remaining facade set back further.	If/when adjacent to a residentially zoned and/or used property, the minimum setback shall be 35 feet. In all other cases, minimum side/rear yard setbacks shall be five feet.
5 acres to 15 acres	A minimum of 30% and a maximum of 70% of the building facade(s) shall be located 15 feet from the ultimate right-of-way, with the remaining facade set back further	If/when adjacent to a residentially zoned and/or used property, the minimum setback shall be 45 feet. In all other cases, minimum side/rear yard setbacks shall be 15 feet.
15 acres or greater	Building facades shall be located a minimum of 35 feet from the ultimate right-of-way and 15 feet from an internal private roadway.	If/when adjacent to a residentially zoned and/or used property, the minimum setback shall be 45 feet. In all other cases, minimum side/rear yard setbacks shall be 15 feet.

**§ 116-296. Parking setbacks.**

The following setback requirements shall apply for parking spaces and aisleways:

- A. There shall be no minimum side or rear yard parking setback for a parcel(s) being developed in accordance with these standards if that parcel is adjacent to a nonresidentially zoned and/or used property.
- B. When a property being developed in accordance with these standards is adjacent to a residentially zoned and/or used property, there shall be a minimum parking setback of 20 feet from the residential property line.
- C. If any parking is along the right-of-way, the parking setback shall be 10 feet from the ultimate right-of-way.

- D. Notwithstanding the requirements of § 116-184F, parking shall be set back a minimum of 10 feet from any principal structure, with a possible reduction to as little as seven feet, based upon the type of construction of said structure, with the approval of the Fire Marshal. This area shall be used for pedestrian accessways and planting beds. [Amended 3-28-2013 by Ord. No. 925]

**§ 116-297. Public space requirements.**

- A. The Board of Supervisors may, by conditional use, approve up to a ten-percent increase in the impervious cover permitted on a parcel if the applicant creates public space along a public right-of-way. Such space shall be landscaped and/or hardscaped pursuant to the following:
- (1) The public space shall be offered for dedication to the Township.
  - (2) All items provided are to be weatherproof, low maintenance, and vandal-resistant. Whether dedicated to the Township or not, the space and the items located in it are to be maintained by the property owner(s).
  - (3) The area of the public space shall not count toward the requirements of this article for open space.
  - (4) To qualify as a public space, the area must contain at least 500 square feet, have a minimum of 25 feet of public street frontage, and contain at least three of the following items. Signs giving credit to the donor may be permitted in accordance with applicable sections of § 116-207.1:
    - (a) Historic identification markers, signs or monuments.
    - (b) Benches.
    - (c) Kiosk for public notices.
    - (d) Fountain, or water feature.
    - (e) Public art.
    - (f) Clock tower.
- B. The street furniture, such as receptacles, benches, bollards, etc., shall be of a style approved by the Board of Supervisors.

**§ 116-298. Signs.**

Signs in a VC District shall be regulated in accordance with § 116-207.1 and Article XXVIII of the Zoning Ordinance of the Whitemarsh Township Code, as amended.

ARTICLE XXXIX  
**Wireless Communications Facilities**  
**[Added 2-27-2014 by Ord. No. 937]**

**§ 116-299. Purposes and findings of fact.**

- A. The purpose of this article is to establish uniform standards for the siting, design, permitting, maintenance, and use of wireless communications facilities in Whitmarsh Township. While the Township recognizes the importance of wireless communications facilities in providing high-quality communications service to its residents and businesses, the Township also recognizes that it has an obligation to protect public safety and to minimize the adverse visual effects of such facilities through the standards set forth in the following provisions.
- B. By enacting this article, the Township intends to:
- (1) Promote the health, safety and welfare of Township residents and businesses with respect to wireless communications facilities;
  - (2) Provide for the managed development of wireless communications facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both Township residents and wireless carriers in accordance with federal and state laws and regulations;
  - (3) Establish procedures for the design, siting, construction, installation, maintenance and removal of both tower-based and non-tower-based wireless communications facilities in the Township, including facilities both inside and outside the public rights-of-way;
  - (4) Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, cable Wi-Fi and other wireless communications facilities;
  - (5) Encourage the co-location of wireless communications facilities on existing structures rather than the construction of new tower-based structures;
  - (6) Protect Township residents from potential adverse impacts of wireless communications facilities and preserve, to the extent permitted under law, the visual character of established communities and the natural beauty of the landscape; and
  - (7) Update the Township's wireless facilities regulations to incorporate changes in federal and state laws and regulations.

