

WEST GOSHEN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. 2013 -

AN ORDINANCE OF THE TOWNSHIP OF WEST GOSHEN, CHESTER COUNTY, PENNSYLVANIA, AMENDING CHAPTER 84 OF THE WEST GOSHEN TOWNSHIP CODE, TITLED "ZONING", SPECIFICALLY SECTION 84-8 TO AMEND THE DEFINITIONS FOR "FAMILY" AND "STUDENT"; TO DELETE THE DEFINITION FOR "STUDENT HOUSING"; TO ADD A DEFINITION FOR "STUDENT HOME"; TO DELETE SECTIONS 84-12.F AND 84-14.1F WHICH ALLOW THE CONVERSION OF DWELLINGS INTO LODGING FOR COLLEGE STUDENTS BY SPECIAL EXCEPTION IN THE R-3 AND R-3A DISTRICTS; SECTION 84-15.E(7) TO ALLOW STUDENT HOMES IN THE R-4 DISTRICT BY SPECIAL EXCEPTION; TO ADD A NEW SECTION 84-57.21 TO ADD REGULATIONS FOR STUDENT HOMES AND TO DELETE SECTION 84-56 WHICH ALLOWED THE CONVERSION OF DWELLINGS INTO HOUSING FOR COLLEGE STUDENTS IN A CERTAIN OVERLAY DISTRICT BY SPECIAL EXCEPTION.

WHEREAS, the Board of Supervisors of West Goshen Township finds that the proliferation of student homes in the residential zoning districts of West Goshen Township will be highly detrimental to the public health, safety and welfare of West Goshen Township and will result in numerous public nuisances such as excessive noise; the accumulation of trash and litter; undue concentration of population; traffic congestion; unauthorized and illegal parking; lack of off-street and on-street parking for non-transient residents; public lewdness, and a decline in the aesthetics of residential properties due to lack of continual maintenance and upkeep of the residential dwellings where students reside; and

WHEREAS, the Board of Supervisors of West Goshen Township finds that groups of students, compared to other unrelated cohabitating individuals, have different hours, work and social habits, and frequently cause noise and disturbances in residential neighborhoods; and

WHEREAS, the Board of Supervisors of West Goshen Township desires to preserve the residential character of neighborhoods in West Goshen Township and to protect the health, safety and welfare of West Goshen Township's residents by avoiding an institutional atmosphere caused by oversaturation of areas with student homes; and

WHEREAS, the Board of Supervisors of West Goshen Township is fully aware of and respects the fundamental constitutional guarantee of equal protection of the law and freedom of association and realizes that restrictions on such freedom must be carefully drafted and enforced so that one's right to associate is not curtailed beyond the point at which it is essential to further West Goshen Township's interest in public health, safety and welfare; and

WHEREAS, the Board of Supervisors of West Goshen Township has reviewed the Student Housing Ordinance enacted by Lower Merion Township as Ordinance No. 3139 which was adopted on February 15, 1989, as amended, and the Student Housing Ordinance enacted by the Borough of West Chester as Ordinance No. -2001 which was adopted on April 18, 2001, as amended, and has been advised by its Solicitor that such Ordinances were upheld as constitutional by the Pennsylvania Commonwealth Court and Pennsylvania Supreme Court; and

WHEREAS, the Federal District Court for the Eastern District of Pennsylvania also upheld the constitutionality of the Lower Merion Township Ordinance in a memorandum opinion found at 1992 W.L. 112247 (E.D. Pa. May 7, 1992), *affirmed*, 995 F.2d 219 (3rd Cir. 1993); and

WHEREAS, the Board of Supervisors of West Goshen Township intends to adopt a student housing ordinance which is similar in content to the Lower Merion Ordinance and the Borough of West Chester Ordinance which have been held to be constitutional and not a violation of a student's equal protection and due process rights guaranteed by the United States and Pennsylvania Constitutions.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of West Goshen Township that Chapter 84 of the West Goshen Code, titled, "Zoning", shall be amended as follows:

SECTION 1. The West Goshen Township Zoning Map, which is adopted as part of Section 84-5.A, shall be amended to delete the Conversion Area as an overlay district. The revised Zoning Map which is attached hereto as Exhibit "A" and made a part of this chapter is hereby adopted as the official Zoning Map of West Goshen Township.

