

Official Zoning Ordinance

West Marlborough Township Chester County, PA

Enacted July 2, 2002
Amendments codified through Sept. 5, 2017

“Rural Living through Progressive Action”



RothPlan

Harry B. Roth, AICP
Planning Consultant
Lancaster, PA

WEST MARLBOROUGH TOWNSHIP MUNICIPAL DIRECTORY

Board of Supervisors

William W. Wylie, Chair
Jacob G. Chafin, Vice-Chair
Hugh J. Lofting

Shirley K. Walton, Appointed Secretary-Treasurer

Zoning Officer

LTL Consultants, Ltd.
Zoning Officer & Bldg. Inspector
Charles Cutlip, P.O. Box 241
Oley, PA 19547
610-987-9290

Zoning Hearing Board

Clayton Bright, Chairman
John Huston
Tom Best
Elizabeth Powell
Wayne Grafton

Zoning Hearing Board Solicitor

Fronfield Crawford, Jr.
220 West Gay Street
West Chester, PA 19380
484/356-1905

Planning Commission

Tom Brosius, Chair
Thomas D. Roosevelt, Vice-Chair
Emery Jones Taylor, Secretary
Anna W. Myers
Roy Jackson
Nancy Swayne
Richard Corkran

Engineer

Yerkes Associates, Inc.
Francis Greene, P.E.
P.O. Box 1568
West Chester, PA 19380-0078
610/644-4254 FAX 610/640-0771

Solicitor

J. Dwight Yoder, Attorney
Gibbel, Kraybill & Hess LLP
41 East Orange Street
Lancaster, PA 17602
717/291-1700 FAX 717/291-5547

Chester County Planning Comm.

601 Westtown Road-Suite 270
PO Box 2747
West Chester, PA 19380-0990
610/344-6285

WEST MARLBOROUGH TOWNSHIP MUNICIPAL OFFICE

1300 Doe Run Road
Coatesville, Pennsylvania 19320
Telephone: 610/383-5986
FAX: 610/383-7886

westmarlboughtownship@verizon.net

Hours: Thursday, 8:30 A.M.–12:00 P.M.
Friday, 8:30 A.M.–12:00 P.M.

RothPlan

Harry B. Roth, AICP
Community Planning Consultant
901 Pleasure Rd., Lancaster, PA 17601
Phone – (717) 468-8935
rothplan.net

Table of Contents

Article 1

Background Provisions

	Page
Section 101 Short Title	1
Section 102 Purpose	1
Section 103 Scope.....	1
Section 104 Interpretation.....	1
Section 105 Conflict	2
Section 106 Validity	2
Section 107 Uses Not Provided For	2
Section 108 Establishment of Zones.....	2
Section 109 Zoning Map.....	2
Section 110 Zone Boundary Lines	3
Section 111 Community Development Objectives	3
Section 112 Definitions	4

Article 2

Zone Regulations

	Page
Section 200 Agricultural-Conservation Zone (A-C)	30
Section 201 Village Residential Zone (R-1)	40
Section 202 Medium to High Density Residential Zone (R-2).....	42
Section 203 Local Business Zone (B-1).....	44
Section 204 Floodplain Zone (FP)	47
Section 205 Airport Safety Zone (A).....	78
Section 206 Agricultural – Rural Development Zone (A-R).....	80
Section 207 Historic Village Residential Zone (HV)	81

Article 3**General Provisions**

Section 300	General Provisions	84
Section 301	Accessory Uses and Structures.....	84
	301.1. Fences and Walls	84
	301.2. Swimming Pools	84
	301.3. Tennis Courts.....	84
	301.4. Satellite Dish Antennas	84
	301.5. Alternative Energy Systems	85
	301.6. Ornamental Ponds and Wading Pools.....	88
	301.7. Man-Made Lakes, Dams, Ponds, and Impoundments.....	88
	301.8. Garage/Yard Sales	89
	301.9. Manure Storage Facilities.....	89
	301.10. Accessory Repair of Personal Motor Vehicles	90
Section 302	Unenclosed Storage.....	91
	302.1. Recreational Vehicles, Boats, Campers, Trailers, and Trucks.....	91
	302.2. Outdoor Stockpiling	91
	302.3. Trash, Garbage, Refuse, or Junk.....	91
Section 303	Setback Modifications	92
	303.1. Front Setback of Buildings on Built-Up Streets.....	92
	303.2. Accessory or Appurtenant Structures	92
Section 304	Height Limit Exceptions.....	92
Section 305	Clear-Sight Triangle	93
Section 306	Minimum Habitable Floor Area	93
Section 307	Erection of More Than One Principal Use on a Lot	93
Section 308	Required Vehicular Access.....	93
Section 309	Driveway Requirements (Single-Family Dwelling).....	94
Section 310	Access Drive Requirements (Non-Single-Family Dwelling).....	98
Section 311	Off-Street Parking Requirements.....	100
Section 312	Off-Street Loading Facilities.....	106
Section 313	Screening and Landscaping Requirements	109
	313.1. Yard Ground Cover	109
	313.2. Landscaping Requirements	109
	313.3. Screening.....	109
	313.4. Selection of Plant Materials.....	109
Section 314	Outdoor Signs.....	109
	314.1. General Regulations for All Signs	109
	314.3. Permits	114
Section 315	Operations and Performance Standards.....	114
Section 316	Roadway Classifications	115
Section 317	Outdoor Storage and Display Requirements	115
	317.1. Shopping Cart Storage.....	115

	Page
317.2. Seasonal Sidewalk Displays	115
317.3. Special Event Sales	116
Section 318 Required Traffic Study Standards.....	117
Section 319 Common Open Space Requirements	117
Section 320 Litter	118
Section 321 Materials and Waste Handling Requirements.....	118
Section 322 Well Drilling Requirements.....	119
Section 323 Zoning Requirements for Use of On-Lot Sewage Disposal Systems.....	120
Section 324 Forestry Uses	120

Article 4

Specific Criteria

Section 400 Specific Standards for Special Exception and Conditional Uses.....	126
Section 401 Adult-Related Uses	126
Section 402 Airports/Heliports/Helicopter Pads (Private).....	127
Section 403 Animal Hospitals, Veterinary Facilities and Kennels	128
Section 404 Bed and Breakfasts	128
Section 405 Boarding Houses	128
Section 406 Cemeteries	129
Section 407 Churches and Related Uses	129
Section 408 Clubhouses	130
Section 409 Cluster Developments (R-2 Zone).....	131
Section 410 Commercial Day-Care Facilities	133
Section 411 Commercial Schools	133
Section 412 Intensive Livestock Operations	134
Section 413 Intensive Produce Operations	135
Section 414 Communication Antennas, Towers and Equipment.....	137
Section 415 Facilities for the Warehousing, Sales, Repair, and Service of Agricultural Equipment, Vehicles, Feed, or Supplies	139
Section 416 Farm Occupations	140
Section 417 Golf Courses	141
Section 418 Home Occupations	143
Section 419 Junkyards	144
Section 420 Medical Residential Campuses	145
Section 421 Mobile Home Parks	146

	Page
Section 422	Nursing, Rest or Retirement Homes.....148
Section 423	Processing and Wholesaling of Farm Products149
Section 424	Public and Private Schools149
Section 425	Public Utilities Structures and Uses.....150
Section 426	Quarries and Other Extractive-Related Uses150
Section 427	Retail Sales of Nursery and Garden Materials.....153
Section 428	Rural Occupations.....153
Section 429	Shooting Ranges155
Section 430	Solid Waste Disposal and Processing Facilities156
Section 431	Two-Family Conversions159
Section 432	Natural Resources Research Center159

Article 5

Environmental Impact Assessment

Section 501	Purpose163
Section 502	Procedures163
Section 503	Disputes Over the Presence/Location of Specific Environmental Conditions.....163
Section 504	Relationship to Other Sections of This Ordinance163
Section 505	Soils Study.....163

SOILS & GEOLOGY MAP / NATURAL FEATURES MAP / CULTURAL FEATURES MAP

Section 506	Geology Study164
Section 507	Slopes Study164
Section 508	Important Wildlife Habitats165
Section 509	Historic Sites.....166
Section 510	Archaeological Resources167
Section 511	Surface Waters.....167
Section 512	Woodlands.....168
Section 513	Streamside Buffers.....169

Article 6

Nonconformities

Section 600	Continuation176
Section 601	Abandonment176
Section 602	Extension of a Nonconforming Use of Land.....176

	Page
Section 603	Expansion or Alteration176
Section 604	Substitution or Replacement.....178
Section 605	Restoration178
Section 606	Nonconforming Lots of Record178
Section 607	Previously Expanded Nonconforming Uses and Structures.....178
Section 608	Amortization of Nonconforming Signs178

Article 7

Zoning Hearing Board

Section 700	Establishment and Membership180
Section 701	Organization of Board180
Section 702	Expenditures for Services181
Section 703	Hearings181
Section 704	Board's Functions.....183
Section 705	Parties Appellant Before the Board187
Section 706	Time Limitations187
Section 707	Stay of Proceeding188
Section 708	Appeal.....188

Article 8

Administration

Section 800	Administration and Enforcement.....189
Section 801	Zoning Permits192
Section 802	Fees197
Section 803	Amendments197
Section 804	Conditional Uses203
Section 805	Repealer207
Section 806	Effective Date207

Zoning Map

Article 1

Background Provisions

Section 101 Short Title

This Ordinance shall be known, and may be cited, as the "West Marlborough Township Zoning Ordinance of 2015."

Section 102 Purpose

This Ordinance is enacted to promote, protect and facilitate the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, the provisions of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, public grounds, and other public requirements, as well as to prevent overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood panic or other dangers. This Ordinance is enacted in accordance with an overall planning program, and with consideration for the character of the Township, its various parts, and the suitability of the various parts for particular uses and structures. This Ordinance is enacted to implement the Unionville Area Regional Comprehensive Plan, specifically the sharing of land uses across the Region including East Marlborough, Newlin and West Marlborough Townships.

This Ordinance is also enacted to encourage the maintenance and management of forested or wooded open space, and to promote the conduct of forestry as a sound and economically viable use of forested land throughout the Township.

Section 103 Scope

From and after the effective date of this Ordinance, the use of all land and every building or structure or portion of a building or structure erected, altered with respect to height and area, added to, or relocated, and every use within a building or structure or use accessory thereto, in West Marlborough Township shall be in conformity with the provisions of this Ordinance. Any existing building or land not in conformity with the regulations herein prescribed shall be regarded as nonconforming, but may be continued, extended or changed, subject to the special regulations herein provided with respect to nonconforming buildings, structures or uses.

Section 104 Interpretation

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the health, safety and general welfare of the residents of the Township.

In interpreting the language of this Ordinance to determine the extent of the restriction upon the use of the property, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by the Board of Supervisors, in favor of the property owner and against any implied extension of the restriction.

Section 105 Conflict

It is not intended by this Ordinance to repeal, abrogate, annul, or interfere with any existing ordinances or enactment, or with any rule, regulation or permit adopted or issued thereunder, except insofar as the same may be inconsistent or in conflict with any of the provisions of this Ordinance, provided that where this Ordinance imposes greater restrictions upon the use of buildings or land, or upon the height and bulk of buildings, or prescribed larger open spaces than are required by the provisions of other such ordinance, enactment, rule, regulation, or permit, then the provisions of this Ordinance shall control. Furthermore, if a discrepancy exists between any regulations contained within this Ordinance, that regulation which imposes the greater restriction shall apply.

Section 106 Validity

Should any section or provision of this Ordinance be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or of any other part thereof.

Section 107 Uses Not Provided For

Whenever, under this Ordinance, a use is neither specifically permitted nor denied, and an application is made by an applicant to the Zoning Officer for such use, the Zoning Officer shall refer the application to the Board of Supervisors to hear and decide such request as a conditional use. The Board of Supervisors shall have the authority to permit the use or deny the use in accordance with the standards governing conditional use applications. The use may be permitted if it is similar to, and compatible with, the permitted uses in the zone in which the subject property is located, is not permitted in any other zone under the terms of this Ordinance nor is permitted under any terms within any other Zone or District within any Official Zoning Ordinance of either East Marlborough Township or Newlin Township as part of the Unionville Area Region, and in no way is in conflict with the general purposes and intent of this Ordinance. The burden of proof shall be upon the applicant to demonstrate that the proposed use meets the foregoing criteria and would not be detrimental to the public health, safety and welfare of the neighborhood.

Section 108 Establishment of Zones

For the purpose of this Ordinance, West Marlborough Township is hereby divided into zones which shall be designated as follows:

Agricultural-Conservation Zone (A-C)	Local Business Zone (B-1)
Agricultural – Rural Development Zone (A-R)	Floodplain Zone (FP)
Village Residential Zone (R-1)	Airport Safety Zone (A)
Medium to High Density Residential Zone (R-2)	Historic Village Residential Zone (HV)

Section 109 Zoning Map

The areas within West Marlborough Township, as assigned to each zone and the location of the zones established by this Ordinance, are shown upon the Zoning Map, which together with all explanatory matter thereon, is attached to and is declared to be a part of this Ordinance. In addition, areas of Township identified in the Flood Insurance Study (FIS) and the accompanying

Flood Insurance Rate Maps (FIRMs) dated September 29, 2017 and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study and any subsequent revisions and amendments are hereby declared to be a part of this ordinance.

Section 110 Zone Boundary Lines

The zone boundary lines shall be as shown on the Zoning Map. Zone boundary lines are intended to coincide with lot lines, centerlines of streets and alleys, railroad rights-of-way, beds of streams, and other natural features inventoried as part of the *Official West Marlborough Township Comprehensive Plan* existing at time of passage of this Ordinance, the corporate boundary of the Township or as dimensioned on the map. In the event of dispute about the location of the boundary of any zone, the Zoning Officer shall investigate and render a determination on the location of the line. Appeals from this determination shall be made to the Zoning Hearing Board in accordance with Section 704.5. of this Ordinance. When a property is contained within more than one Zone, every use proposed for the property must comply with all applicable design standards for the Zone within which that portion of the property is located. For purposes of satisfying applicable design standards, the zoning boundary shall be treated as a property line.

Section 111 Community Development Objectives

This Ordinance is enacted in accordance with the West Marlborough Township Comprehensive Plan and has been formulated to implement the purpose set forth in Section 102 above. The Ordinance is enacted with regard to the following community development objectives:

1. To guide the future development of the Township in accordance with comprehensive planning of land use and population density that represents the most beneficial and convenient relationship among the agricultural, residential, commercial, and recreational areas within the Township having regard to their suitability for the various uses appropriate to each of them and their potentiality for such uses.
2. To preserve the pastoral and rural character of the Township by continuing agricultural and large-lot residences as the dominant land uses.
3. To protect the sensitive environmental conditions inventoried in the *West Marlborough Township Environmental Assessment* (1988).
4. To provide for commercial and industrial land use that is sufficient to accommodate the Township's local business needs.
5. To protect the character and the social and economic stability of all areas of the Township, and to provide for their orderly and beneficial growth.
6. To protect and conserve the value of land and buildings throughout the Township appropriate to the various zones established herein.
7. To aid in bringing about the most beneficial relationship between land use and the circulation of traffic throughout the Township, having particular regard to the avoidance of congestion in the streets and the provision of safe and convenient access appropriate to the various land uses.
8. To aid in providing a guide for public policy and action in the efficient provision of public facilities and services, in the provision of safe and proper sanitary sewage disposal, and for private enterprise in building development, investment and other economic activity relating to land use.
9. To focus growth and development in those areas that are characterized by acceptable environmental conditions for such development; and,
10. To provide for the logical extension of existing development areas.

Section 112 Definitions

- A. WORD USAGE - Words and phrases shall be presumed to be used in their ordinary context, unless such word or phrase is defined differently within this section.
- B. LANGUAGE INTERPRETATION - In this Ordinance, when not inconsistent with the context:
1. words in the present tense imply also the future tense.
 2. the singular includes the plural.
 3. the male gender includes the female gender.
 4. the word "person" includes a partnership or corporation, as well as an individual.
 5. the term "shall" or "must" is always mandatory.
- C. SPECIFIC WORDS AND PHRASES - Except as noted in Section 204.9. of this Ordinance as it relates solely to the purposes of administering the requirements contained within Section 204 of this Ordinance, the following words and phrases shall have the particular meaning assigned by this section in the appropriate sections of this Ordinance.

ACCESS DRIVE - An improved cartway designed and constructed to provide for vehicular movement between a public road and a tract of land containing any use other than one single-family dwelling unit or farm.

ACCESSORY USE - A use customarily incidental and subordinate to the principal use or building and located on the same lot as the principal use or building.

ACT - The Pennsylvania Municipalities Planning Code of July 31, 1968, 53 PS 10101, et. seq. (Act No. 247), as amended from time to time.

ADULT-RELATED FACILITY - A business or club which engages in one or more of the following areas of sales, services or entertainment:

1. Adult Bath House: An establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy, during which specified anatomical areas are displayed or specified sexual activity occurs. This section shall not apply to hydrotherapy treatment practiced by, or under the supervision of, a medical practitioner. A medical practitioner, for the purpose of this Ordinance, shall be a medical doctor, physician, chiropractor, or similar professional licensed by the Commonwealth of Pennsylvania.
2. Adult Body Painting Studio: Any establishment or business which provides the service of applying paint or other substance, whether transparent or nontransparent, to or on the human body, when specified anatomical areas are exposed.
3. Adult Bookstore: Any establishment which has a substantial or significant portion of its stock in trade:
 - A. Books, films, magazines, or other periodicals or other forms of audio or visual representation which are distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas;
 - B. Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.

4. Adult Cabaret: A nightclub, theater, bar, or other establishment which features live or media representations of performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
5. Adult Massage Establishment: Any establishment or business which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, unless operated by a medical practitioner, chiropractor or professional physical therapist licensed by the Commonwealth. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.
6. Adult Mini-Motion Picture Theater: An enclosed or unenclosed building with a capacity of more than five (5), but less than fifty (50), persons used for presenting any form of audio or visual material, and in which a substantial portion of the total presentation time measured on an annual basis is devoted to the showing of material which is distinguished or characterized by an emphasis on depiction or description of specified sexual activities, or specified anatomical areas.
7. Adult Model Studio: Any place where, for any form of consideration or gratuity, figure models who display specified anatomical areas are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such consideration or gratuity, except that this provision shall not apply to any "figure studio" or "school of art," or similar establishment which meets the requirements established in the Education Code of the Commonwealth of Pennsylvania for the issuance or conferring of, and is, in fact, authorized thereunder to issue and confer a diploma.
8. Adult Motel: A motel or similar establishment offering public accommodations for any consideration, which provides patrons with material distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.
9. Adult Motion Picture Arcade: Any place to which the public is permitted or invited, wherein coin- or slug-operated, or electronically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.
10. Adult Motion Picture Theater: An enclosed or unenclosed building with a capacity of fifty (50) or more persons used for presenting any form of audio or visual material, and in which a substantial portion of the total presentation time measured on an annual basis is devoted to the showing of material which is distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.
11. Adult Newsrack: Any coin-operated machine or device which dispenses material substantially devoted to the depiction of specified sexual activities or specified anatomical areas.

12. Adult Outcall Service Activity: Any establishment or business which provides an outcall service, which consists of individuals leaving the premises upon request or by appointment to visit other premises for a period of time, for the purpose of providing any service during which time specified anatomical areas are displayed or specified sexual activity occurs.
13. Adult Sexual Encounter Center: Any business, agency or person who, for any form of consideration or gratuity, provides a place where two (2) or more persons, not all members of the same family may congregate, assemble or associate for the purpose of engaging in specified sexual activity or exposing specified anatomical areas, excluding psychosexual workshops, operated by a medical practitioner, as defined in Section 112.C.1., licensed by the Commonwealth, to engage in sexual therapy.
14. Adult Theater: A theater, concert hall, auditorium, or other similar establishment, either indoor or outdoor in nature, which regularly features live performances which are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas for observation by patrons.
15. Any other business or establishment which offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

AGRICULTURAL OPERATIONS - An enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock and livestock products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities. The terms include an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry.

AGRICULTURE - The tilling of the soil, the raising of crops, forestry, horticulture and gardening, including the keeping, breeding, and/or raising of livestock, such as cattle, cows, hogs, horses, sheep, goats, poultry, rabbits, birds, fish, and other similar animals, but expressly excludes domestic pet kennels. This definition also includes horse boarding stables including rider training and lessons, greenhouses, and mushroom houses. In addition, one dwelling unit is also permitted as a component of the principal use. The keeping or raising of bees for business shall be included. The temporary on-site storage and spreading of spent mushroom compost to fertilize the soil for cultivation shall also be permitted as an accessory agricultural use. In this case, temporary requires it be spread on site in the same growing season as delivered, or before the next growing season if delivered to the site during the off-season. In no case, may temporary on-site storage of spent mushroom compost exceed 180 days.

AIRPORT HAZARD AREA - An area identified under Federal and State Law in which special structural height requirements are necessary to avoid undue interference with normal airport operations and aircraft approaches.

ALTERATIONS - Any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders, joists or rafters, or enclosing walls. Any renovation to a building which would change its use.

ALTERNATIVE ENERGY SYSTEMS- A device installed as an accessory use that

supplies energy to the principal use of the property that is derived from natural sources. For the purpose of this definition, these devices are limited to solar panels not exceeding 500 square feet in combined surface area, wind turbines not exceeding 35 feet in height and 15 feet in turbine diameter, hydro turbines, geo-thermal exchangers, manure digesters and outdoor furnaces. This definition shall include the limited exchange, transfer and/or sale of excess energy to accommodate variable generating conditions and usage patterns, and pursuant to and part of power purchase agreements.

ANAEROBIC DIGESTION - The process in which microorganisms in the absence of oxygen convert the energy stored in volatile acids in livestock and poultry manure or other organic materials into biogas.

ANIMAL HOSPITAL - Any establishment offering veterinary services. Animal hospitals can treat all types of animals and can include outdoor and overnight boarding of animals.

AREA - The two-dimensional measurement of space between known lines or boundaries.

Building Area: The total area of all buildings (principal and accessory) taken on one or more horizontal planes that are directly between the ground and the sky, exclusive of uncovered porches, awnings, terraces, and steps (e.g., top view).

Gross Floor Area: The sum of the floor areas of a building, as measured to the outside surfaces of exterior walls and/or all areas intended for the conduct of a use.

Habitable Floor Area: The sum of the floor areas of a dwelling unit, as measured to the outside surfaces of exterior walls, and including all rooms used for habitation, such as living room, dining room, kitchen, basement, bedroom, bathroom, family room, closets, hallways, stairways, and foyers, but not including cellars or attics, service or utility rooms, nor unheated areas, such as enclosed porches.

Lot Area: The total area contained within the property lines of a lot.

Retail Sales Area: The total area of use which is devoted to the display of goods and/or services, including aisles, to prospective patrons.

BED AND BREAKFAST - A single-family, detached dwelling where between one (1) and five (5) rooms are rented by the resident of the dwelling to overnight guests on a daily basis for periods not exceeding two (2) weeks. Meals may be offered only to registered overnight guests.

BEEKEEPING - The raising or keeping of bees within a man-made box (beehive) for hobby purposes associated with a single-family, detached residence.

BILLBOARD - A sign upon which advertising matter of any character is printed, posted or lettered, whether freestanding or attached to a surface of a building or other structure. A billboard is used to advertise products, services or businesses at a location other than the premises on which the sign is placed. Billboards are prohibited within West Marlborough Township.

BIOGAS - A fuel consisting of methane, carbon dioxide, and small amounts of water and other compounds produced as part of anaerobic digestion processes.

BOARDING HOUSE - A building or portion thereof arranged or used for sheltering or feeding, or both, as a gainful business, more than five (5) and not more than ten (10)

individuals that do not constitute a family.

BUILDING - Any structure with a roof intended for shelter or enclosure of persons, animals or property.

Detached: A building which has no party wall.

Semi-detached: A building which has only one party wall in common.

Attached: A building which has two or more party walls in common.

BUILDING HEIGHT - A building's vertical measurement from the mean level of the ground abutting the building to the highest point of the roof.

BUILDING LINE - The actual line of that face of the building nearest an adjacent right of way or street line. This face includes sun parlors and covered porches, whether enclosed or unenclosed, but does not include steps.

CEMETERY - Land used or intended to be used for the burial of the deceased, including columbariums, crematoria, mausoleums, and mortuaries when operated in conjunction with the cemetery and within the boundaries thereof.

CHANNEL - A natural or artificial watercourse with a definite bed and banks which confine and conduct continuously or periodically flowing water.

CHURCH AND RELATED USES - A building, structure, or group of buildings or structures, including accessory uses, designed or intended for religious meetings. This definition shall include rectories, convents and church-related educational and/or day-care facilities.

CLUBHOUSE - A building within which is housed an organization catering exclusively to members and their guests. Clubhouses shall include premises or buildings for social, recreational and administrative purposes which are not conducted for profit, provided there are no vending stands, merchandising or commercial activities, except as required for the membership of such club. Clubs shall include, but not be limited to, service and political organizations, labor unions, as well as social and athletic clubs. Clubhouses shall not be used for adult-related facilities as defined herein.

CLUSTER DEVELOPMENT - A development incorporating residential uses amid common open spaces.

CO-LOCATED TOWERS AND EQUIPMENT - The placement or installation of new wireless telecommunication facilities on previously approved and constructed wireless support structures, including self-supporting or guyed monopoles and towers, electrical transmission towers, water towers or any other structure not classified as a wireless support structure that can support the placement or installation of wireless telecommunication facilities if approved by the Township. This term includes the placement, replacement or modification of accessory equipment within a previously approved equipment compound serving a wireless telecommunication facility.

COMMUNICATION ANTENNAS, TOWERS AND EQUIPMENT - A reception and/or transmission facility, including, but not limited to, a tower, antenna(e) or other structures used for receiving or transmitting telephone, television, radio, digital, or other communications or signals.

COMPOSTING FACILITY - A principal use of land involving the composting and storage of one or more organic materials, including but not limited to spent mushroom soil, to produce a sellable marketable product, and not for use in an on-site agricultural growing operation or personal composting on a residential property.

CONDITIONAL USE - A use which may not be appropriate to a particular zoning district as a whole, but which may be suitable in certain localities within the district, only when specific conditions and criteria prescribed for such uses have been complied with. Conditional uses are reviewed by the Board of Supervisors after recommendations by the Planning Commission, in accordance with Section 804 of this Ordinance.

CONDOMINIUM - A form of property ownership providing for individual ownership of a specific dwelling unit, or other space not necessarily on ground level, together with an undivided interest in the land or other parts of the structure in common with other owners.

CONSISTENCY - An agreement or correspondence between matters being compared which denotes a reasonable rational, similar, connection or relationship.

DAY-CARE - The offering of care or supervision over minors or special needs adults in-lieu-of- care or supervision by family members. This definition does not include the offering of overnight accommodations.

Day-Care, Commercial: A day-care facility licensed by the Commonwealth of Pennsylvania.

Day-Care, Family: A day-care facility registered by the Commonwealth of Pennsylvania and offering care and supervision to no more than four (4) different persons during any calendar day.

DENSITY - A term used to express the allowable number of dwelling units per acre of land.

Density, Net: The number of dwelling units in relation to the land area actually in use or proposed to be used for residential purposes, exclusive of public rights-of-way, public and private streets, sidewalks, parks, playgrounds, common open spaces, etc.

Density, Gross: The number of dwelling units in relation to an area of land actually in use or proposed to be used for residential purposes, exclusive of exterior public rights-of-way.

DEVELOPMENT - any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

DEVELOPMENTAL DISABILITY - A disability of a person which has continued or can be expected to continue indefinitely; a disability which is:

1. Attributable to mental retardation, cerebral palsy, epilepsy, or autism;
2. Found to be attributable to any other conditions found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons, or requires treatment and services similar to those required for such persons; and,
3. Attributable to dyslexia resulting from a disability described in subsections 1. and 2. of

this definition.

DOMESTIC PETS - The noncommercial keeping of no more than four (4) adult, nonfarm animals that are locally available for purchase as pets as an accessory use to a primary residential use.

DRIVEWAY - An improved cartway designed and constructed to provide vehicular movement between a public road and a tract of land serving one single-family dwelling unit or a farm.

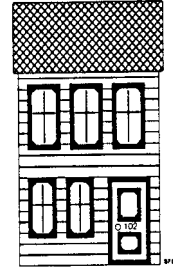


Figure 1

DWELLING - Any building, or portion thereof, designed and used exclusively for residential occupancy, including those listed below, but not including hospitals, hotels, boarding, rooming and lodging houses, institutional houses, tourist courts, and the like, offering overnight accommodations for guests or patients. All dwellings must be permanently affixed to a completely-enclosed foundation constructed of currently-accepted materials that shall be an entire perimeter wall and extend from below the frost line to the first floor of the building. Such foundation shall be constructed to provide sufficient structural integrity to prevent the building from heaving, shifting, or settling unevenly due to frost action. In addition, all dwellings shall be properly connected to approved and permanently-designed sewer, water, electrical, and other utility systems.

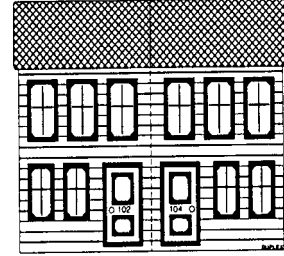


Figure 2

1. **Single-Family Detached**: A freestanding building containing one (1) dwelling unit for one (1) family, and completely surrounded by yards. Mobile homes can be considered single-family, detached dwellings if, in addition to the requirements listed for all dwellings, the mobile home is securely anchored to the permanent foundation, and all of the apparatuses used to transport the unit shall be removed, including the towing hitch. Recreational vehicles shall not be construed as dwellings. Modular homes can be considered single-family, detached dwellings so long as they comply with the general requirements of a dwelling. (Figure 1)

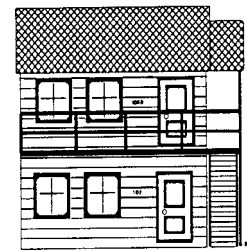


Figure 3

2. **Duplex** (Two-family; single-family, semi-detached): A freestanding building containing two (2) dwelling units for two (2) families, arranged in a side-by-side (Figure 2) or over and under (Figure 3) configuration.

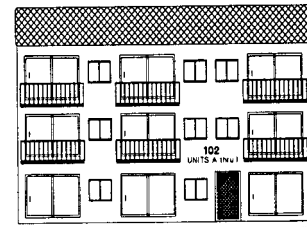


Figure 4

3. **Multiple Family**: A building containing three (3) or more dwelling units, at least one (1) of which must be located above or below the remaining units. (Figure 4)

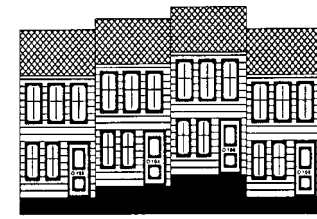


Figure 5

4. **Townhouse**: A building containing between three (3) and eight (8) dwelling units arranged in a side-by-side configuration with two (2) or more common party walls. (Figure 5)

DWELLING UNIT - A building or portion thereof arranged or designed for occupancy by not more than one family and having separate cooking and sanitary facilities.

EARTHMOVING ACTIVITY - Any construction or other activity which disturbs the surface of the land including, but not limited to, excavations, embankments, land development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth.

ECHO HOUSING - An additional temporary and portable dwelling unit placed on a property for occupancy by either an elderly, handicapped or disabled person related by blood, marriage or adoption to the occupants of the principal dwelling.

ELECTRONIC NOTICE - Notice given by a municipality through the Internet of the time and place of a public hearing and the particular nature of the matter to be considered at the hearing.

EMISSIONS RELEASE POINT – That location where an exhaust chimney of an outdoor furnace permits the unrestricted flow of exhaust into the environment.

ENVIRONMENTAL ASSESSMENT - The *West Marlborough Township Environmental Assessment* (1988) and any subsequent amendments and revisions.

FAMILY - An individual or individuals related by blood, marriage or adoption that maintain one (1) common household and live within one (1) dwelling unit. Additionally, up to three (3) unrelated individuals who maintain a common household and live within one (1) dwelling unit shall be considered a family. Finally, a family shall also be considered not more than eight (8) related or unrelated persons who are the functional equivalent of a family in that they live together, participate in such activities as meal planning, shopping, meal preparation, and the cleaning of their dwelling unit together and who are part of a community-based residential home that qualifies as a community living arrangement licensed by the Pennsylvania Department of Public Welfare or other appropriate federal or state agency having jurisdiction, where the persons occupying the home are handicapped persons under the terms of the Fair Housing Amendments Act of 1988, and where the operator of the home provides room and board, personal care, rehabilitative services, and supervision in a family environment. The presence of staff persons in a home meeting this definition shall not disqualify the group of persons occupying the dwelling unit as a “family.”

FARM - Any parcel of land which is used for intended gain in the raising of agricultural products, livestock, poultry or dairy products, including necessary farm structures, and the storage of equipment customarily incidental to the primary use. In addition, one dwelling unit is also permitted as a component of the principal use.

FARM-OCCUPATION - An accessory use to the primary agricultural use of a property in which residents and up to three non-residents engage in a secondary occupation conducted on the farm.

FELLING - The act of cutting a standing tree so that it falls to the ground.

FLOOD - A general and temporary condition of partial or complete inundation of normally dry land areas from the overland flow of watercourses, or from the unusual and rapid accumulation or runoff of surface waters from any source.

FLOODPLAIN - An area of land adjacent to the channel of a watercourse which has been, or is likely to be, flooded, or any area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

FLOODPROOF - Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to property, structures and their contents.

FORESTRY - The management of forest and timberlands, when practiced in accordance with accepted silviculture principles, through developing, cultivating, harvesting, transporting, and selling trees for commercial purposes, which does not involve any land development.

FORESTRY OPERATOR - An individual, partnership, company, firm, association, or corporation engaged in timber harvesting, including the agents, subcontractors and employees thereof.

GARAGE - An accessory detached building, or an attached portion of a principal building, for the storage of one (1) or more automobiles and/or other vehicles accessory and incidental to the primary use of the premises; provided, however, that one (1) commercial vehicle may be stored therein where the use of such vehicles is not incidental to the use of the premises. No business, occupation or service shall be conducted therein, nor shall space therein for more than one (1) vehicle be leased to a non-occupant of the premises. Where a garage is an attached integral part of a dwelling unit, the garage shall not be counted as floor area, unless it is constructed or modified into a habitable room by the removal of all vehicular access doors, and provided adequate off-street parking is still available on the same lot as the dwelling unit.

GEOHERMAL BOREHOLES - A hole drilled or bored into the earth into which piping is inserted for use in a closed vertical loop geothermal system.

GEOHERMAL SYSTEM - Any device installed as an accessory use that supplies energy principally for the principal use of the property that is derived from the exchange of underground temperature.

GOLF COURSE - A golf course with a minimum of 2,800 yards of play in nine (9) holes.

GROUP HOME - A building operated by a reasonably responsible individual, family or organization with a program to provide a supportive living arrangement for individuals larger than a family, where special care is needed by the individuals served due to age, emotional, mental, or physical handicap. Group homes must be licensed where required by any appropriate government agencies, and a copy of any such licenses must be delivered to the Township prior to beginning the use. Group homes shall be subject to the same limitations and regulation by the Township as single-family, detached dwellings, except insofar as, and where such limitations and regulation would result in a tendency to perpetuate segregation of the handicapped in housing patterns, as substantiated by reasonable evidence provided to the Township Supervisors.

HAZARDOUS MATERIAL - Materials which have the potential to damage health or impair safety. Hazardous materials include, but are not limited to, inorganic mineral acids or sulphur, fluorine, chlorine, nitrogen, chromium, phosphorous, selenium, and arsenic and their common salts, lead, nickel, and mercury and their inorganic salts or metallo-organic derivatives; coal tar acids, such as phenols and cresols, and their salts; petroleum products; and radioactive material. Also included are floatable materials with the potential to cause physical damage, such as logs, storage tanks and large containers.

HAZARDOUS WASTE - Any garbage, refuse, sludge from an industrial or other waste-

water treatment plant, sludge from a water supply treatment plant, or air pollution facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from municipal, commercial, industrial, institutional, mining, or agricultural operations, and from community activities, or any combination of the above, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may:

1. Cause or significantly contribute to an increase in mortality, or an increase in morbidity in either an individual or the total population; or
2. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, exposed of, or otherwise managed.

HAZARDOUS WASTE FACILITY - Any structure, group of structures, aboveground or underground storage tanks, or any other area or buildings used for the purpose of permanently housing or temporarily holding hazardous waste for the storage or treatment for any time span other than the normal transportation time through the Township.

HEAVY EQUIPMENT - Vehicles and machinery that are not normally associated with domestic use (e.g., excavation equipment, commercial trucks, buses, yachts, farm equipment, mechanized amusement rides, industrial machinery, and other similar items).

HEIGHT, BUILDING - A building's vertical measurement from the mean level of the ground abutting the building to the highest point of the roof.

HEIGHT, STRUCTURE - A structure's vertical measurement from the mean level of the ground abutting the structure to the highest point of the structure.

HELICOPTER PAD (PRIVATE) - An accessory use where no more than one (1) helicopter may land/take-off and be stored.

HELIPORT - A principal use where one (1) or more helicopters may land/take-off and be stored. Such use may also include support services, such as fueling and maintenance equipment, passenger terminals and storage hangars.

HISTORIC STRUCTURE - any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - A. By an approved state program as determined by the Secretary of the Interior; or,
 - B. Directly by the Secretary of the Interior in states without approved programs.

HUB HEIGHT - The distance measured from the surface of the tower foundation to the highest height of the wind turbine hub, to which the blade is attached.

HYDRIC SOIL - Soil that is wet long enough to periodically produce anaerobic conditions, thereby influencing the growth of plants.

HYDROPHYTE - Any plant growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

HOME OCCUPATION - A business or commercial activity that is conducted as an accessory use to a principal single-family, detached dwelling unit. A limited business or commercial activity which meets all of the following criteria is not considered a home occupation and is permitted by right in any dwelling unit or accessory building:

1. No exterior evidence (e.g., noise, light, heat, dust, odor, signs, electromagnetic interference, etc.) of the business shall be permitted that is uncharacteristic of a residential setting;
2. No retail sales or display of goods, exclusive of telephone solicitation, is permitted;
3. No on-site storage of commercial vehicles shall be permitted, except as provided under the definition of "Garage";
4. Only residents of the site may be engaged in the business or commercial activity;
5. The business or commercial activity shall not occupy more than fifteen percent (15%) of the habitable floor area of the principal dwelling;
6. The use shall not require the delivery of materials and goods by trucks larger than standard delivery trucks; and,
7. The use shall not involve regular visitation by customers, clients, salespersons, or suppliers.

IMPORTANT NATURAL HABITAT - Any land area characterized by any or all of the following:

1. Wetlands, as defined by criteria of the U.S. Department of the Interior, Fish and Wildlife Service;
2. Pennsylvania Natural Diversity Inventory (PNDI) confirmed extant plant and animal species, and communities that are listed as Pennsylvania Threatened or Pennsylvania Endangered; and,
3. PNDI confirmed extant plant and animal species and communities that have a State Rank of S1 or S2.

INTENSIVE LIVESTOCK OPERATION - An agricultural use involving the keeping and handling of livestock quantities with characteristics in both of the following subsections:

- 100 horses;
- 100 dairy or beef cattle or bison;
- 100 swine;
- 10,000 poultry, excluding turkeys;
- 200 sheep or veal;
- 2,000 turkeys;

plus - the keeping and handling of livestock quantities exceeding an average adult weight for horses, dairy cattle and layer chickens and/or an average market weight of all other livestock of 2,000 pounds per acre, as referenced in the following table:

Livestock	Animal Size (lb.)
Cattle Dairy	150–1500

Livestock	Animal Size (lb.)
Beef	400–1400
Veal	100–350
Swine	
Pigs	35–200
Gestating sow (limit fed)	275
Sow and 8 pigs	375
Boar (limit fed)	350
Sheep	100
Horse	1000
Poultry (see following types)	
Layer	4
Layer, heavy	7
Pullet	3
Broiler	4
Roaster	7
Turkey	20
Duck	7
Guinea	3–4
Pheasant	3
Chukar	1.5
Quail	0.5

Sources: PA DEP, *Field Application of Manure*, and *Poultry Manure Management*.

INTENSIVE PRODUCE OPERATION - An agricultural use whereby the following plant materials are principally grown within enclosed buildings and where such use exceeds the following permitted lot coverages:

Plant Material	Maximum Lot Coverage As A Permitted Use
Nursery and Garden Stock	50%
Mushrooms	25%
Other Plants	10%

INTERIOR DRIVE - Any on-site vehicular movement lane(s) that is associated with a use other than a single-family dwelling.