**§ 116-300. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

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

CO-LOCATION — The mounting of one or more WCFs, including antennas, on an existing tower-based WCF or utility or light pole.

DISTRIBUTED ANTENNA SYSTEM (DAS) — Network of spatially separated antenna sites connected to a common source that provides wireless service within a geographic area or structure.

EMERGENCY — A condition that:

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

FCC — Federal Communications Commission.

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

NON-TOWER WIRELESS COMMUNICATIONS FACILITY (NON-TOWER WCF) — All non-tower wireless communications facilities, including, but not limited to, antennas and related equipment. Non-tower WCF shall not include support structures for antennas and related equipment.

PERSONS — Individuals, corporations, companies, associations, joint stock companies, firms, partnerships, limited liability companies, corporations and other entities established pursuant to statutes of the Commonwealth of Pennsylvania, provided that "person" does not include or apply to the Township or to any department or agency of the Township.

RIGHT-OF-WAY or ROW — The surface of and space above and below any real property in the Township in which the Township, Montgomery County or the Commonwealth has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area or property under the control of the Township, Montgomery County or the Commonwealth, and any unrestricted public or utility easements established, dedicated, platted, improved or devoted for utility purposes, but excluding lands other than streets that are owned by the Township, Montgomery County or the Commonwealth. The phrase "in the right(s)-of-way" means in, on, over, along, above and/or under the right(s)-of-way.

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

SUBSTANTIALLY CHANGE —

- A. Any increase in the height of a wireless support structure by more than 10%, or by

the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, except that the mounting of the proposed wireless communications facility may exceed the size limits set forth herein if necessary to avoid interference with existing antennas; or

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

**TOWER-BASED WIRELESS COMMUNICATIONS FACILITY (TOWER-BASED WCF)** — Any structure that is used for the purpose of supporting one or more antennas, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, utility poles and light poles. DAS hub facilities are considered to be tower-based WCFs.

**TOWNSHIP** — Township of Whitmarsh, Montgomery County, Pennsylvania.

**WIRELESS** — Transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.

**WIRELESS COMMUNICATIONS FACILITY (WCF)** — The antennas, nodes, control boxes, towers, poles, conduits, ducts, pedestals, electronics and other equipment used for the purpose of transmitting, receiving, distributing, providing, or accommodating wireless communications services.

**WIRELESS COMMUNICATIONS FACILITY APPLICANT (WCF APPLICANT)** — Any person that applies for a wireless communication facility building permit, zoning approval and/or permission to use the public ROW or other Township owned land or property.

**WIRELESS SUPPORT STRUCTURE** — A freestanding structure, such as a tower-based wireless communications facility or any other support structure that could support the placement or installation of a wireless communications facility if approved by the Township.

**§ 116-301. General requirements for all tower-based wireless communications facilities.**

The following regulations shall apply to all tower-based wireless communications facilities:

- A. **Standard of care.** Any tower-based WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Any tower-based WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property.
- B. **Wind.** Any tower-based WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSFEINTIA-222-E

Code, as amended).

- C. Height. Any tower-based WCF shall be designed at the minimum functional height and shall not exceed a maximum total height of 150 feet, which height shall include all subsequent additions or alterations. All tower-based WCF applicants must submit documentation to the Township justifying the total height of the structure.
- D. Public safety communications. No tower-based WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- E. Maintenance. The following maintenance requirements shall apply:
  - (1) Any tower-based WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - (2) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents.
  - (3) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- F. Radio-frequency emissions. No tower-based WCF may, by itself or in conjunction with other WCFs, generate radio-frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65, entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields," as amended.
- G. Historic buildings or districts. No tower-based WCF may be located on a building or structure that is listed on either the National or Pennsylvania Register of Historic Places or is identified as an historic structure or has been designated as being of historic significance in Chapter 11 of the Whitemarsh Township Comprehensive Plan, or is located within the Historic District, as defined by Chapter 10 of the Township Code.
- H. Identification. All tower-based WCFs shall post a notice in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency, subject to approval by the Township.
- I. Lighting. Tower-based WCFs shall not be artificially lighted, except as required by law and as may be approved by the Township. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.
- J. Appearance. Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings.
- K. Noise. Tower-based WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the Township Code, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.