SECTION 2. The definition of “Family” in Section 84-8 shall be amended as follows:

“FAMILY- One or more persons living in a single-dwelling unit and functioning as a common household. A family shall not include more than four persons who are not related to each other by blood, official foster relationship, marriage or adoption. The term "family" may specifically include a greater number of unrelated persons living within a permitted group home subject to the regulations established in § 84-57.7 of this chapter. This definition excludes occupants of a club, dormitory, fraternity, sorority house, boarding house or rooming house and student home.”

SECTION 3. The definition of “Student” in Section 84-8 shall be amended as follows:

“STUDENT- Any individual who is enrolled or has made application and been accepted at a university, college or trade school and is taking at least six credit hours and whose primary occupation is as a student or who is on semester or summer break from studies at a college, university or trade school. The term “student” shall apply to both undergraduate and graduate students alike.”

SECTION 4. Section 84-8 shall be amended to add the following definition in alphabetical order:

“STUDENT HOME- Living arrangement for at least two students up to a maximum of four students (as defined in this chapter) unrelated by blood, marriage or legal adoption. A student home shall not include dormitories.”

SECTION 5. Section 84-12.F shall be deleted in its entirety and the section number reserved for the future.

SECTION 6. Section 84-14.1.F shall be deleted in its entirety and the section number reserved for the future.

SECTION 7. Section 84-15.E shall be amended to add a new subparagraph (7) which shall provide as follows:

“(7) Student homes.”

SECTION 8. A new Section 84-57.21 shall be added which shall provide as follows:

“§ 84-57.21. Student Homes.

An applicant seeking a special exception for a student home in the R-4 District must demonstrate compliance with the following mandatory criteria.

- A. A student home is only permitted in the R-4 District in a single-family detached dwelling, a single-family attached dwelling and a multi-family dwelling.
- B. The dwelling unit must have a floor area of at least 1,000 square feet exclusive of basements, garages and accessory buildings.
- C. A student home shall meet the area and bulk requirements for single-family detached dwellings, single-family attached dwellings and multi-family dwellings in the R-4 District, as the case maybe.
- D. The owner of the student home or the agent or manager of the student home shall annually register the student home with the West Goshen Township Zoning Officer on a form provided by the Township. If the owner of a student home fails to maintain a current registration of the student home, the Zoning Officer shall have the discretion to revoke the zoning permit and rental permit after providing the owner with notice and an opportunity to cure.
- E. The dwelling unit must contain a minimum of two parking spaces for the dwelling unit and one additional space for every additional occupant of the dwelling.
- F. All owners of student homes which are in existence as of the effective date of this Ordinance shall have forty-five days from the effective date of this Ordinance to register their student homes with the Zoning Officer on a form provided by the Township. Pursuant to Section 613 of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10613, the Zoning Officer shall then confirm a list of nonconforming student homes and identify any additional student homes which are lawfully in existence as of the effective date of this Ordinance. Such list shall be available for public inspection. Once the Zoning Officer has confirmed that a student home is a lawful nonconforming student home, the owner shall complete a rental registration form and annually register the student home.”

SECTION 9. Section 84-56 shall be deleted in its entirety.

SECTION 10. 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 parts 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 11. 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 12. Effective Date. This Ordinance shall be effective five days following enactment as by law provided.

ENACTED AND ORDAINED this _____ day of _____, 2013.

ATTEST:

**BOARD OF SUPERVISORS
WEST GOSHEN TOWNSHIP**

Casey LaLonde, Secretary

BY:

Raymond H. Halvorsen, Chairman

Patricia B. McIlvaine, Vice Chairman

Phillip J. Corvo, Jr., Member

Theodore J. Murphy, Esquire, Member

Dr. Robert S. White, Member