

# WHITPAIN TOWNSHIP

ORDINANCE #4-248

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AN ORDINANCE AMENDING (1) ARTICLE IV, SECTION 160-11 [ENUMERATION OF DISTRICTS] OF THE TOWNSHIP'S ZONING ORDINANCE AND ASSOCIATED TOWNSHIP MAP BY CHANGING THE P-R PARK AND RECREATION DISTRICT FROM A ZONING DISTRICT CLASSIFICATION TO AN OVERLAY CLASSIFICATION; (2) ARTICLE VI [P-R PARK AND RECREATION DISTRICT] BY CHANGING THE APPLICABILITY OF THE ARTICLE FROM A ZONING DISTRICT TO AN OVERLAY, AND DELETING SECTION 160-28 [SEVERABILITY]; AND (3) AMENDING THE TOWNSHIP'S ZONING MAP BY REZONING THE PROPERTIES CURRENTLY ZONED P-R PARK AND RECREATION TO RESPECTIVE ZONING CLASSIFICATIONS THAT PERMIT BROADER USES, WHICH ARE BETTER PHYSICALLY-SUITED FOR THE RESPECTIVE PROPERTIES AND MORE CONSISTENT WITH ADJOINING, SIMILARLY SITUATED PROPERTIES, AS WELL AS PROVIDING FOR APPLICATION OF THE PARK AND RECREATION OVERLAY

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## CERTIFICATION

I, ROMAN M. PRONCZAK, BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT I AM THE TOWNSHIP MANAGER IN MONTGOMERY COUNTY, PA AND THAT ATTACHED HERETO IS A TRUE AND COMPLETE CORRECT COPY OF ORDINANCE # \_\_\_\_\_

Roman M. Pronczak, P.E., Township Manager  
\_\_\_\_\_, 2018

ENACTED: \_\_\_\_\_

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**WHEREAS**, on December 19, 2017, this Board, in accord with the Pennsylvania Municipalities Planning Code ("MPC"), Section 609.2, entitled "Procedures for Municipal Curative Amendments", determined and declared that Article VI, Section 160-26 of its Zoning Ordinance, entitled "P-R Park and Recreation District/Permitted Uses", was substantively invalid and proposed to prepare a municipal curative amendment to overcome such declared invalidity ("Invalidity Declaration and Cure Proposal").

**WHEREAS**, on January 16, 2018, within 30-days of its "Invalidity Declaration and Cure Proposal", this Board enacted a resolution, wherein it (1) made specific findings setting forth the Township's declared invalidity; and (2) commenced the municipal curative amendment process to correct the declared invalidity ("Invalidity Resolution"), within 180-days of this Board's Invalidity Declaration and Cure Proposal.

**WHEREAS**, this Ordinance is the Municipal Curative Amendment to cure this Board's declared Township Zoning Ordinance invalidity.

**NOW THEREFORE, IT IS HEREBY ENACTED AND ORDAINED** by this Board that the Township's Zoning Ordinance and Map shall be amended as follows:

**SECTION 1.****AMENDMENT TO ARTICLE IV, SECTION 160-11  
[ENUMERATION OF DISTRICTS] OF THE TOWNSHIP'S  
ZONING ORDINANCE AND TOWNSHIP MAP**

Article IV, Section 160-11 [Enumeration of Districts] of the Township's Zoning Ordinance is amended by changing the P-R Park and Recreation District from a Zoning District classification to an Overlay classification, and shall read as follows:

**§ 160-11 Enumeration of districts.**

For the purpose of this chapter, Whitpain Township is hereby divided into 21 Zoning Districts and 5 Overlays, which shall be designated as follows:

**ZONING DISTRICTS**

R-1	Residential
R-2	Residential
R-3	Multifamily
R-3A	Low-Intensity Multifamily
R-3B	Low-Intensity Multifamily
R-4	Village Preservation
R-5	Agricultural/Rural Residence
R-6	Agricultural/Rural Residence
R-7	Residential
R-8	Residential
R-9	Residential
A-R	Administrative and Research
A-R-1	Administrative and Research
R-E	Research and Engineering
C	Commercial
VC	Village Commercial
C-1	Commercial
I	Limited Industrial

IN	Institutional
SC	Shopping Center
FP	Floodplain Conservation

## **OVERLAYS**

Off-Premises Advertising Sign Overlay

Airport Overlay

Community Shopping Center Overlay

Extended Daycare Overlay

Park and Recreation Overlay

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The Township Engineer is directed to revise the Township Zoning Map, as last revised, to incorporate this “District to Overlay” classification-change.