- L. Aviation safety. Tower-based WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
- M. Retention of experts. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the tower-based WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this article. The applicant and/or owner of the WCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- N. Timing of approval. Within 30 calendar days of the date that an application for a tower-based WCF is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. All applications for tower-based WCFs shall be acted upon within 150 days of the receipt of a fully completed application for the approval of such tower-based WCF, and the Township shall advise the applicant in writing of its decision. If additional information is requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the one-hundred-fifty-day review period.
- O. Nonconforming uses. Nonconforming tower-based WCFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location, but must otherwise comply with the terms and conditions of this article.
- P. Removal. In the event that use of a tower-based WCF is planned to be discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:
  - (1) All unused or abandoned tower-based WCFs and accessory facilities shall be removed within six months of the cessation of operations at the site unless a time extension is approved by the Township.
  - (2) If the WCF and/or accessory facility is not removed within six months of the cessation of operations at a site, or within any longer period approved by the Township, the WCF and accessory facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF.
  - (3) Any unused portions of tower-based WCFs, including antennas, shall be removed within six months of the time of cessation of operations. The Township must approve all replacements of portions of a tower-based WCF previously removed.
- Q. Permit fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a tower-based WCF, as well as related inspection, monitoring and related costs.
- R. Term of approval. Approval for an application for any tower-based wireless

communications facilities shall expire one year from the date that written approval is granted. [Added 10-25-2018 by Ord. No. 988]

**§ 116-302. Tower-based facilities outside rights-of-way.**

The following regulations shall apply to tower-based wireless communications facilities located outside the rights-of-way:

A. Development regulations.

- (1) Prohibited in certain zones. No tower-based WCF shall be located in residential districts or in a Village Commercial District or within 500 feet of a lot in residential use or a residential district boundary.
- (2) Gap in coverage. An applicant for a tower-based WCF must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area and that the type of WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or nonexistence of a gap in wireless coverage shall be a factor in the Township's decision on an application for approval of tower-based WCFs.
- (3) Sole use on a lot. A tower-based WCF is permitted as a sole use on a lot subject to the minimum lot area and yards complying with the requirements for the applicable zoning district.
- (4) Combined with another use. A tower-based WCF may be permitted on a property with an existing use or on a vacant parcel in combination with another industrial, commercial, institutional or municipal use, subject to the following conditions:
  - (a) The existing use on the property may be any permitted use in the applicable district and need not be affiliated with the communications facility.
  - (b) Minimum lot area. The minimum lot shall comply with the requirements for the applicable district and shall be the area needed to accommodate the tower-based WCF and guy wires, the equipment building, security fence, and buffer planting.
  - (c) Minimum setbacks. The tower-based WCF and accompanying equipment building shall comply with the requirements for the applicable zoning district, provided that no tower-based WCF shall be located within 500 feet of a lot in residential use or a residential district boundary.

B. Notice. Upon receipt of an application for a tower-based WCF, the Township shall mail notice thereof to the owner or owners of every property within 500 feet of the parcel or property of the proposed facility.

C. Co-location. An application for a new tower-based WCF shall not be approved unless the Township finds that the wireless communications equipment planned for the proposed tower-based WCF cannot be accommodated on an existing or approved structure or building. Any application for approval of a tower-based WCF shall include a comprehensive inventory of all existing towers and other suitable

structures within a two-mile radius from the point of the proposed tower, unless the applicant can show to the satisfaction of the Township that a different distance is more reasonable, and shall demonstrate conclusively why an existing tower or other suitable structure cannot be utilized.

D. Design regulations.

- (1) The WCF shall employ the most current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Township.
- (2) Any height extensions to an existing tower-based WCF shall require prior approval of the Township. The Township reserves the right to deny such requests based upon aesthetic and land use impact, or any other lawful considerations related to the character of the Township.
- (3) Any proposed tower-based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF applicant's antennas and comparable antennas for future users.

E. Surrounding environs.

- (1) The WCF applicant shall, where applicable, comply with Chapter 55 of the Township Code.
- (2) The WCF applicant shall submit a soil report to the Township complying with the standards of Appendix I: Geotechnical Investigations, ANSI EIA/TIA-222-G, as amended, to document and verify the design specifications of the foundation of the tower-based WCF, and anchors for guy wires, if used.