INVASIVE PLANT SPECIES OF PENNSYLVANIA - Invasive plants displace naturally occurring native vegetation and, in the process, upset nature's balance and diversity. Invasive plants are characterized by rapid growth and prolific reproductive capabilities, highly successful seed dispersal, germination and colonization processes, rampant spreading that takes over native species and are very costly to control. In general, aggressive, non-native plants have no enemies or controls to limit their spread. For the purposes of satisfying landscape requirements of this Ordinance the use of invasive plant species are prohibited except in cases where a Pennsylvania Certified Horticulturalist, landscape architect or engineer registered in the Commonwealth presents credible evidence the use of such invasive species is necessary for vegetation to be sustained at the proposed location for the proposed use. Invasive plant species are listed below; however, this definition shall expressly include any future listing of invasive species for the Township determined by the Federal or State government or any agency designated for such purpose by the Federal or State government:

Trees:

Acer platanoides, commonly known as Norway Maple
Acer pseudoplatanus commonly known as Sycamore Maple
Ailanthus altissima commonly known as Tree-of-Heaven
Elaeagnus angustifolia commonly known as Russian Olive
Populus alba commonly known as White Poplar
Ulmus pumila commonly known as Siberian Elm
Viburnum lantana commonly known as Wayfaring Tree

Shrubs and Vines:

Berberis thunbergii, commonly known as Japanese Barberry
Elaeagnus umbellata, commonly known as Autumn Olive
Euonymus alatus, commonly known as Winged Euonymus (excluding compacta cultivar)
Ligustrum vulgare, commonly known as European Privet
Lonicera japonica, commonly known as Japanese Honeysuckle
Lonicera maackii, commonly known as Amur Honeysuckle
Lonicera morrowii, commonly known as Morrow's Honeysuckle
Lonicera tatarica, commonly known as Tartarian Honeysuckle
Lonicera xbella, commonly known as Hybrid Honeysuckle
Lythrum salicaria, commonly known as Purple Loosestrife (herbaceous)
Morus alba, commonly known as White Mulberry
Morus rubra, commonly known as Red Mulberry
Phyllostachys, commonly known as aubea Bamboo
Rhamnus cathartica, commonly known as Common Buckthorn
Frangula alnus, commonly known as Glossy Buckthorn
Rosa multiflora, commonly known as Multiflora Rose
Viburnum opulus, commonly known as European Highbush Cranberry

Source: PA Department of Conservation and Natural Resources

JUNK - Used materials, discarded materials, or both, including, but not limited to, waste paper, plastic, rags, metal, building materials, house furnishings, machinery, vehicles, or parts thereof, which are being stored awaiting potential reuse or ultimate disposal.

JUNKYARD - An area of land, with or without buildings, used for the storage, outside a completely-enclosed building, of used and discarded materials, including, but not limited to, wastepaper, rags, metal, building materials, house furnishings, machinery, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale, or other use or disposition of the same. The deposit or storage on a lot of one (1) or more unlicensed, wrecked or disabled vehicles, or the major part thereof, shall be deemed to constitute a "junkyard." (A disabled vehicle is a vehicle intended to be self-propelled that shall not be operable under its own power for any reason, or a vehicle that does not have a valid current registration plate or that has a certificate of inspection which is more than sixty (60) days beyond the expiration date.)

KENNEL - Any lot on which five (5) or more adult animals (except relating to a farm) are kept, boarded, raised, bred, treated, or trained for a fee, including, but not limited to, dog or cat kennels.

LAND DEVELOPMENT - Any construction or use that involves a conversion of land to accommodate two (2) or more dwellings, a business, or other private use. Agricultural, horticultural and forestry-related uses shall not be considered land developments, unless the uses are conducted within the White Clay Creek watershed.

LANDING - A place where logs, pulpwood or firewood are assembled for transportation to processing facilities.

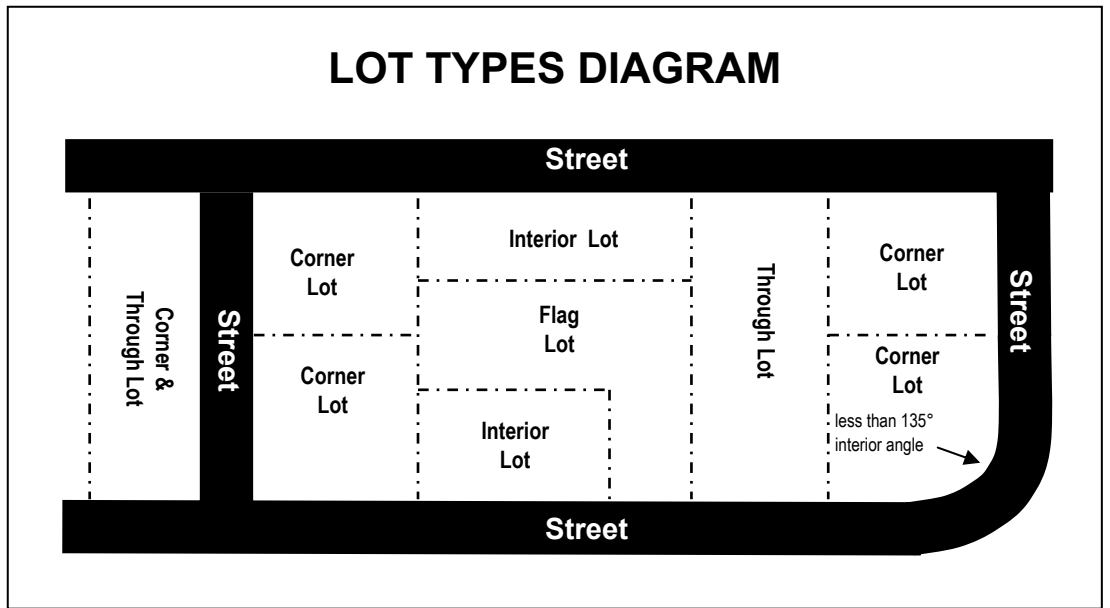
LANDOWNER - The legal or beneficial owner or owners of land, including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land, shall be deemed to be a landowner for the purposes of this Ordinance.

LANDSCAPE SCREEN - A completely planted visual barrier composed of evergreen plants and trees arranged to form both a low-level and a high-level screen between grade and to a height of six feet (6').

LOADING SPACE - An off-street space or area suitable for the loading or unloading of goods and having direct usable access to a street or alley.

LOP - To cut tree tops and slash into smaller pieces to allow material to settle close to the ground.

LOT - A parcel of land separately described by a metes and bounds description, which is recorded in the Office of the Recorder of Deeds of Chester County by deed description, or is described by an approved subdivision plan recorded in the Office of the Recorder of Deeds of Chester County.



Lot, Corner: A lot at the point of intersection of and abutting two (2) or more intersecting streets, and which has an interior angle of less than one hundred thirty-five degrees (135°) at the intersection of the two (2) street lines. Corner lots shall have two (2) front yards, one (1) side and one (1) rear yard.

Lot, Flag: A lot whose frontage does not satisfy the minimum width requirements for the respective zone, but that does have sufficient lot width away from the lot's frontage.

Lot, Interior: A lot other than a corner lot, the sides of which do not abut a street.

Lot, Through: An interior lot having frontage on two (2) parallel or approximately parallel streets.

LOT COVERAGE - A percentage of the lot area which may be covered with an impervious surface (e.g., buildings, driveways, parking area, sidewalks).

LOT DEPTH - The horizontal distance measured between the street right-of-way line and the closest rear property line. On corner and reverse frontage lots, the depth shall be measured from the street right-of-way line of the street of address to the directly opposite property line.

LOT WIDTH - The horizontal distance measured between side property lines. On corner lots, lot width shall be measured between the right-of-way line for the non-address street and the directly opposite property line.

LOWEST FLOOR - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

MAILED NOTICE - Notice given by a municipality by first class mail of the time and place of a public hearing and the particular nature of the matter to be considered at the hearing.

MANURE - The fecal and urinary excrement of livestock and poultry, often containing some spilled feed, bedding or litter.

MANURE DIGESTER - A facility which main purpose is to use anaerobic digestion processes to convert livestock and poultry manure (primary catalyst) into biogas, which is generally burned on-site to produce electricity, heat, and water; as well as to manage livestock and poultry manure. Manure digesters may include "co-digestion" in which the livestock and poultry manure (primary catalyst) may be mixed with other organic materials (secondary catalysts). Types of manure digesters include covered anaerobic lagoons, plug-flow, and/or complete mix (or continually stirred tank reactor), along with other appurtenant sites, structures and buildings, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

MANURE STORAGE FACILITY - A detached structure or other improvement built to store manure for future use, or disposal. Types of storage facilities are as follows: underground storage, in-ground storage, trench silo, earthen bank, stacking area, and aboveground storage.

MOBILE HOME OR MANUFACTURED HOME - A transportable, single-family dwelling intended for permanent occupancy, office, or place of assembly, contained in one (1) or more sections, built on a permanent chassis, which arrives at a site complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. The term does not include recreational vehicles or travel trailers; however, for floodplain management purposes, the term "mobile home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

MOBILE HOME LOT - A parcel of land in a mobile home park, improved with the necessary

utility connections and other appurtenances necessary for the erection thereon of a single mobile home, which is leased by the park owner to the occupants of the mobile home erected on the lot.

MOBILE HOME PARK OR MANUFACTURED HOME PARK - A parcel or contiguous parcels of land which have been so designated and improved to contain two (2) or more mobile home lots for the placement thereon of mobile homes.

MUNICIPAL SERVICES - Those uses and facilities designed to furnish necessary support for the general public health, safety and welfare, that are typically the responsibility of local governments and other locally-operated service agencies, and are not operated on a commercial basis. Such uses shall include, but not be limited to:

1. Township offices, meeting halls, garages, and storage yards.
2. Police, fire and ambulance stations.
3. Indoor community service uses and activities, including meeting rooms, classrooms, theaters, auditoriums, banquet and social halls, scout cabins, libraries, museums, and galleries of materials that are not for sale, clubhouses, accessory cafeterias and kitchens, and other similar uses.
4. Outdoor community service facilities and activities, including fairgrounds, community bulletin boards and other similar uses.
5. Uses accessory to the above permitted uses, including parking and loading spaces, signs, offices, rest rooms, maintenance equipment storage areas and buildings, lights, waste receptacles and dumpsters, bleachers, and other similar uses.

MUSEUM - A facility for the public display of items, materials, or information that are related to some historic, educational, cultural, or scientific purpose. Museums can include related accessory uses (e.g., restaurant, gift shop, etc.), so long as these remain incidental to the primary museum use. Museums can be operated as a business but shall not involve the retail sales of museum displays.

NATURAL RESOURCES RESEARCH – The conduct of scientific study upon components of the physical environment (e.g. geology, groundwater, soils, water, air, vegetation and wildlife) that seeks to improve environmental and ecological health and reduce adverse environmental impacts associated with man-made uses and human activities.

NATURAL RESOURCES RESEARCH CENTER – A principal use designed to furnish necessary support for the research of a particular scientific, technological and/or educational subject whose mission focuses on the study of a natural resource(s). Such uses shall include, but not be limited to:

1. Research and educational uses and activities, including meeting rooms, classrooms, auditoriums, libraries, laboratories, museums, and galleries, accessory cafeterias and kitchens, and other similar uses, all of which shall be conducted within a completely enclosed building.
2. Outdoor research and educational facilities and activities limited to the conduct of sample collection, the installation and systematic monitoring of sample collection devices and the conduct of small group field trips and field exercises.
3. Uses accessory to the above permitted uses, including but not limited to, parking and loading spaces, signs, offices, rest rooms, maintenance equipment storage areas and buildings, lights, waste receptacles and dumpsters, wastewater

treatment facilities, bleachers, and other similar uses.

NEW CONSTRUCTION - Structures for which the “start of construction” commenced on or after January 9, 1984, and includes any subsequent improvements to such structures.

NO-IMPACT HOME-BASED BUSINESS - A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements:

- (1) The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- (2) The business shall employ no employees other than family members residing in the dwelling.
- (3) There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- (4) There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
- (5) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- (6) The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- (7) The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
- (8) The business may not involve any illegal activity.

NONCONFORMING LOT - A lot the area or dimension of which was lawful prior to the adoption or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

NONCONFORMING STRUCTURE - A structure or part of a structure manifestly not designed to comply with the applicable use provisions in the Zoning Ordinance or amendment heretofore, or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

NONCONFORMING USE - A use, whether of land or of structure, which does not comply with the applicable use provisions in the Zoning Ordinance or amendment heretofore, or hereafter enacted where such use was lawfully in existence prior to the enactment of such ordinance, or prior to the application of such ordinance or amendment to its location by reason of annexation.

NONCONFORMITY, DIMENSIONAL - Any aspect of a land use that does not comply with any size, height, bulk, setback, distance, landscaping, coverage, screening, or any other design or performance standard specified by this Ordinance, where such dimensional

nonconformity lawfully existed prior to the adoption of this Ordinance or amendment thereto.

NOXIOUS SPECIES – Plants identified by the Pennsylvania Department of Agriculture's Noxious Weed Control list. The following lists the current known species; however, this definition shall also expressly include any future listing of such species:

(Source: http://www.portal.state.pa.us/portal/server.pt/gateway/PTARGS_0_2_24476_10297_0_43/http%3B/10.41.0.77/AgWebsite/ProgramDetail.aspx?name=Noxious-Invasive-and-Poisonous-Plant-Program&navid=12&parentnavid=0&palid=116)

Cannabis sativa L, commonly known as Marijuana
Cirsium arvense, commonly known as Canadian thistle
Rosa multiflora, commonly known as Multiflora rose
Sorghum halepense, commonly known as Johnson grass
Persicaria perfoliatum, commonly known as Mile-a-minute
Pueraria montana var. lobata, commonly known as Kudzu-vine
Cirsium vulgare, commonly known as Bull or Spear Thistle
Carduus nutans, commonly known as Musk or Nodding Thistle
Sorghum bicolor, commonly known as Shattercane
Datura stramonium, commonly known as Jimsonweed
Lythrum salicaria, commonly known as Purple Loosestrife, including all cultivars
Heracleum mantegazzianum, commonly known as Giant Hogweed
Galega officinalis, commonly known as Goatsrue

NURSING, REST OR RETIREMENT HOME - Facility designed for the housing, boarding and dining associated with some level of nursing care.

OBSTRUCTION - Any wall, dam, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse or flood-prone area, (1) which may impede, retard or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water, or (2) which is placed where the flow of the water might carry the same downstream to the damage of life and property.

OFFICE - A place where the primary use is conducting the affairs of a business, profession, service, or government, including administration, record-keeping, clerical work, and similar business functions. An office shall not involve manufacturing, fabrication, production, processing, assembling, cleaning, testing, repair, or storage of materials, goods or products; or the sale or delivery of any materials, goods or products which are physically located on the premises. Office supplies used in the office may be stored as an incidental use.

ON-SITE SEWER SERVICE - On-site sewer service is the disposal of sewage by use of septic tanks, or other safe and healthful means within the confines of the lot on which the use is located as approved by the Pennsylvania Department of Environmental Protection.

ON-SITE WATER SERVICE - On-site water service is a safe, adequate and healthful supply of water to a single user from a private well.

PARENT TRACT - A lot of land in single and separate ownership, or entire portion thereof, that is located within a single Zone on December 29, 1988.

PARKING LOT - An open lot where passenger vehicles may be stored for short-term, daily or overnight off-street parking, and connected to a street by an access drive.

PARKING SPACE - An off-street space available for the parking of one (1) motor vehicle and having usable access to a street or alley.

PARKS AND PLAYGROUNDS - Those facilities designed and used for recreation purposes by the general public that are not operated on a commercial basis. This definition is meant to include the widest range of recreational activities, excluding adult-related uses, amusement arcades, amusement or theme parks, golf courses, off-track betting parlors, racetracks, and shooting ranges. Such uses may include:

1. Outdoor park and recreation facilities, including athletic fields, courts, playgrounds, open play areas, stadiums, skating rinks, skateboard, stunt-bicycle or BMX-bicycle courses, and other similar uses.
2. Indoor recreation facilities, including community centers, gymnasiums, weight and fitness rooms, tennis courts, gymbores, game rooms, bowling alleys, skating rinks, locker rooms, and other similar features.
3. Outdoor passive recreation facilities, including picnic pavilions, hiking, biking and fitness trails, park benches, fountains, statues and other memorials, barbecue grills, ponds, natural and cultural exhibits, amphitheaters, and other similar uses.
4. Indoor community service uses and activities, including meeting rooms, classrooms, theaters, auditoriums, banquet and social halls, scout cabins, libraries, museums and galleries of materials that are not for sale, clubhouses, accessory cafeterias and kitchens, and other similar uses.
5. Outdoor community service facilities and activities, including fairgrounds, community bulletin boards and other similar uses.
6. Indoor and outdoor swimming pools, including related amenities, like bathhouse, wading pools, spas, snack bars, and other similar uses.
7. Uses accessory to the above permitted uses, including parking and loading spaces, signs, offices, rest rooms, maintenance equipment storage areas and buildings, lights, waste receptacles and dumpsters, bleachers, and other similar uses.

PERSON - An individual, corporation, partnership, incorporator's association, or any other similar entity.

PLANNING COMMISSION - The Planning Commission of West Marlborough Township.

PLANNED CENTER - A group of uses planned and designed as an integrated unit with controlled ingress and egress and shared off-street parking provided on the property as an integral part of the unit. Such centers also may include "planned center signs" as regulated herein.

PRE-COMMERCIAL TIMBER STAND IMPROVEMENT - A forest practice, such as thinning or pruning, which results in better growth, structure, species composition, or health for the residual stand, but which does not yield a net income to the landowner, usually because any trees cut are of poor quality, too small, or otherwise of limited marketability or value.

PRIME AGRICULTURAL LAND - Land used for agricultural purposes that contains soil of the first, second or third class as defined by the United States Department of Agriculture Natural Resource and Conservation Services County Soil Survey.

PRINCIPAL USE – The main or primary use of property or structures.

PUBLIC - Owned, operated or controlled by West Marlborough Township.

PUBLIC EDUCATIONAL USE - (See School, Public)

PUBLIC HEARING - A formal meeting held pursuant to public notice by the Board of Supervisors or planning agency, intended to inform and obtain public comment, prior to taking action on zoning-related matters.

PUBLIC MEETING - A forum held pursuant to notice under the act of July 3, 1986 (P.L. 388, No. 84), known as the Sunshine Act.

PUBLIC NOTICE - Notice published once each week for two (2) successive weeks in a newspaper of general circulation in the Township. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days, and the second publication shall not be less than seven (7) days from the date of the hearing. Public notice for rezoning, special exception, conditional use and/or variance requests shall also include the posting of a sign at conspicuous locations along the perimeter of the subject property: these sign(s) shall be posted at least one (1) week prior to the hearing and will exhibit the nature, date, time, and location of the hearing.

PUBLIC SEWER - A municipal sanitary sewer or a comparable common or package sanitary facility approved and permitted by the Pennsylvania Department of Environmental Protection. Such systems are capable of serving multiple users.

PUBLIC UTILITY - Use or extension thereof which is operated, owned or maintained by a municipality or municipal authority, or which is privately owned and requires a "Certificate of Convenience" approved by the Pennsylvania Public Utility Commission for the purpose of providing public sewage disposal and/or treatment; public water supply, storage and/or treatment; or for the purpose of providing the transmission of energy or telephone service.

PUBLIC WATER - A municipal water supply system, or a comparable common water facility approved and permitted by the Pennsylvania Department of Environmental Protection. Such systems are capable of serving multiple users.

RECREATIONAL VEHICLE - A vehicle which is:

1. built on a single chassis;
2. four hundred (400) square feet or less when measured at the largest horizontal projection;
3. designed to be self-propelled or permanently towable by a light-duty truck; and,
4. designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

RENTAL - A procedure by which services or personal property are temporarily transferred to another person for a specific time period for compensation.

RESTAURANT - An establishment that serves prepared food primarily on nondisposable tableware, but can provide for incidental carry-out service so long as the area used for carry-out service does not exceed five percent (5%) of the total patron seating area nor eighty (80) square feet (whichever is less).

RESTAURANT - DRIVE-THRU OR FAST FOOD - An establishment that serves prepared

food generally packaged in paper wrappers and/or disposable plates and containers. Such food can be consumed either on or off of the site. Caterers shall be included in this definition.

RIGHT-OF-WAY - A corridor of publicly owned land for purposes of maintaining primary vehicular and pedestrian access to abutting properties, including but not limited to, roads, streets, highways and sidewalks. Abutting property owners are prohibited from encroaching across the right-of-way line. (See also "Street Line.").

RURAL OCCUPATION - An accessory business or commercial activity that is conducted within an accessory structure of a principal single-family detached dwelling.

SATELLITE DISH ANTENNA - A device incorporating a reflective surface which is solid, open mesh or bar-configured, and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electro-magnetic waves between terrestrially and/or orbitally-based uses. This definition is meant to include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs and satellite microwave antennas.

SCHOOL - A principal use in which supervised education or instruction is offered according to the following categories:

1. Commercial School: A school that may offer a wide range of educational or instructional activities (excluding vocational-mechanical trade schools as defined below) that may, or may not, be operated as a gainful business by some person or organization other than the School District;
2. Private School: A duly accredited school that offers nursery, kindergarten, elementary, secondary, post-secondary and/or post- graduate education that may, or may not, be operated as a gainful business;
3. Public School: A school licensed by the Department of Education for the purpose of providing nursery, kindergarten, elementary, secondary and adult education, and operated by the School District; and,
4. Vocational-Mechanical Trade School: A school that may, or may not, be operated as a gainful business that principally offers training in any of the following occupations:
 - a. Truck driving;
 - b. Engine repairs;
 - c. Building construction and general contracting;
 - d. Woodworking;
 - e. Masonry;
 - f. Plumbing;
 - g. Electrical contracting; and,
 - h. Other similar trades, as determined pursuant to Section 107 of this Ordinance.

Vocational-mechanical trade schools are prohibited within West Marlborough Township.

SCREEN FENCE - A wooden sight-tight fence (or other approved substitute) that extends between the ground up to a height of six feet (6'). Such fence shall provide at least ninety-five percent (95%) opacity as viewed from ground level.

SCREENING - An assemblage of materials that are arranged so as to block at least eighty percent (80%) of the ground level views between grade, and a height of six feet (6') throughout the year. Suitable screening materials include trees, shrubs, hedges, berms,

walls, sight-tight fences, other similar type materials, or any combination thereof. No wall or fence shall be constructed of plywood, corrugated metal or fiberglass, nor sheet metal. Landscape screens must achieve the required visual blockage within two (2) years of installation.

SETBACK - The required horizontal distance between a setback line and a property or street line.

Setback, Front: The distance between the street line and the front setback line projected the full width of the lot. Commonly, called "required front yard."

Setback, Rear: The distance between the rear lot line and the rear setback line projected the full width of the lot. Commonly called "required rear yard."

Setback, Side: The distance between the side lot line and the side setback line projected from the front yard to the rear yard. Commonly called "required side yard."

SETBACK LINE - A line within a property and parallel to a property or street line which delineates the required minimum distance between some particular use of property and that property or street line.

SHOOTING RANGE - A place where members of the public, for a fee or by invitation, can discharge firearms for recreation, competition, skill development, and training. For the purpose of this Ordinance, a firearm shall include any instrument that uses a propelling charge to move a projectile (e.g., rifle, gun, shotgun, pistol, air gun, or archery). A shooting range does not include hunting when conducted in accordance with the rules and regulations of the Commonwealth of Pennsylvania.

SIGN - A device for visual communication that is used to bring the subject to the attention of the public, but not including lettering or symbols that are an integral part of another structure, or flags or other insignia of any government, fraternal or similar organization.

SINGLE AND SEPARATE OWNERSHIP - The ownership of a lot by one or more persons, or a partnership or corporation in which ownership is separate and distinct from that of any abutting or adjoining lot. Ownership shall be considered separate and distinct, where lots have been separately described as such by:

1. metes and bounds in a recorded deed or conveyance prior to the enactment of this Ordinance, and have continued since that date to be so separately described in all subsequent recorded deeds or conveyance; or,
2. an amendment thereto.

SKIDDING - Dragging trees on the ground from the stump to the landing by any means.

SLASH - Woody debris left in the woods after logging, including logs, chunks, bark, branches, uprooted stumps, and broken or uprooted trees or shrubs.

SLDO - The latest West Marlborough Township Subdivision and Land Development Ordinance, as amended or reenacted.

SOIL SURVEY - The latest version of the *Chester County Soil Survey*, as prepared by the United States Department of Agriculture, or its successor agency.

SOLAR ENERGY SYSTEM - An energy conversion system or device, including any structural design features and all appurtenances and parts thereof, whose primary purpose is to provide for the collection, storage and distribution of solar energy for space heating or cooling, for water heating and/or for electricity.

SOLAR PANEL (MODULE) - That part or portion of a solar energy system containing one or more receptive cells or units, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and/or for electricity.

SOLID WASTE - Garbage, refuse and other discarded materials including, but not limited to, solid and liquid waste materials resulting from municipal, industrial, commercial, agricultural and residential activities. Such wastes shall not include spent mushroom compost, biological excrement, nor hazardous waste materials, as defined in the *Code of Federal Regulations*, Title 40, Chapter 1, part 261, dated July 1, 1984, or as amended.

SPECIAL EXCEPTION - A use that is generally compatible with a particular zone once specified criteria have been met. Special exception uses are listed by zone and approved by the Zoning Hearing Board in accordance with Section 704.3. of this Ordinance.

SPECIFIED ANATOMICAL AREAS - Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, female breasts below a point immediately above the top of areolae, and/or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES - For the purposes of this Ordinance, this term shall include any of the following:

1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following depicted sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
2. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
3. Use of human or animal masturbation, sodomy, oral copulation, coitus, ejaculation; or
4. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast; or
5. Masochism, erotic or sexually-oriented torture, beating, or the infliction of pain; or
6. Erotic or lewd touching, fondling or other contact with an animal by a human being; or
7. Human excretion, urination, menstruation, vaginal or anal irrigation.

STAND - Any area of forest vegetation whose site conditions, past history, and current species composition are sufficiently uniform to be managed as a unit.

STREAM - Any natural or artificial channel of conveyance for surface water with an annual or intermittent flow within a defined bed and bank.

STREAMSIDE BUFFER - An area delineated along and generally parallel to a surface water course in which naturally successive vegetation is allowed to grow which offers environmental and ecological benefit.

STREET - Includes street, avenue, boulevard, road, highway, freeway, lane, alley, viaduct,

and any other dedicated and adopted public right-of-way used or intended to be used by vehicular traffic and/or pedestrians.

STREET CENTERLINE - The horizontal line paralleling the street that bisects the street right-of-way into two equal widths. In those instances where the street right-of-way cannot be determined, the street centerline shall correspond to the center of the cartway.

STREET LINE (Right-of-Way Line) - A line defining the edge of a street right-of-way and separating the street from abutting property or lots. The street line shall be the same as the legal right-of-way line currently in existence.

STRUCTURE - Any man-made object, including buildings, having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

Structure, Accessory: A structure associated with an accessory use, (e.g., swimming pools, patios, antennas, tennis courts, garages, utility sheds, etc.).

Structure, Principal: A structure associated with a principal use.

Structures shall not include such things as fences, sandboxes, decorative fountains, swingsets, birdhouses, birdfeeders, mailboxes, and any other similar improvements.

SWIMMING POOL - Any pool (including equine pools), not located within a completely-enclosed building, and containing, or normally capable of containing, water to a depth at any point greater than one and one-half feet (1½'). Farm ponds and/or lakes are not included, provided that swimming was not the primary purpose for their construction.

TIMBER HARVESTING, TREE HARVESTING OR LOGGING - That part of forestry involving cutting down trees and removing logs from the forest for the primary purpose of sale or commercial processing into wood products.

TOWNSHIP - West Marlborough Township.

TRASH, GARBAGE AND REFUSE - Any material that, because of its age or condition, is of little value and usefulness. Some common examples include, but are not limited to:

1. Inoperable machinery and appliances.
2. Rusted, or bent, metals, tools and barrels.
3. Used automobile tires and batteries.
4. Empty beverage, food and other containers.
5. Weathered, broken or used building materials.
6. Spoiled or discarded food products.
7. Used, torn or discarded garments, rags and other fabric products.
8. Worn or broken furniture.
9. Used or discarded newspaper, magazines and other paper products.

TRAVEL TRAILER - A portable structure, primarily designed to provide temporary living quarters for recreation, camping or travel purposes. In addition to the above, any of the following attributes are characteristic of a "travel trailer":

1. The unit is of such size or weight as not to require a special highway movement permit from the Pennsylvania Department of Transportation when self-propelled, or when hauled by a standard motor vehicle on a highway.
2. The unit is mounted or designed to be mounted on wheels;

3. The unit is designed to be loaded onto, or affixed to, the bed and/or chassis of a truck;
4. The unit contains, or was designed to contain, temporary storage of water and sewage, and,
5. The unit contains some identification by the manufacturer as a travel trailer.

TREE TOP - The upper portion of a felled tree that is not marketable because of small size, taper or defect.

TWO-FAMILY CONVERSION - The conversion of an existing single-family, detached dwelling unit to contain two separate dwelling units.

TURBINE HEIGHT - The distance measured from the mean level of the ground abutting the tower foundation upon which the wind turbine is attached to the highest point of the turbine rotor blades at their highest point of rotation or the highest point of any feature of the turbine at its maximum distance from the abutting ground, whichever is the highest point.

UNIONVILLE AREA REGIONAL COMPREHENSIVE PLAN – The Official Comprehensive Plan of West Marlborough Township with partner municipalities including East Marlborough and Newlin Townships.

USE - The specific purpose for which land or a structure is designed, arranged, intended, occupied or maintained.

Use, Accessory: A use customarily incidental and subordinate to the principal use or building and located on the same lot with this principal use or building.

Use, Principal: The main or primary use of property or structures.

USE AND OCCUPANCY PERMIT - A permit issued by the Zoning Officer certifying a use's compliance with information reflected on the zoning permit and the Zoning Ordinance.

VARIANCE - A modification of any provision of this Ordinance granted by the Zoning Hearing Board subject to findings specified by the Act.

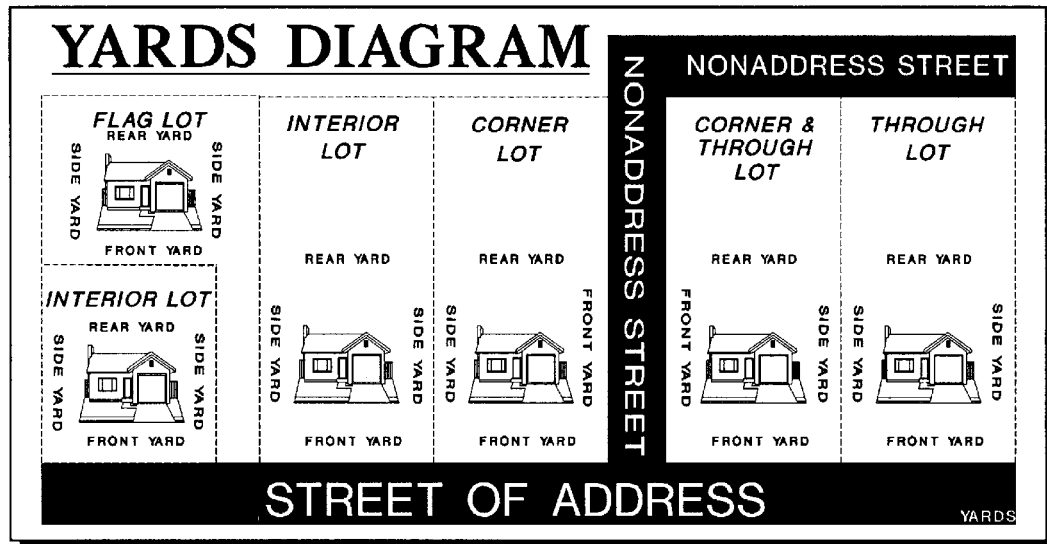
VETERINARIAN'S OFFICE - A building used primarily for the treatment, by a veterinarian, of small domestic animals such as dogs, cats, rabbits and birds or fowl. No outdoor boarding of animals is permitted.

WATERCOURSE - A permanent or intermittent stream, river, brook, run, creek, channel, swale, pond, lake, or other body of surface water carrying or holding surface water, whether natural or artificial.

WETLANDS – Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas, and which shall be identified using the Northeast and North Central Regional Supplement (2012) to the 1987 Corps of Engineers Wetlands Delineation Manual.

WIND TURBINE - Any device which converts wind energy to mechanical or electrical energy.

YARD - An area between the permitted structures and the property lines.



Yard, Front: The area contained between the street right-of-way line and the principal structure.

Yard, Rear: The area contained between the rear property line and the principal structure. On corner and reverse frontage lots, the rear yard shall be considered that area between the principal structure and the property line directly opposite the street of address.

Yard, Side: The area(s) between a principal structure and any side lot line(s). On corner lots, the side yard shall be considered those areas between the principal structure and the property line directly opposite the non-address street.

ZONING - The designation of specified districts within a community or township, reserving them for certain uses together with limitations on lot size, heights of structures and other stipulated requirements.

ZONING OFFICER - The duly constituted municipal official designated to administer and enforce this Ordinance in accordance with its literal terms.

ZONING PERMIT - A permit stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements under this Ordinance for the Zone in which it is to be located.

Article 2

Zone Regulations

Section 200 **Agricultural-Conservation Zone (A-C)**

200.1. **Purpose** - This Zone serves several important purposes. First, areas contained within this Zone correspond to sensitive and/or important natural features as identified by the Township's Comprehensive Plan. Specifically, it includes prime farmlands, soils with severe development constraints, steep slopes, important groundwater recharge areas, geologic faults, threatened and/or endangered wildlife habitats, floodplains, exceptional-value watersheds, and any combination of these.

This Zone also acknowledges large areas of the Township that are publicly-owned and/or are subject to conservation easements that preclude their use for anything other than open space or rural land uses. Finally, the Zone includes areas contained within the officially-designated PA Scenic Rivers System associated with the Lower Brandywine Creek; this designation calls for maintenance of the pastoral character of the designated corridors.

Because of the importance of each of these purposes, this Zone will limit permitted uses to those that are rural in character. Furthermore, development intensity will be restricted through the use of specified design and performance standards, so that each use will remain compatible within the intended rural/conservation character. Last, a wide range of agricultural uses and activities will be permitted as a means of strengthening the Township's agricultural economy; however, intensive agricultural operations will be subject to specific design and performance criteria. These measures are aimed at enhancing compatibility. Nonetheless, future inhabitants of this Zone must be willing to accept the impacts of normal farming practices and farm-related businesses.



200.2.

Permitted Uses

1. Agricultural uses, including one dwelling unit as a component of the principal use (excluding intensive livestock and intensive produce operations), and forestry uses;
2. Family day-care facilities;
3. Fox hunting;
4. Group homes;
5. Conservation areas, including structures aiding in the conservation of natural resources not to exceed five-hundred (500) square feet in total floor area;
7. Single-family, detached dwellings;
8. Forestry uses in accordance with Section 324 of this Ordinance.
9. Collocation of communication towers and equipment that comply with the Pennsylvania Wireless Broadband Collocation Act, subject to all applicable requirements contained therein;
9. Municipal services; and,
10. Accessory uses customarily incidental to the above permitted uses, including, but not limited to, the following:
 - A. Roadside stands for the sale of agricultural products grown on the site, subject to the following:
 - a. Any structure used to display such goods shall be less than two hundred fifty (250) square feet in size, and be located at least fifty feet (50') from any side or rear property line;
 - b. The structure shall be set back at least thirty feet (30') from the street right-of-way;
 - c. Off-street parking shall be provided for all employees and customers;
 - d. Any signs used shall be attached to the roadside stand structure and shall not exceed five (5) square feet in total area;
 - e. All signs permitted with roadside stands shall require the obtainment of a zoning permit.
 - B. Manure storage facilities associated with a principal agricultural use, subject to the following:
 - a. All manure storage facilities shall be designed in compliance with the guidelines outlined in the publication *Manure Management for Environmental Protection*, Bureau of Water Quality Management, Publication No. 43, and any revisions, supplements and replacements thereof, published by the Pennsylvania Department of Environmental Protection, copies of which are available from the Water Quality Manager in the Department of Environmental Protection's Regional Offices located at 1 Ararat Boulevard, Harrisburg, PA 17110, telephone (717) 657-4585.
 - b. All waste storage facilities' designs shall be reviewed by the Chester County Conservation District. The applicant shall furnish a letter from the Conservation District attesting to approval of the design of the proposed facility;
 - c. Construction and subsequent operation of the waste storage facility shall be in accordance with the permit and the approved design. Any design changes during construction or subsequent operation will require the obtainment of another review by the Chester County Conservation District; and,

- d. All waste storage facilities shall be set back at least five hundred feet (500') from any residentially-zoned land, and one hundred feet (100') from any adjoining property.
- C. Dwellings for farm employees and their families, subject to the following:
- a. At least one (1) family member must be employed on the subject farm, on a full-time basis;
 - b. The applicant must furnish evidence that approved means of sewage disposal and water supply have been obtained for the additional dwellings by the Chester County Health Department; and,
 - c. Any dwelling unit(s) provided for farm employees and their families shall be calculated as one or more of the permitted dwellings for the farm as provided in Section 200.5. of this Ordinance.
- D. ECHO housing as defined herein and subject to the following:
- a. The elder cottage may not exceed nine hundred (900) square feet of floor area;
 - b. The total building coverage for the principal dwelling, any existing accessory structures and the elder cottage together shall not exceed the maximum requirement for the zoning district in which the elder cottage is located;
 - c. The elder cottage shall be occupied by either an elderly, handicapped or disabled person related to the occupants of the principal dwelling by blood, marriage or adoption;
 - d. The elder cottage shall be occupied by a maximum of two (2) people;
 - e. Utilities:
 - (1) For sewage disposal and water supply and all other utilities, the elder cottage shall be physically connected to those systems serving the principal dwelling. No separate utility systems or connection shall be constructed or used. All connections shall meet the applicable utility company standards; and,
 - (2) If on-site sewer or water systems are to be used, the applicant shall submit evidence showing that the total number of occupants in both the principal dwelling and the elder cottage will not exceed the maximum capacities for which the one-unit systems were designed, unless those systems are to be expanded, in which case the expansion approvals are to be submitted. Any connection to or addition to an existing on-site sewer system shall be subject to the review and approval of the sewage enforcement officer.
 - f. A minimum of one (1) all-weather, off-street parking space, with unrestricted ingress and egress to the street, shall be provided for the elder cottage, in addition to that required for the principal dwelling;
 - g. The elder cottage shall be installed and located only in the side or rear yards, and shall adhere to all side and rear yard setback requirements for principal uses;
 - h. The elder cottage shall be removed from that property within

ninety (90) days after it is no longer occupied by a person who qualifies for the use; and,

- i. Upon the proper installation of the elder cottage, the Zoning Officer shall issue a temporary zoning permit. Such permit shall be reviewed every twelve (12) months, until such time as the elder cottage is required to be removed. A fee, in the amount to be set by the Board of Supervisors, shall be paid by the landowner upon each renewal of the temporary zoning permit. Such fee shall be based upon the cost of the annual review of the permit.
- E. Beekeeping, subject to the following criteria:
- a. It shall be the duty of the applicant to maintain each colony so as to not create a public nuisance;
 - b. Colonies shall be maintained in movable frame hives;
 - c. Hives must be located only within the rear yard and shall be situated to maximize sunshine exposure and/or natural wind protection;
 - d. Hives must be located no closer than one hundred feet (100') from any property line, unless a six foot (6') high screen fence or hedge is located along any adjoining property lines for a distance at least one hundred feet (100') from the hive(s). In no case must hives be located within fifty feet (50') of any property line;
 - e. All hives must have access to an on-site water supply. Unless a natural water supply exists on the subject property, the applicant must furnish a water-filled tank with a board or crushed rock for the bees to land on;
 - f. Hives must not be oriented to children's play areas or neighboring properties; and,
 - g. Adequate techniques in handling bees, such as re-queening and adequate hive space, must be maintained to prevent unprovoked stinging seventy-five feet (75') or more from the hive.
- F. The keeping of livestock as an accessory residential use, subject to the following criteria:
- a. Minimum Lot Area - Two (2) acres; additionally, the following list specifies additional area requirements by size of animals kept:
 - GROUP 1 - Animals whose average adult weight is less than ten (10) pounds shall be permitted at an animal density of twelve (12) per acre, with a maximum number of fifty (50) animals;
 - GROUP 2 - Animals whose average adult weight is between ten (10) and one hundred (100) pounds shall be permitted at an animal density of two (2) per acre, with a maximum number of twenty (20) animals; and,
 - GROUP 3 - Animals whose average adult weight is greater than one hundred (100) pounds shall be

permitted at an animal density of one (1) per two (2) acres, with a maximum number of five (5) animals.

- b. The keeping of a combination of animal types (Groups 1, 2 and 3) shall require an animal density equal to the ratio of the numbers of animals, by type. In no case shall a lot contain more than fifty (50) total animals. Should one structure be used to house a combination of animal types, the most restrictive setback shall apply;

- c. The following lists minimum setbacks (from all property lines) imposed upon the placement of any structure used to house noncommercial livestock:

GROUP 1 Animals - Up to 25 animals, a twenty-five foot (25') setback; above 25 animals, a fifty foot (50') setback;

GROUP 2 Animals - Up to 2 animals, a fifty foot (50') setback; above 2 animals, a one hundred foot (100') setback; and,

GROUP 3 Animals - Two hundred feet (200').

