

**BOARD OF SUPERVISORS
EAST MARLBOROUGH TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

ORDINANCE NO. 09-01

AN ORDINANCE (i) MODIFYING THE USES PERMITTED BY CONDITIONAL USE WITHIN AND THE LOT COVERAGE REQUIREMENTS APPLICABLE TO THE WILLOWDALE MULTIPLE USE DISTRICT (ARTICLE VII); (ii) MODIFYING SIGNAGE PROVISIONS (ARTICLE XVII); (iii) MODIFYING SCREENING AND BUFFERING REQUIREMENTS (ARTICLE XVIII); (iv) ADDING INTERIOR CIRCULATION REQUIREMENTS FOR COMMERCIAL LOTS WITH DRIVE-THROUGH WINDOWS (ARTICLE XVIII); (v) MODIFYING LANGUAGE PERTAINING TO RIPARIAN BUFFERS (ARTICLE XVIII); AND (vi) ADDING RESTRICTIONS PERTAINING TO FENCES (ARTICLE XVIII) TO THE EAST MARLBOROUGH TOWNSHIP ZONING ORDINANCE OF 1992, AS MODIFIED BY AMENDMENTS THROUGH 2006.

UNDER AND BY VIRTUE OF THE AUTHORITY OF THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE, THE BOARD OF SUPERVISORS OF EAST MARLBOROUGH TOWNSHIP DOES HEREBY ENACT AND ORDAIN THAT THE EAST MARLBOROUGH TOWNSHIP ZONING ORDINANCE OF 1992, AS HERETOFORE AMENDED, SHALL BE AND IS HEREBY FURTHER AMENDED AS FOLLOWS:

Section 1.

In subsection B ("Conditional Uses") of §752 ("Use Regulations for the Willowdale Multiple Use District [WMU]"), subsection 4 (pertaining to theaters) is hereby amended to read in its entirety as follows:

"4. Theaters for live performances having a seating capacity of not more than 200 people."

Section 2.

In subsection B ("Conditional Uses") of §752 ("Use Regulations for the Willowdale Multiple Use District [WMU]"), subsection 5 (pertaining to funeral homes) is hereby deleted in its entirety. Hereafter, subsection 5 shall read in its entirety as follows:

"5. INTENTIONALLY OMITTED."

Section 3.

In subsection C ("Multi-Family Dwellings") of §753 ("Area and Bulk Regulations for the Willowdale Multiple Use District [WMU]"), subsection 4 ("Tract Coverage") is hereby amended to read in its entirety as follows:

"4. Tract Coverage

The maximum Impervious Coverage, including the area occupied by buildings, the paved portions of parking areas, driveways and other Impervious Coverage, shall not exceed a portion of the tract equal to the sum of (i) 34,848 square feet (40% of two acres) plus (ii) twenty-five percent (25%) of the remainder of the Adjusted Acreage of the tract over and above two (2) acres. The remainder of the tract shall be Green Area."

Section 4.

In subsection D ("Commercial Uses") of §753 ("Area and Bulk Regulations for the Willowdale Multiple Use District [WMU]"), subsection 9 ("Lot Coverage") is hereby amended to read in its entirety as follows:

"9. Lot Coverage

For Lots having an Adjusted Acreage of two (2) acres or less, no more than fifty-five percent (55%) of the Adjusted Acreage of the Lot may be occupied by buildings, the paved portion of parking areas, driveways, and other Impervious Coverage. For Lots having an Adjusted Acreage of more than two (2) acres, the maximum Impervious Coverage as above defined shall be based upon a calculation of (i) 47,916 square feet (55% of two (2) acres of the Adjusted Acreage) plus (ii) twenty-five percent (25%) of the remainder of the Adjusted Acreage over and above two (2) acres of the Adjusted Acreage. In each case, the remainder of any Lot shall be Green Area, unless modified by the terms of Article III, Section 302H of the Stormwater Management Ordinance."

Section 5.

The first sentence of subsection A of §1104 ("Design Standards" for the Educational, Scientific and Institutional District [ESI]), is hereby amended to read in its entirety as follows:

"A. Uses by Right, except those provided in §1102(A)1 and §1102(A)2."

Section 6.

The first sentence of subsection C of §1104 ("Design Standards" for the Educational, Scientific and Institutional District [ESI]), is hereby amended to read in its entirety as follows:

"A. Uses by Right provided for in §1102(A)1 and §1102(A)2 and Conditional Uses authorized in §1102(C)."

Section 7.