F. Fence/screen.

- (1) A security fence having a maximum height of six feet shall completely surround any tower-based WCF, guy wires, or any building housing WCF equipment.
- (2) An evergreen screen that consists of a hedge or a row of evergreen trees shall be located along the perimeter of the security fence.
- (3) The WCF applicant shall submit a landscape plan for review and approval by the Township Planning Commission for all proposed screening.

G. Accessory equipment.

- (1) Ground-mounted equipment associated with, or connected to, a tower-based WCF shall be underground. In the event that an applicant can demonstrate that the equipment cannot be located underground to the satisfaction of the Township Engineer, then the ground-mounted equipment shall be screened from public view using stealth technologies, as described above.
- (2) All utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district.

- H. Additional antennas. As a condition of approval for all tower-based WCFs, the WCF applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate antennas on tower-based WCFs where technically and economically feasible and that the WCF applicant shall not unreasonably withhold such permission. The owner of a tower-based WCF shall not install any additional antennas without obtaining the prior written approval of the Township.
- I. Access road. An access road, turnaround space and parking shall be provided to ensure adequate emergency and service access to a tower-based WCF. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the WCF owner shall present documentation to the Township that the property owner has granted an easement for the proposed facility.
- J. Financial security. Prior to the issuance of a permit, the owner of a tower-based WCF outside the ROW shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain financial security acceptable to the Township Solicitor, in an amount of \$100,000, to assure the faithful performance of the terms and conditions of this article. The financial security shall provide that the Township may recover from the principal and surety any and all compensatory damages incurred by the Township for violations of this article, after reasonable notice and opportunity to cure. The owner shall file the financial security with the Township. **[Amended 1-8-2015 by Ord. No. 948]**
- K. Visual or land use impact. The Township reserves the right to deny an application for the construction or placement of any tower-based WCF based upon visual and/or land use impact.
- L. Inspection. The Township reserves the right to inspect any tower-based WCF to ensure compliance with the provisions of this article and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.

### **§ 116-303. Tower-based facilities in rights-of-way.**

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

- A. Prohibited in certain zones. No tower-based WCF shall be located in residential districts or in a Village Commercial District or within 500 feet of a lot in residential use or a residential district boundary.
- B. Gap in coverage. An applicant for a tower-based WCF must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area and that the type of WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or non-existence of a gap in wireless coverage shall be a factor in the Township's decision on an

application for approval of tower-based WCFs in the ROW.

- C. Notice. Upon receipt of an application for a tower-based WCF, the Township shall mail notice thereof to the owner or owners of every property within 500 feet of the parcel or property of the proposed facility.
- D. Co-location. An application for a new tower-based WCF in the ROW shall not be approved unless the Township finds that the proposed wireless communications equipment cannot be accommodated on an existing structure, such as a utility pole or traffic light pole. Any application for approval of a tower-based WCF shall include a comprehensive inventory of all existing towers and other suitable structures within a one-mile radius from the point of the proposed tower, unless the applicant can show to the satisfaction of the Township that a different distance is more reasonable, and shall demonstrate conclusively why an existing tower or other suitable structure cannot be utilized.
- E. Time, place and manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all tower-based WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.
- F. Equipment location. Tower-based WCFs and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:
  - (1) In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb or, in the absence of a curb, the edge of the pavement;
  - (2) Ground-mounted equipment that cannot be underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.
  - (3) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
  - (4) Any graffiti on the tower or on any accessory equipment shall be removed at the sole expense of the owner within 10 business days of notice of the existence of the graffiti.
  - (5) Any underground vaults related to tower-based WCFs shall be reviewed and approved by the Township.
- G. Design regulations.
  - (1) The WCF shall employ the most current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Township.

- (2) Any height extensions to an existing tower-based WCF shall require prior approval of the Township, and shall not increase the overall height of the tower-based WCF to more than 150 feet. The Township reserves the right to deny such requests based upon aesthetic and land use impact, or any other lawful considerations related to the character of the Township.
  - (3) Any proposed tower-based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF applicant's antennas and comparable antennas for future users.
- H. Visual or land use impact. The Township reserves the right to deny the construction or placement of any tower-based WCF in the ROW based upon visual and/or land use impact.
- I. Additional antennas. As a condition of approval for all tower-based WCFs in the ROW, the WCF applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate antennas on tower-based WCFs where technically and economically feasible. The owner of a tower-based WCF shall not install any additional antennas without obtaining the prior written approval of the Township.
- J. Relocation or removal of facilities. Within 60 days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, an owner of tower-based WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
  - (1) The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way;
  - (2) The operations of the Township or other governmental entity in the right-of-way;
  - (3) Vacation of a street or road or the release of a utility easement; or
  - (4) An emergency as determined by the Township.
- K. Compensation for ROW use. In addition to permit fees as described in § 116-301Q, every tower-based WCF in the ROW is subject to the Township's right to fix annually a fair and reasonable compensation to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Township's actual ROW management costs, including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Township. The owner of each tower-based WCF shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described above. The annual ROW management fee for tower-based WCFs shall be determined by the Township and authorized by resolution of Township Board and shall be based on the Township's actual ROW management costs as applied to such