- d. All structures used to house noncommercial livestock shall be prohibited from placement in the front yard;
- e. All outdoor pasture/recreation areas shall be enclosed with fencing to prevent the escape of the animals; such fencing must be set back at least ten feet (10') from all property lines; and,
- f. All animal wastes shall be properly stored and disposed of, so as not to be objectionable at the site's property line. All animals, their housing and their outdoor pasture/recreation areas shall be properly maintained so as not to become a nuisance to adjoining properties.

- G. No-impact home based business, as defined herein.

200.3. Special Exception Uses (Subject to the procedures presented in Section 704.3. of this Ordinance).

- 1. Animal hospitals, veterinary facilities, and kennels (See Section 403);
- 2. Communication antennas, towers and equipment, only if co-located on a structure exceeding 65 feet existing on the effective date of this Ordinance (See Section 414);
- 3. Farm-occupation businesses (See Section 416);
- 4. Home occupations (See Section 418);
- 5. Retail sales of nursery and garden materials (See Section 427);
- 6. Rural occupations (See Section 428); and,
- 7. Two-family conversions (See Section 431).

200.4. Conditional Uses (Subject to the procedures presented in Section 804 of this Ordinance).

1. Bed and breakfasts (See Section 404);
2. Facilities for the warehousing, sales, repair, and service of agricultural equipment, vehicles, feed and/or supplies (See Section 415);
3. Intensive livestock operations (See Section 412);
4. Intensive produce operations (See Section 413);
5. Processing and wholesaling of farm products (See Section 423);
6. Natural resources research center, as defined herein (See Section 432).

200.5. Maximum Number of Permitted Lots and/or Principal Uses

1. For each Parent Tract, the total number of Principal Uses that may be established, whether through subdividing a lot or through establishing multiple principal uses on a single lot, shall be based on the following schedule:

Lot Area (Acres)		Total Number of Principal Uses Which May Be Established
At Least	Less Than	
1	21	1
21	41	2
41	61	3
61	81	4
81	101	5
101	121	6
121	141	7
141	161	8
161	181	9
181	201	10
201	221	11
221	241	12
241	261	13
261	281	14
281	301	15
301	321	16

2. The above schedule shall not apply to ECHO housing nor two-family conversions, unless new lots are created for such units;
3. Lot add-ons involving agricultural land in which no new lots are created shall not be counted against the number of lots permitted to be created in the schedule of Section 200.5.1.;
4. No subdivision shall be permitted which shall increase the lot size of a lot used for residential purposes in excess of the maximum lot size, except as set forth in Section 200.6. Any lot existing on December 29, 1988, which is two (2) or fewer acres in size, shall be presumed to be used for residential purposes and the size of such lot shall not be increased to more than two (2) acres;
5. A subdivision to create a lot which will be transferred to the Township, or

a municipal authority created by the Township, shall not be included when computing the permissible number of lots to be subdivided from a tract, as set forth in Section 200.5.1. above;

6. Any subdivision or land development plan hereafter filed shall specify which lot or lots shall carry a right of further subdivision or development as provided for in this Section 200.5.1. Such information shall also be included in the deed for any new lots. If this information is not included on a subdivision or land development plan, it shall be presumed that the largest lot remaining after the subdivision shall carry the right of further subdivision or land development under Section 200.5. of this Ordinance;
7. The number of lots which may be created, or principal uses which may be established, shall be fixed according to the size of the parent tract located within the Agricultural Conservation Zone.
8. In the event a tract of land which was not classified as part of the Agricultural-Conservation Zone on December 29, 1988, is hereafter classified as part of the Agricultural-Conservation Zone, the size and ownership of such tract shall be determined as of the effective date of the change in the zoning classification.
9. In reviewing a subdivision or land development plan within this Zone, the applicant must demonstrate that the proposed design of lots/uses will:
 - A. Minimize the loss of prime farmland and/or minimize the disruption of agricultural operations or natural settings.
 - B. Cluster residential lots on the subject property and, if applicable, with those lots contained on adjoining properties.
 - C. Minimize the length of property lines shared by all residential lots and adjoining farms or natural areas.
 - D. Assure adequate vehicular access to future residences not currently proposed.
 - E. Assure that the proposed plan can comply with the SLDO.
 - F. Make use of existing public sewer and/or public water facilities.
 - G. Minimize the clearing or cutting of mature trees and hedge rows.

Should the applicant fail to demonstrate compliance with the preceding objectives, the proposed plan shall be denied.

10. For each lot created in this Zone after the effective date of this Ordinance, the owner shall be required to include the language contained within Section 200.14. (Agricultural Nuisance Disclaimer) as a declaration to the recorded deed.

200.6. Minimum Lot Area Requirements

1. Agricultural, Horticultural and/or Forestry-Related Uses - Twenty (20) acres;
2. Single-Family, Detached Dwellings:
 - A. The lot area shall be a minimum of one (1) acre per dwelling;

- B. A maximum lot area of two (2) acres per dwelling shall also apply, except that such requirement shall not apply if the applicant can demonstrate by credible evidence that the area proposed for the dwelling lot (1) does not predominately consist of Class I, II and/or III soils, as identified in the soil survey, or (2) is generally unsuitable for agricultural purposes;
 - C. Where an applicant desires to subdivide an existing dwelling from the Parent Tract located within the Agricultural Conservation Zone, the applicant may opt to impose the maximum lot area requirements of this section upon such existing dwelling, rather than on a proposed dwelling located on the remainder of the parent tract; and,
 - D. The minimum lot area requirements imposed by this section assume compliance with all PA Department of Environmental Protection regulations pertaining to sewage disposal.
3. Other Permitted, Special Exception, or Conditional Uses - Unless otherwise specified, all other principal uses shall contain at least one (1) acre. Except as specifically stated, in no case shall any nonagricultural use contain more than five (5) acres.

200.7. Minimum Lot Width - Two hundred feet (200') at the minimum front yard setback line; one hundred fifty feet (150') at the lot frontage.

200.8. Minimum Lot Depth - Two hundred feet (200').

200.9. Minimum Setbacks and Maximum Height Requirements

- 1. Agricultural, Horticultural and Forestry Uses (other than farm dwellings):
 - A. Front yard setback - Fifty feet (50').
 - B. Side yard setback - Fifty feet (50') on each side (100 feet total).
 - C. Rear yard setback - Fifty feet (50').
 - D. Special setback requirements - Except as provided for in the following paragraph, no new slaughter area, structures for the cultivation of mushrooms, or the raising of livestock, or any building housing livestock, shall be permitted within three hundred feet (300') of any residentially-zoned land.

The Zoning Hearing Board may as a special exception, however, reduce the above special setback requirements where it is shown that, because of prevailing winds, unusual obstructions, topography, or other conditions, a lesser distance would protect adjoining lands from odor, dust or other hazards. In no case, however, shall the Zoning Hearing Board reduce the special setback requirement to less than one hundred feet (100'). The burden shall be upon the applicant to prove that a lesser distance would not be detrimental to the health, safety and general welfare of the community.

- E. Maximum permitted height - One hundred fifty feet (150'), provided all structures are set back a distance at least equal to their height from all property lines and subject to the requirements imposed by

the Airport Safety Zone (See Section 205).

2. Single-Family, Detached Dwellings (including farm dwellings):
 - A. Front yard setback - Fifty feet (50') from street line.
 - B. Side yard setbacks - Twenty-five feet (25') on each side (50 feet total).
 - C. Rear yard setback - Fifty feet (50').
 - D. Maximum permitted height - Thirty-five feet (35').
3. Other Permitted, Special Exception or Conditional Uses - Unless otherwise specified, the following requirements shall apply to all other principal uses permitted within the Agricultural-Conservation Zone:
 - A. Front yard setback - Fifty feet (50').
 - B. Side yard setbacks - Fifty feet (50') on each side (100 feet total).
 - C. Rear yard setback - Fifty feet (50').
 - D. Maximum permitted height - Thirty-five feet (35').
4. Residential Accessory Uses - Unless otherwise specified, the following requirements shall apply to accessory uses:
 - A. Front yard setback - No accessory use (except permitted signs) shall be located within the front yard.
 - B. Side yard setbacks - Ten feet (10') on each side (20 feet total).
 - C. Rear yard setback - Ten feet (10').
 - D. Maximum permitted height - Fifteen feet (15').

200.10. Maximum Lot Coverage

1. Agricultural, Horticultural and Forestry-Related Uses - Ten percent (10%), except that mushroom house and greenhouse operations may have lot coverages of twenty-five percent (25%) and fifty percent (50%), respectively.
2. Single-Family Dwellings - Twenty percent (20%).
3. Other Uses (unless otherwise specified) - Twenty percent (20%).

200.11. Required Conservation Plan - Any agricultural, horticultural or forestry-related uses which involve earthmoving activities, or the commercial harvesting or timbering of vegetation shall require the obtainment of an approved conservation plan by the Chester County Conservation District, pursuant to Chapter 102, Erosion Control of Title 25 Rules and Regulations, Department of Environmental Protection. All on-site activities shall then be in compliance with the approved conservation plan.

200.12. Driveways and Access Drives - All driveways serving single-family dwellings shall be in accordance with Section 309 of this Ordinance. All access drives serving other uses shall be in accordance with Section 310 of this Ordinance. All lanes exclusively serving agricultural, horticultural and/or forestry-related activities shall be exempt from driveway and access drive requirements.

200.13. All uses permitted within this Zone shall also comply with the General Provisions contained within Article 3 of this Ordinance.

200.14. Agricultural Nuisance Disclaimer - All lands within the Agricultural-Conservation Zone are located within an area where land is used for

commercial agricultural production. Owners, residents and other users of this property may be subjected to inconvenience, discomfort and the possibility of injury to property and health arising from normal and accepted agricultural practices and operations including, but not limited to, noise, odors, dust, the operation of machinery of any kind including aircraft, the storage and disposal of manure, the application of fertilizers, soil amendments, herbicides, and pesticides. Owners, residents and users of this property should be prepared to accept such inconveniences, discomfort and possibility of injury from normal agricultural operations, and are hereby put on official notice that Section 4 of the Pennsylvania Act 133 of 1982, "The Right to Farm Law" may bar them from obtaining a legal judgment against such normal agricultural operations.

1. The processing, spreading or storage of spent mushroom soil is not Agriculture or an Agricultural Operation except where used as a soil amendment that is spread on the land in quantities appropriate for improving the soil to grow crops on the property, and where utilized in accordance with a nutrient management plan or Mushroom Farm Environmental Management Plan approved by the Chester County Conservation District or the PADEP.

Section 201 Village Residential Zone (R-1)

201.1.

Purpose - This Zone is meant to accommodate suburban residential growth within the Township's villages. No public sewer and/or public water utilities are foreseeable within this Zone; therefore, minimum lot area



requirements have been sized to provide sufficient area to install on-site utilities. Additionally, the minimum lot size has been specified to allow the use of an initial on-site sewage disposal system, and an alternative system, should the initial system fail. Uses permitted within this Zone have been selected so to create a pleasant neighborhood setting. Specific zone locations acknowledge existing Villages where conditions are best suited for limited development.

201.2.

Permitted Uses

1. Agricultural uses, including one dwelling unit as a component of the principal use (excluding intensive livestock and intensive produce operations), and forestry uses, subject to the standards listed in Section 200 of this Ordinance;
2. Group homes;
3. Municipal services, parks and playgrounds;
4. Single-family, detached dwellings;
5. Accessory uses customarily incidental to the above permitted uses;
6. Forestry uses in accordance with Section 324 of this Ordinance; and,
7. No-impact home based business, as defined herein.

201.3.

Special Exception Uses

1. Home occupations (see Section 418); and,
2. Public and private schools (See Section 424).

201.4.

Lot Area Requirements - Unless otherwise specified, all uses within this Zone shall contain a minimum of one acre (43,560 square feet).

201.5.

Minimum Lot Width – One hundred twenty-five feet (125') at the minimum front yard setback line; ninety feet (90') at the lot frontage.

201.6.

Minimum Lot Depth - One hundred seventy-five feet (175').

201.7.

Minimum Setback Requirements

1. **Principal Buildings:**
 - A. **Front yard setback** - Twenty-five (25') from the street right-of-way line; however, where an adjacent building within one hundred feet (100') of a property is set back a lesser distance than required, the average of the lesser distances becomes the required minimum front setback for the property. However, in no case shall the setback line be less than ten (10) feet from any abutting street right-of-way line;

- B. Side yard setbacks - Twenty feet (20') on each side (40 feet total).
 - C. Rear yard setbacks - Fifty feet (50').
2. Residential Accessory Uses - Unless otherwise specified, the following requirements shall apply to all accessory structures:
- A. Front yard setback - No accessory structure (except fences, mail-boxes, driveways, and permitted signs) shall be located within the front yard;
 - B. Side yard setbacks - Six feet (6') on each side (12 feet total); and,
 - C. Rear Yard setback - Six feet (6').

201.8. Maximum Permitted Height

- 1. Principal Buildings and Structures - Thirty-five feet (35').
- 2. Accessory Buildings and Structures - Fifteen feet (15'), provided, however, that an accessory structure may be permitted to extend up to a maximum height of twenty-five feet (25'), if such structure is set back a horizontal distance from each side and rear lot line a distance equal to its height.

201.9. Maximum Lot Coverage - Unless otherwise specified, thirty-five percent (35%).

201.10. Driveways and Access Drives - All driveways serving single-family dwellings shall be in accordance with Section 309 of this Ordinance. All access drives serving other uses shall be in accordance with Section 310 of this Ordinance.

201.11. All uses permitted within this Zone shall also comply with the General Provisions contained in Article 3 of this Ordinance.

Section 202 Medium to High Density Residential Zone (R-2)

- 202.1. Purpose** - This Zone seeks to accommodate the higher density housing needs of the Township. A wide range of housing types are allowed with densities exceeding those permitted elsewhere in the Township. These increased densities are permitted only when the use of public sewer and/or public water utilities are assured. The location of this Zone is logically located where public sewer and water are already available with residual capacity to serve future growth.



202.2. Permitted Uses

1. Agricultural uses, including one dwelling unit as a component of the principal use (excluding intensive livestock and intensive produce operations), and forestry uses, subject to the standards listed in Section 200 of this Ordinance;
2. Single-family, detached dwellings;
3. Family day-care facilities, if located within a single-family, detached dwelling unit;
4. Group homes;
5. Parks and playgrounds;
6. Municipal services;
7. Accessory uses customarily incidental to the above permitted uses;
8. Forestry uses in accordance with Section 324 of this Ordinance; and,
9. No-impact home based business, as defined herein.

202.3. Special Exception Uses (Subject to the procedures presented in Section 704.3. of this Ordinance).

1. Churches and related uses (See Section 407);
2. Commercial day-care facilities (See Section 410);
3. Home occupations (See Section 418);
4. Nursing, rest and/or retirement homes (See Section 422); and,
5. Public and private schools (See Section 424).

202.4. Conditional Uses (Subject to the procedures presented in Section 804 of this Ordinance).

1. Boarding houses (See Section 405);
2. Cluster developments (See Section 409);
3. Commercial schools (See Section 411);
4. Medical residential campuses (See Section 420); and,
5. Mobile home parks (See Section 421).

202.5. Design Standards for Single-Family, Detached Dwellings and Other Permitted Uses - See following table:

Utilized Public Utilities	Minimum Lot Area	Minimum Lot Width ¹	Maximum Lot Coverage	Minimum Yard Setbacks ²			
				Front	Side	(Both)	Rear
None	43,560 sq. ft.	125 ft.	20%	50 ft.	20 ft.	(40 ft.)	50 ft.
Public Sewer	20,000 sq. ft.	125 ft.	25%	50 ft.	20 ft.	(40 ft.)	40 ft.
Public Water	35,000 sq. ft.	150 ft.	20%	50 ft.	20 ft.	(40 ft.)	45 ft.
Both Public Sewer and Public Water	12,500 sq. ft.	100 ft.	30%	50 ft.	15 ft.	(30 ft.)	35 ft.

¹Minimum lot width shall be measured at the building setback line; in no case shall a lot's width, as measured along its frontage, be less than seventy percent (70%) of that required at the building setback line. Lot widths required at the frontage shall be measured along a line paralleling the street line, even if it is curvilinear.

²All principal structures shall be setback at least fifty (50) feet from any adjoining land within the A-C Zone.

202.6. Minimum Setback Requirements for Accessory Uses – Unless otherwise specified, the following requirements shall apply to all accessory structures:

1. Accessory Structures:
 - A. Front yard setback – No accessory structure (except fences, mail-boxes, driveways, and permitted signs) shall be located within the front yard;
 - B. Side yard setbacks - Six feet (6') on each side (12 feet total); and,
 - C. Rear yard setback – Six feet (6').

202.7. Maximum Permitted Height

1. Principal Buildings and Structures - Thirty-five feet (35').
2. Accessory Buildings and Structures - Fifteen feet (15'), provided, however, that an accessory structure may be permitted to extend up to a maximum height of twenty-five feet (25'), if such structure is set back a horizontal distance from each side and rear lot line a distance equal to its height.

202.8. Driveways and Access Drives - All driveways serving single-family dwellings shall be in accordance with Section 309 of this Ordinance. All access drives serving other uses shall be in accordance with Section 310 of this Ordinance.

202.9. All uses permitted within this Zone shall also comply with the General Provisions contained in Article 3 of this Ordinance.

Section 203 Local Business Zone (B-1)

- 203.1. Purpose** - This Zone is intended to provide for the Township's commercial and industrial land use needs. Given the rural character of the Township, this Zone only provides for (as permitted uses) limited commercial and/or industrial uses that relate to the local retail, service and employment needs of the Township. Other larger and more intensive uses, while provided for, must obtain specific approval by special exception or conditional use. These intensive uses will need to demonstrate the need or demand for such facilities, as well as be conducted in a manner that is most compatible with the Township's rural atmosphere. Areas within this Zone have been deliberately located close to the Township's planned residential growth areas to minimize vehicular traffic congestion and conserve energy. This strategy also helps to preserve the outlying pastoral character of the Township.



- 203.2. Permitted Uses** - The following uses may be permitted by right, provided their individual site sizes do not exceed one (1) acre and no outdoor storage is permitted:
1. Agricultural uses, including one dwelling unit as a component of the principal use (excluding intensive livestock and intensive produce operations), and forestry uses, subject to the standards listed in Section 200 of this Ordinance;
 2. Forestry uses in accordance with Section 324 of this Ordinance.
 3. Group homes;
 4. Municipal services, parks and playgrounds;
 5. Restaurants (but not including drive-thru or fast-food restaurants or night-clubs and taverns);
 6. Single-family, detached dwellings;
 7. Collocation of communication towers and equipment that comply with the Pennsylvania Wireless Broadband Collocation Act, subject to all applicable requirements contained therein.
 8. Accessory uses customarily incidental to the above permitted uses; and,
 9. No-impact home based business, as defined herein.
- 203.3. Special Exception Uses** (Subject to the procedures presented in Section 704.3. of this Ordinance.)
1. Clubhouses (See Section 408);
 2. Communication antennas, towers and equipment (see Section 414).

3. Public utilities structures and uses (See Section 425);

203.4. Conditional Uses (Subject to the procedures presented in Section 804 of this Ordinance.)

1. Adult-related uses (See Section 401);

203.5. Minimum Lot Area, Lot Width and Maximum Lot Coverage Requirements - See following table:

Utilized Public Utilities	Minimum Lot Area	Minimum Lot Width	Maximum Lot Coverage
None	43,560 sq. ft.	200 ft.	25%
Public Sewer	20,000 sq. ft.	125 ft.	45%
Public Water	35,000 sq. ft.	150 ft.	35%
Both Public Sewer and Public Water	15,000 sq. ft.	100 ft.	55%

203.6. Minimum Setback Requirements (Principal and Accessory Uses)

1. Front yard setback - All buildings, structures (except permitted signs), and outdoor loading areas shall be set back at least thirty-five feet (35') from the street right-of-way; off-street parking lots and outdoor storage areas shall be set back a minimum of twenty feet (20') from the street right-of-way.
2. Side yard setback - All buildings and structures shall be set back at least twenty-five feet (25') from the side lot lines. Off-street parking lots, loading areas, and outdoor storage areas shall be set back at least fifteen feet (15') from the side lot lines, unless joint parking facilities are shared by adjoining uses. In such instances, one of the side yard setbacks can be waived solely for parking and/or loading facilities.
3. Rear yard setback - All buildings, structures, off-street parking lots, loading areas, and outdoor storage areas shall be set back at least twenty feet (20') from the rear lot line.
4. Residential buffer strip - Any lot adjoining land within a residential zone shall maintain a fifty foot (50') setback for nonresidential buildings, structures, off-street parking lots, loading areas, and outdoor storage areas from the residentially-zoned parcels. Such areas shall be used for a landscape strip.

203.7. Maximum Permitted Height - Thirty-five feet (35').

203.8. Off-Street Loading - Off-street loading shall be provided as specified in Section 312 of this Ordinance. In addition, no off-street loading area shall be permitted on any side of a building facing adjoining lands within a residential zone, nor any side of a building facing an adjoining street.

- 203.9. Off-Street Parking** - Off-street parking shall be provided as specified in Section 311 of this Ordinance.
- 203.10. Signs** - Signs shall be permitted as specified in Section 314 of this Ordinance.
- 203.11. Driveway and Access Drive Requirements** - All driveways serving single-family dwellings shall be in accordance with Section 309 of this Ordinance. All access drives serving other uses shall be in accordance with Section 310 of this Ordinance.
- 203.12. Screening** - A visual screen must be provided along any adjoining lands within a residential zone, regardless of whether or not the residentially-zoned parcel is developed. (See Section 313 of this Ordinance.)
- 203.13. Landscaping** - Any portion of the site not used for buildings, structures, parking compounds, loading areas, outdoor storage areas, and sidewalks shall be maintained with a vegetative ground cover and other ornamental plantings. (See Section 313 of this Ordinance.) A minimum fifteen foot (15') wide landscape strip shall be provided along all property lines. Such landscape strip can be waived for that portion of the site occupied by a joint parking lot shared by adjoining uses.
- 203.14. Waste Products** - Dumpsters may be permitted within the side or rear yard, provided such dumpsters are screened from any adjoining roads or properties. All dumpsters shall be set back a minimum of fifty feet (50') from any adjoining residentially-zoned properties. All waste receptacles shall be completely enclosed.
- 203.15.** All uses permitted within this Zone shall also comply with the General Provisions in Article 3 of this Ordinance.
- 203.16. Commercial and Industrial Operations Standards** - All commercial and industrial operations shall be in compliance with any Commonwealth of Pennsylvania and/or Federal government regulations, as required by the most recent regulations made available from these governmental bodies.

Section 204 Floodplain Zone (FP)

Section 204.1. Statutory Authorization

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Board of Supervisors of the Township of West Marlborough does hereby order as follows.



Section 204.2.A. General Provisions

Section 204.2.A. Intent - The intent of this Ordinance is to:

1. Promote the general health, welfare, and safety of the community.
2. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
3. Minimize danger to public health by protecting water supply and natural drainage.
4. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
5. Comply with federal and state floodplain management requirements.
6. Preserve the ecological health of our streams and waterways.

Section 204.2.B. Applicability - It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within identified floodplain areas of the Township of West Marlborough unless approved by the Floodplain Administrator.

Section 204.2.C. Abrogation and Greater Restrictions

This ordinance supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Ordinance, the more restrictive shall apply.

Section 204.2.D. Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

Section 204.2.E. Warning and Disclaimer of Liability

The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside any identified floodplain areas, or that land uses permitted within such areas will be free from flooding or flood damages.

This Ordinance shall not create liability on the part of the Township of West Marlborough or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

Section 204.3. Administration

Section 204.3.A. Designation of the Floodplain Administrator

The Township Zoning Officer is hereby appointed to administer and enforce this ordinance and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may: (A) Fulfill the duties and responsibilities set forth in these regulations, (B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or (C) Enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Chairman of the Board.

Section 204.3.B. Permits Required

A Permit shall be required before any construction or development is undertaken within identified floodplain areas of the Township of West Marlborough.

Section 204.3.C. Duties and Responsibilities of the Floodplain Administrator

1. The Floodplain Administrator shall issue a Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
2. Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania

Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.

3. In the case of existing structures, prior to the issuance of any Permit, the Floodplain Administrator shall review the proposed cost of improvements or repairs and the pre-improvement market value of the structure, so that a substantial improvement/substantial damage determination can be made, in accordance with FEMA's Substantial Improvement/Substantial Damage Desk Reference.
4. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.
5. In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this ordinance.
6. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the Permit and report such fact to the Board of Supervisors for whatever action it considers necessary.
7. The Floodplain Administrator shall maintain in perpetuity, or for the lifetime of the structure, all records associated with the requirements of this ordinance including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.
8. The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning community participation in the National Flood Insurance Program as requested.
9. The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in the floodplain ordinance as the floodplain administrator/manager.
10. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.

Section 204.3.D. Application Procedures and Requirements for Construction within the Floodplain

1. Application for such a Permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the Township of West Marlborough. Such application shall contain the following:

- a. Name and address of applicant.
 - b. Name and address of owner of land on which proposed construction is to occur.
 - c. Name and address of contractor.
 - d. Site location including address.
 - e. Listing of other permits required.
 - f. Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
 - g. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
2. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
 - a. all such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
 - b. all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
 - c. adequate drainage is provided so as to reduce exposure to flood hazards;
 - d. structures will be anchored to prevent floatation, collapse, or lateral movement;
 - e. building materials are flood-resistant;
 - f. appropriate practices that minimize flood damage have been used; and
 - g. electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
 3. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:
 - a. A completed Permit Application Form.
 - b. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 - i. north arrow, scale, and date;

- ii. topographic contour lines, if available;
 - iii. the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
 - iv. the location of all existing streets, drives, and other access ways; and
 - v. the location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
- c. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
 - i. the proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
 - ii. the elevation of the base flood;
 - iii. supplemental information as may be necessary under 34 PA Code, the 2009 IBC or the 2009 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.
- d. The following data and documentation:
 - i. detailed information concerning any proposed floodproofing measures and corresponding elevations.
 - ii. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.
 - iii. documentation, certified by a registered professional engineer or architect, to show that the effect of any proposed development within a Floodway Area (See section 204.4.B.1.) will not increase the base flood elevation at any point.
 - iv. documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area/District without floodway (See Section 204.4.B.2.) when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point within the community.
 - v. a document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood. Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.
 - vi. detailed information needed to determine compliance with Section

204.5.C.6., Storage, and Section 204.5.D., Development Which May Endanger Human Life, including:

- A. the amount, location and purpose of any materials or substances referred to in Sections 204.5.C.6. and 204.5.D. which are intended to be used, produced, stored or otherwise maintained on site.
 - B. a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 204.5.D. during a base flood.
- vii. the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
 - viii. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.
4. Applications for Permits shall be accompanied by a fee as per the Township's schedule, payable to the municipality based upon the estimated cost of the proposed construction as determined by the Floodplain Administrator.

Section 204.3.E. Review of Application by Others

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Floodplain Administrator to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, etc.) for review and comment.

Section 204.3.F. Changes

After the issuance of a Permit by the Floodplain Administrator, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Floodplain Administrator. Requests for any such change shall be in writing, and shall be submitted by the applicant to Floodplain Administrator for consideration.

Section 204.3.G. Placards

In addition to the Permit, the Floodplain Administrator shall issue a placard, or similar document, which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the Permit, the date of its issuance, and be signed by the Floodplain Administrator.

Section 204.3.H. Start of Construction

Work on the proposed construction or development shall begin within 180 days after the date of issuance of the development permit. Work shall also be completed within twelve (12) months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. The issuance of development permit does not refer to the zoning approval.

The actual start of construction means either the first placement of permanent construction of

a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first, alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Time extensions shall be granted only if a written request is submitted by the applicant, who sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request and the original permit is compliant with the ordinance & FIRM/FIS (Flood Insurance Rate Map/Flood Insurance Study) in effect at the time the extension is granted.

Section 204.3.I. Enforcement

1. Notices

Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Ordinance, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

- a. be in writing;
- b. include a statement of the reasons for its issuance;
- c. allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires;
- d. be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State;
- e. contain an outline of remedial actions which, if taken, will effect compliance with the provisions of this Ordinance.

2. Penalties

Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or who fails or refuses to comply with any notice, order of direction of the Floodplain Administrator or any other authorized employee of the municipality shall be guilty of an infraction and upon conviction shall pay a fine to Township of West Marlborough, of not less than Twenty-five Dollars (\$25.00) nor more than Six Hundred Dollars (\$600.00) plus costs of prosecution. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with this Ordinance shall not excuse the violation or noncompliance

or permit it to continue. All such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Ordinance may be declared by the Board of Supervisors to be a public nuisance and abatable as such.

Section 204.3.J. Appeals

1. Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this Ordinance, may appeal to the Zoning Hearing Board. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Floodplain Administrator.
2. Upon receipt of such appeal the Zoning Hearing Board shall consider the appeal in accordance with the Municipalities Planning Code and any other local ordinance.
3. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief therefrom by appeal to court, as provided by the laws of this State including the Pennsylvania Flood Plain Management Act.

Section 204.4. Identification Of Floodplain Areas

Section 204.4.A. Identification

The identified floodplain area shall be:

1. any areas of Township of West Marlborough, classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated September 29, 2017 and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study and,
2. any Community Identified Flood Hazard Areas.

The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Township of West Marlborough and declared to be a part of this ordinance.

Section 204.4.B. Description and Special Requirements of Identified Floodplain Areas

The identified floodplain area shall consist of the following specific areas:

1. The Floodway Area shall be those areas identified in the FIS and the FIRM as floodway and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those Special Flood Hazard Areas where no floodway has been identified in the FIS and FIRM.
 - a. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

- b. Within any floodway area, no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
2. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.
 - a. The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a floodway has been delineated.
 - b. AE Area without floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined.
 - i. No encroachments, including fill, new construction, substantial improvements, or other development shall be permitted in an AE Zone without floodway, unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed development together with all other existing and anticipated development, would not result in an increase in flood levels of more than one foot within the entire community during the occurrence of the base flood discharge.
 - ii. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
3. The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable sources shall be used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.
4. The AO and AH Area/ District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1-percent-annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.
5. Community Identified Flood Hazard Areas shall be those areas where Township of West Marlborough has identified local flood hazard or ponding areas, as delineated and adopted on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high water marks, or approximate study methodologies. This also includes alluvial soils as indicated by the United States Department of Agriculture's Soil Conservation Service in maps and data comprising the latest version of the *Soil Survey of Chester County, Pennsylvania*. These soils include the following:

Ch - Chewacla silt loam
Cn - Congaree silt loam
LaA - Lawrence silt loam
LaB - Lawrence silt loam
Mn - Melvin silt loam
We - Wehadkee silt loam

A map showing these alluvial soils is available for inspection from the Township Secretary. This Zone makes no distinction among types of floodplain lands because of the restrictive nature of the permitted uses and activities. Where the above-described sources of information do not provide precise locations and elevations of floodplains for the purposes of this Zone, other sources can be used to identify such information as follows:

- a. Corps of Engineers - Floodplain Information Reports
 - b. U.S. Geological Study - Flood-prone Quadrangles
 - c. U.S.D.A., Soil Conservation Service - P.L. 566 Flood Information
 - d. The Pennsylvania Department of Environmental Protection - Flood Control Investigations
 - e. Known Highwater Marks from Past Floods
6. In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the municipality. In the absence of any of the above data or documentation, the community may require elevation of the lowest floor to be at least three feet above the highest adjacent grade.

Section 204.4.C. Changes in Identification of Area

The Identified Floodplain Area may be revised or modified by the Board of Supervisors where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the Special Flood Hazard Area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data. See 204.5.A (2) for situations where FEMA notification is required.

Section 204.4.D. Boundary Disputes

Should a dispute concerning the location of the Floodplain Zone arise, the initial determination of the Zoning Officer may be appealed to the Zoning Hearing Board. The burden of proof in such an appeal shall be on the party appealing the Zoning Officer's interpretation. The appellant shall pay all costs associated with the hearing. The areas contained within the Floodplain Zone may be revised or modified where studies or information provided by a qualified agency or person documents the need for or possibility of such revision. No modification or revision of any Floodplain Zone identified in the Flood Insurance Study shall be made without prior approval from the Federal Emergency Management Agency, or any successor agency.

Section 204.4.E. Jurisdictional Boundary Changes

Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the community shall review flood hazard data affecting the lands subject to boundary changes. The community shall adopt and enforce floodplain regulations in areas subject to annexation or corporate boundary changes which meet or exceed those in CFR 44 60.3 (Code of Federal Regulations Title 44 – Emergency Management and Assistance).

Section 204.5. Technical Provisions

Section 204.5.A. General

1. Alteration or Relocation of Watercourse

- a. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have first been obtained from the Department of Environmental Protection Regional Office.
- b. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.
- c. In addition, FEMA and the Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.

2. When Township of West Marlborough proposes to permit the following encroachments:

- any development that causes a rise in the base flood elevations within the floodway; or
- any development occurring in Zones A1-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or
- alteration or relocation of a stream (including but not limited to installing culverts and bridges)

the applicant shall (as per 44 CFR Part 65.12):

- a. apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.
- b. Upon receipt of the FEMA Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and / or revised floodway reflecting the post-project condition.
- c. Upon completion of the proposed encroachments, the applicant shall provide

as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.

3. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Ordinance and any other applicable codes, ordinances and regulations.
4. Permitted Uses:
 - a. Agricultural uses, excluding any structures;
 - b. Public and private parks and recreation areas, excluding swimming pools, campsites and any structures; however, picnic tables, park benches, fireplaces, grills, and playground equipment shall be permitted, if anchored to prevent flotation;
 - c. Activities related to the preservation and conservation of natural resources and amenities, excluding any structures;
 - d. Stream improvements, fish and farm ponds, dams, or stream relocations, as approved by the Pennsylvania Department of Environmental Protection;
 - e. Sedimentation and erosion control measures and facilities;
 - f. Yards, open space areas and nonstructural accessory uses permitted in the underlying Zone;
 - g. Fences;
 - h. Grading and filling, or any other development which will not increase the base flood elevation; and,
 - i. Public utilities (except buildings) under the exclusive jurisdiction of the Pennsylvania Utility Commission, subject to the provisions of Section 204.5.C..
5. Special Exception Uses (See Sections 204.8. and 704.3. of this Ordinance)
 - a. Public utilities (except buildings) not under the exclusive jurisdiction of the Pennsylvania Public Utility Commission.
 - b. Water-oriented uses and structures, fish hatcheries and water-monitoring devices;
 - c. Culverts, bridges and the approaches to such culverts and bridges, as approved by the Pennsylvania Department of Environmental Protection;
 - d. Permeable parking lots, loading areas, driveways and any other permeably-paved, at-grade surface; and,
 - e. Floodproofing and flood hazard reduction structures for nonconforming uses and structures.

Section 204.5.B. Elevation and Floodproofing Requirements

Within any Identified Floodplain Area any new construction or substantial improvements with the exception of 204.5.A.4. and 204.5.A.5. above, shall be prohibited. If a variance is

obtained for new construction or substantial improvements in the Identified Floodplain Area in accordance with the criteria in Section 204.8.C., then the following provisions apply:

1. Residential Structures

- a. In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation.
- b. In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation determined in accordance with Section 204.4.B.3. of this Ordinance.
- c. In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.
- d. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the latest edition thereof adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

2. Non-residential Structures

- a. In AE, A1-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation, or be designed and constructed so that the space enclosed below the Regulatory Flood Elevation:
 - i. is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and,
 - ii. has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:
- b. In A Zones, where no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the Regulatory Flood Elevation determined in accordance with Section 204.4.B.3. of this ordinance.
- c. In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.
- d. Any non-residential structure, or part thereof, made watertight below the Regulatory Flood Elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent

standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards. There should be a statement submitted with the permit application and a statement submitted with the as-built Floodproofing Certificate prior to the issuance of the Certificate of Occupancy.

- e. Any non-residential structure that will be floodproofed must submit the following to the Floodplain Administrator along with the non-residential Floodproofing Certificate and prior to the issuance of the Certificate of Occupancy:
 - i. An Inspection and Maintenance Plan detailing the annual maintenance of floodproofed components ensuring that all components will operate properly under flood conditions. Components that must be inspected include at a minimum:
 - A. Mechanical equipment such as sump pumps and generators,
 - B. Flood shields and closures,
 - C. Walls and wall penetrations, and
 - D. Levees and berms (as applicable)
 - ii. Flood Emergency Operation Plan detailing the procedures to be followed during a flooding event, and must include information pertaining to how all components will operate properly under all conditions, including power failures. The design professional must produce the plan. An adequate plan must include the following:
 - A. An established chain of command and responsibility with leadership responsibilities clearly defined for all aspects of the plan.
 - B. A procedure for notification of necessary parties when flooding threatens and flood warnings are issued. Personnel required to be at the building should have a planned and safe means of ingress and should have no other emergency response duties during a flood event. Alternates should be assigned in the event that the primary persons responsible are unable to complete their assigned duties under the plan.
 - C. A list of specific duties assigned to ensure that all responsibilities are addressed expeditiously. The locations of materials necessary to properly install all floodproofing components must be included in the list.
 - D. An evacuation plan for all personnel or occupants; those without duties for the flood emergency as well as those with duties for implementing the plan. All possible ingress and egress routes must be identified.

- E. A periodic training and exercise program to keep personnel and occupants aware of their duties and responsibilities. Training drills should be held at least once a year and should be coordinated with community officials.
 - f. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the latest revision thereof as adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.
- 3. Space below the lowest floor
 - a. Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.
 - b. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - i. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space installed on two (2) separate walls
 - ii. the bottom of all openings shall be no higher than one (1) foot above grade.
 - iii. openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. Historic Structures

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this ordinance, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

5. Accessory structures

Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:

- a. the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.

- b. floor area shall not exceed 600 square feet.
- c. The structure will have a low damage potential.
- d. the structure will be located on the site so as to cause the least obstruction to the flow of flood waters.
- e. power lines, wiring, and outlets will be elevated to the Regulatory Flood Elevation.
- f. permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
- g. sanitary facilities are prohibited.
- h. the structure shall be adequately anchored to prevent flotation, collapse, and lateral movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - i. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 - ii. the bottom of all openings shall be no higher than one (1) foot above grade.
 - iii. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
- i. If a variance is granted, a signed Declaration of Land Restriction (Nonconversion Agreement) shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.
- j. Prohibit the storage of Hazardous Materials in accessory structures.

Section 204.5.C. Design and Construction Standards

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

1. Fill

Within any Identified Floodplain Area the use of fill shall be prohibited. If a variance is obtained in accordance with the criteria in Section 204.8.C. of this Ordinance, then the following provisions apply:

- a. If fill is used, it shall:
 - i. extend laterally at least fifteen (15) feet beyond the building line from all points;

- ii. consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
- iii. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
- iv. be no steeper than one (1) vertical to two (2) horizontal feet unless substantiated data justifying steeper slopes are submitted to, and approved by the Floodplain Administrator; and
- v. be used to the extent to which it does not adversely affect adjacent properties.

2. Drainage Facilities

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall ensure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

3. Water and Sanitary Sewer Facilities and Systems

- a. All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
- b. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
- c. No part of any on-site waste disposal system shall be located within any identified floodplain area.
- d. The design and construction provisions of the UCC and FEMA #348, "Protecting Building Utilities From Flood Damages" and "The International Private Sewage Disposal Code" shall be utilized.

4. Other Utilities

All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

5. Streets

The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.

6. Storage

All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 204.5.D., Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation or floodproofed to the maximum extent possible.

7. Placement of Buildings and Structures

All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

8. Anchoring

- a. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
- b. All air ducts, large pipes, storage tanks, and other similar objects or components located below the Regulatory Flood Elevation shall be securely anchored or affixed to prevent flotation.

9. Floors, Walls and Ceilings

- a. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
- b. Plywood used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
- c. Walls and ceilings at or below the Regulatory Flood Elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.
- d. Windows, doors, and other components at or below the Regulatory Flood Elevation shall be made of metal or other "water-resistant" material.

10. Paints and Adhesives

- a. Paints and other finishes used at or below the Regulatory Flood Elevation shall be of "marine" or "water-resistant" quality.
- b. Adhesives used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
- c. All wooden components (doors, trim, cabinets, etc.) used at or below the Regulatory Flood Elevation shall be finished with a "marine" or "water-resistant" paint or other finishing material.

11. Electrical Components

- a. Electrical distribution panels shall be at least three (3) feet above the base flood elevation.
- b. Separate electrical circuits shall serve lower levels and shall be dropped from above.

12. Equipment

- a. Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation and shall be anchored to resist floatation, collapse, and lateral movement
- b. Ductwork shall be elevated to or above the Regulatory Flood Elevation or floodproofed to remain water resistant.

13. Fuel Supply Systems

All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

14. Uniform Construction Code Coordination

The Standards and Specifications contained in 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and sub-sections of this ordinance, to the extent that they are more restrictive and supplement the requirements of this ordinance.

