

BIRMINGHAM TOWNSHIP

CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO.

AN ORDINANCE OF THE TOWNSHIP OF BIRMINGHAM, CHESTER COUNTY, PENNSYLVANIA, AMENDING THE BIRMINGHAM TOWNSHIP ZONING ORDINANCE OF 1978, AS AMENDED, CODIFIED IN CHAPTER 122 OF THE BIRMINGHAM TOWNSHIP CODE, TO DEFINE WHAT ACCESSORY USES ARE PERMITTED WITHIN A PLANNED RESIDENTIAL DEVELOPMENT IN SECTION 122-66; TO ESTABLISH MINIMUM GREEN SPACE REQUIREMENTS FOR SINGLE FAMILY DWELLINGS, TWO FAMILY DWELLINGS AND MULTIFAMILY DWELLINGS IN A PLANNED RESIDENTIAL DEVELOPMENT IN SECTION 122-67.E; TO AMEND SECTION 122-119B.(2) REGARDING NOTICE OF CONDITIONAL USE HEARINGS AND TO DELETE SECTION 122-125A(2) REGARDING THE JURISDICTION OF THE ZONING HEARING BOARD.

UNDER AND BY VIRTUE OF THE AUTHORITY OF THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE, 53 P.S. SECTION 10101, ET SEQ., THE BOARD OF SUPERVISORS DOES HEREBY ENACT AND ORDAIN THAT THE BIRMINGHAM TOWNSHIP ZONING ORDINANCE OF 1978, AS AMENDED, WHICH IS CODIFIED IN CHAPTER 122 OF THE BIRMINGHAM TOWNSHIP CODE, IS HEREBY FURTHER AMENDED AS FOLLOWS:

SECTION 1: The following new Section 122-66.E. is hereby added to Chapter 122:

§122-66.E. The following uses shall be permitted as accessory uses to a permitted residential use:

- (1) Shed not to exceed 120 square feet.
- (2) Swimming pool, provided that it is located behind the front façade of the house and building line and is set back at least 15 feet from any side or rear property line and further provided that lighting facilities shall not interfere with the use and enjoyment of any neighboring property.
- (3) Attached artist's studio.
- (4) Home occupation and no-impact home based business when in compliance with §122-103.

SECTION 2. A new Section 122-67.E(1)(f) is hereby added to read as follows:

§122-67.E(1)(f) Green space: 67.5% minimum.

SECTION 3. A new Section 122-67.E(2)(f) is hereby added to read as follows:

§122-67.E(2)(f) Green space: 65% minimum.

SECTION 4. A new Section 122-67.E(3)(g) is hereby added to read as follows:

§122-67.E(3)(g) Green space- For end units: 55% minimum; for interior units: 35% minimum.

SECTION 5. §122-119B.(2) is hereby amended to read as follows:

“The Board of Supervisors shall provide notice of the public hearing in accordance with the requirements of the Pennsylvania Municipalities Planning Code. The Board of Supervisors shall schedule and hold a public hearing on the application within 60 days from receipt of the applicant’s application unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the Board shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the Board shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant’s case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief, provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and the Township, be granted additional hearings to complete their opposition to the application, provided the applicant is granted an equal number of hearings for rebuttal.”

SECTION 6: §122-125A.(2) is hereby deleted and marked “intentionally omitted.”

SECTION 7. Severability. If any sentence, clause, section or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or part hereof. It is hereby declared as the intent of the Board of Supervisors that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 8. Repealer. All ordinances or parts of ordinances conflicting with any provisions of this ordinance are hereby repealed insofar as the same affects this ordinance.

SECTION 9. Effective Date. This ordinance shall be effective five (5) days after enactment as by law provided.

ENACTED AND ORDAINED this ____ day of _____, 2008.

**BOARD OF SUPERVISORS
BIRMINGHAM TOWNSHIP**

John L. Conklin, Chairman

William J. Kirkpatrick, Vice Chairman

Attest:

Quina Nelling, Secretary

Alfred W. Bush, Member