tower-based WCF.

- L. Financial security. Prior to the issuance of a permit, the owner of a tower-based WCF in the ROW shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain financial security acceptable to the Township Solicitor, in an amount of \$100,000, to assure the faithful performance of the terms and conditions of this article. The financial security shall provide that the Township may recover from the principal and surety any and all compensatory damages incurred by the Township for violations of this article, after reasonable notice and opportunity to cure. The owner shall file the financial security with the Township. **[Amended 1-8-2015 by Ord. No. 948]**

**§ 116-304. General requirements for all non-tower wireless communications facilities.**

- A. The following regulations shall apply to all non-tower wireless communications facilities that do not substantially change the physical dimensions of the wireless support structure to which they are attached:
- (1) Permitted in all zones subject to regulations. Non-tower WCFs are permitted in all zones subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Township.
  - (2) Notice. Upon receipt of an application for any non-tower-based WCF, the Township shall mail notice thereof to the owner or owners of every property within 500 feet of the parcel or property of the proposed facility.
  - (3) Standard of care. Any non-tower WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. Any WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.
  - (4) Wind. Any non-tower WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association. (ANSI EIA/TIA-222-G, as amended).
  - (5) Public safety communications. No non-tower WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
  - (6) Aviation safety. Non-tower WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
  - (7) Radio-frequency emissions. No non-tower WCF may, by itself or in conjunction with other WCFs, generate radio-frequency emissions in excess

of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65, entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields," as amended.

- (8) Removal. In the event that use of a non-tower WCF is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:
    - (a) All abandoned or unused WCFs and accessory facilities shall be removed within three months of the cessation of operations at the site unless a time extension is approved by the Township.
    - (b) If the WCF or accessory facility is not removed within three months of the cessation of operations at a site, or within any longer period approved by the Township, the WCF and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF.
  - (9) Timing of approval. Within 30 calendar days of the date that an application for a non-tower WCF is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. Within 90 calendar days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the applicant in writing of such decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the Township's ninety-day review period.
  - (10) Permit fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a non-tower WCF or \$1,000, whichever is less.
- B. The following regulations shall apply to all non-tower wireless communications facilities that substantially change the wireless support structure to which they are attached:
- (1) Permitted in all zones subject to regulations. Non-tower WCFs are permitted in all zones subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Township.
  - (2) Notice. Upon receipt of an application for any non-tower-based WCF, the Township shall mail notice thereof to the owner or owners of every property within 500 feet of the parcel or property of the proposed facility.
  - (3) Standard of care. Any non-tower WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. Any WCF shall at all times be kept and maintained in good

condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Township.

- (4) Wind. Any non-tower WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association and Telecommunications Industry Association (ANSI EIA/TIA-222-G, as amended).
- (5) Public safety communications. No non-tower WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (6) Historic buildings. Non-tower WCFs may not be located on a building or structure that is listed on either the National or Pennsylvania Register of Historic Places or is identified as an historic structure or has been designated as being of historic significance in Chapter 11 of the Whitemarsh Township Comprehensive Plan, or is located within the Historic District, as defined by Chapter 10 of the Township Code.
- (7) Aviation safety. Non-tower WCFs shall comply with all federal and state laws and regulations concerning aviation safety.
- (8) Maintenance. The following maintenance requirements shall apply:
  - (a) The non-tower WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - (b) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents.
  - (c) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- (9) Radio-frequency emissions. No non-tower WCF may, by itself or in conjunction with other WCFs, generate radio-frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65, entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields," as amended.
- (10) Removal. In the event that use of a non-tower WCF is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:
  - (a) All abandoned or unused WCFs and accessory facilities shall be removed within three months of the cessation of operations at the site unless a time extension is approved by the Township.
  - (b) If the WCF or accessory facility is not removed within three months of the cessation of operations at a site or within any longer period approved

by the Township, the WCF and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the WCF.