## **SECTION 2. AMENDMENT TO ARTICLE VI [P-R PARK AND RECREATION DISTRICT]**

Article VI [P-R Park and Recreation District] shall be amended to reflect the “District to Overlay” classification-change set forth above in Section 1 and shall read as follows:

**Article VI: Park and Recreation Overlay**

**§ 160-25 Legislative intent.**

- A. In expansion of the community development objectives contained in Article III, § 160-8, it is hereby declared to be the intent of this article to encourage the preservation of passive and active open space park and recreation uses in the Township, to establish reasonable standards of performance in order to maintain the desirable benefits of open space park and recreational uses throughout the community, and to ensure that such uses will have no adverse effect on abutting residential areas.
- B. Under the Park and Recreation Overlay, the following regulations shall apply.

**§ 160-26 Permitted uses.**

Under the Park and Recreation Overlay, land may be used or occupied and buildings and structures may be erected, altered and used for any of the following purposes and no other:

- A. Public park or recreation area for open space recreation, owned and operated by a governmental agency.
- B. Woodland, game preserve, nature areas or other conservation purposes.
- C. Privately owned outdoor recreational areas or use, including but not limited to a park, picnic ground, riding academy, golf course, swimming pool, day camp, ice-skating rink, nature area and tennis courts, including facilities for team sports such as baseball, football, basketball and soccer.
- D. Uses accessory to permitted uses, provided that each building or structure is clearly incidental to the permitted outdoor use.
- E. Historic monuments and publicly owned buildings which are open for public viewing and inspection.
- F. Any use of the same general character as any of the uses specifically permitted when authorized as a special exception, provided that the use and its design are compatible with the character of the area in which it is located and that any club or lodge building and its services shall be for the use of members and their guests only.

**§ 160-27      Development regulations.**

- A. Height regulations. The maximum height of buildings and other structures erected or enlarged in this Overlay shall be 35 feet. Additional height for lights, baseball backstops and similar ancillary sports equipment may be approved by the Board of Supervisors.
- B. Building coverage. Not more than 20% of the total lot area shall be occupied by buildings and structures.
- C. Commercial activity. No commercial activity shall be permitted except for charging of admission, the sale of refreshments or such other purpose as is clearly incidental to the permitted outdoor activity. Each permitted commercial activity shall be located or screened so that it shall not be visible from a public street (except the Pennsylvania Turnpike).
- D. Off-street parking. The provisions of Article XXVII shall apply to P-R Districts, except that pervious surfaces for parking areas and access drives are permitted in this Overlay. In the event the use contemplated is not specifically covered by the terms of Article XXVII, adequate off-street parking must be shown on the development plan to accommodate the maximum number of persons expected to be using the facilities on a day-to-day basis.

- E. Lighting. The source of any exterior spot lighting or floodlights of buildings or grounds shall comply with § 160-220 of the Code of the Township of Whitpain.
- F. Screening. All parking shall be effectively screened by a permanent screen buffer from adjoining and contiguous Residential, Park and Recreation, and Institutional Districts by a combination of the following: wall, fence, evergreen hedge or other suitable enclosure of a minimum height of 6 1/2 feet, placed at least four feet inside the Overlay property line. A buffer shall be planted in accordance with a plan approved by the Board of Supervisors following a recommendation by the Planning Commission, which, at the very least, shall conform to the standards and requirements of § 160-107, Buffer yards and planting materials, of this chapter.
- G. Green areas. At least 90% of the area of each lot not devoted to off-street parking or occupied by buildings or other structures shall be kept in grass, shrubbery, trees or other natural cover. In any event, at least 70% of any lot within the Overlay shall be kept as green area.
- H. Setbacks.
  - (1) Buildings. No building over 15 feet high or exceeding 250 square feet of ground coverage or containing food service facilities shall be located within 100 feet of any abutting residentially zoned district. In no case shall any building be located within 50 feet of any property line, or 50 feet of any utility right-of-way line.
  - (2) Uses. No use which requires the use of outdoor lighting or which is concentrated in time and space, such as but not limited to the use of a swimming pool or tennis courts, shall be located within 100 feet of any abutting residentially zoned district. Such setback may be reduced up to 50 feet if the use is appropriately screened by a screen buffer from the adjoining and contiguous Residential and Institutional Districts.

### **SECTION 3. AMENDMENT TO THE TOWNSHIP'S ZONING MAP**

The Township's Zoning Map shall be amended by rezoning all 24 properties currently zoned P-R Park and Recreation and comprising the entirety of the P-R Park and Recreation District, to respective zoning classifications that permit broader uses, which are better physically-suited for the respective properties and more consistent with adjoining, similarly situated properties with application of the Park and Recreation Overlay.

Specifically, the following 24 properties, set forth in the attached Table 1, currently classified as P-R Park and Recreation, are hereby re-classified on the Township's Zoning Map as having the respective classifications as set forth in the "Proposed Zone" column of the attached Table 1, with the Park and Recreation Overlay, and as such, are incorporated in and made part of the

Township's Zoning Ordinance.