International Building Code (IBC) 2009 or the latest revision thereof as adopted by the Commonwealth of Pennsylvania:

Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

International Residential Building Code (IRC) 2009 or the latest revision thereof as adopted by the Commonwealth of Pennsylvania:

Secs. R104, R105, R109, R322, Appendix E, and Appendix J.

Section 204.5.D. Development Which May Endanger Human Life

Within any Identified Floodplain Area, any structure of the kind described in Section 204.5.D.1., below, shall be prohibited. No variance shall be granted.

1. In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:
 - a. will be used for the production or storage of any of the following dangerous materials or substances; or,
 - b. will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,
 - c. will involve the production, storage, or use of any amount of radioactive substances;

shall be prohibited. The following list of materials and substances are considered dangerous to human life:

- Acetone
- Ammonia

- Benzene
- Calcium carbide
- Carbon disulfide
- Celluloid
- Chlorine
- Hydrochloric acid
- Hydrocyanic acid
- Magnesium
- Nitric acid and oxides of nitrogen
- Petroleum products (gasoline, fuel oil, etc.)
- Phosphorus
- Potassium
- Sodium
- Sulphur and sulphur products
- Pesticides (including insecticides, fungicides, and rodenticides)
- Radioactive substances, insofar as such substances are not otherwise regulated.

Section 204.5.E. Special Requirements for Subdivisions and Development

All subdivision proposals and development proposals containing at least 10 lots or at least 2 acres, whichever is the lesser, in Identified Floodplain Areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision (CLOMR) and Letter of Map Revision (LOMR). Submittal requirements and processing fees shall be the responsibility of the applicant.

Section 204.5.F. Special Requirements for Manufactured Homes

Within any Identified Floodplain Area new manufactured homes shall be prohibited. No variance shall be granted.

Section 204.5.G. Special Requirements for Recreational Vehicles

Within any Identified Floodplain Area recreational vehicles shall be prohibited. If a variance is obtained in accordance with the criteria in Article VIII, then the following provisions apply:

1. Recreational vehicles in Zones A, A1-30, AH and AE must:
 - a. be on the site for fewer than 180 consecutive days, and
 - b. be fully licensed and ready for highway use.

Section 204.6. Prohibited Activities

Section 204.6.A. General

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any Identified Floodplain Area:

1. The commencement of any of the following activities; or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:
 - a. Hospitals
 - b. Nursing homes
 - c. Jails or prisons
 - d. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.
 - e. Sanitary landfills and junkyards;
 - f. Stripping of topsoil, exclusive of the process of grading a lot preparatory to the construction of structures for which a zoning permit has been issued;
 - g. On-site sewage disposal systems;
 - h. Swimming pools;
 - i. Cemeteries;
 - j. Feedlots;
 - k. Wild, domestic or farm animal enclosures which will not allow all animals to escape floodwaters without human intervention;
 - l. Any materials that are buoyant, flammable, explosive, or in times of flooding could be injurious to human, animal or plant life;
 - m. Cutting or removal of living trees or other flora except where the area is devoted to commercial forestry or nursery use, in which case cutting or removal shall be on a selective basis and with sound reforestation or replanting measures practiced. However, the normal maintenance and mowing of pasture, and the control or removal of noxious weeds shall be permitted;
 - n. Sod farming; and,
 - o. Encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway that would result in any increase in flood levels during the occurrence of the base flood discharge.
 - p. Any use not expressly permitted within Sections 204.5.A.4., 204.5.A.5., 204.7. and 204.8.C. of this Ordinance.

Section 204.7. Existing Structures In Identified Floodplain Areas

Section 204.7.A. Existing Structures

The provisions of this Ordinance do not require any changes or improvements to be made to

lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section 204.7.B. shall apply.

Section 204.7.B. Improvements

The following provisions shall apply whenever any improvement is made to an existing structure located within any Identified Floodplain Area:

1. Continuation - All uses or structures lawfully existing in the Floodplain Zone on the effective date of this Ordinance which are not in conformity with the provisions of this section shall be deemed nonconforming uses or structures. Such nonconforming uses or structures may be continued, maintained, repaired, and floodproofed, except as otherwise provided for in this section.

However, such nonconforming uses or structures may at any time be improved to comply with existing Pennsylvania or Township health, sanitary, or safety code specifications which are necessary solely to assure safe living conditions.

2. Abandonment - Nonconforming uses or structures which have been discontinued or vacated for twelve consecutive months shall be considered abandoned. Vacation of land or structures or the nonoperative status of the use normally carried on by the property shall be evidence of discontinuance. The Board of Township Supervisors may require the removal of any abandoned nonconforming use or structure upon proper notice to the owner of the property on which an abandoned nonconforming use or structure exists. If the owner has not completely removed the abandoned use or structure within a reasonable amount of time, not to exceed nine (9) months, the Board of Township Supervisors shall have the authority to itself cause the removal to be accomplished, the costs of such removal to be paid by the property owner.
3. Expansion and Modification - A nonconforming use or structure may not be expanded or modified in any manner which would increase or aggravate flooding or flood hazards. Nothing shall be done which would otherwise violate any of the provisions of this section. No nonconforming use or structure shall be expanded, enlarged, or altered in any way which increases its nonconformity with respect to height, area, yard, and other requirements established in Section 204.5.C. and other sections of this Zoning Ordinance, nor in any way which causes it to occupy more space within the Floodplain Zone than was occupied by it on the effective date of this section.
4. Replacement and Rebuilding:
 - a. A nonconforming use or structure may be replaced, repaired, or rebuilt to the extent of less than fifty percent (50%) of its fair market value. In such a case, however, the nonconformity of the new use or structure with respect to requirements, as expressed in provisions of Section 204.5.C. of this Ordinance, shall not exceed that of the original use or structure which was damaged or destroyed. Nothing shall be done which would otherwise violate any of the provisions of this section.
 - b. No nonconforming use or structure located within the Floodplain Zone shall be substantially improved (as defined herein). No nonconforming use or structure which has been damaged or destroyed by any means, including floods, to the extent of fifty percent (50%) or more of its fair market value at the time of its damage or destruction, may be replaced, restored, repaired, reconstructed, improved, or rebuilt except in complete compliance with the

provisions of this section, and other sections of this Zoning Ordinance, and all other ordinances of West Marlborough Township.

- c. The Zoning Hearing Board may waive, as a variance, the requirements of the preceding paragraph where it is shown that such requirements could not be met on land owned by the appellant or where such requirements would impose undue hardship to the appellant in the efficient operation of the premises. In such a case, the Zoning Hearing Board shall be authorized to grant only the minimum relief necessary, and the least modification possible of the purposes and intents of this section.
 - d. The Zoning Officer shall have the initial responsibility of determining the percent of damage or destruction and the fair market value of the damaged or destroyed use or structure at the time of its damage or destruction, and may call on any experts or authorities he may deem necessary to assist him in arriving at a fair and impartial determination. Appeals of the decision of the Zoning Officer may be made to the Zoning Hearing Board.
- 5. No expansion or enlargement of an existing structure shall be allowed within any Floodway Area/District that would cause any increase in BFE.
 - 6. No expansion or enlargement of an existing structure shall be allowed within AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
 - 7. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.
 - 8. The above activity shall also address the requirements of the 34 PA Code, as amended and the 2009 IBC and the 2009 IRC or most recent revision thereof as adopted by the Commonwealth of Pennsylvania.
 - 9. Within any Floodway Area/District (See Section 204.4.B.1.), no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office
 - 10. Within any AE Area/District without Floodway (See Section 204.4.B.2.), no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.

Section 204.8. Special Exceptions And Variances

Section 204.8.A. General

If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a prospective builder, developer or landowner, the Township of West Marlborough Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements.

Section 204.8.B. Standards and Criteria for Special Exceptions

1. In addition to the provisions of Section 704.3 of this Ordinance, in hearing and deciding upon special exceptions to be granted or denied in the Floodplain Zone, the Zoning Hearing Board shall also determine that the following standards and criteria have been complied with:
 - a. That danger to life and property due to increased flood heights, velocities, or frequencies caused by encroachments is minimized;
 - b. That the danger that floodwaters or materials may be swept onto other lands or downstream to cause injury to others is minimized;
 - c. That a possibility of disease, contamination and unsanitary conditions is minimized, and especially that any proposed water supply or sanitation systems are able to prevent these problems;
 - d. That the susceptibility of the proposed facility and its contents to flood damage, the effect of such damage on the individual owners, and the need for an effect of floodproofing, are minimized;
 - e. That the proposed facility and its services are important to the community;
 - f. That the proposed facility needs a waterfront or floodplain location;
 - g. That there are no available alternate locations not subject to flooding for the proposed use;
 - h. That the proposed use is compatible with existing and anticipated development;
 - i. That the proposed use is consistent with any floodplain management program for the area;
 - j. That safe access to the property in times of flooding for ordinary and emergency vehicles is assured;
 - k. That the proposed activity will not unduly alter natural water flow or water temperature;
 - l. That the danger, damage, and injury to all adjoining properties on both sides of any watercourse, regardless of municipality, is minimized. In this regard, any proposal affecting an adjacent municipality shall be submitted to that municipality's planning commission and governing body for review and comment. The applicant shall be responsible for obtaining review and comment from any adjacent municipality as part of his/her submission; and,
 - m. That the granting of the special exception will not result in any of the following:
 - i. Increases in flood heights.
 - ii. Additional threats to public safety.
 - iii. Extraordinary public expense.
 - iv. Creation of nuisances.

- v. Fraud or victimization of the public.
- vi. Conflict with local laws or ordinances.

Section 204.8.C. Variance Procedures and Conditions

1. Variances from the provisions of this section are discouraged. Where, however, a variance is essential, the following requirements of the National Flood Insurance Program must be complied with in addition to all other variance provisions of this Zoning Ordinance, and the Pennsylvania Municipalities Planning Code, Act 247 of 1968 as amended. In all variance proceedings, the burden of proof shall be on the applicant.
 - a. No variance shall be granted for any development, structure, use, or activity within the floodway which would cause any increase in flood levels during the base flood as defined in this Ordinance
 - b. No variance shall be granted for any of those prohibited uses listed in Section 204.5 and 204.6. of this Ordinance;
 - c. Variances shall only be granted upon:
 - i. A showing of good and sufficient cause.
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant.
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause victimization of the public, or conflict with any other applicable laws, ordinances, or regulations.
 - iv. A determination that the granting of a variance will not jeopardize West Marlborough Township's participation in the National Flood Insurance Program.
 - d. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
 - e. Whenever a variance is granted, the Board shall notify the applicant in writing that:
 - i. The granting of the variance may result in increased premium rates for flood insurance.
 - ii. Such variances may increase the risks to life and property.
 - f. A complete record of all variance requests and actions, including justifications for granted variances, shall be maintained by the Board. In addition, a report of all approved variances within the Floodplain Zone shall be transmitted by the Zoning Hearing Board to the Board of Supervisors. The Supervisors shall include the same in its annual report to the Federal Emergency Management

Agency;

- g. In considering whether the variance, if granted, would be injurious to the public health, safety, or welfare, the Board shall consider the following factors:
 - i. The danger to life and property due to increased flood heights or velocities which may result from encroachments;
 - ii. The danger that materials may be swept onto other lands or downstream to the injury of others;
 - iii. The proposed water supply and sanitation systems which may be involved and the ability of these systems to avoid causing illness, disease, contamination, and unsanitary conditions;
 - iv. The susceptibility of the proposed use to flood damage and the probable effect of such damage on the owner or occupier;
 - v. The importance of the proposed use to the community;
 - vi. The availability for the proposed use of alternative locations not subject to flooding;
 - vii. The compatibility of the proposed use with existing and foreseeable nearby uses;
 - viii. The relationship of the proposed use to the comprehensive plan;
 - ix. The safety of access to the property for ordinary and emergency vehicles in times of flood;
 - x. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters anticipated at the site;
 - xi. Such other factors as are relevant to the purpose of this section; and,
 - xii. The impact the proposed use could have upon lands in adjacent and/or downstream municipalities. Applicants are responsible for obtaining review and comments from such municipalities.
- h. All structures permitted by variance in a floodplain shall be designed and constructed so as to have the capability of resisting the one hundred (100) year flood as defined herein, by appropriate floodproofing and construction methods which will be described in the application for variance; and,
- i. Structures permitted by variance in the Floodplain Zone shall have the lowest floor, including basement, elevated to the Regulatory Flood Elevation. Nonresidential structures may be permitted below the Regulatory Flood Elevation, provided that the space enclosed by such structure shall remain either completely or essentially dry during any flood up to that height. Full and partial enclosures below the lowest floor (including basement) shall be prohibited. All structures allowed via variance shall be anchored to prevent flotation, collapse, or lateral movement. A registered professional engineer or architect shall certify that the structure has been designed to withstand the one hundred (100) year flood elevations, pressures, velocities, impact, and

uplift forces associated with the one hundred (100) year flood.

- j. In any case where the Board shall grant a variance to permit the erection of a structure in any Floodplain Zone, or shall grant permission to substitute one (1) nonconforming use for another in a structure already existing in any Floodplain Zone, and in either such case, it shall appear that the premises so affected are to be offered for sale or lease, the Board shall, for the protection of prospective purchasers and lessees, impose the following conditions:
 - i. Require the applicant to advise prospective purchasers and/or lessees that the lot is located either entirely or partially, as the case may be, in the Floodplain Zone;
 - ii. Require that, before settlement or change in nonconforming use, as the case may be, may take place, the purchaser or lessee shall signify in writing that he or she has been advised that the premises lie partially or entirely in the Floodplain Zone, a signed copy of which signification shall be delivered to and retained by the Township Zoning Officer; and,
 - iii. Where the premises are to be conveyed, the deed shall contain the following provision: "This lot is entirely (or partially) within a floodplain area as defined by the Floodplain Zone section of the Zoning Ordinance of West Marlborough Township, Chester County, Pennsylvania."

Section 204.9. Definitions

Section 204.9.A. General

Terms defined below shall be used solely for the purposes of administering the requirements contained within Section 204 of this Ordinance. Unless specifically defined below, words and phrases used in this Section 204 shall be interpreted so as to give this Ordinance its' most reasonable application.

Section 204.9.B. Specific Definitions

1. Accessory use or structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
2. Base flood - a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "base flood" or one-percent (1%) annual chance flood).
3. Base flood discharge - the volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).
4. Base flood elevation (BFE) - the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.
5. Basement - any area of the building having its floor below ground level on all sides.

6. Building - a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.
7. Declaration of Land Restriction (Non-Conversion Agreement) - A form signed by the property owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these regulations, certain enclosures below the lowest floor of elevated buildings and certain accessory structures. The form requires the owner to record it on the property deed to inform future owners of the restrictions.
8. Development - any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.
9. Existing manufactured home park or subdivision – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
10. Expansion to an existing manufactured home park or subdivision – the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
11. Flood - a temporary inundation of normally dry land areas.
12. Flood Insurance Rate Map (FIRM) - the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
13. Flood Insurance Study (FIS) - the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.
14. Floodplain area - a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.
15. Floodproofing - any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
16. Floodway - the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
17. Highest Adjacent Grade - The highest natural elevation of the ground surface prior to

construction next to the proposed walls of a structure.

18. Historic structures – any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:
 - i. By an approved state program as determined by the Secretary of the Interior or
 - ii. Directly by the Secretary of the Interior in states without approved programs.

19. Identified Floodplain Area- this term is an umbrella term that includes all of the areas within which the community has selected to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and Flood Insurance Study, but may include additional areas identified by the community. See Sections 204.16. and 204.17. for the specifics on what areas the community has included in the Identified Floodplain Area.

20. Lowest floor - the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this ordinance.

21. Manufactured home - a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

22. Manufactured home park or subdivision – a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

23. New construction - structures for which the start of construction commenced on or after the effective start date of this floodplain management ordinance and includes any subsequent improvements to such structures. Any construction started after January 18, 1984 and before the effective start date of this floodplain management

ordinance is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

24. New manufactured home park or subdivision – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
25. Person - an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.
26. Post-FIRM Structure - is a structure for which construction or substantial improvement occurred after December 31, 1974 or on or after the community's initial Flood Insurance Rate Map (FIRM) dated January 18, 1984, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.
27. Pre-FIRM Structure - is a structure for which construction or substantial improvement occurred on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map (FIRM) dated January 18, 1984, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.
28. Recreational vehicle - a vehicle which is:
 - a. built on a single chassis;
 - b. not more than 400 square feet, measured at the largest horizontal projections;
 - c. designed to be self-propelled or permanently towable by a light-duty truck,
 - d. not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
29. Regulatory Flood Elevation - the base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of one and one-half (1 ½) feet. The freeboard safety factor also applies to utilities and ductwork.
30. Special flood hazard area (SFHA) - means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.
31. Start of construction - includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within twelve (12) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a

manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

32. Structure – a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
33. Subdivision - the division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.
34. Substantial damage - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent or more of the market value of the structure before the damage occurred.
35. Substantial improvement - any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
36. Uniform Construction Code (UCC) – The statewide building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.
37. Variance- A grant of relief by a community from the terms of a floodplain management regulation contained within this Zoning Ordinance.
38. Violation - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Section 205 **Airport Safety Zone (A)**

205.1. Purpose

1. The Pennsylvania State Aviation Code and Federal Aviation Regulation No. 77 require the limitation of building and structural height and the use of land within “airport hazard areas.”
2. Areas contained within West Marlborough Township have been identified as being within the “airport hazard area” for the New Garden Flying Field in Toughkenamon, New Garden Township, Chester County, Pennsylvania, thereby requiring special restrictions.
3. These restrictions are aimed at preventing the erection of structures and/or the growth of vegetation, to a height that would interfere with, or obstruct normal airplane approaches or airport operations. Such interference or obstruction could pose a threat to the health, safety, welfare, and convenience of residents of the Township, as well as those persons aboard airport aircraft.
4. Additional restrictions on land use are necessary to prevent development that might interfere with normal airport operations and activities.
5. The prevention of these obstructions and incompatible land uses should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.
6. The Airport Safety Zone is used to impose restrictions as an overlay zoning district, thereby enhancing public safety, and minimizing disruption of existing zoning policies.



205.2. Lands in Zone Defined - The Airport Safety Zone includes those areas as being identified as part of the “airport hazard area” for the New Garden Flying Field, as identified by the Pennsylvania State Aviation Code and Federal Aviation Regulation No. 77. These areas have been plotted on the Official Zoning Map.

205.3. Relationship to Other Articles - The Airport Safety Zone represents an overlay zoning district. The underlying zoning district shall prescribe all other zoning-related standards and uses which shall be imposed upon any lands within the Township. In those instances where the Airport Safety Zone prescribes standards different than those imposed by the underlying zoning district, the most restrictive standard shall apply.

205.4. Airport Safety - Except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in the Airport Safety Zone to a height in excess of five hundred seventy feet (570') above the mean sea level elevation.

205.5. Airport Safety Zone Use Restrictions

1. Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within the Airport Safety Zone which could reasonably be expected to create electrical interference with navigational signals or radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.
2. Except as expressly authorized by this Ordinance, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no nonconforming use, structure, or tree shall be extended to create any greater hazard than already exists.

205.6. Special Review Procedures in the Airport Safety Zone - All proposed land uses within the Airport Safety Zone shall require the obtainment of a conditional use in accordance with those regulations listed in Section 804 of this Ordinance, and as follows:

All applications shall indicate that the proposal lies within the Airport Safety Zone, and shall indicate any impact the proposed development may have upon the air safety.

1. All applications shall be accompanied by a professional study, setting forth the nature of any impact and evaluating the reasonableness of any risk(s) involved.
2. Should it be determined that the proposed use would not involve structures and/or trees that would violate the height regulations specified herein, and would not involve land uses that would interfere with normal airport operations, the use shall be approved.
3. Should the proposed use violate the height regulations specified herein, and/or involve land uses that would interfere with normal airport operations, the use shall be denied.

205.7. Variances - Any variances sought from the terms of this section shall be granted only if accompanied by a determination from the Federal Aviation Administration, or any successor Federal agency, and the Pennsylvania Department of Transportation, Bureau of Aviation, as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable air space. Any applicant for a variance shall submit, as an additional application fee, a reasonable sum established by the Board for the cost of an engineer to render such expert advice as may be requested by them.

Section 206 **Agricultural – Rural Development Zone (A-R)**

- 206.1. Purpose** - This Zone provides for land uses that are incompatible with both the Township's development zones and its sensitive and productive Agricultural-Conservation Zone. Within this Zone, agricultural and conservation uses are subject to the same requirements as apply within the Agricultural-Conservation Zone. However, other rural development uses are subject to specific locational, design and operational requirements. These specific uses will be evaluated via the special exception and conditional use review processes during which public comment can be received. The selected location for this Zone corresponds to an area of the Township where impacts can be confined, involves lands without restrictive covenants/easements that would preclude potential development and is nearby other similar developments in adjoining Townships, and offers nearby access to US Route 1, a major traffic artery serving Chester County and beyond.
- 206.2. Permitted Uses** – All permitted uses within this Zone are subject to the respective standards contained within Section 200 of this Ordinance.
1. Agricultural (excluding intensive livestock and intensive produce operations), horticultural and forestry uses;
 2. Group homes;
 3. Municipal services, parks and playgrounds and other recreation uses;
 4. Single-family, detached dwellings;,
 5. Accessory uses customarily incidental to the above permitted uses;
 6. Forestry uses in accordance with Section 324 of this Ordinance; and,
 7. No-impact home based business, as defined herein.
- 206.3. Special Exception** Uses (See Section 704.3. of this Ordinance).
1. Cemeteries (See Section 406); and,
 2. Churches and related uses (see Section 407).
- 206.4. Conditional Uses** (See Section 804 of this Ordinance).
1. Airports/heliports and private helicopter pads (See Section 402);
 2. Golf courses (See Section 417);
 3. Junkyards (See Section 419);
 4. Quarries and other extractive-related uses (See Section 426);
 5. Shooting ranges (See Section 429); and,
 6. Solid waste disposal facilities (See Section 430).
- 206.5. Design Requirements** - Unless otherwise specified, all uses within this Zone are subject to the respective standards contained within Section 200 of this Ordinance.
- 206.6. Minimum Lot Width** – One hundred twenty-five (125') at the minimum front yard setback line; ninety (90') at the lot frontage.
- 206.7. Driveways and Access Drives** - All driveways serving single-family dwellings shall be in accordance with Section 309 of this Ordinance. All access drives serving other uses shall be in accordance with Section 310 of this Ordinance.
- 206.8.** All uses permitted within this Zone shall also comply with the General Provisions contained in Article 3 of this Ordinance.

Section 207 Historic Village Residential (HV)

- 207.1. Purpose** - This Zone is meant to acknowledge the historic settlement pattern of villages. Here small gatherings of residences and ranch related uses were established before the Township's initial zoning requirements. Buildings were situated in a tightly-knit manner that lacked individual driveway access and off-street parking. No public sewer or public water was available. All of these characteristics created a unique historic village that does not comply with more recent zoning standards of lot size, setbacks, driveway access and off-street parking. Nonetheless, these are important settlements within the Township that include listings on the National Register of Historic Places. Within this Zone, zoning standards correlate closely with existing conditions but will require that uses be served by approved community sewage systems and domestic water supply and shared vehicular access.
- 207.2. Permitted Uses** – provided, where required, each use is served by both an approved individual/community sewer system and water supply:
1. Single-family, detached dwellings;
 2. Two-family dwellings;
 3. Group homes;
 3. Municipal services, parks, open space and playgrounds;
 4. Uses devoted to the conservation of agricultural and natural resources;
 5. Forestry uses in accordance with Section 324 of this Ordinance;
 6. No-impact home based business, as defined herein;
 7. Uses devoted to a community sewer system and/or community domestic water supply; and,
 8. Accessory uses customarily incidental to the above permitted uses expressly excluding the accessory repair of personal motor vehicles as regulated in Section 301.10, and the unenclosed storage of recreational vehicles, boats, campers, trailers, and trucks as regulated in Section 302.1., both of this Zoning Ordinance;
- 207.3. Special Exception Uses**
- 1 Home occupations (see Section 418); and,
- 207.4. Lot Area Requirements** - Unless otherwise specified, all uses within this Zone shall contain a minimum of eight thousand (8,000) square feet.
- 207.5. Minimum Lot Width** – Sixty feet (60') at the minimum front yard setback line and the lot frontage.
- 207.6. Minimum Lot Depth** - One hundred feet (100').
- 207.7. Minimum Setback Requirements**
1. Principal Buildings:
 - A. Front yard setback - Ten feet (10') from the street right-of-way line.
 - B. Side yard setbacks – Five feet (5') on one side (20' feet total).
 - C. Rear yard setbacks – Twenty-five feet (25').
 2. Residential Accessory Uses - Unless otherwise specified, the following requirements shall apply to all accessory structures:
 - A. Front yard setback - No accessory structure (except fences, mail-

boxes, driveways, and permitted signs) shall be located within the front yard;

B. Side yard setbacks - None; and,

C. Rear Yard setback - None.

3. Existing Buildings – Where existing buildings have been used with setbacks less than what is required herein, or if the subdivision of existing buildings and common access drives into separate lots results in setbacks less than what is required herein, such non-compliant setbacks are permitted so long as the principal use of any non-conforming building remains the same as it was when this Ordinance amendment was adopted (April 4, 2017). Applicants who intend to make use of the regulations within this Section are required to submit a detailed inventory and scaled site plan of the buildings and their respective use(s) that existed on the effective date (April 10, 2017) of this Section of the Zoning Ordinance.

207.8. Maximum Permitted Height

1. Principal Buildings and Structures - Thirty-five feet (35').
2. Accessory Buildings and Structures - Fifteen feet (15'), provided, however, that an accessory structure for municipal uses may be permitted to extend up to a maximum height of twenty-five feet (25'), if such structure is set back a horizontal distance of ten feet (10') from each side and rear lot line.

207.9. Maximum Lot Coverage –

1. Residential Uses – Forty percent (40%).
2. Municipal services, parks and playgrounds and uses devoted to the conservation of agricultural and natural resources – (Sixty-five percent (65%);
3. Other permitted uses – Twenty percent (20%); and.
4. Existing Coverage - Where an existing use exceeds the maximum permitted lot coverage permitted herein, or when the subdivision of existing uses onto separate lots results in a lot that exceeds the maximum permitted lot coverage permitted herein, such non-compliant, excess lot coverage is permitted so long as the principal use remains as it was when this Ordinance amendment was adopted (April 4, 2017). Applicants who intend to make use of the regulations within this Section are required to submit a detailed inventory and scaled site plan of the buildings and their respective use(s) that existed on the effective date (April 10, 2017) of this Section of the Zoning Ordinance.

207.10. Required Vehicular Access, Driveways, and Access Drives –

For the purposes of this Zone the required vehicular access requirements of Section 308, the driveway requirements of Section 309 and the access drive requirements of Section 310 of this Ordinance may be applied but shall not be required. Instead uses may rely upon common shared vehicular access in a manner that is acceptable to the Township.

207.11. Off-Street Parking Requirements - For the purposes of this Zone the off-street parking requirements of Section 311.2. of this Ordinance may be applied but shall not be required. Instead residential uses shall provide a minimum of two (2) off-street parking spaces for each dwelling unit which may be located upon common shared vehicular access/parking. All parking shall be

located within one-hundred feet (100') of its respective dwelling unit and or other permitted use.

- 207.12.** Except as noted above in Sections 207.10. and 207.11., all uses permitted within this Zone shall also comply with the General Provisions contained in Article 3 of this Ordinance.

Article 3

General Provisions

Section 300 General Provisions

The regulations contained within Article 3 shall apply to all uses within the Township.

Section 301 Accessory Uses and Structures

301.1 Fences and Walls - No fence or wall (except as expressly required under the terms of this Ordinance) shall be erected to a height of more than three feet (3') in a front yard and more than six feet (6') in any other yard within the A-C, HV, R-1 and/or R-2 Zones. Within the B-1 Zone, no fence nor wall shall be erected to a height of more than ten feet (10') in any yard. No fence shall block motorist view of vehicles entering or exiting the property. This section does not apply to fences used for enclosure of livestock;

301.2. Swimming Pools - No permanent structure shall be permitted without an operable filtration system utilizing chlorine, bromine or some other antibacterial agent. All swimming pools shall be completely enclosed by a four foot (4') high fence or wall with a self-closing and lockable gate; however, this does not apply to above-ground pools having a wall measuring four feet (4') in height and having a retractable ladder. Such fence or wall shall be erected before any pool is filled with water. All pools must be set back at least ten feet (10') from all lot lines. No water from a pool shall be discharged onto any public street or alley. These requirements shall not apply to man-made ponds, lakes or other impoundments, unless the primary purpose for their construction is swimming;

301.3. Tennis Courts - All tennis courts shall include an open mesh permanent fence ten feet (10') in height behind each baseline. Such fence shall extend parallel to said baseline at least ten feet (10') beyond the court's playing surface unless the entire court is enclosed. Any lighting fixtures shall be arranged to prevent objectionable glare on adjoining property;

301.4. Satellite Dish Antennas - Except as noted below, satellite dish antennas are subject to all accessory use standards. Furthermore, no satellite dish antenna exceeding one (1) meter (39.37 inches) in diameter located within the A-C, HV, R-1 and R-2 Zones shall be used to transmit video format data;

All satellite dish antennas that are used to transmit video format data shall require installation by a professional installer who can locate and design such antenna to minimize the human exposure to the transmit signal at close proximity and/or for an extended period of time. The applicant shall be required to submit written proof of such "safe" installation prior to the issuance of a zoning permit for the satellite dish antenna. In addition, any ground-mounted antenna exceeding one (1) meter (39.37 inches) that is used to transmit video format data shall be completely enclosed by an eight foot (8') high, nonclimbable fence that includes signage

warning of dangerous radiation levels. Any gates within the fence shall be locked when unattended. Satellite dish antennas within the B-1 Zone shall comply with all principal use standards;

301.5. Alternative Energy Systems - Except as noted for outdoor furnaces in Section 301.5.13. of this Ordinance and other alternate energy systems permitted by special exception in Section 301.5.14. of this Ordinance, within every Zone, alternative energy systems, as defined herein, are permitted accessory uses by right, subject to the following requirements:

1. Alternative energy systems shall be designed not to exceed the annual energy demands of the principal use; however, surplus energy may be exchanged, transferred when short term demands are met.
2. Alternative energy systems shall be properly maintained in safe and operational condition at all times. At such time as the system, or portion thereof, ceases operation it shall be dismantled and disposed of in a proper manner.
3. Alternative energy systems may be erected as detached accessory structures or attached to a building provided that the structural components of such systems comply with Section 205 of this Ordinance (Airport Safety Zone) and do not exceed the permitted height requirements of the Zone in which it is located except that:
 - a) the total height of a building or structure with solar panels shall not exceed by more than one (1) foot the maximum permitted height in the applicable zone;
 - b) ground-mounted solar panels shall not exceed a height of 20 feet at the highest point of the structure;
 - c) the maximum height of a freestanding wind turbine and any supporting structure shall be thirty-five feet (35'), as measured from the ground surface to the tip of the blade at its highest turning movement; and,
 - d) a roof-mounted wind turbine and any supporting structures may extend no more than ten feet (10') above the highest roof surface to the tip of the blade at its highest turning movement or the highest point of any feature of the turbine at its maximum height, whichever is the highest point.
4. Alternative energy systems shall comply with all applicable lot coverage requirements and setbacks of the zone in which it is located. Except in the case of ground mounted wind turbines as noted in Section 301.5.10. and outdoor furnaces as noted in Section 301.5.13. of this Ordinance, detached accessory systems shall comply with applicable accessory use setbacks. Systems attached to a principal structure will be required to comply with principal use setbacks. In Zones with no accessory use setbacks, principal use setbacks shall apply.
5. Above-ground alternative energy systems shall not be artificially lighted, except to the extent required by the Federal Aviation Administration.

6. On-site electrical transmission and power lines connected to or associated with the alternative energy system that are not contained within a building shall be located underground. Clearly visible warning signs concerning voltage must be placed at the base of all above-ground transformers and substations.
7. The applicant shall provide written evidence that the proposed alternative energy system shall comply with the noise standards listed in §315.1. of this Ordinance. A manufacturer's certificate of specification may be used to demonstrate compliance with this standard.
8. The design and installation of the alternative energy system shall conform to applicable industry standards, including those of the American National Standards Institute and the Township's Building Code and are subject to all applicable permit requirements thereof as well as all other applicable laws, codes and regulations.
9. Solar energy panels and solar shingles shall be designed and located in order to minimize reflective glare and/or heat towards any adjoining use and/or road. Solar panels shall, to the extent feasible, be sited inconspicuously when viewed from adjacent street rights-of-way.
10. One ground-mounted wind turbine shall be permitted upon lots with a minimum of one (1) acre. Only one wind turbine shall be permitted per principal residential use. The maximum diameter of a wind turbine for a residential use shall be fifteen feet (15'). The minimum height of a ground-mounted wind turbine shall be such that there shall be maintained a minimum of fifteen (15) feet ground clearance, as measured between the ground surface and the tip of the blade at its closest point of the turning movement or any other feature of the turbine at its closest point to the ground. Ground mounted wind turbines shall be setback a minimum of ten feet plus the turbine height, as defined herein, between center of the wind turbine base to the nearest point of an occupied building, an above ground utility line right-of-way and adjoining property line and/or an adjoining street right-of-way.
11. Only closed loop geothermal systems shall be permitted. Any anti-freeze fluid circulated through the pipes shall be a biodegradable mixture such as food grade propylene glycol. The vertical geothermal system well (or wells) installation will be made only by a Pennsylvania-licensed well driller. No geothermal system sub-surface loops and/or related geothermal boreholes shall be located closer than one hundred feet (100') from any existing or planned drinking water wells that serve one principal use, twenty-five feet (25') from any existing or planned on-lot sewage disposal systems or twenty feet (20') from any property lines and street rights-of-way. The vertical loop in a geothermal system well (or wells) shall be pressure-grouted bottom to top with a bentonite-based or cement-based material of 0.0000001 centimeter per second or lower permeability.
12. Manure digester facilities are permitted as an accessory use to a principal agricultural use within the A/C Zone. Manure and feedstock or other

organic materials to be used for the digestion or co-digestion process shall be stored in accordance with Pennsylvania Nutrient Management Program requirements, as may be amended. Manure digester facilities shall be designed and constructed in accordance with the Pennsylvania Department of Environmental Protection's Bureau of Water Quality Management guidelines for such systems, as may be amended. Evidence of applicable Federal and State regulatory agencies' written approvals shall be included with the zoning permit application. Manure digester facilities, except for appurtenant electrical wiring, shall be located a minimum of 100 feet from existing potable water wells and surface waters, such as streams, springs, ponds, and lakes. Manure storage associated with a manure digester facility shall be sited and operated as required under an approved nutrient and odor management plan.

13. Within the A/C Zone, outdoor furnaces, as defined herein, are permitted as an accessory use to a principal residence or an agricultural or horticultural use. No outdoor furnace shall be located upon a property that has a minimum lot area of less than one (1) acre. No more than one (1) outdoor furnace shall be permitted per principal use. No outdoor furnace shall be located within the front yard unless it is setback no less than two hundred feet (200') of any front lot line. No outdoor furnace shall be located within one-hundred feet (100') of any side or rear property line or the closest principal use located on the subject property or five hundred feet (500') from and adjoining residential Zone or residential property. Outdoor furnaces shall only be operated between September 15 and May 15 of each calendar year. At all times a completely enclosed exhaust chimney from an outdoor furnace shall extend to its emissions release point at an elevation equal to no less than two (2) feet higher than the highest elevation of the principal building that the unit serves and any other principal use located within three hundred feet (300') of the outdoor furnace release point. Notwithstanding the foregoing, in no event shall the exhaust chimney height for any outdoor furnace be less than the manufacturer's guidelines, or for outdoor furnaces that are designed and built without manufacturer specifications, the height as suggested by qualified expert evidence that will enable suitable and safe operation and emissions. The design and use of an outdoor furnace must be such that no exterior surface of the outdoor furnace or its exposed above ground appurtenances shall at any time exceed a temperature of 120 degrees Fahrenheit. All components used to convey heat between the outdoor furnace and the principal use building must be located within the outdoor furnace enclosure, buried underground, and contained within the enclosed principal use building. No exposed conveyances shall be permitted between the outdoor furnace and the principal use building. All outdoor furnaces shall be equipped with a properly functioning spark arrestor.
14. Alternative Energy Systems Permitted by Special Exception - Alternative energy systems that do not comply with the specific definition listed in Section 112.C of this Ordinance are accessory uses by special exception subject to the following requirements:
 - a) An applicant must demonstrate that compliance with the definition listed in Section 112.C. of this Ordinance does not enable practical use of an alternate energy system on the subject property;

- b) The applicant must demonstrate that the aspect of the proposed alternate energy system that does not comply with the definition listed in Section 112.C. of this Ordinance represents the minimum deviation necessary to enable efficient and practical use of the system;
- c) The applicant must demonstrate what measures will be employed to ensure that the proposed use will not create adverse impact on adjoining properties and the character of the neighborhood.
- d) Except as noted as follows all alternate energy systems shall comply with the requirements listed in the above Sections 301.5.1. - 301.5.13. of this Ordinance.
- e) The maximum height of a freestanding wind turbine and any supporting structure shall be fifty (50) feet for residential uses and one-hundred fifty feet (150) for non-residential uses, as measured from the ground surface to the tip of the blade at its highest turning movement; and,
- f) The maximum combined surface area of all freestanding solar panels shall not exceed the building coverage of principal residence that it serves but in no case shall lot coverage requirements be exceeded.

301.6.

Ornamental Ponds and Wading Pools:

- 1. Such structures shall comply with all accessory use setbacks;
- 2. No such impoundment shall contain more than 26.6 cubic feet of water (200 gallons). All ponds, pools or other impoundments exceeding the requirements of this section shall be considered as "Man-made Lakes, Dams and Impoundments" and are subject to the criteria listed in Section 301.7. of this Ordinance;
- 3. No such impoundment shall have a length or diameter exceeding fifteen feet (15') nor a maximum depth exceeding two feet (2');
- 4. All such ponds or pools shall be maintained so as to not pose a nuisance by reason of odor, or the harboring of insects; and,
- 5. No such pond(s) shall be used for the commercial hatching of fish or other species.

301.7.

Man-Made Lakes, Dams, Ponds, and Impoundments - All lakes, dams, ponds, and impoundments may be permitted in any zone, subject to the following:

- 1. All lakes, dams, ponds, and impoundments located along and connected to a stream, that involve any of the following, must require the obtainment of a permit prior to construction from the PA DEP Bureau of Dams, Waterways and Wetlands, Division of Dam Safety:
 - A. The lake, dam, pond, or impoundment shall contain a volume of at least fifty (50) acre feet;
 - B. The dam shall reach a height of fifteen feet (15'); and,
 - C. The lake, dam, pond, or impoundment shall be used to impound the water from a watershed of at least one hundred (100) acres.
- 2. All lakes, dams, ponds, and impoundments not contiguous to a stream that

have an intake, outlet, or both, and/or have an embankment within fifty feet (50') of a stream shall require the obtainment of a permit from the PA DEP Bureau of Dams, Waterways and Wetlands, Division of Waterways and Stormwater Management;

3. All lakes, dams, ponds, and impoundments shall be located at least seventy-five feet (75') from adjoining lot lines, and any subsurface sewage disposal system or well;
4. All other lakes, dams, ponds, and impoundments require the submission of a statement by a qualified engineer that the proposed use is properly constructed and will not pose a threat to the public safety nor the environment during normal flow conditions and those associated with the base flood. All dams shall be constructed to a height of one foot (1') above the water surface elevation occurring during the base flood.;
5. Requirements for Fencing - All ponds constructed within areas subject to livestock shall be enclosed by fencing that prevents livestock from trampling the pond's shores and polluting the waters; and,
6. Maintenance - All ponds shall be regularly maintained and floating debris shall be removed from all pipes and spillways. All ground cover shall be trimmed. Weeds, brush and trees shall not be permitted to grow on the dam or spillway;

301.8. Garage/Yard Sales - Within any zone, an owner and/or occupant may conduct up to two (2) garage/yard sales per year. No garage or yard sale shall be conducted for a period longer than three (3) consecutive days. Such sales may offer for sale personal possessions; no import or stocking of inventory shall be permitted. Only one four (4) square foot sign shall be permitted advertising the garage/yard sale; such sign must be located upon the premises where the sale occurs, and shall be removed promptly upon the completion of the sale. In no case shall any aspect of the garage/yard sale be conducted in a street right-of-way. The conduct of garage sales beyond the extent described herein represents a commercial business and requires appropriate zoning authorization.

301.9. Manure Storage Facilities - Manure storage facilities, as defined in Section 112, may be permitted as an accessory use to a farm, subject to the following requirements:

1. Manure storage facilities shall be designed in compliance with the guidelines outlined in the publication *Manure Management for Environmental Protection*, Bureau of Water Quality Management Publication No. 43, and any revisions, supplements, and replacements thereof, published by the Pennsylvania Department of Environmental Protection;
2. All manure storage facilities' designs shall be reviewed by the Chester County Conservation District. The applicant shall furnish a letter from the Conservation District attesting to approval of the design of the proposed facility;

3. Construction and subsequent operation of the manure storage facility shall be in accordance with the permit and the approved design. Any design changes during construction or subsequent operation will require the obtainment of another review by the Chester County Conservation District; and,
4. All manure storage facilities shall be set back at least five hundred feet (500') from any residentially-zoned property line, and one hundred feet (100') from any other property line.