- (11) Timing of approval. Within 30 calendar days of the date that an application for a non-tower WCF is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. Within 90 calendar days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the applicant in writing of such decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the Township's ninety-day review period.
  - (12) Retention of experts. The Township may hire any consultant(s) and/or expert(s) necessary to assist the Township in reviewing and evaluating the application for approval of the WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this article. The applicant and/or owner of the WCF shall reimburse the Township for all costs of the Township's consultant(s) in providing expert evaluation and consultation in connection with these activities.
  - (13) Bond. Prior to the issuance of a permit, the owner of each individual non-tower WCF shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond, or other form of security acceptable to the Township Solicitor, in all amount of \$25,000, for each individual non-tower WCF, to assure the faithful performance of the terms and conditions of this article. The bond shall provide that the Township may recover from the principal and surety any and all compensatory damages incurred by the Township for violations of this article, after reasonable notice and opportunity to cure. The owner shall file a copy of the bond with the Township.
  - (14) Permit fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a non-tower WCF, as well as related inspection, monitoring and related costs.
- C. Term of approval. Approval for an application for any non-tower wireless communications facilities shall expire one year from the date that written approval is granted. **[Added 10-25-2018 by Ord. No. 988]**

**§ 116-305. Non-tower wireless facilities outside rights-of-way.**

The following additional regulations shall apply to non-tower wireless communications facilities located outside the rights-of-way that substantially change the wireless support structure to which they are attached:

- A. Development regulations. Non-tower WCFs shall be co-located on existing structures such as existing buildings or tower-based WCFs subject to the following conditions:

- (1) Such WCF does not exceed a maximum height of 150 feet.
  - (2) If the WCF applicant proposes to locate the communications equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
  - (3) A six-foot-high security fence shall surround any separate communications equipment building. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.
- B. Design regulations.
- (1) Non-tower WCFs shall employ stealth technology and be treated to match the supporting structure in order to minimize aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Township.
  - (2) Non-tower WCFs, which are mounted to a building or similar structure, may not exceed a height of 15 feet above the roof or parapet, whichever is higher, unless the WCF applicant obtains a conditional use approval.
  - (3) All non-tower WCF applicants must submit documentation to the Township justifying the total height of the non-tower structure. Such documentation shall be analyzed in the context of such justification on an individual basis.
  - (4) Antennas, and their respective accompanying support structures, shall be no greater in diameter than any cross-sectional dimension than is reasonably necessary for their proper functioning.
  - (5) Noncommercial usage exemption. The design regulations enumerated in this Subsection B shall not apply to direct-broadcast satellite dishes installed for the purpose of receiving video and related communications services at residential dwellings.
- C. Removal; replacement; modification.
- (1) The removal and replacement of non-tower WCFs and/or accessory equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not increase the overall size of the WCF or the number of antennas.
  - (2) Any material modification to a wireless telecommunication facility shall require a prior amendment to the original permit or authorization.
- D. Visual or land use impact. The Township reserves the right to deny an application for the construction or placement of any non-tower WCF based upon visual and/or land use impact.
- E. Inspection. The Township reserves the right to inspect any WCF to ensure compliance with the provisions of this article and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a WCF is located at any time,

upon reasonable notice to the operator, to ensure such compliance.

**§ 116-306. Non-tower wireless facilities in rights-of-way.**

The following additional regulations shall apply to all non-tower wireless communications facilities located in the rights-of-way:

- A. Co-location. Non-tower WCFs in the ROW shall be co-located on existing poles, such as existing utility poles or light poles.
- B. Design requirements.
  - (1) WCF installations located above the surface grade in the public ROW including, but not limited to, those on streetlights and joint utility poles, shall consist of equipment components that are no more than six feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.
  - (2) Antennas and all support equipment shall be treated to match the supporting structure. WCFs and accompanying equipment shall be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.
- C. Compensation for ROW use. In addition to permit fees as described above, every non-tower WCF in the ROW is subject to the Township's right to fix annually a fair and reasonable compensation to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Township's actual ROW management costs, including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other ROW management activities by the Township. The owner of each non-tower WCF shall pay an annual fee to the Township to compensate the Township for its costs incurred in connection with the activities described above. The annual ROW management fee for non-tower WCFs shall be determined by the Township and authorized by resolution of the Township Board of Supervisors and shall be based on the Township's actual ROW management costs as applied to such non-tower WCF.
- D. Time, place and manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all non-tower WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.
- E. Equipment location. Non-tower WCFs and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:
  - (1) In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb, or, in the absence of a curb, the edge

of the pavement.