In §202 ("Definitions of Terms"), the definition of "Sign" is hereby amended to read in its entirety as follows:

"SIGN

Any Structure or part thereof or any device, whether freestanding or attached to a building or a wall or painted or represented thereon, which shall display or include any letter, word, model, banner, pennant, insignia, device, trade flag, symbol, or representation which is in the nature of, or which is used as, an announcement, direction, or advertisement for commercial purposes or otherwise. A Sign includes a billboard, illuminated or neon tube, string of lights, or similar device outlining, attached to or hung upon any part of a Structure or Lot, but does not include the flag or insignia of any nation, group of nations, or governmental agency. See §1702 for definitions of specific types of Signs."

Section 8.

Subsection C ("Bulletin Board") of §1702 ("Definitions" with respect to Signage), is hereby amended to read in its entirety as follows:

"BULLETIN BOARD

A non-commercial Sign of permanent character, used in conjunction with an institution or organization, with movable letters, words or numerals, indicating the names of persons associated with or events conducted upon the premises upon which such a Sign is maintained; provided that no part of the Sign, including the movable letters, words or numbers on the Sign, may be illuminated either internally or with backlighting that projects light through the sign, whether by means of LED, neon, luminous or similar types of bulbs or tubes or otherwise."

Section 9.

Subsection T ("Temporary Signs") of §1702 ("Definitions" with respect to Signage), is hereby amended to read in its entirety as follows:

"TEMPORARY SIGNS

A Sign notifying of or advertising a special event, such as festivals, concerts or exhibits, or sale of seasonal agricultural products, being displayed for not more than fifteen (15) days in duration. A Temporary Sign may be portable."

Section 10.

Subsection C of §1705 ("General Regulations" with respect to Signage) is hereby amended to read in its entirety as follows:

"No stringing of light bulbs or placing of luminaries which create the same effect; no animated Sign; and no Signs that revolve, swing, have movable parts, flashing or twinkling lights, or reflectors shall be permitted. No advertising Sign, banner, pennant, balloon, spinners, or display, whether constructed of cloth, canvas, plastic, wallboard, or other

materials shall be erected, suspended, or hung on any property, except that the Zoning Officer may permit in the C-2 zoning district the use of any such advertising Signs, banners, or displays for a period of not more than seven (7) consecutive days nor more than twenty-eight (28) days in any one calendar year, provided that:

1. No such Sign or display shall (i) exceed the Height of signage permitted for permanent signage or (ii) cause the total area of signage to exceed in size the area permitted for permanent signage (determined by including the area of any existing permanent signage) as provided for in such zoning district.

2. No Sign shall be placed in such a position that it will cause danger to traffic on a Street or for interior circulation by obscuring or obstructing the view."

Section 11.

Subsection H of §1705 ("General Regulations" with respect to Signage) is hereby amended to read in its entirety as follows:

"H. Except in the C-2 Highway Commercial and MU Multiple Use zoning districts, (i) no Sign shall be illuminated either internally or with backlighting that projects light through the sign or shall use LED, neon, luminous or similar types of bulbs or tubes and (ii) no Illuminated Sign shall be permitted except a Sign that is illuminated externally by indirect lighting (i.e., not illuminated internally or with backlighting that projects light through the sign) emanating from an overhead source that shields the light from view and that is attached to the exterior of the Sign itself."

Section 12.

The first clause of subsection N of §1705 ("General Regulations" with respect to Signage), is hereby amended to read in its entirety as follows:

"N. Changeable Copy Signs shall be subject to the restrictions set forth in subsection H of this §1705 and shall be permitted in conjunction with commercial uses only in the following circumstances:

1. Changeable copy shall not be used to advertise merchandise or special sales events.
2. Changeable copy shall be used only to display information required by law or regulation to be displayed, such as gasoline prices.
3. The sign area of a Changeable Copy Sign shall be included in the total permissible area of the sign."

Section 13.

The table in subsection D.1 ("Screening and Buffering") of §1812 ("Design Standards"), is hereby amended to read in its entirety as follows:

"Column A

Column B

Any industrial or commercial use

Any use

Any Multi-Family residential use

Any Single Family, Two Family
Multi-Family or agricultural use

Any use permitted by §1102(A)1 or 2
or by §1102(C)

Any use

Mobile Home Park

Any Single Family, Two Family
Multi-Family or agricultural use
or any Church or School

Cemetery, Church or School

Any use"

Section 14.

The following new subsection 2.a.iv is hereby added to subsection D ("Screening and Buffering") of §1812 ("Design Standards"):

"iv. The plantings in the perimeter Buffer planting strip required by this §1812(D)2.a may be modified and replaced with alternative landscaping shown on a landscaping plan approved by the Board of Supervisors."

Section 15.

The following new subsection 4 is hereby added to subsection F ("Interior Circulation") of §1812 ("Design Standards"):

"4. Drive-through windows at which a customer receives service directly from a building without leaving the customer's automobile, such as provided by a Drive-In Restaurant, a bank or a pharmacy, shall be subject to the following restrictions:

a. Drive-through windows shall only be permitted on a single-use, free-standing building.

b. No more than two lanes shall be permitted to access the drive-through window on any building."