301.10. Accessory Repair of Personal Motor Vehicles - Within the (R-1 and R-2) Zones, the routine maintenance, repair and servicing of personal motor vehicles, owned and/or leased by the person performing such services, is permitted, subject only to the following:

1. All vehicles shall be maintained with proper licensure;
2. All work shall be performed on the vehicle owner's (leasee's) property of residence;
3. Work shall be limited to the following:
 - A. Servicing and replacement of spark plugs, batteries, distributors, and distributor parts;
 - B. Repair and replacement of tires and wheels, excluding recapping or regrooving;
 - C. Replacement of water hoses, fan belts, brake fluids, transmission fluid, oil filters, air filters, oil, grease, light bulbs, fuses, floor mats and carpeting, seat covers, seat belts, windshield wipers, mirrors, and engine coolants;
 - D. Repair and replacement of car radios, tape players, amplifiers, and speakers;
 - E. Cleaning and flushing of radiators;
 - F. Repair and replacement of fuel pump, oil pump, and line repairs;
 - G. Minor servicing and adjustment of carburetors;
 - H. Minor motor adjustments not involving the removal of the motor head or crankcase, nor the revving of the motor;
 - I. Minor body repairs, excluding the replacement of body parts, the complete repainting of the body and the application of undercoating; and,
 - J. Cleaning of all exterior and interior surfaces, including washing, shampooing, vacuuming, rubbing, polishing, waxing, and the application of paint sealants;
4. All by-product or waste fuels, lubricants, chemicals, and other products shall be properly disposed of;
5. All such activities conducted outside shall occur only during daylight hours; and,
6. No compressed-air driven tools shall be utilized.

Section 302 Unenclosed Storage

302.1. Recreational Vehicles, Boats, Campers, Trailers, and Trucks – Within any (R-1 and/or R-2) Zones, or upon any property devoted to principal residential use, the storage of recreational vehicles, travel trailers, trucks, boats, and trailers used solely for the transport of the residents' recreational vehicle(s) is permitted only according to the following requirements:

1. For purposes of this section, recreational vehicles, travel trailers, boats (including trailers), and other trailers used solely for the transport of the residents' recreational vehicle(s) are divided into two separate categories, as follows:

Class I Vehicles – Those recreational vehicles, travel trailers, boats (including trailers), and other trailers used solely for the transport of the residents' recreational vehicle(s) that possess no more than four hundred (400) square feet, as measured to the vehicle's outermost edges, nor exceed a height of thirteen feet (13'), as measured from the ground to the highest point of the main body of the vehicle. Vehicle height shall not be measured on vehicle accessories (e.g., air conditioners, vents, hatches, masts, antennas, outrigger fishing poles, etc.), but will be measured to the highest point of any flybridge or other boat console; and,

Class II Vehicles – Those recreational vehicles, travel trailers, boats (including trailers), and other trailers used solely for the transport of the residents' recreational vehicle(s) that possess more than four hundred (400) square feet, as measured to the vehicle's outermost edges, and/or exceed a height of thirteen feet (13'), as measured from the ground to the highest point of the main body of the vehicle. Vehicle height shall not be measured on vehicle accessories (e.g., air conditioners, vents, hatches, antennas, masts, outrigger fishing poles, etc.), but will be measured to the highest point of any flybridge or other boat console;

2. The temporary parking of one Class I or Class II vehicle for periods not exceeding seventy-two (72) hours during any seven (7) day period is permitted on a paved or gravel surface in any yard, so long as the vehicle is set back no less than ten feet (10') from any street right-of-way, and five feet (5') from adjoining property lines; and,
3. The storage of one Class I vehicle shall be permitted per lot behind the building setback line, so long as the unit is set back no less than ten feet (10') from any adjoining lot line. All areas used for the storage of Class I vehicles shall be maintained so as to keep vegetation properly trimmed and debris or litter disposed of regularly. All vehicles shall maintain required licensure and prevent the leakage of fuels and/or lubricants into the ground.

302.2. Outdoor Stockpiling - In all zones, no outdoor stockpiling of any material or outdoor storage of trash is permitted in the front yard. In any residential zone, the outdoor stockpiling of materials (except firewood) for more than one (1) year, is prohibited; and,

302.3. Trash, Garbage, Refuse or Junk - Except as provided in Section 433 of this Ordinance, the outdoor accumulation of trash, garbage, refuse or junk for a period ex-

ceeding fifteen (15) days is considered a nuisance and is prohibited. The Township shall give notice by certified first class U.S. Mail, postage prepaid to the owner or occupant, as the case may be, of any premises whereupon such nuisance exists, directing the owner or occupant, as the case may be, to remove such nuisance within a ten (10) day grace period beginning with the mailing date of such notice. In case the owner or occupant, as the case may be, fails to remove such nuisance within the grace period stated, the Township may cause such nuisance to be removed and may further impose a charge equal to the actual cost of the labor and expense for each time the Township shall cause such nuisance to be removed. The person or persons given notice shall be billed after the work in removing the nuisance has been completed. Should any such bill go unpaid on or before November 1 of each year, a penalty of ten percent (10%) shall be added to such bill and the amount may be recovered from the person or persons given notice, by assumpsit or entered as a lien against such property in accordance with existing provisions of law.

Section 303 Setback Modifications

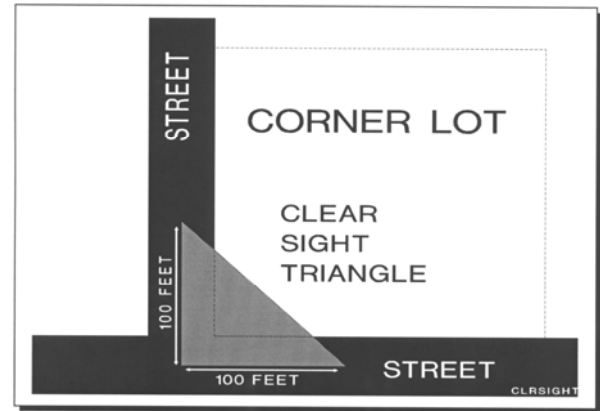
- 303.1. Front Setback of Buildings on Built-up Streets - Where at least two adjacent buildings within one hundred feet (100') of a property are set back a lesser distance than required, the average of the lesser distances becomes the required minimum front setback for the property. However, in no case shall the setback line be less than thirty feet (30') from any abutting street right-of-way line; and,
- 303.2. Accessory or Appurtenant Structures - The setback regulations do not apply to:
1. Bus shelters; telephone booths; and cornices, eaves, chimneys, steps, canopies, and similar extensions but do apply to porches and patios whether covered or not;
 2. Open fire escapes;
 3. Minor public utility structures, articles of ornamentation or decoration;
 4. Fences, hedges and retaining walls; and,
 5. Driveways and access drives.

Section 304 Height Limit Exceptions

- 304.1. The height regulations do not apply to the following structures or projections, provided such structures or projections are set back a horizontal distance at least equal to their height from any property line:
1. Water towers, utility poles, smokestacks, chimneys, farm silos, windmills, steeples, flagpoles, or other similar structures;
 2. Roof-top structures for the housing of elevators, stairways, water storage tanks, ventilating fans, and other mechanical appurtenances; and,
 3. Parapet walls or cornices used solely for ornamental purposes if not in excess of five feet (5') above the roof line.
- 304.2. In no case shall any freestanding or roof-top structure above the maximum permitted height be used for the purpose of providing additional floor space for residential, commercial or industrial purposes; and,
- 304.3. All structures must comply with the provisions of the Airport Safety Zone contained in Section 205 of this Ordinance.

Section 305 Clear-Sight Triangle

On corner lots, there shall be provided and maintained a clear-sight triangle of at least one hundred feet (100'), as measured along the centerline from the intersecting roads. No structure, planting, excavation, nor other visual obstruction shall be permitted at a height greater than thirty inches (30") within such area. All such clear-sight triangles shall be depicted upon proposed subdivision and land development plans and sketch plans for zoning permit applications. A public right-of-way shall also be reserved for the purpose of removing any visual obstruction within the clear-sight triangle.



In addition, any vegetative material that creates a visual obstruction and is greater than thirty inches (30") in height, that existed on the effective date of this Ordinance, and that is located within the above-described clear-sight triangle, shall be considered nonconforming. Such vegetation may continue for a period not to exceed six (6) months from the effective date of this Ordinance. After six (6) months, such vegetation must be trimmed so as not to create a visual obstruction or be removed by the owner.

Section 306 Minimum Habitable Floor Area

All dwelling units must conform to the minimum habitable floor area as follows:

1. Single-family, duplex and townhouse dwelling units: seven hundred (700) square feet per dwelling unit;
2. Multi-family dwellings: four hundred (400) square feet per dwelling unit.

Section 307 Erection of More Than One Principal Use on a Lot

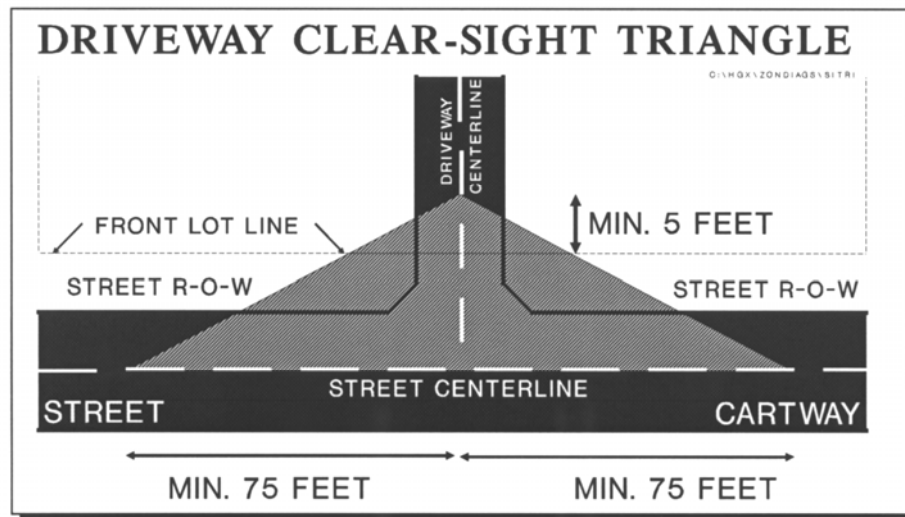
More than one principal use may be established on a single lot provided that all lot and yard requirements, standards, and other requirements of this Ordinance shall be met for each structure, as though it were on an individual lot. In addition, such proposals shall gain approval for a land development plan, if required by other ordinances of the Township.

Section 308 Required Vehicular Access

Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street. The erection of buildings without approved access shall not be permitted. Approved access shall be defined in terms of the Subdivision Ordinance of West Marlborough Township, as may be amended from time to time, for street design or as subsequently provided for by the Township. Access to lots containing single-family dwellings shall be via driveways (see Section 309); access to lots containing other uses shall be via access drives (see Section 310).

Section 309 Driveway Requirements (Single-Family Dwelling)

- 309.1. Number Per Lot - No more than two (2) driveway connections per lot shall be permitted;
- 309.2. Setbacks - Driveways shall not connect with a public street within forty feet (40') of the right-of-way lines of any intersecting streets, nor within five feet (5') of a fire hydrant. Furthermore, no part of a driveway shall be located within five feet (5') from any adjoining side lot line, except as permitted in Sections 309.9, 309.10, 309.11., and 309.12. of this Ordinance;
- 309.3. Clear Sight Triangle - Driveways shall be located and constructed so that a clear-sight triangle of seventy-five feet (75'), as measured along the street centerline, and five feet (5') along the driveway centerline is maintained; no permanent ob-



- structions and/or plant materials over thirty inches (30") high shall be placed within this area;
- 309.4. Slope - A driveway shall not exceed a slope of eight percent (8%);
- 309.5. Road Classification - Driveway access shall be provided to the street of lesser classification when there is more than one street classification involved.
- 309.6. Driveway Width - No driveway shall provide a curb cut exceeding twenty-four feet (24') in width;
- 309.7. PennDOT Permit - Any driveway intersecting with a State-owned road shall require the obtainment of a driveway permit from the Pennsylvania Department of Transportation;
- 309.8. Drainage - Driveways shall not be constructed in a manner to be inconsistent with the design, maintenance and drainage of the street;

309.9. Townhouses on Individual Lots - Driveway and Garage Requirements in the Front Yard - Townhouses on individual lots are permitted to utilize driveways and garages if such driveways only connect with local roads as depicted and described below:

1. Lots with a driveway and/or garage located within the front yard must comply with the following:

A. Such driveways must be arranged as a side-by-side joint-use driveway with an adjoining townhouse (see lots 2-7 on Diagram 1), except that one (1) end unit within a townhouse grouping containing three (3), five (5) or seven (7) units may use one (1) free-standing driveway (see lot 1 on Diagram 1);

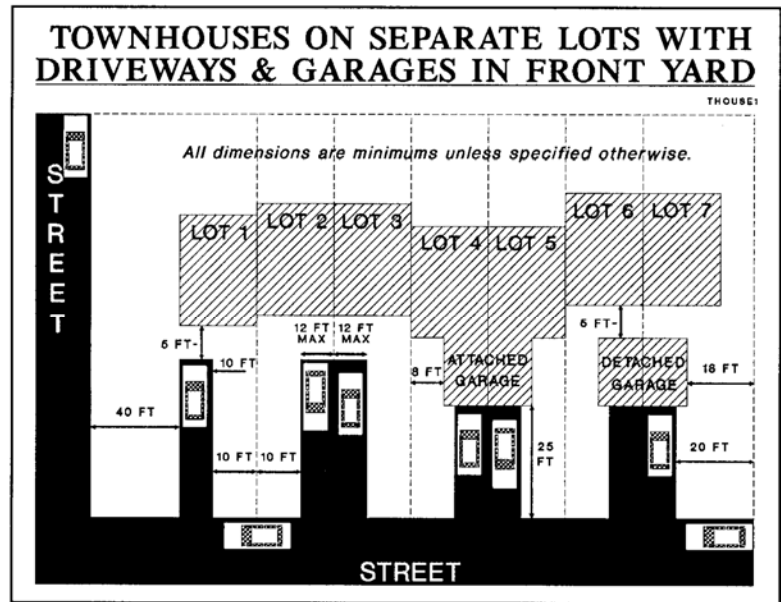


Diagram 1

B. Such driveways must be set back at least :

1. ten feet (10') from any lot line of an adjoining townhouse that does not share the joint-use driveway (see lots 1 & 2 on Diagram 1);
2. forty feet (40') from the right-of-way of any street or alley which does not connect with the driveway (see lot 1 on Diagram 1);
3. twenty feet (20') from any other driveway or access drive (see lots 1 & 2 on Diagram 1);
4. twenty feet (20') from the lot line of an end unit that abuts another end unit or a non-townhouse use (see lot 7 on Diagram 1); and,
5. five feet (5') from the closest point of any building other than a garage (see lot 1 on Diagram 1).

C. No individual driveway shall be narrower than ten feet (10') nor wider than twelve feet (12'). See Lots 1, 2 & 3 on Diagram 1);

D. Garages must be attached to, and rely upon, a driveway as permitted above;

E. Garages must be set back at least:

1. twenty-five feet (25') from the street right-of-way (see lot 5 on Diagram 1);
2. eight feet (8') from any lot line of an adjoining townhouse that does not share a joint-use driveway (see lot 4 on Diagram 1); and,
3. five feet (5') when detached from any building on the site (see lot 6 on Diagram 1).
4. eighteen feet (18') from the lot line of an end unit that abuts another end unit or a non-townhouse use (see lot 7 on Diagram 1).

309.10. Townhouses on Individual Lots - Driveway and Garage Requirements in the Rear Yard - Townhouses on individual lots are permitted to utilize driveways and garages if such driveways only connect with alleys as depicted and described below:

1. Lots with a driveway and/or garage located within the rear yard must comply with the following:

A. Such driveways must be arranged as a side-by-side joint-use driveway with an adjoining townhouse (see lots 2-7 on Diagram 2), except that one (1) end unit within a townhouse grouping containing three (3), five (5) or seven (7) units may use one (1) freestanding driveway (see lot 1 on Diagram 2);

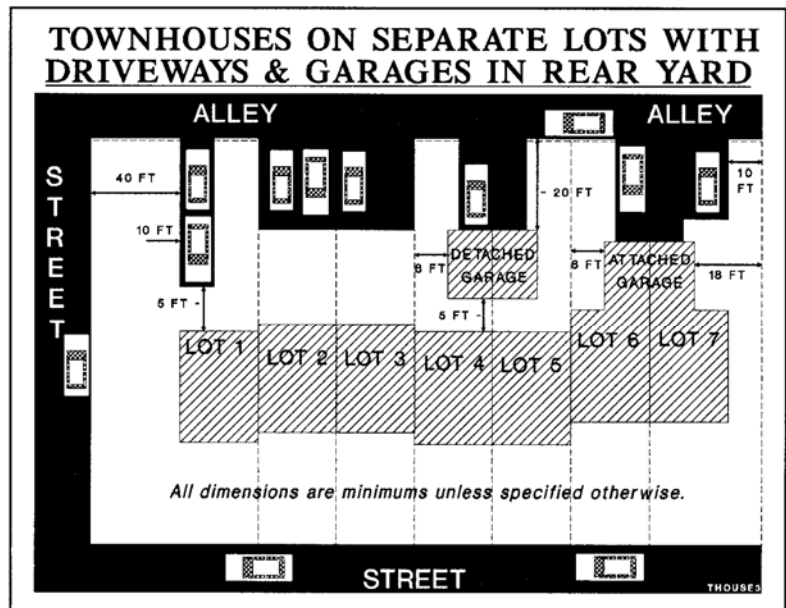
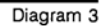


Diagram 2

- B. Such driveways must be set back at least :
1. forty feet (40') from the right-of-way of any street or alley which does not connect with the driveway (see lot 1 on Diagram 2);
 2. ten feet (10') from the lot line of an end unit that abuts another end unit or a nontownhouse use (see lot 7 on Diagram 2); and,
 3. five feet (5') from the closest point of any building other than a garage (see lot 1 on Diagram 2).
- C. No individual driveway shall be narrower than ten feet (10') (see lot 1 on Diagram 2);
- D. Garages must be attached to and rely upon a driveway as permitted above;
- E. Garages must be set back at least:
1. twenty feet (20') from the alley right-of-way (see lot 5 on Diagram 2);
 2. eight feet (8') from any lot line of an adjoining townhouse that does not share a joint-use driveway (see lots 4 & 6 on Diagram 2); and,
 3. five feet (5') when detached from any building on the site (see lot 4 on Diagram 2);
 4. eighteen feet (18') from the lot line of an end unit that abuts another end unit or a nontownhouse use (see lot 7 on Diagram 2).

Townhouses on common property are permitted to utilize driveways and garages if such driveways only connect with local roads as depicted and described below:

- A. Such driveways must be arranged as a side-by-side joint-use driveway with an adjoining townhouse (see units 2-7 on Diagram 3), except that one (1) end unit within a townhouse grouping containing three (3), five (5) or seven (7) units may use one (1) free-standing driveway (see unit 1 on Diagram 3);



- Official Zoning Ordinance

- 309.12. Townhouses on Common Property - Driveway and Garage Requirements in the Rear Yard – Townhouses on common property are permitted to utilize driveways and garages if such driveways only connect with alleys as depicted and described below:

1. A driveway and/or garage located within the rear yard must comply with the following:

- A. Such driveways must be arranged as a side-by-side joint-use driveway with an adjoining townhouse (see units 2-7 on Diagram 4), except that one (1) end unit within a townhouse grouping containing three (3), five (5) or seven (7) units may use one (1) free-standing driveway (see unit 1 on Diagram 4);

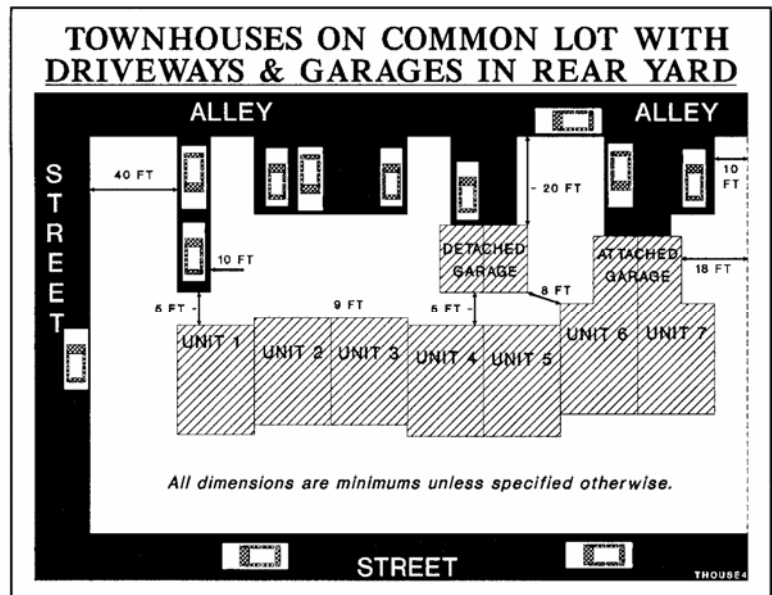


Diagram 4

- B. Such driveways must be set back at least :
 1. forty feet (40') from the right-of-way of any street or alley which does not connect with the driveway (see unit 1 on Diagram 4);
 2. ten feet (10') from any outside boundary of the development site or a nontownhouse use (see unit 7 on Diagram 4);
 3. twenty feet (20') between two different driveways serving end units; and,
 4. five feet (5') from the closest point of any building other than a garage (see unit 1 on Diagram 4).
- C. No individual driveway shall be narrower than ten feet (10') (see unit 1 on Diagram 4);
- D. Garages must be attached to and rely upon a driveway as permitted above;
- E. Garages must be set back at least:
 1. twenty feet (20') from the alley right-of-way (see unit 5 on Diagram 4);
 2. eight feet (8') from an adjoining townhouse that does not share a joint-use driveway (see lots 5 & 6 on Diagram 4);
 3. five feet (5') when detached from any building on the site (see unit 4 on Diagram 4);
 4. eighteen feet (18') from any outside boundary of the development site or a nontownhouse use (see unit 7 on Diagram 4); and,
 5. thirty-six feet (36') between two different garages serving end units.

Section 310 Access Drive Requirements (Non-Single-Family Dwelling)

- 310.1. Number Per lot - Except as specified elsewhere, the number of access drives intersecting with a street may not exceed two (2) per lot frontage;

310.2.

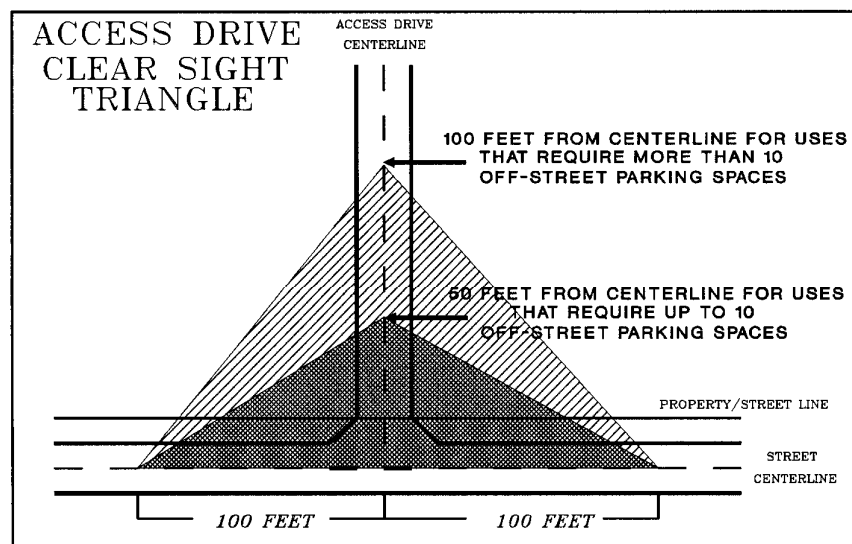
Setbacks - All access drives shall be set back at least:

1. One hundred feet (100') from the intersection of any street right-of-way lines;
2. One hundred feet (100') from any other access drive located upon the same lot (measured from cartway edges); and,
3. Fifteen feet (15') from any side and/or rear property lines; however, this setback can be waived along one property line when a joint parking lot is shared by adjoining uses;

310.3.

Clear Sight Triangle - Access drives shall be located and constructed so that no permanent obstructions and/or plant materials over thirty inches (30") high shall be placed within a clear sight triangle of:

1. fifty feet (50') as measured along the street centerline and along the driveway centerline is maintained for uses requiring up to, and including, ten (10) off-street parking spaces; and,
2. one hundred feet (100') as measured along the street centerline and along the driveway centerline is maintained for uses requiring more than ten (10) off-street parking spaces.



310.4.

Slope - Access drives shall not exceed a slope of four percent (4%) within seventy-five feet (75') of the intersecting street centerline;

310.5.

Surfacing - All access drives shall be paved with concrete or bituminous paving material, or another dust-free material suitable to the Board of Supervisors;

310.6.

Access Drive Width - The following table specifies various access drive width requirements:

Function	Required Cartway Width
Two lanes of traffic without parallel parking*	24 feet
One lane of traffic without parallel parking**	12 feet
<p>*Off-street parking lots must be provided in accordance with Section 311 of this Ordinance and the prohibition of on-street parking must be identified along the cartway. **The one-way direction of traffic must be identified along the cartway.</p>	

- 310.7. PennDOT Permit - Any access drive intersecting with a State-owned road shall require the obtainment of a driveway permit from the Pennsylvania Department of Transportation.

Section 311 Off-Street Parking Requirements

- 311.1. Off-street parking shall be required in accordance with the provisions of this section prior to the occupancy of any building or use, so as to alleviate traffic congestion on streets. These facilities shall be provided whenever:
1. A building is constructed or a new use is established;
 2. The use of an existing building is changed to a use requiring more parking facilities; and,
 3. An existing building or use is altered or enlarged so as to increase the amount of parking space required;
- 311.2. Parking for Single-Family Dwellings - Every single-family dwelling shall be required to provide at least two (2) off-street parking spaces. Such spaces must be provided behind the street right-of-way line and may take the form of garages, carports or driveways. Additional regulations pertaining to driveways are contained in Section 309 of this Ordinance.
- The remaining regulations contained in this section do not apply to off-street parking facilities serving one single-family dwelling;
- 311.3. Site Plan Approval:
1. Each application for a zoning permit (for a use for which parking spaces are required) shall include a drawing (site plan) showing the proposed layout of the lot. The drawing shall clearly indicate all of the design elements required below;
 2. No zoning permit shall be issued for any use for which parking spaces are required unless the site plan has been approved or necessary variances have been obtained;
- 311.4. Surfacing - All parking lots shall be constructed and maintained with a paved surface of concrete or bituminous materials, or another dust-free surface, approved by the Board of Supervisors;
- 311.5. Separation from Streets and Sidewalks - Parking spaces shall be guarded by curbs or other protective devices, which are arranged so that parked cars cannot project into the streets, yards, or walkways;

311.6. Drainage - Parking lots shall be graded to a minimum slope of one percent (1%) to provide for drainage. Adequately-sized inlets and storm sewers shall be provided to discharge storm water in accordance with a plan to be approved by the Township;

311.7. Parking Space Sizes - The following lists required minimum space sizes in feet:

Standard car spaces:
Parallel 22 by 8
Nonparallel 20 by 9
Spaces for physically handicapped:
Parallel 22 by 12
Nonparallel 20 by 12

311.8. Design Standards For Handicapped Parking Spaces - Parking lots shall comply with the latest version of the Americans With Disabilities Act;

311.9. Interior Driveway Widths:

1. Interior driveways between rows of parking spaces shall have the minimum widths indicated in the following table:

Angle of Parking	Width of Interior Driveway/ One-Way Traffic	Width of Interior Driveway/ Two-Way Traffic
90 Degrees	22 feet	24 feet
60 Degrees	18 feet	24 feet
45 Degrees	13 feet	24 feet
30 Degrees	12 feet	24 feet
Parallel	12 feet	24 feet

2. Interior driveways in areas where there is no parking permitted shall be at least twelve feet (12') wide for each lane of traffic.

311.10. Marking of Parking Spaces and Interior Drives - All parking lots shall be adequately marked and maintained for the purpose of defining parking stalls and interior drives. As a minimum, the lines of all parking stalls and interior drives (including directional arrows, etc.) shall be solid white and four inches (4") in width. White paint for these lines shall conform to Federal Specification TT-P-115C, Type 1, for white non-reflective traffic line paint, or equivalent.

In the event parking lots are not marked as required by this section, the Township may, at its option, perform or hire the said marking to be done and recover the same from the owner or tenant of said lot in the manner permitted by law;

311.11. Not less than a four foot (4') radius of curvature shall be permitted for horizontal curves in parking areas;

- 311.12. All “dead end” parking lots shall be designed to provide sufficient back-up area for all end spaces;
- 311.13. Lighting - Adequate lighting shall be provided if the parking lot is to be used at night. The lighting shall be arranged so as not to reflect or glare on land used for residential purposes, or adjoining lots or streets;
- 311.14. Access Drive Requirements - Every parking lot shall be connected to a street by means of an access drive. This access drive shall be at least twelve feet (12') wide for each lane, exclusive of curb return and gutters. Section 310 specifies other requirements for access drives;
- 311.15. Landscaping and Screening Requirements - The following landscaping and screening requirements shall apply to all parking lots:

1. Landscaped Strip:

- A. When a parking lot is located in a yard which abuts a street, a landscaped strip shall be provided on the property along the entire streetline. If there is no building or other structure on the property, the parking lot shall still be separated from the street by the landscaped strip. This strip shall be measured from the street line. The strip may be located within any other landscaped strip required to be located along a street.

The following lists required width of landscape strips:

Number of Spaces In Parking Lot Including Joint Facilities	Landscape Strip Width in Feet Measured from Street R.O.W. Line
Less than 100	15
100 to 250	20
Over 250	25

- B. Unless otherwise indicated, all parking lots constructed in side or rear yards (as defined herein) shall be set back a minimum of fifteen feet (15') from all property lines. Such setbacks shall be used for landscape strips;

2. Interior Landscaping:

- A. In any parking lot containing twenty (20) or more parking spaces (except a parking garage), five percent (5%) of the total area of the lot shall be devoted to interior landscaping. Such interior landscaping may be used, for example, at the end of parking space rows to break up rows of parking spaces at least every ten parking spaces, and to help visually define travel lanes through or next to the parking lot. Landscaped areas situated outside of the parking lot, such as peripheral areas and areas surrounding buildings, shall not constitute interior landscaping. For the purpose of computing the total area of any parking lot, all areas within the perimeter of the parking lot shall be counted, including all parking spaces and access drives, aisles, islands, and curbed areas. Ground cover alone is not sufficient to

meet this requirement. Trees, shrubs, or other approved material shall be provided. At least one (1) shade tree shall be provided for each three hundred (300) square feet (or fraction) of required interior landscaping area. These trees shall have a clear trunk at least five feet (5') above finished-grade level;

B. Parked vehicles may not overhang interior landscaped areas more than two and one-half feet (2½'). Where necessary, wheel stops or curbing shall be provided to insure no greater overhang; and,

C. If a parking lot of under twenty (20) spaces is built without interior landscaping, and later additional spaces are added so that the total is twenty (20) or more, the interior landscaping shall be provided for the entire parking lot;

3. Screening - When a parking lot is located on property which adjoins land in the A-C, HV, R-1 or R-2 Zones, the parking lot shall be screened from the adjoining residential property;

311.16. Speed Bumps:

1. Speed bumps, constructed as part of access drives or parking lots, shall be marked with permanent, yellow diagonal stripes;
2. The speed bumps shall be in the form of mounds or depressions in the pavement and shall be designed to restrain motor vehicle speed;
3. There shall be a warning sign posted at each entrance to a parking area having bumps; and,
4. In no case shall the overall height (or depth) of speed bumps exceed two inches (2");

311.17. Joint Parking Lots - In shopping centers over two (2) acres in size, joint parking lots may be permitted. These joint facilities can reduce the total number of parking spaces required by a maximum of twenty percent (20%). Therefore, the resulting joint parking lot will be required to provide at least eighty percent (80%) of the total number of spaces required by the sum of all of the shopping center's tenants. Such reduced parking spaces must be appropriately distributed upon the lot to provide convenient walking distance between vehicles and each of the shopping center's stores;

311.18. Prohibited and Temporary Uses of Parking Lot - Automobile parking lots are for the sole purposes of accommodating the passenger vehicles of persons associated with the use which requires them. Parking lots shall not be used for the following and/or loading purposes:

1. The sale, display, or storage of automobiles or other merchandise,
2. Parking vehicles accessory to the use;
3. Performing services (including services to vehicles);
4. Required off-street parking space shall not be used for loading and unloading purposes except during hours when business operations are suspended; or
5. Any other purpose except as permitted as follows:
 - A. Carnivals, circuses, fairs, exhibitions or other similar events, so long as they do not continue longer than seven (7) days;
 - B. Sales and display of seasonal decorations (Christmas, etc.) so long as the use would be permitted by right within the underlying zone, the

use will not continue longer than forty-five (45) days, adequate measures have been taken to address the purposes of this section, and a temporary use permit has been obtained;

- C. Temporary placement of a mobile home during times of emergency as declared by the Township Board of Supervisors; and,
- D. The placement of donation or recycling collection facilities, provided such collection facilities are sufficiently enclosed to prevent the scattering of debris, the materials collected are removed at regular intervals, and the total size of the facility is less than two hundred (200) square feet;

311.19. Schedule of Required Parking Spaces - The following lists required numbers of parking spaces by use type. Any use involving a combination of several uses shall provide the total number of spaces required for each individual use:

Type of Use	Minimum of One Parking Space for Each
COMMERCIAL USES	
Automobile repair, filling and washing facilities	400 square feet of gross floor and ground area devoted to repair and service facilities in addition to areas normally devoted to automobile storage and one per employee on major shift
Automobile, boat, and trailer sales	500 square feet of gross floor area
Carpeting, drapery, floor covering, and wall covering sales	500 square feet of gross floor area
Drive-thru and/or fast-food restaurants	Two seats and one per each two employees
Food markets and grocery stores	100 square feet of floor for public use and one per employee on two largest shifts
Funeral homes	100 square feet of gross floor area, one per each employee, and one per each piece mobile equipment, such as hearses and ambulances
Furniture sales	500 square feet of gross floor area
Hotels, motels, tourist homes	Guest sleeping room and one per each employee on two largest shifts. (Restaurants and other accessory uses shall be viewed separately.)
Mini-warehouses	Per each 25 units plus one per 250 square feet of office space, plus two per any resident manager
Office buildings	300 square feet of gross floor area
Professional offices of veterinarians, physicians, dentists, etc.	Six spaces per each physician or dentist, etc.
Retail stores or shops (except those listed above)	200 square feet of gross floor area of display area or sales area and one per each employee on two largest shifts
Restaurants	Three seats plus one per each employee on largest shift
Shopping centers or malls	200 square feet of gross leasable floor area
Other commercial buildings	400 square feet of gross floor area

Type of Use	Minimum of One Parking Space for Each
INDUSTRIAL USES	
Industrial and heavy commercial establishments	Two employees on the two major shifts but at least one space per each 1,000 square feet of gross floor area

Type of Use	Minimum of One Parking Space for Each
INDUSTRIAL USES	
Warehousing	Employee on the two largest shifts

Type of Use	Minimum of One Parking Space for Each
RECREATION USES	
Amusement arcades	80 square feet of gross floor area
Athletic fields	Four seats of spectator seating; however, if no spectator seating is provided, a temporary parking area shall be provided on the site. Such area must provide sufficient numbers of spaces to serve all users of the site, and include a fence delineating such parking area.
Bowling alleys, billiards rooms	1/4 lane/table and one per each two employees
Campgrounds	Per campsite, plus one per employee, plus 50% of the spaces normally required for accessory uses
Golf courses	1/8 hole, plus one per employee, plus 50% of the spaces normally required for accessory uses
Golf driving ranges	One per tee and one per employee
Miniature golf courses	1/2 hole and one per employee
Riding schools or horse stables	Two stalls plus one per every four seats of spectator seating
Picnic areas	Per table
Skating rinks	Four persons of legal occupancy
Swimming pools (other than one accessory to a residential development)	Four persons of legal occupancy
Tennis or racquetball clubs	1/4 court plus one per employee plus 50% of the spaces normally required for accessory uses

Type of Use	Minimum of One Parking Space for Each
RESIDENTIAL USES	
Residential dwelling	1/2 dwelling unit (i.e., two spaces per dwelling unit)
Rooming houses, group homes, and bed and breakfasts	bedroom

Type of Use	Minimum of One Parking Space for Each
SOCIAL AND INSTITUTIONAL USES	
Auditorium, church, theater, and other such places of public assembly	200 square feet of gross floor area, but not less than one space per each four seats
Clubs, lodges and other similar places	two seats but not less than 100 square feet of gross floor area and one per each employee on two largest shifts
Convalescent homes	Three accommodations (beds) in addition to those needed for doctors and support staff

\\	Type of Use	Minimum of One Parking Space for Each
SOCIAL AND INSTITUTIONAL USES		
	Hospitals, sanitariums	Spaces shall be provided for visitors, at the rate of at least one space per each 1.5 accommodations (beds). Such spaces shall be in addition to those necessary for doctors and other personnel.
	Museums, art galleries, cultural centers, libraries	400 square feet of gross floor area
	Rehabilitation centers (without overnight accommodations)	one per each employee and per each three people anticipated to be handled through the facility
	Schools below grade ten, including commercial day-care and kindergarten	Six students enrolled
	Schools, tenth grade and above, including colleges	Three students enrolled
	Vocational training and adult education facilities	1.5 students enrolled

Section 312 Off-Street Loading Facilities

- 312.1. Off-street loading shall be required in accordance with this section prior to the occupancy of any building or use, so as to alleviate traffic congestion on streets. These facilities shall be provided whenever:
1. A new use is established;
 2. The use of a property or building is changed and thereby requiring more loading space, and,
 3. An existing use is enlarged thereby requiring an increase in loading space.
- 312.2. Site Plan Approval:
1. Each application for a zoning permit (for use for which off-street loading spaces are required) shall include a drawing (site plan) showing the proposed layout of the loading area. The drawing shall clearly indicate the design elements required below; and,
 2. No zoning permit shall be issued for any use for which a loading area is required, unless the site plan has been approved or necessary variances have been approved;
- 312.3. Surfacing - All off-street loading facilities, including access drives, shall be constructed and maintained with a paved surface of concrete or bituminous materials;
- 312.4. Location - Except as provided elsewhere, a ground-level loading area may be located in any side or rear yard. No exterior portion of an off-street loading facility (including access drives) shall be located within twenty-five feet (25') of any land within a residential zone. Where possible, off-street loading facilities shall be located on the face of a building not facing any adjoining land in a residential zone;

- 312.5. Connection to Street - Every loading space shall be connected to a street by means of an access drive. The access drive shall be at least twenty-four feet (24') wide, exclusive of curb returns and gutters. Section 310 specifies other requirements for access drives;
- 312.6. Separation from Streets, Sidewalks and Parking Lots - Off-street loading spaces shall be designed so that there will be no need for service vehicles to back over streets or sidewalks. Furthermore, off-street loading spaces shall not interfere with off-street parking lots;
- 312.7. Drainage - Off-street loading facilities (including access drives) shall be drained to prevent damage to other properties or public streets. Furthermore, all off-street loading facilities shall be designed to prevent the collection of standing water on any portion of the loading facility surface, particularly next to access drives;
- 312.8. Required Off-Street Loading Facilities Sizes -The following lists required minimum loading space sizes, in feet (excluding access drives, entrances, and exits):

Facility	Length	Width	Height (if covered or obstructed)
Industrial, Wholesale and Storage Uses	63 feet	12 feet	15 feet
All Other Uses	33 feet	12 feet	15 feet

- 312.9. Lighting - Adequate lighting shall be provided if the loading facility is to be used at night. The lighting shall be arranged so as not to be directed, reflected or cause glare off of the site;
- 312.10. Landscaping and Screening Requirements - Unless otherwise indicated, all off-street loading facilities shall be surrounded by a fifteen foot (15') wide landscape strip. All off-street loading facilities shall also be screened from adjoining residentially-zoned properties and/or adjoining public streets; and,

312.11.