- (2) Ground-mounted equipment shall be located underground. In the event that an applicant can demonstrate, to the satisfaction of the Township Engineer, that ground-mounted equipment cannot be underground, then all such equipment shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.
  - (3) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
  - (4) Any graffiti on the tower or on any accessory equipment shall be removed at the sole expense of the owner within 10 business days of notice of the existence of the graffiti.
  - (5) Any underground vaults related to non-tower WCFs shall be reviewed and approved by the Township.
- F. Relocation or removal of facilities. Within 60 days following written notice from the Township, or such longer period as the Township determines is reasonably necessary, or such shorter period in the case of an emergency, an owner of a WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
- (1) The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way;
  - (2) The operations of the Township or other governmental entity in the right-of-way;
  - (3) Vacation of a street or road or the release of a utility easement; or
  - (4) An emergency as determined by the Township.
- G. Visual or land use impact. The Township retains the right to deny an application for the construction or placement of a non-tower WCF based upon visual and/or land use impact.

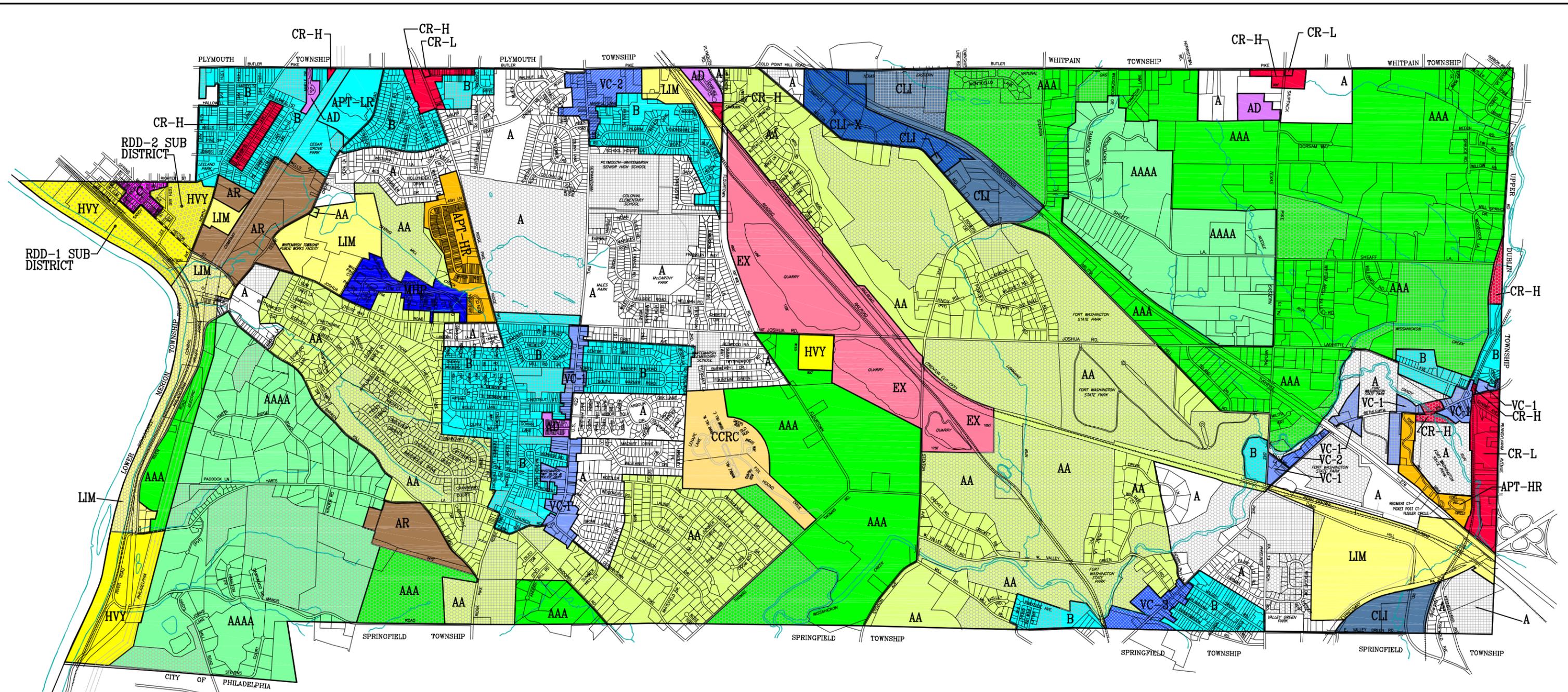
#### **§ 116-307. Violations and penalties.**