The provisions and requirements of the Park and Recreation Overlay shall be additional and supplemental to the new underlying zoning of the P-R Properties, however, where those regulations differ from the new underlying zoning of the P-R Properties, and the property is used pursuant to the Park and Recreation Overlay, the provisions and requirements of the Park and Recreation Overlay shall control.

The Township Engineer is directed to revise the Zoning Map, as last revised, to incorporate the above rezone and application of the Park and Recreation Overlay.

#### **SECTION 4. REPEAL AND RATIFICATION**

All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed. Any other terms and provisions of the Township's Code unaffected by this Ordinance are hereby reaffirmed and ratified.

#### **SECTION 5. SEVERABILITY**

Should any section, paragraph, sentence, clause, or phrase in this Ordinance be declared unconstitutional or invalid for any reason, the remainder of the Ordinance shall not be affected thereby and shall remain in full force and effect, and for this reason the provisions of this Ordinance shall be severable.

#### **SECTION 6. EFFECTIVE DATE**

This Ordinance shall become effective 5-days after enactment.

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**ORDAINED AND ENACTED** this \_\_\_\_\_ day of \_\_\_\_\_ 2018, by the Whitpain Township Board of Supervisors.

**WHITPAIN TOWNSHIP  
BOARD OF SUPERVISORS**

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ADAM ZUCKER, *Chair*

[Seal]

Attested by:

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ANTHONY F. GRECO, *Secretary*

DRAFT

**Table 1** Revised 2/7/18

IDNum	PARCEL_NUM	LOCATION1	OWN1	Common Name	Acreage	Proposed Zone
1	660005413002	180 PENLLYN BLUE BELL PIKE	CEDARBROOK COUNTRY CLUB	Cedarbrook Country Club	181.7902	R-5
2	660000475008	711 BOEHMS CHURCH RD	BSK MEADOWS REALTY PARTNERS LP	Bluestone	124.9356	R-1/R-3B
3	660008515005	1527 YOST RD	WHITPAIN TOWNSHIP	Centre Square Park	62.0623	R-1
4	660002926005	1002 JOLLY RD	MERMAID REALTY PARTNERS LP	Mermaid Swim Club	46.0612	R-1
5	660001576005	1245 DEKALB PIKE	PECO	PECO	42.9049	R-1
6	660005155008	1051 PENLLYN BLUE BELL PIKE	WHITPAIN TOWNSHIP	Wurts Tract	19.7144	R-1
7	660004408008	40 W MT PLEASANT AVE	WHITPAIN TOWNSHIP	Wissahickon Park	18.6677	R-2
8	660003139008	649 Lantern Ln	WISSAHICKON VAL WATERSHED ASSOC	Wissahickon Creek	16.3677	R-5
9	660001828005	652 DEKALB PIKE	BERARDELLI ENTERPRISES LLC	Beachcomber Swim Club	16.2459	R-3B
10	660003547005	152 MATHERS RD	REEVES PROPERTIES LLC	152 Mathers Rd	16.0066	R-1
11	660004849008	NORTH WALES RD	PECO	PECO	15.1035	R-1
12	660008093247	802 VILLAGE CIR	WHITPAIN TOWNSHIP	Village Basin	7.9497	R-5
13	660004369002	W MT PLEASANT AVE	WISSAHICKON VAL WATERSHED ASSOC	Wissahickon Creek	7.7732	R-1
14	660004843005	1250 NORTH WALES RD	PECO	PECO	5.0907	R-1
15	660007693008	1776 ERBS MILL RD	WHITPAIN GREENS SWIM CLUB	Whitpain Greens Swim Club	3.7968	R-2
16	660006412002	1840 SKIPACK PIKE	PECO	PECO	3.7575	R-1
17	660005416107	PENLLYN BLUE BELL PIKE	WISSAHICKON VAL WATERSHED ASSOC	Wissahickon Creek	3.0926	R-5
18	660000152205	247 BATLESON RD	WHITPAIN TOWNSHIP	Whitpain Township	2.0992	R-1
19	660005416008	50 PENLLYN BLUE BELL PIKE	MONTGOMERY COUNTY	Montgomery County	1.8111	R-5
20	660003928002	MERCER HILL RD	WHITPAIN TOWNSHIP	Whitpain Township	0.9024	R-2
21	660002923008	1198 JOLLY RD	MERMAID REALTY PARTNERS LP	Mermaid Swim Club	0.7806	R-1
22	660004405002	210 W MT PLEASANT AVE	WHITPAIN TOWNSHIP	Wissahickon Park	0.6725	R-1
23	660003139008	649 LANTERN LN	WISSAHICKON VAL WATERSHED ASSOC	Wissahickon Creek	0.2664	R-5
24	660005413011	MATHERS RD	MATHERS ROAD LP	Mathers Rd	0.0025	R-5

**Legend**

Preserved as open space (e.g., park) or utility facility (transmission corridor)

Private owner