

WHITEMARSH TOWNSHIP ORDINANCE NO. 893

AN ORDINANCE OF THE TOWNSHIP OF WHITEMARSH AMENDING CHAPTER 116, ZONING, OF THE CODE OF WHITEMARSH TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA, TO AMEND THE “VILLAGE COMMERCIAL DISTRICT” AND THE TITLES AND REFERENCES THERETO OF THE “FLOODPLAIN CONSERVATION DISTRICT,” “INSTITUTIONAL DISTRICT,” “RECREATION DISTRICT,” “RIPARIAN CORRIDOR CONSERVATION DISTRICT,” THE “RIVERFRONT DEVELOPMENT DISTRICT” AND TO DELETE THE “SHOPPING CENTER DISTRICT”.

WHEREAS, Whitemarsh Township (the “**Township**”) desires to amend the Code of Whitemarsh Township (the “**Code**”) by adopting certain amendments to Chapter 116, Zoning “Village Commercial District” (the “**VC District**”) and the titles and references thereto of the “Floodplain Conservation District,” “Institutional District,” “Recreation District,” “Riparian Corridor Conservation District,” the “Riverfront Development District” and to delete the “Shopping Center District”.; and

NOW, THEREFORE, IT IS HEREBY ORDAINED AND ENACTED, by the Board of Supervisors (the “**Supervisors**”) of Whitemarsh Township that Chapter 116, Zoning, of the Code of Whitemarsh Township be amended as follows:

Section 1. Chapter 116 Zoning, Section 116-290.A. of Article XXXVIII entitled “Village Commercial” is hereby amended by adding the following:

- (9) Live/work units for artisans, professionals and service providers, provided the office 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.

Section 2. Chapter 116 Zoning, Section 116-290.B. of Article XXXVIII entitled “Village Commercial” is hereby amended as follows:

- B. The following uses may be permitted as Conditional Uses in VC-1 and VC-2 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) Townhomes, apartments, & condominiums.
 - (2) Child day care center.
 - (3) School-age care.
 - (4) Group child day care home.
 - (5) Multi-family conversion; with over 4 units but no more than 8 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 §116-293 herein.
- (10) Restaurant, tearoom, café, confectionary, 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.
- (11) Outdoor Dining.

Adequate sidewalk area shall be provided for proper circulation.

The outdoor area shall not remove required parking areas.

Additional parking shall be provided for the outdoor seating area in accordance with the requirements of this chapter.

The outdoor area shall be lit to the satisfaction of the Township Engineer.

Section 3. Chapter 116 Zoning, Sections 116-290.C. and 116-290.C.(1) of Article XXXVIII entitled "Village Commercial" are hereby amended as follows:

- C. The following uses may be permitted as additional Conditional Uses in the VC-1 Sub District 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, 10,000 square foot maximum building size.

Section 4. Chapter 116 Zoning, Section 116-290. of Article XXXVIII entitled "Village Commercial" is hereby amended by adding the following subsection:

- E. A nonconforming structure may be permitted to be expanded in the VC District without relief from the Zoning Hearing Board from the provisions of **§116-194.B.(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.

Section 5. Chapter 116 Zoning, Sections 116-291.A.(5) through (9) of Article XXXVIII entitled "Village Commercial" are hereby amended as follows:

- (5) The Board of Supervisors may, by conditional use, reduce the total amount of required parking by up to 25% 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. If such reduction is approved, a conditional use for front yard parking under subsection 7 of this section shall not be permitted.

- (6) If front yard parking is otherwise permitted by virtue of the requirements of the VC District, relief from the Zoning Hearing Board from the provisions of Article XXVI, §116-24.E.(3)(a), shall not be required, regardless of the proposed use(s).
- (7) Parking. No parking shall be permitted in front yards unless (i) an existing building prevents the applicant from meeting the parking requirements in the rear and side yards, and (ii) the Applicant demonstrates that front yard parking is the only option after a bona fide attempt has been made to secure a shared parking arrangement with an adjacent or nearby property. In such case, a maximum of 25% of the parking may be placed in the front yard 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. 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 4 feet in width are permitted for drainage or pedestrian access. A minimum of 50% of the required parking shall be placed in the rear yard; any remaining parking may be located in the side yard(s).
- (8) Notwithstanding the building height provisions noted in the table *Building Dimensions, Location & 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.
- (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 §105-38.B. of the Subdivision and Land Development Ordinance.

Section 6. Chapter 116 Zoning, title and introductory sentence of Section 116-291.B. of Article XXXVIII entitled "Village Commercial" is hereby amended as follows:

- B. Building Design. The following requirements shall apply to all new and rehabilitated structures and to the extent practicable, to all other structures.

Section 7. Chapter 116 Zoning, Section 116-291.B.(1) of Article XXXVIII entitled "Village Commercial" is hereby amended by adding the following:

- (e) Additional side or rear access is encouraged.