Schedule of Off-Street Loading Spaces Required:

Type of Use	Number Spaces Per	Unit of Measurement
Hospital or other institution	None	First 10,000 square feet
	1.0	10,000 to 100,000 square feet
	+1.0	Each additional 100,000 square feet (or fraction)
Hotel	None	First 10,000 square feet
	1.0	10,000 to 100,000 square feet
	+1.0	Each additional 100,000 square feet (or fraction)
Industry or manufacturing	None	First 2,000 square feet
	1.0	2,000 to 25,000 square feet
	+1.0	Each additional 40,000 square feet (or fraction)
Multi-family dwelling	None	Less than 100 dwelling units
	1.0	100 to 300 dwelling units
	+1.0	Each additional 200 dwelling units (or fraction)
Office building, including banks	None	First 10,000 square feet
	1.0	10,000 to 100,000 square feet
	+1.0	Each additional 100,000 square feet (or fraction)
Retail sales and services, per store	None	First 2,000 square feet
	1.0	2,000 to 10,000 square feet
	2.0	10,000 to 40,000 square feet
	+1.0	Each additional 100,000 square feet (or fraction)
Shopping centers (integrated shopping centers, malls and plazas) having at least 25,000 square feet of GLA	3.0	First 100,000 square feet of GLA
	+1.0	Each additional 100,000 square feet of GLA
Theater, auditorium, bowling alley, or other recreational establishment	None	First 10,000 square feet
	1.0	10,000 to 100,000 square feet
	+1.0	Each additional 100,000 square feet (or fraction)
Undertaking establishment or funeral parlor	None	First 3,000 square feet
	1.0	3,000 to 5,000 square feet
	+1.0	Each additional 10,000 square feet (or fraction)
Wholesale or warehousing (except mini-warehousing)	None	First 1,500 square feet
	1.0	1,500 to 10,000 square feet
	+1.0	Each additional 40,000 square feet (or fraction)

Section 313 Screening and Landscaping Requirements

313.1. Yard Ground Cover - Any part of the site which is not used for buildings, other structures, loading or parking spaces and aisles, sidewalks, and designated storage areas shall be planted with an all-season ground cover approved by the Board of Supervisors (e.g., grass, ivy, vetch, pachysandra, etc.). In addition, gravel can be substituted if done in a manner to complement other vegetative materials. It shall be maintained to provide an attractive appearance, and all non-surviving plants shall be replaced promptly;

313.2. Landscaping Requirements - Any required landscaping (landscape strips and interior landscaping) shall include a combination of the following elements: deciduous trees, ground covers, evergreens, shrubs, vines, flowers, rocks, gravel, earth mounds, berms, walls, fences, screens, sculptures, fountains, sidewalk furniture, or other approved materials. Artificial plants, trees and shrubs may not be used to satisfy any requirement for landscaping or screening. No less than eighty percent (80%) of the required landscape area shall be vegetative in composition, and no outdoor storage shall be permitted within required landscape areas;

For each seven hundred fifty (750) square feet of required area for landscape strips, one shade/ornamental tree shall be provided. For every three hundred (300) square feet of interior landscaping required (parking lots), one shade tree shall be provided. If deciduous, these trees shall have a clear trunk at least five feet (5') above finished grade; if evergreen, these trees shall have a minimum height of six feet (6'). All required landscape strips shall have landscaping materials distributed along the entire length of the lot line abutting the yard;

313.3. Screening - The following materials may be used: evergreens (trees, hedges or shrubs), walls, fences, earth berms, or other approved similar materials. Any wall or fence shall not be constructed of corrugated metal, corrugated fiberglass or sheet metal. Screening shall be arranged so as to block at least eighty percent (80%) of the ground level views between grade, and a height of six feet (6') throughout the year. Landscape screens must achieve this visual blockage within two (2) years of installation; and,

313.4. Selection of Plant Materials - Trees and shrubs shall be typical of their species and variety; have normal growth habits, well-developed branches, densely foliated, vigorous, fibrous root systems. They shall have been grown under climatic conditions similar to those in the locality of the project or properly acclimated to conditions of the locality of the project.

Any tree or shrub which appears dead within eighteen (18) months of planting shall be replaced. All landscaping and screening treatments shall be properly maintained.

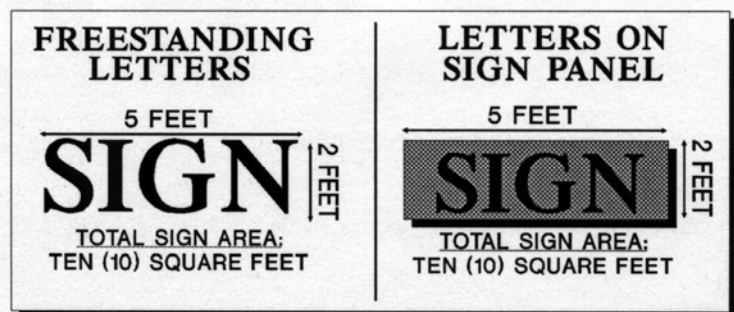
Section 314 Outdoor Signs

314.1. General Regulations for All Signs:

1. Signs must be constructed of durable material and maintained in good condition;

2. No sign shall be maintained within the Township in such a state of disrepair so as to have the appearance of complete neglect, which is rotting or falling down, which is illegible, or has loose parts separated from original fastenings;
3. Whenever a sign becomes structurally unsafe or endangers the safety of the building or premise, or endangers the public safety, the Zoning Officer shall give written notice to the owner of the premises on which the sign is located that such sign be made safe or removed within five (5) days;
4. Advertising painted upon or displayed upon a barn or other building or structure shall be regarded as a flat wall sign and the regulations pertaining thereto shall apply;
5. Each sign shall be removed when the circumstances leading to its erection no longer apply;
6. Signs may be interior lighted with non-glaring lights, or may be illuminated by floodlights or spotlights that are directed downwards and shielded so there is no direct light transmitted to other properties or public rights-of-way;
7. No sign shall be of the intermittent flashing or rotating type, unless located within the B-1 Zone;
8. No sign located within three hundred feet (300') of any traffic light shall be illuminated with red, green or yellow lights or neon tubing;
9. All electrically illuminated signs shall be constructed to the standards of the National Board of Fire Underwriters;
10. Signs must be positioned so that they do not interfere with any clear sight triangle, as required by Sections 305, 309 and 310 of this Ordinance;
11. Determination of Size - The area of a sign shall be construed to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, including any border framing or decorative attachments, but not including any supporting framework or bracing incidental to the display itself. Where the sign consists of individual letters or symbols attached to a building, wall or window, the area of the sign shall be considered to be that of the smallest rectangle or other regular geometric shape which encompasses all of the letters and symbols.

Where a sign has two (2) or more faces, the area of all faces shall be included



in determining the area of the sign; provided, however, for a double face sign if the interior angle formed by the two faces of the double-face sign is less than forty-five (45°) degrees and the two faces are at no point more than three (3) feet from one another, the area of only the larger face shall be included;

12. No loud, vulgar, indecent, or obscene advertising matter shall be displayed in any manner including, but not limited to:
 - A. Act or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;
 - B. Scenes wherein a person displays the vulva or the anus or other genitals;
 - C. Scenes wherein artificial devices are employed to depict, or drawings are employed to portray any of the prohibited signs, photographs or graphic representations described above; and,
 - D. Any other graphic illustration pertaining to specified sexual activities and/or specified anatomical areas.
13. No sign shall be erected or located so as to prevent free ingress or egress from any window, door or fire escape;
14. No sign shall be placed in such a position that it will obscure light or air from a building or which would create a traffic danger;
15. No sign shall be permitted which is permanently attached to public utility poles or trees within the right-of-way of any street;
16. No sign located within the Floodplain Zone shall exceed six (6) square feet of area per side;
17. In the event that a symbol, trademark or other such figure is used as a sign post or standard which could be construed to indicate or identify a particular use or business, that symbol, trademark or figure is to be computed as part of the total allowable sign area;

314.2. Specific Sign Requirements - The tables on the following pages tabulate requirements imposed upon permanent and temporary signs, as permitted within the Township:

PERMANENT SIGN REQUIREMENTS

Sign Type	Maximum Permitted Number	Maximum Permitted Sign Area	Maximum Height & Minimum Required Setback from Nearest Property Line for Freestanding Signs	Maximum Height of Flat Wall Signs	Maximum Height of Wall Projecting Signs	Maximum Projection from Wall for Wall Projecting Signs	Permitted Zones	Other Requirements	Permit Required
Signs owned and associated with uses operated by the Township. Official traffic signs.	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	All		No
Signs identifying public and semi-public uses (e.g., schools, churches, utilities, hospitals, libraries, parks, fire stations, post offices, and other similar uses).	2 per principal use	64 sq. ft.	10 ft.	Height of wall to which sign is attached.	Height of wall to which sign is attached.	10 ft., but no closer than 10 ft. from any lot line.	All	See footnote 1 below.	Yes
Residential nameplates identifying name of home, its occupant, or both, not including name listing on mailbox.	1 per dwelling unit	2 sq. ft.	5 ft.	10 ft.	Not Permitted	Not Permitted	All		No
Property control signs (e.g., "No Trespassing," "Private Property," "No Hunting or Fishing," "Posted," "Private Drive," or similar type signs).	1 per 25 lineal ft. of property line	2 sq. ft. per sign	5 ft.	Not Permitted	Not Permitted	Not Permitted	All	Spacing at no less than 25 ft. intervals.	No
Residential development/neighborhood signs. Such signs shall only list the name of the neighborhood/development and shall not list any names of contractors, realtors, or both.	1 per street entrance, but no more than 2 total	1 sq. ft. per dwelling, not to exceed 32 sq. ft. per sign	15 ft.	Height of wall to which sign is attached.	Height of wall to which sign is attached.	10 ft., but no closer than 10 ft. from any lot line.	HV, R-1 & R-2	The applicant shall submit a written description of the maintenance responsibilities in a form satisfactory to the Township Solicitor.	Yes
Individual business signs identifying the name and type of business, any trademark of the business conducted on the premises, or any combination thereof. This does not include businesses contained within planned centers, as defined herein.	1 per principal use	25 sq. ft., plus 2 sq. ft. per 5 lineal ft. of lot frontage, not to exceed 64 sq. ft. per sign.	15 ft.	Height of wall to which sign is attached.	Height of wall to which sign is attached.	20 ft., but not closer than 10 ft. from any lot line.	AC/CI	No flat wall sign, nor wall projecting sign shall be larger than 15% of the wall area to which the sign is attached.	Yes
On-site directional, entrance, exit, rest room, and other informational signs.	4 per building	2 sq. ft. per sign	5 ft.	10 ft.	Height of wall to which sign is attached.	2 ft.	All		No
Billboards	See Section 409 of this Ordinance.								Yes

¹In addition, two (2) off-premise signs shall be permitted per use. Such signs shall not exceed six (6) sq. ft. per side. If more than one organization collectively erects one sign, each organization shall be permitted a maximum of six (6) square feet of sign area; however, no such sign shall exceed a total sign area of twenty-four (24) square feet. Each use of a collective sign shall constitute one (1) of the organization's two (2) permitted off-premise signs. Off-premise signs may only be located upon private property with the written permission of the landowner, a copy of which must be submitted to the Zoning Officer upon application for a zoning permit. No off-premise sign shall be located within the street right-of-way. Off-premise signs must be designed and located so as not to interfere with the clear sight triangle of any driveway, access drive or street. No more than two (2) off-premise signs shall be located within two hundred feet (200') of any street intersection.

TEMPORARY SIGN REQUIREMENTS

Sign Type	Maximum Permitted Number	Maximum Permitted Sign Area	Maximum Height & Minimum Required Setback from Nearest Property Line for Freestanding Signs	Maximum Height of Flat Wall Signs	Maximum Height of Wall Projecting Signs	Maximum Projection from Wall for Wall Projecting Signs	Permitted Zones	Other Requirements	Permit Required
Temporary signs of contractors, architects, mechanics, landscapers, and artisans , displayed only while actual on-site work is in progress.	1 per firm whose work is in progress	6 sq. ft.	5 ft.	Not Permitted	Not Permitted	Not Permitted	All	Should a sign be left on-site beyond allowable time period, the Township may impound it and recover a fee from owner equal to cost of impoundment and storage.	No
Real estate sale, sold, or rent signs when placed upon the property (unit) to be rented or sold, containing less than 3 acres.	1 per street frontage, maximum of 2 signs	6 sq. ft. per sign	5 ft.	Height of wall to which sign is attached.	Not Permitted	Not Permitted	All	All such signs shall be removed within 5 days of final sales transaction or upon rental occupancy, or be subject to Township impoundment and a recovery fee.	No
Real estate sale, sold, or rent signs when placed upon the property (unit) to be rented or sold, containing more than 3 acres.	1 per street frontage, maximum of 2 signs	32 sq. ft. per sign	10 ft.	Height of wall to which sign is attached.	Not Permitted	Not Permitted	All	Same as above.	Yes
Proposed development signs for residential, office, or both, complexes.	1 per street frontage, maximum of 2 signs	1 sq. ft. per unit of occupancy, not to exceed 32 sq. ft.	10 ft.	Height of wall to which sign is attached.	Not Permitted	Not Permitted	All, but only after final plan is approved.	Such signs shall be removed upon completion of construction of final unit.	Yes
Proposed development signs for commercial uses, industrial uses, other non-residential uses, or any combination thereof.	1 per street frontage, maximum of 2 signs	1 sq. ft. per 1,000 sq. ft. of gross leasable floor area, not to exceed 64 sq. ft.	10 ft.	Height of wall to which sign is attached.	Not Permitted	Not Permitted	A-C/B-1, but only after final plan approval.	All such signs shall be removed upon completion of building construction.	Yes
Special event signs for businesses (e.g., grand openings, change of use or ownership, closeout sale, clearance sale, holiday sale, etc.).	1 per business per event	32 sq. ft. if freestanding; 48 sq. ft. if attached to wall	10 ft.	Height of wall to which sign is attached.	Not Permitted	Not Permitted	B-1	Such signs may only be used during two consecutive periods per calendar year, not exceeding 30 days total.	Yes
Roadside stand signs for the sale of agricultural products upon a principal farm property.	1 per farm	5 sq. ft.	5 ft.	Height of wall to which sign is attached.	Height of wall to which sign is attached.	5 ft.	All	Roadside stand signs shall only be displayed during seasons when products are for sale.	No
Garage/yard sale signs upon properties conducting such sales.	1	4 sq. ft. per sign	5 ft.	Height of wall to which sign is attached.	Not Permitted	Not Permitted	All	See Section 301.8. for additional requirements.	No
Political signs.	Unlimited	12 sq. ft.	5 ft.	Height of wall to which sign is attached.	Not Permitted	Not Permitted	All	Such signs may only be displayed between 30 days prior to and 5 days after an election.	No

314.3. Permits - All signs requiring permits as per the tables of Section 314.2., shall require the obtainment of a permit prior to the erection or installation of the sign.

1. Application for permit shall be made in writing to the Zoning Officer and shall contain all information necessary for such Officer to determine whether the proposed sign, or the proposed alterations, conform to all the requirements of this Ordinance.

All applications for sign permits shall be accompanied by scaled plans or diagrams showing the following:

- A. Exact dimensions of the lot, including any right-of-way lines or building upon which the sign is proposed to be erected;
 - B. Exact size, dimensions and location of the said sign on the lot or building, together with its type, construction, materials to be used, and the manner of installation; and,
 - C. Any other lawful information which may be required of the applicant by the Zoning Officer.
2. No sign permit shall be issued, except in conformity with the regulations of this Ordinance, except upon order of the Zoning Hearing Board, granted pursuant to the procedures established for the issuance of a variance;
 3. Permits shall be granted or refused within fifteen (15) days from date of application, or within fifteen (15) days from the date of the Zoning Hearing Board's decision (where applicable).

Section 315 Operations and Performance Standards

All uses proposed within the Township shall operate in compliance with applicable State and Federal regulations, as they are periodically amended. The following lists known governmental regulations associated with various land use impacts. This list in no way excludes or limits Federal or State jurisdiction over uses within the Township, but is merely provided for information to applicants and landowners.

- 315.1. Noise Pollution and Vibration: "Rules and Regulations" of the Pennsylvania Department of Environmental Protection.
- 315.2. Air Pollution, Airborne Emissions and Odor: "Rules and Regulations" of the Pennsylvania Department of Environmental Protection.
- 315.3. Water Pollution: The Clean Streams Law, June 22, 1937 P.L. 1987, 35 P.S. 691.1 as amended.
- 315.4. Mine Reclamation and Open Pit Setback: Pennsylvania Act No. 1984-219, the "Noncoal Surface Mining Conservation and Reclamation Act."
- 315.5. Glare and Heat: "Rule and Regulations" of the Pennsylvania Department of Environmental Protection.
- 315.6. Nutrient Management: PA Nutrient Management Act of 1993.

Section 316 Roadway Classifications

For the purposes of this Ordinance, the Township's roads shall be classified in the following categories:

Arterial Roads	Collector Roads	Local Roads
Doe Run Road (PA Route 82)	Springdell Road Chatham-Springdell Road Newark Road Street Road Upland Road	All other roads not listed as Arterial or Collector Road.

Section 317 Outdoor Storage and Display Requirements

317.1. Shopping Cart Storage - For grocery stores, other stores containing grocery departments, variety stores, home improvement and building supply stores, or other uses that provide for the use of shopping carts, the outdoor storage and collection of shopping carts is permitted under the following conditions:

1. Shopping carts may be collected and stored immediately in front of the storefront (upon sidewalks, or under a canopy) and/or within the parking lot;
2. In no case shall such designed shopping cart storage and collection areas be located upon any facilities used for vehicle circulation, required parking, and loading, nor emergency vehicle access (e.g., fire lanes);
3. Such shopping cart storage and collection areas shall be situated so as to provide clear pedestrian access (sidewalk or other area) at least eight feet (8') wide adjoining the storefront; and,
4. Signage for such shopping cart storage and collection areas shall be governed by those regulations pertaining to on-site directional and informational signs, as regulated by Section 314 of this Ordinance;

317.2. Seasonal Sidewalk Displays:

1. Only seasonal merchandise may be displayed, and shall be limited to the calendar periods between April 1 and October 1, and November 25 and January 5, of each year;
2. The location of such outdoor displays shall be limited to sidewalks, under canopies, or other areas immediately in front of the building's storefront. The stacking and/or display of such items shall be arranged to provide clear pedestrian access (sidewalk or other area) at least eight feet (8') wide;
3. In no case shall the location of such sidewalk display areas occur within any area used for vehicular circulation, required parking, and loading, nor emergency vehicle access (e.g., fire lanes);

4. In no case shall such sidewalk display area exceed fifty percent (50%) of the lineal storefront dimension. *(For example, a 200-foot long storefront could display no more than 100 lineal feet of a sidewalk display);*
5. No signage, except as authorized by Section 314 of the Ordinance, shall be permitted; and,
6. The applicant shall submit a working plan to the Township for the cleanup of litter and debris which may result from such outdoor display. Also, the applicant shall depict intended sidewalk display areas upon any permits and/or plans required by the Township. No additional permits shall be required, unless such area is to change location or size; and,

317.3.

Special Event Sales:

1. In addition to the above, two special event sales shall be permitted per calendar year. Such special event sales shall be limited to no more than a total of thirty (30) days per calendar year;
2. Special event sales displays shall be located no closer than forty-five feet (45') from an adjoining road, nor ten feet (10') from any side or rear lot lines;
3. Special event sales may be located within the parking lot, provided that such location minimizes congestion within the parking lot, and those access drives that provide direct vehicular access to adjoining roads. Within parking lots, such display areas shall be specifically delineated from the adjoining parking lot by the use of identifiable barriers (e.g., tents, canopies, temporary fences, or ropes). Additionally, location within the parking lot shall only be permitted upon parking spaces in excess of the number required by Section 311.19. of this Ordinance;
4. Special event sales shall not be located within the parking lot during the months of November, December, January, February, and March, because of the potential need for snow removal;
5. The area devoted to special event sales displays shall not exceed twenty percent (20%) of the gross leasable floor area of the use(s) conducting the special event sale;
6. In shopping centers, special event sales shall be jointly held by all of those occupants of the shopping center who wish to participate. No individual occupants of a shopping center shall be permitted to conduct separate special event sales;
7. All uses conducting a special event sale shall be responsible for the ongoing cleanup of litter and debris. Also, no exterior public address, nor lighting systems shall be used which produce impacts beyond the subject property; and,
8. Signage for special event sales shall comply with the applicable requirements contained within Section 314 of this Ordinance.

Section 318 Required Traffic Impact Study Standards

- 318.1. All uses requiring a traffic impact study by this or any other Ordinance shall provide a study prepared in accordance with Section 402.05.5 of the SLDO.

Section 319 Common Open Space Requirements

In those instances where open space is required elsewhere in this Ordinance, or when an applicant proposes the use of open space, such open space shall comply with the following:

- 319.1. Required open space shall be designed and arranged to achieve at least one of the following objectives, and the applicant shall demonstrate those specific measures employed to achieve these objectives:
1. Protection of important natural resources (e.g., streams, ponds, wetlands, steep slopes, woodlands, unique geologic features, wildlife habitats, aquifer recharge areas, etc.);
 2. Protection of important historical and/or archaeological sites;
 3. Provision of usable play and recreation areas that are conveniently accessible to residents within the development and the Township; and,
 4. Integration of greenbelts throughout the development that link residences with on-site or adjoining parks, schools or other similar features.
- 319.2. An essential element of the provision of open space is a written description regarding its ownership and/or disposition. Such ownership and/or disposition shall be accomplished through one of the following:
1. An offer of dedication to the Township. The Township shall not be obligated to accept dedication of the common open space;
 2. With permission of the Township, and with appropriate deed restrictions in favor of the Township and in language acceptable to the Township Solicitor, the developer may transfer ownership of the common open space or a portion thereof to a private, nonprofit organization among whose purposes is the preservation of open space land and/or natural resources. The organization shall be a bona fide conservation organization with a perpetual existence, the conveyance must contain appropriate provision for reverter or retransfer if the organization is unable to maintain the land, and the organization must enter into a maintenance agreement with the Township; and,
 3. The developer shall provide for and establish an organization for the ownership and maintenance of the common open space which shall be generally consistent with the requirements for unit owners; associations found in the Pennsylvania Uniform Condominium Act, 68 Pa. C.S. § 3101 et seq, or the Pennsylvania Planned Community Development Act. If such an organization is created, the agreements of sale and deeds for all lots shall contain the following requirements in language acceptable to the Township Solicitor:

- A. Such organization shall not dispose of the common open space by sale or otherwise, except to the Township unless the Township has given prior written approval. Such transfer shall be made only to another organization which shall maintain the common open space in accordance with this Ordinance;
- B. The organization and all lot owners shall enter into a maintenance agreement with the Township and shall agree to be bound by the provisions of Article VII of the Pennsylvania Municipalities Planning Code relating to the maintenance of deteriorating common open space by municipalities; and,
- C. The Township may require the establishment of a reserve fund to provide for maintenance of or capital improvements to the common open space.

Section 320 Litter

- 320.1. No property shall be developed, used or maintained in a state that creates litter either on the property or upon any adjoining properties and/or roads;
- 320.2. Any property containing litter on the effective date of this Ordinance shall be considered nonconforming. Such litter may continue for a period not to exceed ten (10) days from the effective date of this Ordinance. After the ten (10) day period, such litter shall be removed by the owner; and,
- 320.3. Should any property or use be conducted or maintained in a condition that causes repeated litter complaints or violations, the owner shall be required, upon the instruction of the Zoning Officer, to prepare and implement a working plan for the cleanup of such litter as a condition of zoning compliance.

Section 321 Materials and Waste Handling Requirements

- 321.1. All principal commercial, industrial, institutional, and health-care related uses shall be required to provide detailed information regarding materials and waste handling, including:
 - 1. Listing of all materials to be used and/or produced on the site;
 - 2. Listing of all wastes generated on the site; and,
 - 3. Written evidence that the storage, treatment, processing, transfer, and disposal of all materials and wastes shall be accomplished in a manner that complies with all applicable Federal, State, County, and municipal requirements, including, but not limited to, the following:
 - A. the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101);
 - B. the Pennsylvania Solid Waste Management act (Act 97);
 - C. the Federal Emergency Management Act;
 - D. the Federal Superfund Amendment and Reauthorization Act;
 - E. the Pennsylvania Hazardous Materials Emergency Planning and

- Response Act; and,
F. the Pennsylvania Low-Level Radioactive Waste Disposal Act.

Section 322 Well Drilling Requirements

- 322.1. Procedure - All applications submitted subject to this section shall be reviewed and approved by the Zoning Officer after review by the Chester County Health Department and/or any other specified agent of the Township. Should the Zoning Officer determine that the applicant's statement does not adequately meet the requirements, the application shall be denied;
- 322.2. General Requirements - Prior to the subdivision or land development of one (1) or more lots which would be served by individual wells or a community water system, and prior to the issuance of zoning permits for pre-existing lots which would be so served, the applicant shall demonstrate compliance with the following requirements:
1. All proposed wells shall be drilled and well water yields tested and evaluated by a qualified water well driller, geologist or professional engineer. A well water yield test shall be conducted for a minimum of one (1) hour at a fixed rate of water removal of three (3) gallons per minute for each unit of occupancy. It is recommended, but not required, that a pump be installed to measure well water yield, because of its greater accuracy over bailing methods. It is further recommended, but not required, that well water yield not be measured until 24–48 hours after drilling and any installation of a pump, to allow the water level to recover and to ensure greater accuracy in reported well water yields. A data sheet shall be prepared showing the following for each pumped well:
 - A. The date;
 - B. Clock time;
 - C. Elapsed time since water removal started/stopped;
 - D. Depth to water below land surface before and after water removal;
 - E. Drawdown or recovery in feet and inches; and,
 - F. Specific capacity of the well;
 2. A water quality test shall be conducted concurrently with the well water field test by a certified laboratory. Such test shall demonstrate that the quality of the water tested either meets the minimum public health drinking water standards or is capable of being treated to attain such standard, in which case approval shall be conditioned on receipt of such treatment;
 3. The data sheet and summary of test results, together with recommendations as to the suitability of the well or wells for the intended uses and the results of the water quality test, shall be provided to the Township Zoning Officer;
 4. All wells shall be shown to be capable of supplying potable water at a minimum rate of four hundred (400) gallons per day per unit of occupancy at a demand rate of not fewer than three (3) gallons per minute for one (1) hour, either with or without the use of a storage system;

5. If a storage system is needed to meet the above minimum requirements, the applicant shall note the recommended capacity of such storage system together with well water yield and well water quality results on any subdivision or land development plan. The Zoning Officer shall make a note of the same information on all subsequent zoning permits issued for the subject property; and,
6. It is recommended, but not required, that prior to the drilling of wells the applicant consult with the Township Planning Commission for a pre-application review of a sketch plan for the proposed subdivision to determine its consistency with the requirements of the SLDO. It is further recommended that where a community water system or multiple individual wells are proposed, the applicant may wish to avail him or herself of the opportunity to conduct aquifer testing prior to drilling the wells required by this section.

Section 323 Zoning Requirements for Use of On-Lot Sewage Disposal Systems

- 323.1. As of the effective date of this Ordinance, all future uses that rely upon on-lot sewage disposal systems shall be required to specifically test for and secure one disposal site (field, bed or trench) and another alternate disposal site. Both disposal sites shall be approved by the Sewage Enforcement Officer. Furthermore, the alternate disposal site shall be perpetually protected from excavation, construction and other activities that would result in disturbance of the soils' ability to renovate sewage effluent, until such time as the alternate field is activated due to malfunction of the initial disposal site;
- 323.2. Regardless of any maximum lot area requirements listed elsewhere in this Ordinance, the minimum required lot size may be increased to insure an acceptable level of nitrate-nitrogen in the adjoining groundwaters. Such determinations will be made by the PA DEP, through its sewer module review process. In those cases where applicable maximum lot area requirements are exceeded to protect groundwater quality, the applicant shall furnish evidence that the amount of land needed to protect local groundwater is the minimum necessary for such protection. An applicant may employ a sewage plume easement on adjoining property as an alternative to increased lot size provided such easement in a form acceptable to the Township solicitor; and,
- 323.3. Every use relying upon on-lot sewage disposal systems shall be required to properly maintain and repair such systems in accordance with the Township On-lot Sewage Disposal System Management Ordinance.

Section 324 Forestry Uses

- 324.1. In accordance with State law, forestry uses are permitted by right in every zone, subject to the following standards:
- 324.2. Logging Plan Requirements - Every landowner on whose land timber harvesting is to occur shall obtain a zoning permit, as required by this Ordinance. In addition to the zoning permit requirements listed elsewhere in this Ordinance, the

applicant shall prepare and submit a written logging plan in the form specified below. No timber harvesting shall occur until a zoning permit has been issued. The provisions of the permit shall be followed throughout the operation. The logging plan shall be available at the harvest site at all times during the operation, and shall be provided to the Zoning Officer upon request. The landowner and the forestry operator shall be jointly and severally responsible for complying with the terms of the logging plan and the zoning permit. All timber harvesting operations will be conducted only in accordance with this Ordinance and the approved logging plan.

- A. Minimum Requirements - As a minimum, the logging plan shall include the following:
 - a. Site location and boundaries, including both the boundaries of the property on which the timber harvest will take place, and the boundaries of the proposed harvest area within that property.
 - b. Significant topographic features related to potential environmental problems.
 - c. Location of all earth disturbance activities, such as roads, landings and water control measures and structures.
 - d. Location of all crossings of waters of the Commonwealth.
 - e. The general location of the proposed operation to municipal and State highways, including any accesses to those highways.
 - f. Design, construction, maintenance, and retirement of the access system, including haul roads, skid roads, skid trails, and landings.
 - g. Design, construction and maintenance of water control measures and structures, such as culverts, broad-based dips, filter strips and water bars.
 - h. Design, construction and maintenance of stream and wetland crossings.
 - i. The general location of the proposed operation in relation to municipal and State highways, including any accesses to those highways.
- B. Required Approval of a Forest Stewardship Plan – All applications for timber harvesting shall include written approval of a Forest Stewardship Plan by the PA DCNR, Bureau of Forestry.
- C. Forest Regeneration Plan - A forest regeneration plan that identifies the principle species of trees intended to be logged and their respective method or methods of forest regeneration, including each species' respective forest regeneration schedule (i.e. in terms of years.) As soon as practical and consistent with sound forest management practices, after the conclusion of the timber harvesting

operation, the applicant(s)/owner(s) shall cause to be implemented the forest regeneration schedule of the timber harvesting plan.

D. Compliance With State Law - The logging plan shall address and comply with the requirements of all applicable State regulations, including, but not limited to, the following:

- a. Erosion and sedimentation control regulations contained in Title 25 Pennsylvania Code, Chapter 102, promulgated pursuant to The Clean Streams Law (35 P.S. §691.1. et seq.).
- b. Stream crossing and wetlands protection regulations contained in Title 25 Pennsylvania Code, Chapter 105, promulgated pursuant to the Dam Safety and Encroachments Act (32 P.S. §693.1 et seq.).

E. Relationships of State Laws, Regulations and Permits to the Logging Plan - Any permits required by State laws and regulations shall be attached to and become part of the logging plan. An erosion and sedimentation pollution control plan that satisfies the requirements of Title 25 Pennsylvania Code, Chapter 102, shall also satisfy the requirements for the logging plan specified in this Section 324.2. of this Ordinance, provided that all information required by these sections is included or attached.

324.3. Compliance with Township Stormwater Management Ordinance – The application must provide written evidence of compliance with the Township Stormwater Management Ordinance.

324.4. Required Marking of Trees - At least forty-eight (48) hours before any permitted timber harvesting operation begins, all trees that are at least six (6) inches in diameter as measured four and one-half feet (4.5') above grade to be felled in connection therewith shall be clearly marked on the trunk and the stump so that the same may be easily identified both before and after a tree has been felled. No tree shall be felled which has not been designated for removal on the approved timber harvesting plan.

324.5. Required Notifications

- A. The holder of a permit to conduct a timber harvesting operation shall notify the Township in writing at least forty-eight (48) hours before any cutting of trees is to begin including, but not limited to, those in connection with the construction of roads or trails. Such notification shall also indicate an estimated completion date.
- B. The holder of a permit to conduct a timber harvesting operation shall notify the Township in writing within forty-eight (48) hours of the completion date of the timber harvesting operation.

324.6. Required Forest Practices - The following requirements shall apply to all timber harvesting operations:

- A. Timber harvesting shall be accomplished with those professionally-accepted silvicultural practices that are most appropriate to the

particular timber stand as indicated in the approved timber harvest plan.

- B. No treetops or slash shall be left within the fifty (50) feet of any public or private street, adjoining property or designated trail; or within ten (10) feet of any natural or artificial swale or drainage ditch. All tree tops and slash shall be lopped to a maximum height of four (4) feet above the ground.
- C. Felling or skidding on or across property of others is prohibited without the express written consent of the owners of such property. No treetops or slash shall be left on or across the boundary of any property adjoining the operation without the consent of the owner thereof.
- D. Littering is prohibited and litter resulting from a timber harvesting operation shall be removed from the site on a daily basis.
- E. All cutting, removing, skidding and transporting of trees shall be planned and performed in such a manner as to minimize the disturbance of or damage to other trees and vegetation and the land itself, unless authorized in the approved timber harvesting plan.
- F. Roads and trails shall be constructed, maintained and abandoned in such manner as to prevent soil erosion and permanent damage to soil and waterways.
- G. Roads and trails shall be only wide enough to accommodate the type equipment used and grades shall be kept as low as possible.
- H. Where possible, stream crossings shall be avoided, but where deemed to be necessary, crossings shall be made at a right angle across suitable culverts or bridges.
- I. Skidding across live or intermittent streams is prohibited except over bridges or culverts.
- J. Unless superseded by the Erosion and Sedimentation Control Regulations contained in Title 25 Pennsylvania Code, Chapter 102, promulgated pursuant to The Clean Streams Law (35 P.S. §691.1. et seq.), "No Timber Harvesting Buffer Zones" are established in accordance with the following table. Except for the construction and use of roads and trails described in the approved timber harvesting plan, no trees shall be cut, removed, skidded or transported in a No Timber Harvesting Buffer Zone.

No Timber Harvesting Buffer Zones	
Use	Required Minimum Setback
Adjoining street	50 feet
Adjoining property	50 feet

No Timber Harvesting Buffer Zones	
Use	Required Minimum Setback
Streams or other watercourse	50 feet
Designated Trails	25 feet
Springs, vernal ponds, seeps, Natural or artificial swale or drainage ditches	25 feet

- K. Everything practicable shall be done to prevent damage or injury to young growth and trees not designated for cutting unless authorized within the approved timber harvesting plan.
- L. All limbs and stumps shall be removed from felled trees prior to skidding.
- M. All trees bent or held down by felled trees shall be released promptly.
- N. No trees shall be left lodged in the process of felling with as little damage as possible to the remaining trees.
- O. Felling or skidding on or across any public street is prohibited without the express written consent of the Township in the case of Township streets or the Pennsylvania Department of Transportation in the case of state Highways.
- P. The stumps of all felled trees shall be permitted to remain for soil for stabilization provided that they extend no more than two feet (2') above grade.
- Q. During the periods of abnormal forest fire danger, the Township shall have the right to order a suspension of timber harvesting operations until the danger subsides.
- R. Upon completion of a timber harvesting operation, all roads shall be graded to eliminate any wheel ruts, and access to such roads from any public street by motor vehicles of any kind shall be effectively blocked.

324.7. Responsibility for Road Maintenance and Repair; Road Bonding - Pursuant to Title 75 of the Pennsylvania Consolidated Statutes, Chapter 49; and Title 67 Pennsylvania Code, Chapter 189, the landowner and the forestry operator shall be responsible for repairing any damage to Township roads caused by traffic associated with the timber harvesting operation, to the extent the damage is in excess of that caused by normal traffic, and shall be required to furnish a bond to guarantee the repair of such potential damages, as determined by the Township Board of Supervisors with advice from the Township Engineer.

324.8. Township's Right to Inspect

- A. The Township may, by its own personnel or outside agent, go upon the site of any proposed timber harvesting operation after an

application to conduct such operation has been filed for the purpose of reviewing the plans for the proposed operation and thereafter recommending or opposing the proposed operation or recommending or requiring changes or modifications thereto.

- B. After a permit for a timber harvesting operation has been issued, the Township shall have the right by its own personnel or agent, to go upon the site before, during and after the timber harvesting operation to insure and require compliance with the plans for said operation as finally approved and all of the terms and provisions of this Ordinance.

Article 4

Specific Use Criteria

Section 400 Specific Standards for Special Exception and Conditional Uses

In addition to the general criteria listed in Sections 704.3. and 804, the following sets forth standards that shall be applied to each individual special exception or conditional use. These standards must be satisfied prior to approval of any application for a special exception or conditional use. The applicant shall be required to demonstrate compliance with these standards and must furnish whatever evidence is necessary to demonstrate such compliance. All uses must comply with the standards and other requirements within the underlying zone, unless those standards expressed for each special exception or conditional use specify different standards; in such cases, the specific special exception or conditional use standards shall apply.

For the purposes of this Article 4, any required setbacks imposed upon special exceptions or conditional uses shall be measured from the boundary line of the site for which the special exception or conditional use is requested, regardless of whether or not this line corresponds to a property line or a lease line.

Section 401 Adult-Related Uses

- 401.1. Within the (B-1) Zone, adult-related uses are permitted by conditional use, subject to the following criteria:
- 401.2. An adult-related use shall not be permitted to be located within three hundred feet (300') of any other adult-related use;
- 401.3. No adult-related use shall be located within two hundred feet (200') of any residentially-zoned land;
- 401.4. No establishment shall be located within three hundred feet (300') of any parcel of land which contains any one or more of the following specified land uses:
 - 1. Amusement park;
 - 2. Camp (for minors activity);
 - 3. Child-care facility;
 - 4. Church or other similar religious facility;
 - 5. Community center;
 - 6. Museum;
 - 7. Park;
 - 8. Playground;
 - 9. School; or
 - 10. Other lands where minors congregate.
- 401.5. The distance between any two adult entertainment establishments shall be measured in a straight line, without regard to intervening structures, from the

closest point on the exterior parcel line of each establishment. The distance between any adult entertainment establishment and any land use specified above shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior parcel line of the adult entertainment establishment to the closest point on the property line of said land use;

- 401.6. No materials, merchandise or film offered for sale, rent, lease, loan, or for view upon the premises, shall be exhibited or displayed outside of a building or structure;
- 401.7. Any building or structure used and occupied as an adult-related use shall be windowless, or have an opaque covering over all windows or doors of any area in which materials, merchandise or film are exhibited or displayed, and no sale materials, merchandise or film shall be visible from outside of the building or structure;
- 401.8. No sign shall be erected upon the premises depicting or giving a visual representation of the type of materials, merchandise or film offered therein;
- 401.9. Each entrance to the premises shall be posted with a notice specifying that persons under the age of seventeen (17) years are not permitted to enter therein and warning all other persons that they may be offended upon entry;
- 401.10. No adult-related use may change to another adult-related use, except upon approval of an additional conditional use;
- 401.11. The use shall not create an enticement for minors because of its proximity to nearby uses where minors may congregate;
- 401.12. No unlawful sexual activity or conduct shall be permitted; and,
- 401.13. No more than one adult-related use may be located within one building or shopping center.

Section 402 Airports/Heliports/Helicopter Pads (Private)

- 402.1. Within the (A-R) Zone, airports/heliports and helicopter pads (private) are permitted by conditional use, subject to the following criteria:
- 402.2. Minimum Lot Area - Thirty (30) acres for airports only;
- 402.3. All facilities must be designed and operated in strict compliance with all applicable State and Federal laws and regulations;
- 402.4. The applicant must furnish evidence of the obtainment of a private license from the Pennsylvania Department of Transportation, Bureau of Aviation, prior to the approval of the conditional use application; and,
- 402.5. No part of an airport take-off/landing strip or a heliport take-off/landing pad shall be located nearer than three hundred feet (300') from any property line. No part of a private helicopter pad (as defined herein) shall be located nearer than one hundred feet (100') from any property line.

Section 403 Animal Hospitals, Veterinary Facilities and Kennels

- 403.1. Within the (A-C) Zone, animal hospitals, veterinary facilities and kennels are permitted by special exception provided that the maximum size of the structure shall not exceed four thousand (4000) square feet and the use shall comply with the following criteria:
- 403.2. All animal boarding buildings that are not completely enclosed, and any outdoor animal pens, stalls or runways must be located within the rear yard;
- 403.3. All animal boarding buildings that are not completely enclosed, and any outdoor animal pens, stalls or runways must be a minimum of one hundred feet (100') from all property lines;
- 403.4. All outdoor pasture/recreation areas must be enclosed to prevent the escape of the animals; all such enclosures must be set back a minimum of ten feet (10') from all property lines; and,
- 403.5. All animal wastes must be regularly cleaned up and properly disposed of.

Section 404 Bed and Breakfasts

- 404.1. Within the (A-C) Zone, bed and breakfasts are permitted by conditional use, subject to the following criteria:
- 404.2. Minimum Lot Area - Two (2) acres;
- 404.3. No modifications to the external appearance of the building (except fire escapes) which would alter its residential character shall be permitted;
- 404.4. All floors above-grade must have a direct exterior means of escape to ground level;
- 404.5. One (1) off-street parking space must be provided for each room available for rent, in addition to those required for the dwelling unit;
- 404.6. All parking areas must be set back a minimum of twenty-five feet (25') from all property lines;
- 404.7. A bed and breakfast may erect one sign no larger than twelve (12) square feet in size. Such sign must be set back ten feet (10') from all lot lines;
- 404.8. Meals shall be offered only to registered overnight guests; and,
- 404.9. The applicant must furnish evidence of the obtainment of an approved means of sewage disposal for the proposed use.