Section 16.

In subsection B ("Definitions") of §1820 ("Wetland Protection Zone and Riparian Buffers"), the definition of "Riparian Buffer" is hereby amended to read in its entirety as follows:

"RIPARIAN BUFFER - an area of trees and other vegetation adjacent to a Watercourse that forms a transition area between the aquatic and terrestrial environment. The Riparian Buffer is designed to intercept runoff from upland sources for the purpose of mitigating the effects of nutrients, sediment,

organic matter, pesticides or other pollutants prior to entry into surface waters. For the purposes of this Section, the Riparian Buffer shall be divided into two Zones:

INNER RIPARIAN BUFFER ZONE: - This zone shall begin at each edge of any identified Watercourse or Wetland and shall occupy a margin of land on each side, each with a minimum width of thirty-five (35) feet from any Watercourse or twenty-five (25) feet from any Wetland, whichever is greater. The width of such margin shall be measured horizontally on a line perpendicular to the nearest edge of the water at the top of the defined bank of a Watercourse or the applicable edge of a Wetland, in each case, as reviewed and approved by the Township Engineer. Where very steep slopes (+20%) are located within and extend beyond such margin, the Inner Riparian Buffer Zone shall extend to include the entirety of the very steep slopes up to a maximum dimension of one hundred (100) feet from the subject Watercourse or seventy five (75) feet from the subject Wetland, whichever is greater.

OUTER RIPARIAN BUFFER ZONE: - This zone begins at the outer edge and on each side of any area delineated within the Inner Riparian Buffer Zone and occupies any additional area, if any, within one hundred (100) feet of the nearest edge of the water at the top of the defined bank of any Watercourse or seventy five (75) feet from the nearest edge of any Wetland, whichever is greater. The width of such margin shall be measured horizontally on a line perpendicular to the nearest edge of the water at the top of the defined bank of a Watercourse or the applicable edge of a Wetland, in each case, as reviewed and approved by the Township Engineer."

Section 17.

Subsection 3 ("Outer Riparian Buffers") of subsection C ("Wetlands & Riparian Buffer Protection Standards") of §1820 ("Wetland Protection Zone and Riparian Buffers"), is hereby amended to read in its entirety as follows:

"3. Outer Riparian Buffer Zone

Except in connection with those uses or activities permitted in the Inner Riparian Buffer Zone, no more than twenty (20) percent of the aggregate area included in any Outer Riparian Buffer Zone shall be disturbed or subjected to any filling, Impervious Cover, Tree Cutting, regrading, construction, alteration or other land disturbance."

Section 18.

The following new Section 1823 ("Fences") is hereby added to Article XVIII ("General Regulations"):

"1823. FENCE AND WALL REGULATIONS

A. Scope; Applicability.

This Section shall apply to all zoning districts within the Township.

B. Regulations.

1. No fence (other than a fence erected to contain domesticated farm animals such as horses, cattle, sheep, etc.) or wall over four (4) feet in height shall be erected, installed, or constructed, except in compliance with all requirements applicable to construction of a Structure.
2. For Lots in the AP Agricultural Preservation and RB Residential districts and residential Lots in all other zoning districts, (a) the maximum height of a fence, wall or similar Structure that encloses an area of less than five (5) acres shall be seven (7) feet and (b) the maximum height of any other fence, wall or similar Structure shall be five (5) feet.
3. Fences erected, installed, or constructed in the front yard of any residential Lot shall have a ratio of open to solid area of at least two (2) to one (1).
4. To the extent that any side of a fence is more finished than the other side of that fence, the more finished side of the fence must face the abutting property, whether public or private.
5. No fence or wall shall be erected, installed, or constructed which obstructs sight distance at Street intersections or at the point where any driveway intersects a Street.
6. All existing fences and walls which do not conform to the requirements of this §1823 shall be nonconforming and shall be made to conform as follows:
 - a. Once a fence or wall is removed voluntarily or through neglect, the replacement wall or fence must comply with all the provisions of this §1823.
 - b. Any repair done or required to be done to more than 50% of the overall linear feet of the fence or wall will require the entire fence or wall to comply with all the provisions of this §1823.
 - c. Any fence or wall which in the judgment of the Zoning Officer is dilapidated, unsafe, dangerous and/or a menace to the health, safety or general welfare of the people of East Marlborough Township shall be made to comply with all the provisions of this §1823."

Section 19.

This Ordinance shall be effective five (5) days after its enactment.

ENACTED AND ORDAINED by the East Marlborough Township, Chester County, Board of Supervisors this 5th day of January, 2009.

**BOARD OF SUPERVISORS
EAST MARLBOROUGH TOWNSHIP**

Angela M. Able

Christina

Edgie G. Sandell

Robert V. Weed

R. V.

Attest:

Janet Lark