Section 8. Chapter 116 Zoning, Section 116-292. of Article XXXVIII entitled "Village Commercial" is hereby amended as follows:

§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 §116-291.A.(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. All buffers shall be prescribed in accordance with Subdivision and Land Use Ordinance §105-52., provided, however, that deciduous trees of a minimum of 2.5 inches in caliper shall be planted for all required landscaping and buffers and that evergreen trees shall be planted at a size of 6 – 8 feet in height.
- C. All parking areas shall have at least one (1) tree of 2.5 inches minimum caliper for every five parking spaces in single bays and two (2) 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.

Section 9. Chapter 116 Zoning, Section 116-294.1. of Article XXXVIII entitled “Village Commercial” is hereby amended as follows:

Dimensional & Coverage Standards	Permitted Uses	Conditional Uses
1. Maximum Non-Residential Building Footprint for new construction only, not including unenclosed portions:	6,000 square feet	8,000 square feet, except for retail, in which a maximum of 10,000 square feet is permitted.

Section 10. Chapter 116 Zoning, Section 116-294.4. of Article XXXVIII entitled “Village Commercial” is hereby amended as follows:

4. Maximum Building Height:	Three (3) stories, provided the building height does not exceed 42 feet.	Three (3) stories, provided the building height does not exceed 42 feet.
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Section 11. Chapter 116 Zoning, Section 116-294.5. of Article XXXVIII entitled “Village Commercial” is hereby amended as follows:

5. Maximum Building Front Façade Width:	75 feet	75 feet
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Section 12. Chapter 116 Zoning, Section 116-295. of Article XXXVIII entitled "Village Commercial" is hereby amended as follows:

§116-295. Building Dimensions, Location & Setback Standards

Lot Area	Front Yard Requirements	Side/Rear Yard Requirements
Less than 2 acres	A minimum of 50% and a maximum of 90% of the building façade(s) shall be located a minimum of 10 feet from the ultimate right-of-way	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 – 5 acres	A minimum of 40% and a maximum of 80% percent of the building façade(s) shall be located a minimum of 10 feet from the ultimate right-of-way.	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.
More than 5 acres	A minimum of 30% and a maximum of 70% percent of the building façade(s) shall be located a minimum of 10 feet from the ultimate right-of-way.	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 five feet.

Section 13. Chapter 116 Zoning, Section 116-296. of Article XXXVIII entitled "Village Commercial" is hereby amended as follows:

§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 non-residentially 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 twenty (20) feet from the residential property line.
- C. If any parking is along the Right-of-Way, the parking setback shall be ten (10) feet from the ultimate right-of-way.
- D. Parking shall be set back a minimum of seven (7) feet from any principal structure, notwithstanding the requirements of §116-184.F. This area shall be used for pedestrian accessways and planting beds.

Section 14. Chapter 116 Zoning, is hereby amended as follows:

The name of Article XXII is amended as follows.

Floodplain Conservation Overlay District

All references to said district shall be construed to be the name as amended.

Section 15. Chapter 116 Zoning, is hereby amended as follows:

The name of Article XXIV is amended as follows.

Institutional Overlay District

All references to said district shall be construed to be the name as amended.

Section 16. Chapter 116 Zoning, is hereby amended as follows:

The name of Article XXV is amended as follows.

Recreational Overlay District

All references to said district shall be construed to be the name as amended.

Section 17. Chapter 116 Zoning, is hereby amended as follows:

The name of Article XXXV is amended as follows.

Riparian Corridor Conservation Overlay District

All references to said district shall be construed to be the name as amended.

Section 18. Chapter 116 Zoning, is hereby amended as follows:

The name of Article XXXVII is amended as follows.

Riverfront Development Overlay District

All references to said district shall be construed to be the name as amended.

Section 19. Chapter 116 Zoning is hereby amended as follows:

Article XVII of Chapter 116 “SC Shopping Center District” is hereby deleted in its entirety, in recognition of the rezoning of the parcels previously comprising the Shopping Center District to include said parcels in the Village Commercial District pursuant to Ordinance 863 and the related amendments to the Whitemarsh Township Zoning Map pursuant to Ordinance 867, both adopted on September 25, 2008.

Section 20. Except as specifically hereby amended, Chapter 116, Zoning, of the Code of Whitmarsh Township is hereby ratified and confirmed in its entirety.

Section 21. The words, phrases and provisions of this Ordinance are not to be interpreted in a way that results in an absurd construction of the meaning, or in any way that causes one provision to contradict another.

Section 22. It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provision of this Chapter to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Chapter shall continue to be separately and fully effective.

Section 23. This Ordinance shall be effective at the earliest possible date permitted by the provisions of the Whitmarsh Township Charter and all prior ordinances or parts thereof inconsistent herewith are hereby repealed.

ORDAINED and ENACTED the 28th day of January, 2010.

ATTEST

BOARD OF SUPERVISORS

Bruce G. Horrocks, Secretary

ROBERT R. HART, Chair