- A. Penalties. Any person violating any provision of this article shall be subject, upon finding by a Magisterial District Judge, to a penalty not exceeding \$500 for each and every offense, together with attorneys' fees and costs. A separate and distinct violation shall be deemed to be committed each day on which a violation occurs or continues to occur. In addition to an action to enforce any penalty imposed by this article and any other remedy at law or in equity, the Township may apply to a Federal District Court for an injunction or other appropriate relief at law or in equity to enforce compliance with or restrain violation of any provision of this article.
- B. Determination of violation. In the event a determination is made that a person has

violated any provision of this article, such person shall be provided written notice of the determination and the reasons therefor. Except in the case of an emergency, the person shall have 30 days to cure the violation. If the nature of the violation is such that it cannot be fully cured within such time period, the Township may, in its reasonable judgment, extend the time period to cure, provided that the person has commenced to cure and is diligently pursuing its efforts to cure. If the violation has not been cured within the time allowed, the Township may take any and all actions authorized by this article and/or federal and/or Pennsylvania law and regulations.

**§ 116-308. Miscellaneous.**

- A. Police powers. The Township, by granting any permit or taking any other action pursuant to this article, does not waive, reduce, lessen or impair the lawful police powers vested in the Township under applicable federal, state and local laws and regulations.
- B. Severability. If any section, subsection, sentence, clause, phrase or word of this article is for any reason held illegal or invalid by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and such holding shall not render the remainder of this article invalid.



**ZONING CLASSIFICATIONS**

- |  |  |  |  |
|--|--|--|--|
|  | - AAAA - RESIDENTIAL DISTRICT (90,000 SQ. FT.) |  | - CR-H - COMMERCIAL RETAIL DISTRICT                        |
|  | - AAA - RESIDENTIAL DISTRICT (1 ACRE)          |  | - CR-L - COMMERCIAL RETAIL DISTRICT                        |
|  | - AA - RESIDENTIAL DISTRICT (30,000 SQ. FT.)   |  | - AR - ADMINISTRATION AND RESEARCH DISTRICT                |
|  | - A - RESIDENTIAL DISTRICT (15,000 SQ. FT.)    |  | - CLI - CAMPUS-TYPE LIMITED INDUSTRIAL DISTRICT            |
|  | - B - RESIDENTIAL DISTRICT (10,000 SQ. FT.)    |  | - CLI-X - MODIFIED CAMPUS-TYPE LIMITED INDUSTRIAL DISTRICT |
|  | - C - RESIDENTIAL DISTRICT (6,000 SQ. FT.)     |  | - LIM - LIMITED INDUSTRIAL DISTRICT                        |
|  | - APT-LR - APARTMENT HOUSE DISTRICT            |  | - HVY - HEAVY INDUSTRIAL DISTRICT                          |
|  | - APT-HR - APARTMENT HOUSE DISTRICT            |  | - EX - EXTRACTION DISTRICT                                 |
|  | - AD - ATTACHED DWELLING DISTRICT              |  | - CCRC - CONTINUING CARE RETIREMENT COMMUNITY              |
|  | - MHP - MOBILE HOME PARK DISTRICT              |  | - VC-1 - VILLAGE COMMERCIAL DISTRICT 1                     |
|  |  |  | - VC-2 - VILLAGE COMMERCIAL DISTRICT 2                     |
|  |  |  | - VC-3 - VILLAGE COMMERCIAL DISTRICT 3                     |

**OVERLAYS**

- |  |                          |
|--|--------------------------|
|  | - INSTITUTIONAL DISTRICT |
|  | - RECREATIONAL DISTRICT  |
|  | - RDD-1 SUB-DISTRICT     |
|  | - RDD-2 SUB-DISTRICT     |

**ZONING MAP**  
**WHITEMARSH TOWNSHIP**  
 Montgomery County, Pennsylvania