Section 405 Boarding Houses

- 405.1. Within the (R-2) Zone, boarding houses are permitted by conditional use, subject to the following criteria:

- 405.2. The applicant must furnish evidence that approved systems for sewage disposal and water supply will be used;
- 405.3. No modifications to the external appearance of the building (except fire escapes) which would alter its residential character shall be permitted;
- 405.4. All floors above-grade must have a direct exterior means of escape to ground level;
- 405.5. One off-street parking space must be provided for each room available for rent, in addition to those required for the dwelling unit;
- 405.6. All parking areas must be set back a minimum of twenty-five feet (25') from all property lines;
- 405.7. Meals shall be offered only to registered tenants;
- 405.8. Any sign advertising the boarding house shall be limited to four (4) square feet in display area; and,
- 405.9. The applicant must demonstrate compliance with applicable State and Federal requirements.

Section 406 Cemeteries

- 406.1. Within the (A-R) Zone, cemeteries are permitted by special exception, subject to the following criteria:
- 406.2. Minimum and Maximum Lot Area – One (1) acre and five (5) acres, respectively;
- 406.3. All burial plots or facilities must be located at least twenty-five feet (25') from any property line or street line;
- 406.4. Assurances must be provided that water supplies of surrounding properties will not be contaminated by burial activity within the proposed cemetery; and,
- 406.5. No burial plots are permitted in the Floodplain Zone.

Section 407 Churches and Related Uses

- 407.1. Within the (R-2) Zone, churches and related uses are permitted by special exception subject to the following criteria and within the (A-R) Zone churches and related uses are permitted by special exception with a minimum and maximum lot area of one (1) acre and five (5) acres, respectively, and subject to the following criteria:
- 407.2. House of Worship:
 - 1. All houses of worship must have vehicular access to an arterial or collector highway, as identified on the Official Zoning Map;

2. All structures must be set back at least fifty feet (50') from all lot lines;
3. All off-street parking areas must be set back at least twenty-five feet (25') from the street right-of-way line.

407.3. Church-Related Residences (Rectories and Convents):

1. All residential uses shall be accessory, and located upon the same lot or directly adjacent to a lot containing a house of worship; and,
2. All residential uses shall be governed by the location, height and bulk standards imposed upon other residences within the zone.

407.4. Church-Related Educational or Day-Care Facilities:

1. All educational or day-care uses shall be accessory, and located upon the same lot as a house of worship;
2. If education or day-care is offered below the college level, an outdoor play area must be provided, at a rate of one hundred (100) square feet per individual enrolled. Off-street parking lots may not be used as outdoor play areas. Outdoor play areas may not be located within the front yard and must be set back twenty-five feet (25') from all property lines. Outdoor play areas must be completely enclosed by a minimum four foot (4') high fence, and screened from adjoining residentially-zoned properties. Any vegetative materials located within the outdoor play areas must be of a nonharmful type (poisonous, thorny, allergenic, etc.). All outdoor play areas must provide a means of shade, such as a shade tree(s) or pavilion(s);
3. Enrollment shall be defined as the largest number of students and/or children under day-care supervision at any one time during a seven (7) day period;
4. Passenger "drop-off" areas must be provided and arranged so that passengers do not have to cross traffic lanes on or adjacent to the site;
5. All educational or day-care uses shall be governed by the location, height, and bulk standards imposed upon principal uses within the underlying zone; and,
6. Unless the applicant can demonstrate that the off-street parking associated with the house of worship is sufficient for the proposed educational or day-care use, one off-street parking space must be provided for each six (6) students enrolled below grade ten, and/or one off-street parking space for each three (3) students, grades ten and above.

Section 408 Clubhouses

- 408.1. Within the (B-1) Zone, clubhouses are permitted by special exception, subject to the following criteria:
- 408.2. All clubhouses shall front, and have access to, an arterial or collector road, as identified on the Official Zoning Map;

- 408.3. All off-street parking shall be provided between the front face of the building and a point twenty-five feet (25') from the right-of-way line of adjoining road(s). Parking compounds will also be set back thirty feet (30') from any adjoining residential lot lines;
- 408.4. All outdoor recreation/activity areas shall be set back at least fifty feet (50') from any property line; and,
- 408.5. Screening shall be provided along any adjoining residentially-zoned property.

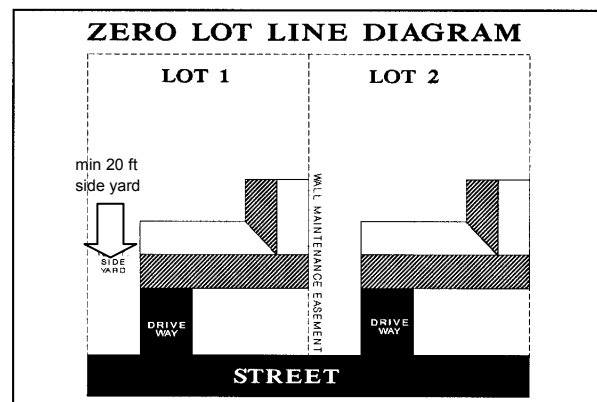
Section 409 Cluster Developments (R-2 Zone)

- 409.1. Within the (R-2) Zone, cluster developments are permitted by conditional use, subject to the following criteria:
- 409.2. The minimum area devoted to a cluster development shall be ten (10) acres;
- 409.3. All units contained within a cluster development shall be served by public sewer and public water utilities;
- 409.4. Lot Design Requirements - See following table:

Use	Minimum Lot Area (sq. ft.)	Maximum Density (Units/Net Ac.)	Minimum Lot Width ⁴	Maximum Lot Coverage	Minimum Yard Setbacks			
					Front	One Side	(Both Sides)	Rear Yard
Single-Family Detached Dwellings	6,000	6	60'	45%	25'	10'	20' ¹	30'
Duplexes	5,000	6	45'	50%	25'	10'	(NA)	25'
Townhouses ²	1,800	6	18'	65%	25'	15'	(End Units)	20'
Multiple-Family ³	87,120	6	200'	60%	30'	30'	60'	30'

¹Within cluster developments in the (R-2) Zone, single-family detached dwellings may employ a zero lot line design when the following conditions have been satisfied:

- A. One side wall of the structure may be located no less than one inch (1") from one of the side lot lines when adjoining another zero lot line dwelling lot. The opposite side yard shall be at least twenty feet (20') wide.
- B. A perpetual four foot (4') wall-maintenance easement shall be provided on the lot adjacent to the zero lot line. Such easement shall prohibit the placement of structures that would interfere with the maintenance of the wall located along the zero lot line. Such easements shall be recorded on the deed of any zero lot line lots.
- C. The wall of a dwelling located along the zero lot line shall have no openings (e.g., windows, doors, air conditioning units, vents, etc.), unless such openings are located at least eight feet (8') above grade.
- D. The zero lot line dwelling shall be designed to integrate interior and exterior living area. The dwelling's room layout and configuration of exterior walls should be coordinated so that visibility and pedestrian access are readily provided between indoor and outdoor living areas.



- E. All groupings of zero lot line dwellings shall be separated from other single-family detached dwellings on conventional lots by a fifty foot (50') wide landscaped buffer.

²No townhouse grouping shall contain more than eight (8) units. For each townhouse grouping containing more than four (4) units, no more than sixty percent (60%) of such units shall have the same front yard setback; the minimum variation of setback shall be two feet (2'). In addition, no more than two (2) contiguous units shall have identical roof lines that generally parallel the ground along the same horizontal plan. All townhouse buildings shall be set back a minimum of fifteen feet (15') from any parking facilities contained on commonly-held lands. All townhouse buildings shall be set back at least thirty feet (30') from any perimeter boundary of the development site. In those instances where several townhouse groupings are contained upon the same lot, the standards listed in the following footnote 3 shall apply.

³In those instances where several multiple-family dwelling buildings and/or townhouse groupings are located on the same lot, the following separation distances will be provided between each building:

- A. Front-to-front, rear-to-rear, or front-to-rear, parallel buildings shall have at least fifty feet (50') between faces of the building. If the front or rear faces are obliquely aligned, the above distances may be decreased by as much as ten feet (10') at one end if increased by similar or greater distance at the other end.
- B. A minimum yard space of thirty feet (30') is required between end walls of buildings. If the buildings are at right angles to each other, the distance between the corners of the end walls of the building may be reduced to a minimum of twenty feet (20').
- C. A minimum yard space of thirty feet (30') is required between end walls and front or rear faces of buildings.

⁴Minimum lot width shall be measured at the building setback line; in no case shall a lot's width, as measured along its frontage, be less than 70% of that required at the building setback line. Lot widths required at the frontage shall be measured along a line paralleling the street line, even if it is curvilinear.

409.5. At least thirty percent (30%) of the cluster development site shall be devoted to common open space. The location and design of required common open space shall be largely determined by a proper site planning process. As part of this process, applicants shall be required to prepare a natural and cultural features inventory of the site. Qualified experts must identify and plot each of the following found on the proposed site:

- 100-year floodplains
- steep slopes [greater than fifteen percent (15%)]
- wetlands, riparian buffers, streams, ponds, or other water bodies
- sinkholes, caves, vistas, or other significant geologic features
- threatened or endangered species habitats
- archaeologic resources
- historic resources
- significant stands of mature trees

From this inventory and plot, it shall be incumbent upon the applicant to demonstrate that the proposed schematic design of the cluster development minimizes disturbance of, and integrates, these features to provide safe and attractive areas and a network of common pedestrian paths that link areas within the proposed development and connect with nearby uses of the Township. All common pedestrian paths shall consist of an all-weather durable surface that is at least five feet (5') wide. The applicant is encouraged to submit such plans for sketch plan review under the SLDO;

409.6. An essential element of the cluster development application is a written description and plan for the disposition of ownership of common open space land designating those areas to be offered for dedication or to be owned by the specific form of organization proposed. Such open space shall be provided in accordance with Section 319 of this Ordinance.

Section 410 Commercial Day-Care Facilities

- 410.1. Within the (B-1 and R-2) Zones, commercial day-care facilities are permitted by special exception, subject to the following criteria:
- 410.2. An outdoor play area shall be provided, at a rate of one hundred (100) square feet per individual enrolled. Off-street parking compounds shall not be used as outdoor play areas. Outdoor play areas shall not be located within the front yard and must be set back twenty-five feet (25') from all property lines. Outdoor play areas shall be completely enclosed by a minimum four foot (4') high fence, and screened from adjoining residentially-zoned properties. Any vegetative materials located within the outdoor play areas shall be of a nonharmful type (poisonous, thorny, allergenic, etc.). All outdoor play areas must provide a means of shade, such as a shade tree(s) or pavilion(s);
- 410.3. Enrollment shall be defined as the largest number of students and/or children under day-care supervision at any one time during a seven (7) day period;
- 410.4. Passenger “drop-off” and “pick-up” areas shall be provided and arranged so that the passengers do not have to cross traffic lanes on or adjacent to the site; and,
- 410.5. One off-street parking space shall be provided for each six (6) students enrolled.

Section 411 Commercial Schools

- 411.1. Within the (R-2 and B-1) Zones, commercial schools are permitted by conditional use, subject to the following criteria:
- 411.2. All off-street parking lots shall be set back twenty-five feet (25') and screened from adjoining property lines;
- 411.3. All buildings shall be set back at least one hundred feet (100') from any adjoining land within a residential zone;
- 411.4. If education is offered below the college level, an outdoor play area shall be provided, at a rate of one hundred (100) square feet per individual enrolled. Off-street parking lots shall not be used as outdoor play areas. Outdoor play areas shall not be located within the front yard and must be set back twenty-five feet (25') from all property lines. Outdoor play areas shall be completely enclosed by a minimum four foot (4') high fence, and screened from adjoining residentially-zoned properties. Any vegetative materials located within the outdoor play areas shall be of a nonharmful type (poisonous, thorny, allergenic, etc.). All outdoor play areas must provide a means of shade, such as a shade tree(s) or pavilion(s);
- 411.5. Enrollment shall be defined as the largest number of students on the site at any one time during a seven (7) day period;
- 411.6. Passenger “drop-off” and pick-up areas shall be provided and arranged so that

students do not have to cross traffic lanes on or adjacent to the site; and,

- 411.7. Parking shall be provided in accordance with the schedule listed in Section 311 of this Ordinance.

Section 412 Intensive Livestock Operations

- 412.1. Within the (A-C) Zone, intensive livestock operations are permitted by conditional use, subject to the following criteria:
- 412.2. Any building or area used for the housing, feeding, watering, or running of livestock or poultry shall be set back at least five hundred feet (500') from:
1. the nearest property line of any existing residence other than the principal residence of the applicant;
 2. the nearest property line of any approved lot which has been subdivided during the last five (5) years for residential purposes, which has not yet been constructed; and,
 3. the nearest property line of any lot proposed for residential purposes which has been submitted for preliminary or final subdivision approval.
- 412.3. Any building or area used for the housing, feeding, watering, or running of livestock or poultry shall be set back at least one thousand feet (1,000') from any land within the (HV, R-1 and R-2) Zones;
- 412.4. If applicable, the applicant shall submit a copy of an approved nutrient management plan for the proposed use, which has been reviewed and approved by the appropriate reviewing agency. All subsequent operations and activities shall be conducted in accordance with such plans. If, at any time, the nutrient management plan is amended, the applicant must again submit the amended plan to the Zoning Officer;
- 412.5. The applicant shall furnish evidence from the Chester County Conservation District that the proposed use has an approved conservation plan. All subsequent operations and activities shall be conducted in accordance with such conservation plan. If, at any time, the conservation plan is amended, the applicant must again furnish evidence from the Chester County Conservation District that the amended plan has been approved;
- 412.6. The applicant shall submit, abide by and demonstrate a working knowledge of written qualified evidence describing those methods that will be employed to:
1. minimize odor on nearby properties. Unless these methods employ the best possible techniques and materials that can be practicably applied to the proposed use, the application will be denied;
 2. dispose of dead animals according to the regulations of the Pennsylvania Department of Agriculture. In the event of a catastrophic event in which mass disposal is warranted, the Pennsylvania Department of Agriculture can require whatever disposal methods are deemed appropriate to safeguard animal and public health; and,

3. comply with the above-required nutrient management plan and conservation plan;
- 412.7. Any exhaust or ventilation fans employed shall be oriented and directed away from the closest residence that is not that of the operator. If said fans are within one thousand feet (1,000') of the closest residence that is not that of the operator, then the applicant shall construct a dispersion buffer between the exhaust of the fan and that/those residence(s). Such dispersion buffer shall include a vegetative berm that will effectively disperse or redirect fan exhaust so that no direct exhaust velocity is perceptible at the property line;
- 412.8. Any driveway or access drive providing for vehicular access to the proposed use shall maintain a fifty foot (50') wide radius for all turns and intersections;
- 412.9. Any on-site manure storage facilities comply with the requirements of Section 200.2.9.B.; and,
- 412.10. All buildings used for the housing of livestock shall be fitted with a solid concrete slab or slotted floor.

Section 413 Intensive Produce Operations

- 413.1. Within the (A-C) Zone, intensive produce operations are permitted by conditional use, subject to the following criteria:
- 413.2. Minimum Lot Area - Fifty (50 acres;
- 413.3. Maximum Permitted Lot Coverage - Thirty percent (30%), including all impervious surfaces;
- 413.4. If applicable, the applicant shall submit written evidence from the appropriate review that the proposed use has an approved nutrient management plan. All subsequent operations and activities shall be conducted in accordance with such plans. If, at any time, the nutrient management plan is amended, the applicant must again submit written evidence of plan approval to the Zoning Officer;
- 413.5. The applicant shall furnish evidence from the Chester County Conservation District that the proposed use has an approved conservation plan. All subsequent operations and activities shall be conducted in accordance with such conservation plan. If, at any time, the conservation plan is amended, the applicant must again furnish evidence from the Chester County Conservation District that the amended plan has been approved;
- 413.6. The applicant shall abide by, and demonstrate a working knowledge of, those methods that will be employed to comply with the above-required nutrient management plan and conservation plan;
- 413.7. If greenhouses, or other buildings with substantially clear or translucent surfaces, are used, no artificial lighting may be used for growing which can be viewed from adjoining roads or properties between the hours of official sunset to official sunrise. Any other lighting on the site shall be designed and arranged so

as not to cast glare on adjoining roads or properties;

- 413.8. Any exhaust or ventilation fans employed shall be oriented and directed away from the closest residence that is not that of the operator. If said fans are within one thousand feet (1,000') of the closest subject property line, then the applicant shall construct a dispersion buffer. Such dispersion buffer shall include a vegetative berm that will effectively disperse or redirect fan exhaust so that no direct exhaust velocity is perceptible at any of the subject property lines;
- 413.9. Any driveway or access drive providing for vehicular access to the proposed use shall be paved and shall maintain a fifty foot (50') wide radius for all turns and intersections;
- 413.10. Any on-site waste storage facilities shall comply with the requirements of Section 200.2.9.B. of this Ordinance;
- 413.11. While a commercial produce operation exists, no subdivision or land development that would create an additional principal dwelling unit shall be permitted on the subject property, except that subject to the limitations of Sections 200.5.2. and 200.5.3., additional dwellings may be created for family members of the farm owner or for someone who is involved in the day-to-day farm operations;
- 413.12. The applicant shall submit an analysis of raw water needs (groundwater or surface water) from either private or public sources, indicating quantity of water required. The applicant shall also furnish analysis regarding the potential for the reuse and/or recycling of water. If the source is from a municipal system, the applicant shall submit documentation that the public authority will supply the water needed;

In addition, if the facility is to rely upon non-public sources of water, a water feasibility study will be provided to enable the municipality to evaluate the impact of the proposed development on the groundwater supply and on existing wells. The purpose of the study will be to determine if there is an adequate supply of water for the proposed development to estimate the impact of the new development on existing wells in the vicinity. The water feasibility shall be reviewed by the municipal engineer;

A water system which does not provide an adequate supply of water for the proposed development, considering both quantity and quality, or does not provide for adequate groundwater recharge, considering the water withdrawn by the proposed development, shall not be approved by the municipality.

A water feasibility study shall include the following information:

- calculations of the projected water needs;
- a geologic map of the area with a radius of at least one mile from the site;
- the location of all existing and proposed wells within one thousand feet (1,000') of the site, with a notation of the capacity of all high-yield wells;
- the location of all existing on-lot sewage disposal systems within one thousand feet (1,000') of the site;
- the location of all streams within one thousand feet (1,000') of the site and all known point sources of pollution;

- based on the geologic formation(s) underlying the site, the long-term safe yield shall be determined;
 - a determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, streams, and the groundwater table; and,
 - a statement of the qualifications and the signature(s) of the person(s) preparing the study.
- 413.13. Should the proposed use not make use of public water and require more than 100,000 gallons of water per day, the applicant shall furnish written evidence of approval from the Delaware Valley River Basin Commission;
- 413.14. All commercial produce operations must comply with applicable storm water management regulations of the SLDO;
- 413.15. The applicant shall be required to obtain an approved land development under the SLDO;
- 413.16. The applicant shall be required to submit a traffic impact study in accordance with Section 318 of this Ordinance;
- 413.17. The applicant shall be required to submit a written qualified plan for the removal of all buildings and the reclamation of all topsoil in the event of discontinuance of the commercial produce operation. If the site is graded during construction and operation of the commercial produce operation, all topsoil shall remain on the site in a manner which makes it conveniently accessible for reclamation. Should the applicant not adequately guarantee the removal of such buildings and reclamation of topsoil upon discontinuance of the commercial produce operation at his/her expense, the conditional use shall be denied;
- 413.18. The site shall include one (1) off-street parking space for each employee during the largest work shift;
- 413.19. No retail sales shall be permitted on the site, except for roadside stands as permitted by Section 200.2.9.A.;
- 413.20. All buildings and storage/processing structures shall be set back at least one hundred feet (100') from adjoining roads and properties, and all off-street parking and loading spaces, outdoor storage areas and dumpsters shall be set back at least fifty feet (50') and screened from adjoining roads and properties; and,
- 413.21. One (1) sign as provided for in Section 314.2. shall be permitted.

Section 414 Communication Antennas, Towers and Equipment

- 414.1. Communications antennas, towers and equipment co-located on structures that do not comply with the Pennsylvania Wireless Broadband Collocation Act within the (A-C) Zone, and communication antennas, towers and equipment that do not comply with the Pennsylvania Wireless Broadband Collocation Act within the (B-1) Zone are permitted by special exception, subject to the

following:

- 414.2. Such uses shall be permitted only to an individual or company holding a valid license issued by the Federal Communications Commission (FCC);
- 414.3. Within sixty (60) days after the earlier of the expiration of such license, or at such time as the owner or operator ceases use of such facility for communication purposes, the facility shall be dismantled and removed from the site;
- 414.4. The facility and foundation shall be designed, and its construction supervised, by a professional engineer registered in the State of Pennsylvania; the applicant shall file a location plan and details for the facility prepared by the same professional engineer, as well as the manufacturer's specifications;
- 414.5. The facility shall conform in all respects to all applicable FCC regulations;
- 414.6. Within the (B-1) Zone, freestanding communication antennas, towers and equipment shall be considered a separate principal use and shall be situated on a lot that complies with all applicable design standards. An applicant shall be required to submit a land development plan and application for review as set forth in the Township Subdivision and Land Development Ordinance;
- 414.7. No portion of the base of the facility shall be located closer to any lot line than the height of the facility;
- 414.8. The applicant shall be required to demonstrate that type of construction is safe and suitable for the intended application and purpose;
- 414.9. All uses must meet the ANSI/EIA/TIA-22F (American National Standards Institute, Electrical Industry Association, Telecommunication Industry Association Tower Specification) requirements or its latest revision. Further, due to local weather conditions, the facility must be built to withstand 100 mph sustained winds with a uniform loading of 50 pounds or short duration gusts of up to 150 mph. An independent structural engineer registered in Pennsylvania shall attest to the proposed facility's ability to meet this requirement and certify proper construction of the foundation and erection of the facility;
- 414.10. Any accessory structure(s) shall comply with the applicable design standards and other requirements of Township ordinances;
- 414.11. The owners or operators of a facility higher than thirty-five feet (35') shall (1) secure the property boundary, or, at a minimum, the facility base, including any support structures, with a chain link fence which shall be a minimum of ten feet (10') in height; and (2) install an integral security platform or other means of locked access, to prevent unauthorized climbing of the facility, landscaping will be provided around all fences so as to screen them from public view of adjoining properties;
- 414.12. The applicant shall provide due proof that the emission of radio waves or other signals emanated from the facility are in compliance with all FCC regulations;
- 414.13. The applicant shall submit expert testimony that the communication antenna or tower is the minimum height required to function satisfactorily. The maximum

height of a facility shall be one hundred fifty feet (150'), except that a facility of up to one hundred ninety-nine (199') feet may be permitted, provided the applicant demonstrates to the Zoning Hearing Board at the special exception hearing that:

1. There are no inhabited structures within a two hundred foot (200') radius;
2. The facility is lighted to prevent interference with air traffic, if required by the Federal Aviation Administration;
3. All health, safety and welfare issues have been properly addressed;
4. The requested height is the minimum height necessary to meet the particular communicational requirements of the proposed facility;
5. The facility does not have the ability to use another existing structure at a lesser height for its communicational requirements.

414.14. An applicant shall be required, at a reasonable charge, to make space available to other communication companies seeking to install communication facilities, and the facility shall be designed with sufficient capacity for such shared use;

414.15. In addition to the above standards and except as to height (see Sections 414.9. and 414.13. of this Ordinance) all other applicable performance design, area, bulk, and general standards applicable to the zoning district within which a facility is permitted shall apply to the facility and any associated support facilities or structures;

414.16. Required Finishes and Lighting - Communication antennas or towers shall be painted with silver or gray paint, or have a galvanized finish in order to reduce visual impact. Support structures may be painted green up to the height of nearby trees, to lessen visual impact. No communication antenna or tower may be artificially lighted, except when required by the Federal Aviation Administration or State regulations.

Section 415 Facilities for the Warehousing, Sales, Repair, and Service of Agricultural Equipment, Vehicles, Feed, or Supplies

415.1. Within the (A-C) Zone, facilities for the warehousing, sales, repair, and service of agricultural equipment, vehicles, feed or supplies are permitted by conditional use, subject to the following criteria:

415.2. All activities and services must be directed at meeting the needs of those engaged in local farming. The facility should be directed at providing materials and services needed to farm rather than the distribution of goods produced on the farm. This use should not be construed to include the sales of agricultural products primarily to nonfarmers, nor those involved in wholesale distribution. Wholesale produce, tobacco and livestock sales and auctions are expressly prohibited;

415.3. All uses shall have vehicular access to an arterial or collector road, as identified on the Official Zoning Map;

415.4. The processing of farm products shall be limited to those products that are

- primarily used in local agricultural production;
- 415.5. All structures shall be located at least fifty feet (50') from all property lines;
- 415.6. Maximum Lot Coverage - Twenty percent (20%);
- 415.7. Sufficient vehicle stacking lanes shall be provided to prevent vehicle back-ups onto adjoining roads;
- 415.8. A minimum twenty-five foot (25') landscape strip shall be provided along all property lines;
- 415.9. All on-site vehicle areas shall contain a dust-free surface;
- 415.10. Except for the outside storage of farm machinery, all outdoor storage shall be completely enclosed by a six foot (6') high fence, and screened from adjoining properties and roads. No outdoor storage is permitted within the required landscape strip;
- 415.11. All grain storage facilities, conveying apparatuses, drying chambers and axial ventilation fans shall be set back a minimum of one hundred feet (100') from all property lines; and,
- 415.12. Facilities for the warehousing, sales, repair, and service of agricultural equipment, vehicles, feed or supplies shall be subject to the lot area requirements listed in Section 200.6.3. of this Ordinance.

Section 416 Farm Occupations

- 416.1. Within the (A-C) Zone, farm occupations are permitted by special exception, subject to the following criteria:
- 416.2. For the purposes of this Ordinance, a farm occupation may involve any one of a wide range of activities so long as it remains secondary to and compatible with the active farm use. The proposed use must comply with all of the criteria in this section and is then considered to be accessory to a principal agricultural use and does therefore not require land development approval. Only one farm occupation shall be permitted on each farm. One farm occupation is permitted on each farm existing on the effective date of this Ordinance. Farms created after the effective date of this Ordinance may only have a farm occupation if said new farm contains at least fifty (50) acres;
- 416.3. Information shall be provided describing the nature of the farm occupation, materials used in the process and waste products generated;
- 416.4. Evidence shall be provided indicating that the disposal of materials and wastes associated with the farm occupation will be accomplished in a manner that complies with State and Federal regulations. Such evidence shall, at a minimum, include copies of contracts with waste haulers licensed to operate within Chester County which have been contracted to dispose of the materials and wastes used or generated on-site as identified in Section 416.3. above. The zoning permit for this use shall remain valid only so long as such contracts remain in

effect and all materials and wastes are properly disposed of on a regular basis. Should the nature of the farm occupation change in the future, such that the materials used or wastes generated changes significantly either in type or amount, the owner of the farm operation shall so inform the Zoning Officer, and shall provide additional evidence demonstrating continued compliance with the requirements of this section;

- 416.5. No more than the full-time equivalent of three (3) nonresidents shall be employed by the farm occupation, and at least one owner of the farm occupation must either reside on the site or be a partner in the farm business;
- 416.6. The use must be conducted within one completely-enclosed building. Where practicable, the farm occupation shall be conducted within an existing farm building. However, any new building constructed for use by the farm occupation shall be located within one hundred feet (100') of the principal residence, and must be no less than one hundred feet (100') from any adjoining roads or properties;
- 416.7. Any new building constructed for use by the farm occupation shall be of a design so that it can be readily converted to agricultural use, or removed, if the farm occupation is discontinued;
- 416.8. No part of a farm occupation shall be located within one hundred feet (100') of any side or rear lot line, nor within three hundred feet (300') of any land within an HV, R-1 or R-2 Zone. Such distances shall be measured as a straight line between the closest points of any physical improvement associated with the farm occupation and the property/zoning line;
- 416.9. The farm occupation shall occupy no more than four thousand (4,000) square feet of gross floor area, nor more than one (1) acre of lot area. However, any access drive serving the farm occupation and the farm shall not be calculated as land serving the farm occupation;
- 416.10. No more than fifty percent (50%) of the land devoted to a farm occupation shall be covered by buildings, structures, parking or loading areas, or any other impervious surfaces; and,
- 416.11. Any sign used for a farm occupation shall require a permit as set forth in Section 314 of this Ordinance and shall not exceed ten (10) square feet in size.

Section 417 Golf Courses

- 417.1. Within the (A-R) Zone, golf courses are permitted by conditional use, subject to the following criteria:
- 417.2. The site shall contain no less than thirty (30) acres. The site shall not be comprised of a majority of Class I, II or III soils as identified by the soil survey;
- 417.3. In no case shall the golf course design permit or encourage a golf ball to be driven across any building, building lot, parking lot, street, access drive, or driveway;
- 417.4. Golf Paths - Golf paths shall be graded so as to discharge storm water runoff.

Surface conditions of paths shall be provided with a dust free surface.

1. The golf course design shall minimize golf path crossings of streets, access drives and driveways. Easily identifiable golf paths must be provided for crossings of streets, access drives or driveways. The golf course design shall both discourage random crossing and require use of the golf path crossings of streets, access drives and driveways. Golf path crossings shall conform with the following:
 - A. Each crossing shall be perpendicular to the traffic movements;
 - B. Only one (1) street, access drive or driveway may be crossed at each location;
 - C. No crossing is permitted between a point fifteen feet (15') and one hundred fifty feet (150') from the cartway edge of a street, access drive or driveway intersection;
 - D. The crossing must be provided with a clear sight triangle of seventy-five feet (75') measured along the street, access drive or driveway centerline and the golf path centerline, to a location on the centerline of the golf path, five feet (5') from the edge of the roadway. No permanent obstruction over thirty inches (30") high shall be placed within this area;
 - E. Sight Distance - Golf path intersections shall be designed to provide adequate sight distance with regard to both horizontal and vertical alignment. The required sight distance shall be governed by the SLDO;
 - F. The golf cart path shall not exceed a slope of eight percent (8%) within twenty-five feet (25') of the cartway crossing;
 - G. Golf path crossings shall be signed warning motorists and pedestrians and golfers. The surface of the golf path shall be brightly painted with angle stripes; and,
 - H. Golf path crossings of collector or arterial streets shall consist of a tunnel that is located below street grade. The golf course design shall both prohibit on-grade crossing of collector or arterial streets and require the use of the tunnel. The construction of the collector or arterial roadway crossing of the tunnel shall comply with PennDOT standards.

417.5. All golf course buildings shall be set back at least one hundred feet (100') from any adjoining roads and residential structures or parcels;

417.6. Golf courses may include the following accessory uses, provided such uses are reasonably sized, and located so as to provide incidental service to the golf course employees and users:

1. Clubhouse, which may consist of
 - A. Restaurant, snack bar, lounge, and banquet facilities;
 - B. Locker and rest rooms;
 - C. Pro shop;
 - D. Administrative offices;

- E. Golf cart and maintenance equipment storage and service facilities;
- F. Guest lodging for those using the golf course, provided:
 - no lodging units have separate exterior means of ingress/egress;
 - all lodging units shall be contained within the main clubhouse; and,
 - such guest lodging shall have a total occupancy of no more than twenty (20) persons;
- G. Fitness and health equipment, including workout machines, spas, whirlpools, saunas, and steamrooms;
- H. Game rooms, including card tables, billiards, ping-pong, video games, pinball machines, and other similar table games; and,
- I. Baby-sitting rooms and connected fence-enclosed playlots.

- 2. Accessory recreation amenities located outside of a building, including:
 - A. Driving range, provided that the applicant shall furnish expert evidence that all lighting has been arranged to prevent glare on adjoining properties and streets;
 - B. Practice putting greens;
 - C. Swimming pools;
 - D. Tennis, platform tennis, handball, racquetball, squash, volleyball, and badminton courts;
 - E. Boccie ball, croquet, shuffleboard, quoits, horseshoe pits, and washers courses;
 - F. Picnic pavilions, picnic tables, park benches, and barbecue pits;
 - G. Hiking, biking, horseback riding, and cross-country ski trails; and,
 - H. Playground equipment and playlot games, including 4-square, dodgeball, tetherball, and hopscotch.
- 3. Freestanding maintenance equipment and supply buildings and storage yards.

417.7. All outdoor storage of maintenance equipment and/or golf carts shall be set back at least one hundred feet (100') and screened from adjoining residential structures and roads; and,

417.8. All dumpsters and off-street parking and/or loading areas shall be screened from adjoining or nearby residences. In addition, all off-street loading and dumpsters shall be screened from adjoining roads.

Section 418 Home Occupations

418.1. Within the (A-C, HV, R-1 and R-2) Zones, home occupations are permitted by special exception, subject to the following criteria:

418.2. Only single-family, detached dwellings may contain a home occupation;

418.3. No more than two (2) nonresident employees shall be permitted;

418.4. Such occupations shall be incidental or secondary to the use of the property as a residence and are limited to those occupations customarily conducted within a dwelling unit;

418.5. Three (3) off-street parking spaces in addition to those required of residence

- units shall be required. Such parking spaces shall be screened from adjoining properties;
- 418.6. No goods shall be visible from the outside of the dwelling;
- 418.7. The area used for the practice of a home occupation shall occupy no more than twenty-five (25%) of the total floor area of the dwelling unit or five hundred (500) square feet, whichever is less. All home occupation activities shall be conducted within the dwelling building;
- 418.8. No manufacturing, repairing, or other mechanical work shall be performed in any open area. Such activity shall be conducted in such a way that no noise, odor, vibration, electromagnetic interference, or smoke shall be noticeable at or beyond the property line;
- 418.9. No external storage of materials or products shall be permitted. No storage in accessory structures or attached garages shall be permitted;
- 418.10. The exterior appearance of the structure or premises is constructed and maintained as a residential dwelling; and,
- 418.11. One non-illuminated sign, not to exceed four (4) square feet in display area, shall be permitted.

Section 419 Junkyards

- 419.1. Within the (A-R) Zone, junkyards are permitted by conditional use, subject to the following criteria:
- 419.2. Minimum Lot Area - Ten (10) acres;
- 419.3. The outdoor area devoted to the storage of junk shall be completely enclosed by an eight foot (8') high. sight-tight fence which shall be set back at least one hundred feet (100') from all property lines;
- 419.4. All buildings used to store junk shall be set back at least one hundred feet (100') from all property lines;
- 419.5. All additional Federal and State laws shall be satisfied;
- 419.6. The setback area between the fence and the lot lines shall be kept free of weeds and all scrub growth;
- 419.7. All junk shall be stored or arranged so as to permit access by firefighting equipment and to prevent the accumulation of water, and with no junk piled to a height that, given the prevailing terrain, can be seen from adjoining properties and/or roads that are within five hundred feet (500') of the junkyard property;
- 419.8. No trash, oil, grease, tires, gasoline, or other similar material shall be burned at any time;
- 419.9. Any junkyard shall be maintained in such a manner so as to cause no public or private nuisance, nor to cause any offensive or noxious sounds or odors, nor to

cause the breeding or harboring of rats, flies or other vectors; and,

- 419.10. No junkyard shall be located on land with a slope in excess of five percent (5%).

Section 420 Medical Residential Campuses

- 420.1. Within the (R-2) Zone, medical residential campuses are permitted by conditional use, subject to the following criteria:
- 420.2. The campus shall primarily serve the needs of retirement-aged persons. At least one (1) resident of each household shall be at least fifty (50) years old, or possess some handicap that can be treated within a setting like the medical residential campus;
- 420.3. The campus shall achieve a balanced residential/medical environment which cannot be achieved through the use of conventional zoning techniques;
- 420.4. Residences shall be functionally, physically and architecturally integrated with medical service and recreational activity centers;
- 420.5. Commercial, medical and recreational uses shall be grouped together and located near the populations being served;
- 420.6. The minimum land area devoted to the campus shall be twenty-five (25) contiguous acres;
- 420.7. The site shall front on and have access to a collector or arterial road as identified on the Official Zoning Map;
- 420.8. All buildings or structures containing nonresidential use(s), off-street parking lots and loading areas shall be set back at least seventy-five feet (75') from all adjoining residentially-zoned land, and fifty feet (50') from all lot lines of the campus property;
- 420.9. The maximum permitted overall density is ten (10) dwelling units per acre;
- 420.10. All buildings or structures used solely for residential purposes shall be set back at least fifty feet (50') from all lot lines of the campus property;
- 420.11. The maximum permitted height is sixty feet (60'), provided that an additional two feet (2') of required building setback shall be provided for each foot of building height exceeding thirty-five feet (35');
- 420.12. No more than sixty percent (60%) of the subject property shall be covered with buildings, parking and loading areas and/or other impervious surfaces;
- 420.13. Each off-street parking lot shall provide at least twenty percent (20%) of the total parking spaces as those designed for the physically handicapped. Furthermore, such parking spaces shall be located throughout the campus in such a manner to be conveniently accessible to the buildings/uses for which they are required; and,
- 420.14. Only those uses which provide a harmonious, balanced mix of medical,

residential, limited commercial and recreational uses, primarily serving campus residents, and public, quasi-public and medical services for the off-campus retirement-aged community will be permitted. Uses may include, but need not be limited to, the following:

1. Dwelling, nursing homes, and congregate living facilities for the elderly or physically handicapped;
2. Medical facilities including offices, laboratories, clinics, professional or paramedical training centers, and ambulatory care facilities;
3. Commercial uses which are strictly related and subordinate to the residential/medical character of the campus and which directly serve the residents and employees of, or visitors to, the center. The uses should be chosen to reflect their local orientation to the immediate campus vicinity and should be of a size and scope so as not to interfere with existing or proposed retail uses located in the off-campus area;
4. Recreational and social uses, such as athletic facilities, community centers and assembly halls, limited to use only by campus residents, employees, or visitors.

Section 421 Mobile Home Parks

- 421.1. Within the (R-2) Zone, mobile home parks are permitted by conditional use, subject to the following:
- 421.2. The minimum parcel size for any mobile home park development shall be twenty (20) acres;
- 421.3. The maximum number of mobile home units shall be limited to six (6) per gross acre;
- 421.4. No single mobile home lot shall contain less than that specified below for various sized units:
1. for 12' x 60' and smaller, more or less, mobile homes - five thousand (5,000) square feet; minimum 50' x 100';
 2. for 14' x 60', more or less, mobile homes - six thousand (6,000) square feet; minimum 60' x 100';
 3. for doublewide mobile homes - seven thousand, five hundred (7,500) square feet; minimum 75' x 100'.
- 421.5. No mobile home lot shall be within fifty feet (50') of a park boundary, nor within fifty feet (50') of an outside street right-of-way. This area shall constitute the mobile home park boundary area;
- 421.6. No mobile home, office or service building shall be located within fifty feet (50') of a park boundary; nor within seventy-five feet (75') of an outside street right-of-way; nor within ten feet (10') of the right-of-way of an interior park street, the paved edge of a common parking area or common walkway; nor within twenty feet (20') of an adjacent structure or mobile home;

- 421.7. Regardless of lot size, each mobile home shall have a minimum front yard of thirty feet (30'), rear yard of twenty-five feet (25'), and two sides of ten feet (10') each. In no case shall the distance between any two mobile homes be less than twenty-five feet (25');
- 421.8. A paved on-site walkway of a minimum width of three feet (3') shall be provided to each mobile home unit from an adjacent street;
- 421.9. There shall be a common walk system four feet (4') wide throughout the development;
- 421.10. Paved main entrance roads from the outside street right-of-way to and through the mobile home park shall have a minimum right-of-way of fifty feet (50'), and shall be paved to a minimum width of thirty-six feet (36'). The paved width of main entrance roads may taper in accordance with the plan as submitted so as to conform to the twenty foot (20') width of the meshing interior mobile home park road system;
- 421.11. Interior mobile home park roads shall have a right-of-way of not less than twenty-six feet (26') in width, twenty feet (20') of which shall be paved. If on-street parking is provided, the required right-of-way width shall be forty-six feet (46') with a forty foot (40') paved cartway. Dead end streets shall have a turnaround right-of-way of not less than sixty feet (60') outside diameter and a paved area of not less than fifty feet (50') outside diameter;
- 421.12. Not less than ten percent (10%) of the total mobile home park area shall be set aside for recreation and open space purposes. Such area may not include any of the required mobile home park boundary area. No service buildings or offices may be constructed within the required recreation and open space area;
- 421.13. Each mobile home stand shall have attachments for waste disposal, water supply facilities and electrical service, and such facilities shall be properly connected to an approved method of sewage disposal, and water and electrical supply;
- 421.14. Protective skirting shall be placed around the area between the ground surface and the floor level of each mobile home so as to prevent that area from forming a harborage for rodents, creating a fire hazard, or exposing unsightly conditions;
- 421.15. All streets and mobile home parking spaces and mobile home stands shall be paved with a weatherproof surface based on PennDOT Specification Form 408-79 or latest version thereof. All streets and mobile home parking spaces shall be lighted at night with illumination facilities designed to produce a minimum of 0.6 foot candles illumination throughout the street and parking system, placed at an interval not to exceed fifty feet (50'). For single-wide mobile homes of ten to fourteen feet (14') in width and up to seventy feet (70') in length, the paved mobile home stand shall be fourteen feet (14') by seventy feet (70'). For double-wide units twenty feet (20') to twenty-eight feet (28') and up to eighty feet (80') in length, the paved mobile home stand shall be twenty-eight feet (28') by eighty feet (80'). There shall be a longitudinal gradient of 0-5% and an adequate crown or cross-gradient to ensure surface drainage;
- 421.16. No travel or vacation trailer or other form of temporary living unit shall be placed

- upon any mobile home stand or used as a dwelling within the mobile home park;
- 421.17. Individual mobile home owners may install accessory or storage sheds, extensions and additions to mobile homes and exterior patio areas. Any such facilities so installed shall not intrude into any front, side or rear yard minimum required area and in every case, shall substantially conform in style, quality and color to the existing mobile homes;
- 421.18. Each mobile home shall be provided with a minimum of two (2) paved parking spaces containing at least three hundred and sixty (360) square feet of bituminous or concrete surface which shall be located on the mobile home space. If on-street parking is not provided, one additional off-street parking space per unit shall be provided in a common visitor parking compound. Such visitor parking compounds shall be sized, arranged and located so that the spaces are within three hundred feet (300') walking distance to any unit served;
- 421.19. Each mobile home shall be placed on a six-inch (6") thick poured concrete slab over a six-inch (6") stone base, the length and width of which shall be at least equal to the length and width of the mobile home it is to support. Each pad shall include properly designed utility connections as required herein;
- 421.20. All mobile home parks shall be screened from adjoining properties and roads. Screening methods shall be described and graphically depicted as part of the conditional use application;
- 421.21. All water and sanitary facilities must be approved by the Chester County Board of Health and/or the Pennsylvania Department of Environmental Protection. Such approvals must be obtained in writing and submitted prior to the Township approval of the overall application; and,
- 421.22. All plans must be submitted by the applicant for review and recommendations of the Chester County Conservation District (CCCD) regarding grading, storm water management, and sedimentation and erosion control. Copies of the plans and documents prepared by the CCCD shall be submitted by the applicant for review by the Supervisors.

Section 422 Nursing, Rest or Retirement Homes

- 422.1. Within the (R-2) Zone, nursing, rest or retirement homes are permitted by special exception, subject to the following criteria:
- 422.2. Minimum Lot Area - Two (2) acres;
- 422.3. The applicant must furnish evidence that an approved means of sewage disposal and water supply will be utilized;
- 422.4. Off-street parking lots and loading areas must be screened from adjoining residentially-zoned lands;
- 422.5. One (1) off-street parking space must be provided for each three (3) nursing beds within the facility. At least twenty percent (20%) of such spaces must be designed for handicapped persons; and,

- 422.6. The applicant must furnish evidence that the use has any required State licenses and/or approvals.

Section 423 Processing and Wholesaling of Farm Products

- 423.1. Within the (A-C) Zone, processing and wholesaling of farm products is permitted by conditional use, subject to the following criteria:
- 423.2. The processing facility is located on the same lot and accessory to the principal agricultural use of the site;
- 423.3. A majority of the materials to be processed have been grown or raised within the Township;
- 423.4. No butchering, slaughtering or rendering uses shall be permitted;
- 423.5. No retail sales of the products are permitted;
- 423.6. All processing activities must be conducted within a completely-enclosed building. No outdoor storage is permitted;
- 423.7. No noxious odor, dust, glare, vibration, or noise shall be perceptible at the property lines; and,
- 423.8. All off-street parking and loading areas must be contained behind the principal residence, and screened from adjoining properties and roads.

Section 424 Public and Private Schools

- 424.1. Within the (R-1, R-2 and B-1) Zones, public and private schools are permitted by special exception, on a minimum lot size of ten (10) acres, subject to the following criteria:
- 424.2. All height, area, setback, and coverage standards within the underlying zone shall apply;
- 424.3. All off-street parking lots shall be set back twenty-five feet (25') and screened from adjoining property lines;
- 424.4. All buildings shall be set back at least one hundred feet (100') from any adjoining land within a residential zone;
- 424.5. If education is offered below the college level, an outdoor play area shall be provided, at a rate of sixty-five (65) square feet per individual enrolled. Off-street parking lots shall not be used as outdoor play areas. Outdoor play areas shall not be located within the front yard and must be set back twenty-five feet (25') from all property lines. Outdoor play areas shall be completely enclosed by a minimum four foot (4') high fence, and screened from adjoining residentially-zoned properties. Any vegetative materials located within the outdoor play area shall be of a nonharmful type (poisonous, thorny, allergenic, etc.). All outdoor play areas must provide a means of shade, such as a shade tree(s) or

pavilion(s).

Enrollment shall be defined as the largest number of students on the site at any one time during a seven (7) day period;

- 424.6. Passenger “drop-off” and “pickup” areas shall be provided and arranged so that students do not have to cross traffic lanes on or adjacent to the site; and,
- 424.7. Parking shall be provided in accordance with the schedule listed in Section 311.19. of this Ordinance.

Section 425 Public Utilities Structures and Uses

- 425.1. Within the (B-1) Zone, public utilities structures and uses are permitted by special exception, subject to the following criteria:
- 425.2. All facilities, equipment and activities shall be within an enclosed structure, which structure shall be consistent with the architecture of the surrounding community. The Board of Supervisors may approve relief from this provision where appropriate;
- 425.3. There shall be a minimum lot size of five (5) acres;
- 425.4. A complete visual landscape screen shall be placed and maintained around the perimeter of the structure; and,
- 425.5. Such structure or use shall be permitted only if, upon petition of the public utility to the Pennsylvania Public Utility Commission, and upon prior notice of such petition to the Township, the Public Utility Commission determines that the present or proposed facility or use is reasonably necessary for the convenience or welfare of the public.

Section 426 Quarries and Other Extractive-Related Uses

- 426.1. Within the (A-R) Zone, quarries and other extractive-related uses are permitted by conditional use, subject to the following criteria:
- 426.2. General - Quarry Operations:
 - 1. May not substantially injure or detract from the lawful existing or permitted use of neighboring properties;
 - 2. May not adversely affect any public or private water supply source;
 - 3. May not adversely affect the logical, efficient and economical extensions of public services, facilities and utilities throughout the Township;
 - 4. May not create any significant damage to the health, safety, or welfare of the Township and its residents and property owners;
 - 5. May not result in the land area subject to quarrying being placed in a condition which will prevent the use of that land for economically and ecologically productive uses upon completion of the quarry operation;

and,

6. Must comply with all applicable State regulations.

- 426.3. Minimum Lot Area - One hundred (100) acres;
- 426.4. Fencing - A substantial fence or earthen barrier measuring at least six feet (6') in height must surround the area of actual quarrying to prevent unauthorized persons from entering the area to their potential endangerment;
- 426.5. Screens - Where adjacent to a residential zone or a public street right-of-way or where a quarry operation will substantially impair the beauty and character of the surrounding countryside, trees and shrubs must be planted, or attractive earth barriers erected to screen the operation, as far as practical, from normal view;
- 426.6. Access - Truck access to any quarry operation must be so arranged so as to minimize danger to traffic and nuisance to neighboring properties;
- 426.7. Setbacks from Residential Zones - Where the lot or parcel of land which is the site of quarrying operations is adjacent to a residential zone:
1. No stockpiles, waste piles, or processing equipment may be closer than one thousand (1,000') to the residential zone; and,
 2. No part of the quarry pit, private access road, truck parking area, scales, or operational equipment, may be closer than five hundred feet (500') to the residential zone.
- 426.8. Setbacks from Public Streets - No part of a quarry pit, stockpiles, waste piles, processing equipment, scales, operational equipment or truck parking area may be closer than one hundred feet (100') to a public street line.
- 426.9. Other Setback Requirements:
1. Except for setbacks specified above, no part of a quarry pit, stockpiles, waste piles, or processing equipment may be closer than two hundred feet (200') to a property line; and,
 2. Except for setbacks specified in Sections 426.7. and 426.8., no private access road, truck parking area, scales, or operational equipment may be closer than one hundred feet (100') to a property line;
- 426.10. Rehabilitation Required - Within two (2) years after the termination of quarrying operations, the area of actual quarrying operations must be rehabilitated to a condition of reasonable physical attractiveness and, as reasonably practical, restored;
- 426.11. Rehabilitation Standards - In rehabilitating the area of actual quarrying operations, the owner or operator must comply with the following standards:
1. Slope - The slope of earth material in any excavated pit must not exceed the angle of slippage;
 2. Top-Soil and Ground Cover - Where filling of the pit is desirable and

reasonably economically feasible, the fill must be a kind and depth to sustain grass, plants or trees, and such must be planted;

3. Drainage - To prevent any silt, erosional debris, or other loose material from filling any existing drainage course or encroaching on State or Township roads or private property, all surface drainage must be controlled by dikes, barriers, or drainage structures. All measures to control natural drainage or flood water must meet with the approval of the Board of Supervisors; and,
4. Removal of Plant and Equipment - Within two (2) years after termination of operations, all plant improvements and equipment must be removed, except where the plant and equipment is still used for processing earth material from other properties. If substantially covered, foundations and piers may be left in the ground; and,

426.12. Reporting of Operational and Rehabilitation Information for Quarries - In order to keep the Zoning Officer abreast of impending termination of quarrying operations and plans for rehabilitation, as well as operational activities which he has a duty to check, each quarry owner or operator must submit to the Zoning Officer, annually, the information following; this information shall also be provided at the initial operation submittal:

1. Ownership and acreage of the land which is the site of quarrying operations, including all land held under contract or lease;
2. Type of earth resources quarried;
3. Present depth of excavations;
4. The probable effect of blasting and other excavation methods upon existing and permitted uses in the area surrounding the quarry site;
5. Map, at a scale of 1 inch = 100 feet, or such other scale acceptable to the Township, showing:
 - A. All land owned or under option, contract or lease;
 - B. Lot or land quarried;
 - C. As practical, contours at twenty foot (20') intervals extending beyond the site to the nearest public street or highway;
 - D. Private access roads and abutting streets and highways;
 - E. Location of all structures;
 - F. Location of stockpiles and waste piles;
 - G. Title, scale, north point, and date; and,
 - H. Fencing and screen planting;
6. The proposed reuse of the land to be quarried;
7. Plantings or other planned special features of rehabilitation; and,
8. The proposed methods by which rehabilitation is to be accomplished.

Section 427 Retail Sale of Nursery and Garden Materials

- 427.1. Within the (A-C) Zone, retail sale of nursery and garden materials are permitted by special exception, subject to the following criteria:
- 427.2. All greenhouses and nurseries must have vehicular access to an arterial or collector road, as identified on the Official Zoning Map;
- 427.3. The display and sale of items not grown on the premises must be incidental to the nursery operation. The display area for these items shall not exceed twenty-five percent (25%) of the total gross display and sales area on the subject property. The display, sale or repair of motorized nursery or garden equipment shall not be permitted;
- 427.4. All outdoor display areas shall be set back at least twenty-five feet (25') from the street right-of-way line;
- 427.5. All structural improvements (including parking and loading facilities, but not including a freestanding sign) must be screened from adjoining residentially-zoned properties; and,
- 427.6. One (1) freestanding or attached sign may be permitted advertising the business. Such sign shall not exceed twelve (12) square feet in size and must be set back at least ten feet (10') from all lot lines.

Section 428 Rural Occupations

- 428.1. Within the (A-C) Zone, rural occupations are permitted by special exception, subject to the following criteria:
- 428.2. Only one (1) rural occupation may be conducted on the same property as the owner's principal residence, and shall not exceed the area of the principal residence's ground floor or one thousand (1,000) square feet, whichever is the lesser;
- 428.3. A rural occupation shall only be conducted within one completely-enclosed outbuilding that satisfies at least one (1) of the following:
 - 1. The building will remain the same size and in the same location as it existed on the effective date of this section; or
 - 2. The building is limited to one (1) story in height or twenty feet (20'), whichever is lesser, is located in the rear yard of the principal residence, and is set back at least fifty feet (50') from any side or rear lot lines. All applicants are required to design buildings that are compatible with their residential settings;
- 428.4. In no case shall any new rural occupation building be constructed before the owner resides on the subject property. In addition, rural occupations may only be conducted so long as the sole owner of the business resides on the site;

- 428.5. In no case shall the required maximum lot coverage be exceeded by those impervious surfaces associated with the principal residence, rural occupation and/or other accessory uses;
- 428.6. All off-street parking and loading spaces shall be screened from adjoining roads and properties;
- 428.7. No outdoor storage or display shall be permitted, except that one (1) commercial truck of not more than eleven thousand (11,000) pounds gross vehicle weight may be parked behind the principal residence, so long as it is screened from adjoining roads and properties;
- 428.8. One (1) non-illuminated sign not exceeding twelve (12) square feet shall be permitted and must be set back a distance at least equal to its height from every lot line;
- 428.9. No rural occupation and its principal dwelling shall generate more than twenty (20) vehicle trips per day to or from the site. The applicant shall furnish testimony regarding the expected numbers of vehicle trips associated with the proposed use;
- 428.10. Vehicular access to the rural occupation shall be limited to the same driveway connection with the public street that serves the principal residence. No joint use driveways may serve rural occupations;
- 428.11. The maximum number of employees who do not reside on the site shall be equal to two (2) full-time positions. For the purposes of this section, "employees" shall be defined as those involved in the on-site conduct of the rural occupation;
- 428.12. Rural occupations shall only be conducted between the hours of 7 a.m. and 7 p.m. No rural occupation shall be conducted on Sundays;
- 428.13. No manufacturing, mechanical or industrial use shall be permitted which causes any noise, odor, glare, fume, smoke, dust, vibration, electromagnetic interference, or other hazard that is noticeable at or beyond the line of the nearest residential lot. No use that requires application or permitting by the PA DEP for the handling of hazardous waste or other substances, shall be permitted, except for wastewater treatment;
- 428.14. Any area devoted to retail sales display shall be limited to twenty percent (20%) of the overall size of the rural occupation;
- 428.15. The applicant shall furnish evidence that an approved means of sewage disposal shall be utilized, and further that such means is part of the same system in use for the principal residence; and,
- 428.16. Evidence shall be provided indicating that the disposal of all materials and wastes will be accomplished in a manner that complies with State and Federal regulations. Such evidence shall, at a minimum, include copies of contracts with waste haulers licensed to operate within the County which have been contracted to dispose of the materials and wastes used or generated on-site or some other legal means of disposal. The zoning permit for this use shall remain valid only so long as such contracts remain in effect and all materials and wastes are properly disposed of on a regular basis. Should the nature of the

farm occupation change in the future, such that the materials used or wastes generated changes significantly, either in type or amount, the owner of the farm operation shall so inform the Zoning Officer, and shall provide additional evidence demonstrating continued compliance with the requirements of this section.

Section 429 Shooting Ranges

429.1. Within the (A-R) Zone, shooting ranges are permitted by conditional use, subject to the following criteria:

429.2. Shooting Range Operations:

1. May not substantially injure or detract from the lawful existing or permitted use of neighboring properties;
2. May not substantially damage the health, safety or welfare of the Township or its residents and property owners;
3. Must comply with all applicable State and local laws, rules and regulations regarding the discharge of a firearm;
4. Shall limit the storage of ammunition to only that utilized on the property within twenty-four (24) hours. The storage of live ammunition shall only occur in an approved safe;
5. Shall limit the number of shooters to the number of firing points or stations identified on the development plan;
6. Shall require all shooters to satisfactorily complete an orientation safety program given in accordance with the National Rifle Association, or show a valid hunting permit or gun permit, before they are allowed to discharge firearms;
7. Shall limit the consumption of alcoholic beverages to days when no shooting activities are permitted, or when the shooting activities are completed for that day. Furthermore, alcoholic beverages may only be consumed in designated areas away from the firing points or stations; and,
8. Shall limit firing in accordance with the following schedule:

Month	Monday-Friday	Saturday	Sunday
November thru February	10 A.M. to 4 P.M.		Noon to 4:00 P.M.
March, April, September, & October	10 A.M. to 5 P.M.		
May thru August	10 A.M. to 7 P.M.	10 A.M. to 6 P.M.	

429.3. A development plan shall identify the Safety Fan for each firing range. The

Safety Fan shall include the area necessary to contain all projectiles, including direct fire and ricochet. The Safety Fan configuration shall be based upon qualified expert testimony regarding the trajectory of the bullet and the design effectiveness of berms, overhead baffles, or other safety barriers to contain projectiles to the Safety Fan;

- 429.4. The firing range, including the entire Safety Fan, shall be enclosed with a six foot (6') high, non-climbable fence to prevent unauthorized entry into the area. Range caution signs with eight-inch (8") tall, red letters on a white background shall be posted at a maximum of one hundred foot (100') intervals around the range perimeter. Signs shall read "SHOOTING RANGE AREA. KEEP OUT!";
- 429.5. Range flags shall be displayed during all shooting activities. Range flags shall be located in a manner visible from entrance drives, target areas, range floor, and the perimeter of the Safety Fan;
- 429.6. All surfaces located within the Safety Fan, including the backstop, overhead baffles, berms, and range floor, shall be free of hardened surfaces, such as rocks or other ricochet-producing materials;
- 429.7. All shooting range facilities, including buildings, parking, firing range, and Safety Fan shall be set back a minimum of one hundred feet (100') from the property line and street right-of-way;
- 429.8. The applicant shall present credible evidence that the sounds of shooting in the nearest residential zone do not exceed the ambient noise level;
- 429.9. Off-street parking facilities shall be provided with a ratio of one and one-half (1-1/2) spaces per firing station, but not less than one (1) space for each four (4) seats;
- 429.10. No part of a shooting range property shall be located within one-quarter (1/4) mile of any land within any (HV, R-1 or R-2) Zones; and,
- 429.11. The applicant shall submit expert evidence of a working plan to recover spent ammunition materials to prevent the leaching of lead into the soil and groundwater.

Section 430 Solid Waste Disposal and Processing Facilities

- 430.1. Within the (A-R) Zone, solid waste disposal and processing facilities are permitted by conditional use, subject to the following criteria:
- 430.2. Any processing of solid waste (including, but not limited to, incineration, composting, shredding, compaction, material separation, refuse derived fuel, pyrolysis, etc.) shall be conducted within a completely-enclosed building;
- 430.3. No refuse shall be deposited or stored, and no building or structure shall be located within two hundred feet (200') of any property line, and five hundred feet (500') of any land within a residential zone;
- 430.4. Any area used for the unloading, transfer, storage, processing, incineration or deposition of refuse must be completely screened from ground-level view at the

property line. (The use of an earthen berm is encouraged where practicable.) In addition, such areas must also be completely enclosed by an eight foot (8') high fence, with no openings greater than two inches (2") in any direction;

- 430.5. The applicant must demonstrate compliance (through a written statement) and continue to comply with all applicable State and Federal standards and regulations;
- 430.6. The use shall be screened from all roads and adjoining properties;
- 430.7. All uses shall provide sufficiently-long stacking lanes into the facility, so that vehicles waiting to be weighed will not back up onto public roads;
- 430.8. All driveways onto the site shall be paved for a distance of at least two hundred feet (200') from the street right-of-way line. In addition, a fifty foot (50') long gravel section of driveway should be placed just beyond the preceding two hundred foot (200') paved section to help collect any mud that may have attached to a vehicle's wheels;
- 430.9. Access to the site shall be limited to those posted times when an attendant is on duty. In order to protect against the indiscriminate and unauthorized dumping, all areas of the site shall be protected by locked barricades, fences, gates, or other positive means designed to deny access to the area at unauthorized times or locations;
- 430.10. Hazardous waste, as described by the Department of Environmental Protection, shall not be disposed of within the proposed area;
- 430.11. Litter control shall be exercised to prevent the scattering of wind-borne debris, and a working plan for the clean-up of litter shall be submitted to the Township;
- 430.12. The unloading, processing, transfer, and deposition of solid waste shall be continuously supervised by a qualified facility operator;
- 430.13. Any waste that cannot be used in any disposal process/or material that is to be recycled shall be stored in leak-proof and vector-proof containers. Such containers shall be designed to prevent their being carried by wind or water. These containers shall be stored within a completely-enclosed building;
- 430.14. All storage of solid waste shall be indoors in a manner that is leak-proof and vector-proof. During normal operation, no more solid waste shall be stored on the property that is needed to keep the facility in constant operation; but, in no event, for more than seventy-two (72) hours;
- 430.15. A contingency plan for the disposal of solid waste during a facility shutdown shall be submitted to the Township;
- 430.16. Leachate from the solid waste shall be disposed of in a manner in compliance with any applicable State and Federal laws or regulations. If leachate is to be discharged to a municipal sewage facility, appropriate permits shall be obtained from the applicable agencies and authorities. In no event shall leachate be disposed of in a storm sewer, to the ground, or in any other manner inconsistent with the Department of Environmental Protection's regulations;

- 430.17. All structures shall be set back at least a distance equal to their height;
- 430.18. The applicant shall submit an analysis of raw water needs (groundwater or surfacewater) from either private or public sources, indicating quantity of water required. If the source is from a municipal system, the applicant shall submit documentation that the public authority will supply the water needed.
- In addition, a water feasibility study will be provided to enable the municipality to evaluate the impact of the proposed development on the groundwater supply and on existing wells. The purpose of the study will be to determine if there is an adequate supply of water for the proposed development and to estimate the impact of the new development on existing wells in the vicinity. The water feasibility shall be reviewed by the municipal engineer.
- A water system which does not provide an adequate supply of water for the proposed development, considering both quantity and quality, or does not provide for adequate groundwater recharge considering the water withdrawn by the proposed development, shall not be approved by the municipality.
- A water feasibility study shall include the following information:
- calculations of the projected water needs;
 - a geologic map of the area with a radius of at least one (1) mile from the site;
 - the location of all existing and proposed wells within one thousand feet (1,000') of the site, with a notation of the capacity of all high-yield wells;
 - the location of all existing on-lot sewage disposal systems within one thousand feet (1,000') of the site;
 - the location of all streams within one thousand feet (1,000') of the site and all known point sources of pollution;
 - based on the geologic formation(s) underlying the site, the long-term safe yield shall be determined;
 - a determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, streams and the groundwater table; and,
 - a statement of the qualifications and the signature(s) of the person(s) preparing the study.
- 430.19. The applicant shall provide an analysis of the physical conditions of the primary road system serving the proposed use. The analysis shall include information on the current traffic flows on this road system, and projections of traffic generated by the proposed use. Improvements to the road shall be provided by the applicant to insure safe turning movements to and from the site and safe through-movement on the existing road;
- 430.20. A minimum one hundred foot (100') wide landscape strip shall be located along all property lines. No structures, storage, parking or any other related activity or operation shall be permitted within this landscape strip. Any fences or other screening erected on the site must not be located within this landscape strip;
- 430.21. Nothing contained in this section shall require stricter engineering or geological standards than are required by appropriate State regulations; and,
- 430.22. All solid waste disposal and processing facilities shall be owned and operated by West Marlborough Township or an authority in which West Marlborough

Township is a member.

Section 431 Two-Family Conversions

- 431.1. Within the (A-C) Zone, a detached, single-family dwelling may be converted into two (2) dwelling units by special exception, subject to the following:
- 431.2. Minimum Lot Area - Two (2) acres;
- 431.3. The applicant shall furnish evidence that an approved system of water supply and sewage disposal will be utilized;
- 431.4. No modifications to the external appearance of the building (except fire escapes) which would alter its residential character, shall be permitted;
- 431.5. All floors above-grade shall have a direct means of escape to ground-level; and,
- 431.6. Four (4) off-street parking spaces shall be provided.

Section 432 Natural Resources Research Center

- 432.1. Within the (A-C) Zone, natural resource research centers, as defined herein, are permitted by conditional use subject to the following criteria:
- 432.2. Such uses shall be permitted only upon or adjacent to property or properties which contained an existing natural resource center on the effective date of this Ordinance.
- 432.3. Any development, subdivision or establishment of a principal use(s) upon property adjacent to an existing natural resource center on the effective date of this Ordinance shall be counted against the maximum number of permitted uses under Section 200.5. of this Ordinance;
- 432.4. A natural resource research center shall only be permitted upon or adjacent to property characterized by a combination of several important natural features and/or environmental sensitivity (e.g. floodplains, wetlands, steep slopes, exceptional value waters, scenic river corridors, riparian buffers, woodlands and etc.) which will aid in the conduct of natural resource research and education.
- 432.5. The minimum required lot area for a natural resource research center shall be one (1) acre and the maximum permitted lot area shall be thirty (30) acres.
- 432.6. Except as noted below in Sections 432.6.5. and 432.6.6., the applicant shall prepare and submit the environmental impact assessment required under Article 5 of this Ordinance as part of the submission requirements for this conditional use. Furthermore, depending upon the presence of those natural and cultural features contained upon the site, the applicant shall be required to submit a written resource management report detailing the specific actions being employed to protect and manage the respective features. Such resource management report shall be prepared as required in Article 5 of this Ordinance and include the following minimum requirements.

1. Description of methods used to ensure the perpetual protection of those natural and cultural features contained on the site in accordance with the regulations of this Article 5.
2. Description of methods used to protect those vulnerable natural and cultural features from grading and construction activities during any proposed development or disturbance on the site.
3. Description of suitable long-term maintenance and management strategies of any required improvements, plantings, mitigating features and/or any other methods required under this Article 5.
4. Description of ownership and maintenance responsibilities and available methods to enforce compliance with the requirements of this Article.
5. Artificial slopes created due to prior construction of buildings and structures exceeding eight (8%) and fifteen (15%), respectively, which are contiguous to buildings or structures that existed on the effective date of this Ordinance need not be shown on the Slopes Study Map or considered as part of the analysis required by Section 507 of the Ordinance.
6. Notwithstanding the requirements of Section 511 and Article 6 of the Ordinance, existing accessory structures (excluding buildings) in any regulated buffer or setback area required by Section 511 of the Ordinance may be replaced and additional accessory structures (excluding buildings) may be added provided said accessory structures are essential to the educational and research purpose of the natural resources research center and such accessory structures in no way alter the essential character of those features protected under Section 511. Expansion of existing buildings within any regulated buffer or setback area required by Section 511 of the Ordinance shall be governed by Section 603 of the Ordinance. New buildings shall not be permitted within the regulated buffer or setback areas.

432.7. The applicant shall submit a written description of the proposed use of sufficient detail for the Board of Supervisors to gain an understanding of the use's likely impacts on adjoining properties:

1. Descriptions of number of employees, interns, visitors and students should be presented;
2. Specific activities should be listed along with their frequency, duration and scheduling;
3. A listing of equipment, chemicals and other devices and materials should be presented along with proof of proper management and handling techniques; and,
4. Descriptions of the intensity, frequency and duration of impacts (traffic, noise, light, odor, dust, smoke and any other perceptible effect of the proposed use).

5. Description of outdoor facilities and activities, including proposed hours of operation.
6. Detailed description of the conservation/research types and activities to be conducted on the site along with an explanation of how such techniques can be used to promote environmental stewardship and protection both within the Township and beyond.

It shall be incumbent upon the applicant to ensure and demonstrate that the nature, design, orientation, operation and scale of the proposed use along with methods that will be used to mitigate impacts will not jeopardize the rural character of the area or disrupt adjoining agricultural or residential uses.

- 432.8. In developing a site plan of the proposed use, the applicant shall identify specific locations of proposed improvements along with designations of areas that will be used merely for the collection of data or environmental samples, including but not limited to locations where sampling equipment is to be installed.
- 432.9. In designing the natural resource research center, the applicant shall pay particular attention to protecting nearby homes from non-rural views and impacts. The location and orientation of outdoor activity areas, parking lots, loading areas, waste storage, exhaust vents, exterior lighting should all either be separated from adjoining residential properties by large setbacks or be effectively screened with the use of natural elements such as dense vegetation, stone walls, wooden sight-tight fences, earthen berms or a combination thereof. Suburban and urban screens (i.e. staggered rows of evergreens) will not satisfy this requirement.
- 432.10. New buildings and or additions shall be designed with an outward appearance of a typical rural building (e.g. barn, rural residence, outbuilding, and etc.) The applicant shall submit written evidence and drawings by a Pennsylvania-licensed architect of the satisfaction of this requirement, provided however, that the determination as to whether or not such evidence and drawings satisfy the required appearance shall be made by the Board of Supervisors in its sole and absolute discretion. In addition, the applicant shall achieve LEED-certified design of the site and incorporate "state-of-the-art" and sustainable stormwater management and water use and treatment systems.
- 432.11. Natural resource research centers shall provide off-street parking spaces at a rate of one (1) space for each:
 1. Employee on the two largest shifts; plus,
 2. Three (3) seats in any meeting space, classroom, outdoor bleacher and any other assembly or gathering area.
- 432.12. The applicant may be granted a deferral of the installation of no more than twenty percent (20%) or the required parking spaces provided:

1. The applicant shall depict the location of all required off-street parking spaces and accompanying stormwater management capacity on the site plan and any subsequent land development plan;
2. The applicant shall provide sufficient financial guarantee that the additional required spaces will be installed at request of the Township.
3. A property owner who has received a parking space deferral may build the additional parking at any time given that the approved land development plan showing the parking reserve area is developed accordingly.

432.14. Off-street parking lot spaces shall incorporate the following minimum dimensions:

<u>Standard car spaces:</u>	<u>Spaces for physically handicapped:</u>	<u>Interior drives between parking rows</u>
Parallel - 19 ft. by 9 ft.	Parallel - 22 ft. by 12 ft.	20 feet wide
Nonparallel - 18 ft. by 9 ft.	Nonparallel - 20 ft. by 12 ft.	

432.15. Parking lots surfaces shall incorporate regenerative stormwater techniques (e.g. infiltration beds, bioswales and rain gardens).

432.16. Any new vehicular access drives proposed to connect to a public street beyond those existing on the effective date of this Ordinance shall require the approval of another conditional use application and its revised site plan. Any new access drive shall be located and designed to minimize impact on adjoining roads and properties and shall preserve the rural / agricultural character of the area.

432.17. Any proposed outdoor lighting shall incorporate full cut-off fixtures that are designed, installed and operated to avoid glare and reflection onto adjoining roads and properties.

432.18. Any proposed signs shall comply with Section 314 of this Ordinance as it relates to public and semi-public uses. In addition the applicant shall be entitled to locate on-site educational signs at key facilities and points of interest. Each sign shall have a maximum of four (4) square feet of total sign area and a maximum height of four (4') if such signs are freestanding.

432.19. The initial approval of the natural resource research center shall require conditional use review. For potential future expansion, the applicant may choose to identify proposed building envelopes and a list of potential uses to be applied to each area; however, in reviewing such areas the Township will consider the worst case scenario of building site envelope and potential uses when evaluating the conditional use application. Any subsequent substitution of use within such future development areas shall be permitted by right so long as the proposed use is permitted and does not require amendment of the site plan approved by the original conditional use. Future uses to be substituted that were not proposed during the initial conditional use review shall require another conditional use approval. Future uses that require amendment of the site plan shall also require conditional use approval under the requirements of this Section this Ordinance.

Article 5

Environmental Impact Assessment

Section 501 Purpose

This section imposes needed restrictions on land uses because of some specified environmental conditions. These environmental conditions shall be determined using the *West Marlborough Township Environmental Assessment* (1988) which is hereby incorporated as part of this Ordinance. All applications for zoning permits that involve a "land development" (as defined herein) shall be accompanied by a statement or statements that address the following requirements of this section.

Section 502 Procedures

All statements submitted according to this section shall be reviewed and approved by the Board of Supervisors, after review by the Planning Commission and/or any other specified agent of the Township. Should the Board of Supervisors determine that the applicant's statement does not adequately address the relevant environmental conditions, or that the proposed use, by nature or design, cannot be accomplished in a manner that is compatible with the environmental condition, the application shall be denied. As an alternative, the Board may approve the application with conditions imposed that directly respond to the application's deficiencies.

Section 503 Disputes Over the Presence/Location of Specific Environmental Conditions

Should a dispute concerning the presence, extent and/or location of a particular environmental condition arise, the initial determination of the Zoning Officer may be appealed to the Board of Supervisors. In such instances, the burden of proof shall rest with the applicant. Furthermore, only qualified evidence shall be used as the basis for a revision to the conditions reflected in the Environmental Assessment.

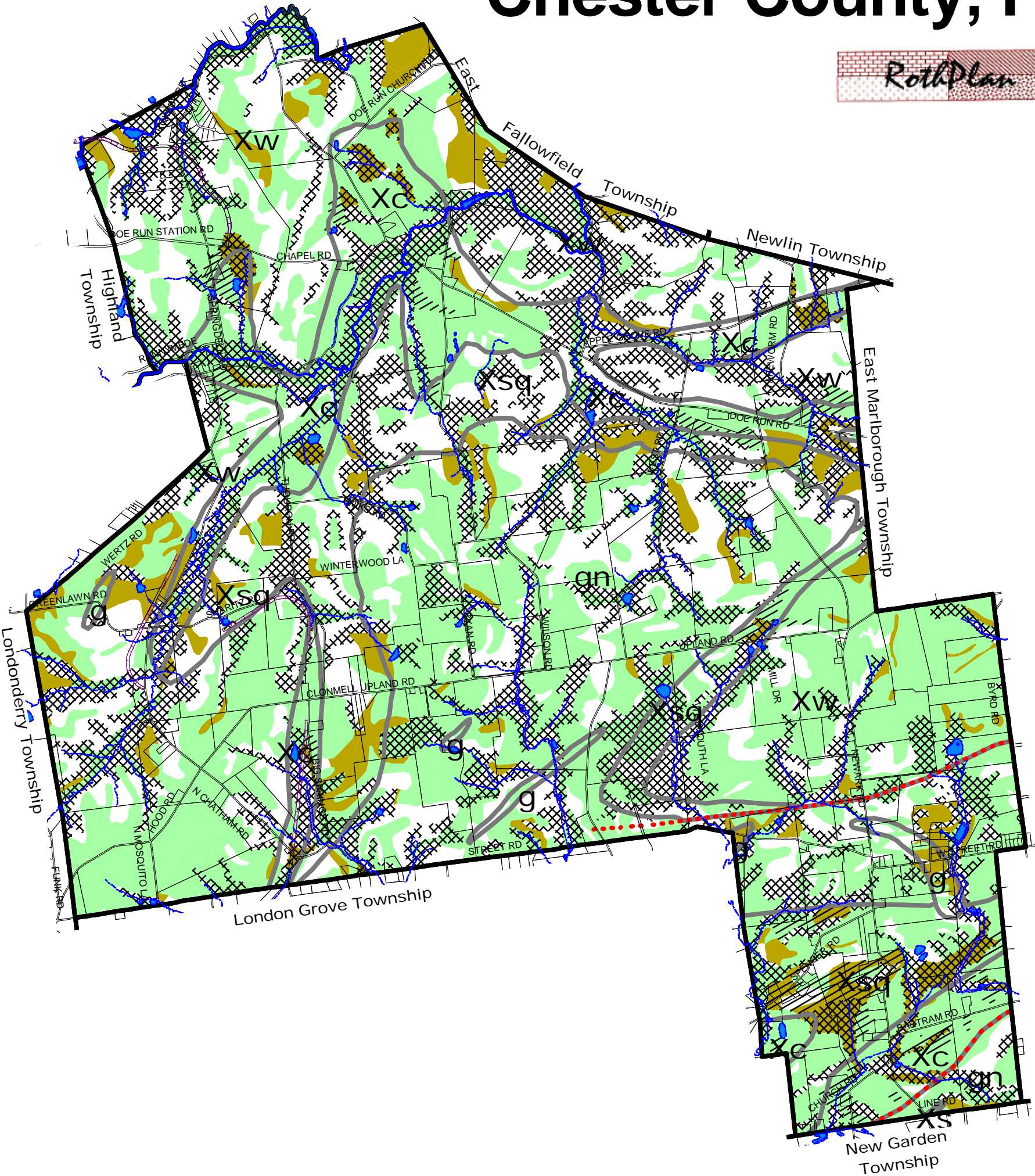
Section 504 Relationship to Other Sections of This Ordinance

The provisions of this section are designed to supplement the provisions contained elsewhere in this Ordinance. In those instances where design and/or performance criteria differ from those imposed elsewhere, the most restrictive criteria shall apply.

Section 505 Soils Study Map

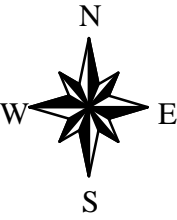
All applications for lands depicted on the Soils and Geology Map of the West Marlborough Township Comprehensive Plan as containing soils with severe on-lot sewer and/or severe building constraints shall require the preparation of a statement by a qualified planner, soil

West Marlborough Township Chester County, PA



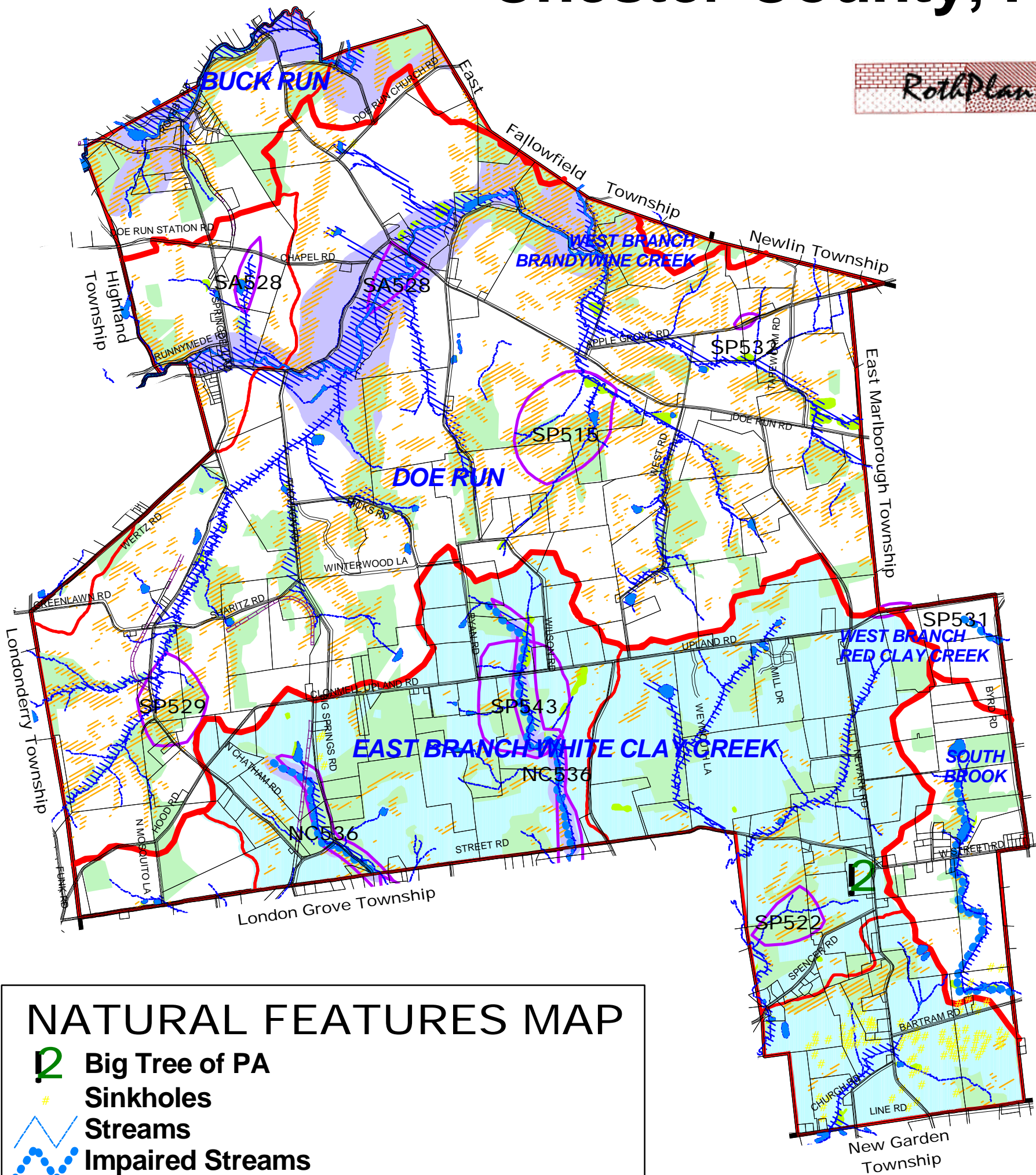
SOILS & GEOLOGY MAP

- Geologic Faults
- Geologic Formations
- Prime Farmlands
- Farmlands of Statewide Significance
- Severe On-Lot Sewer Constraints
- Severe Building Constraints



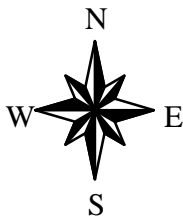
West Marlborough Township Chester County, PA

RothPlan



NATURAL FEATURES MAP

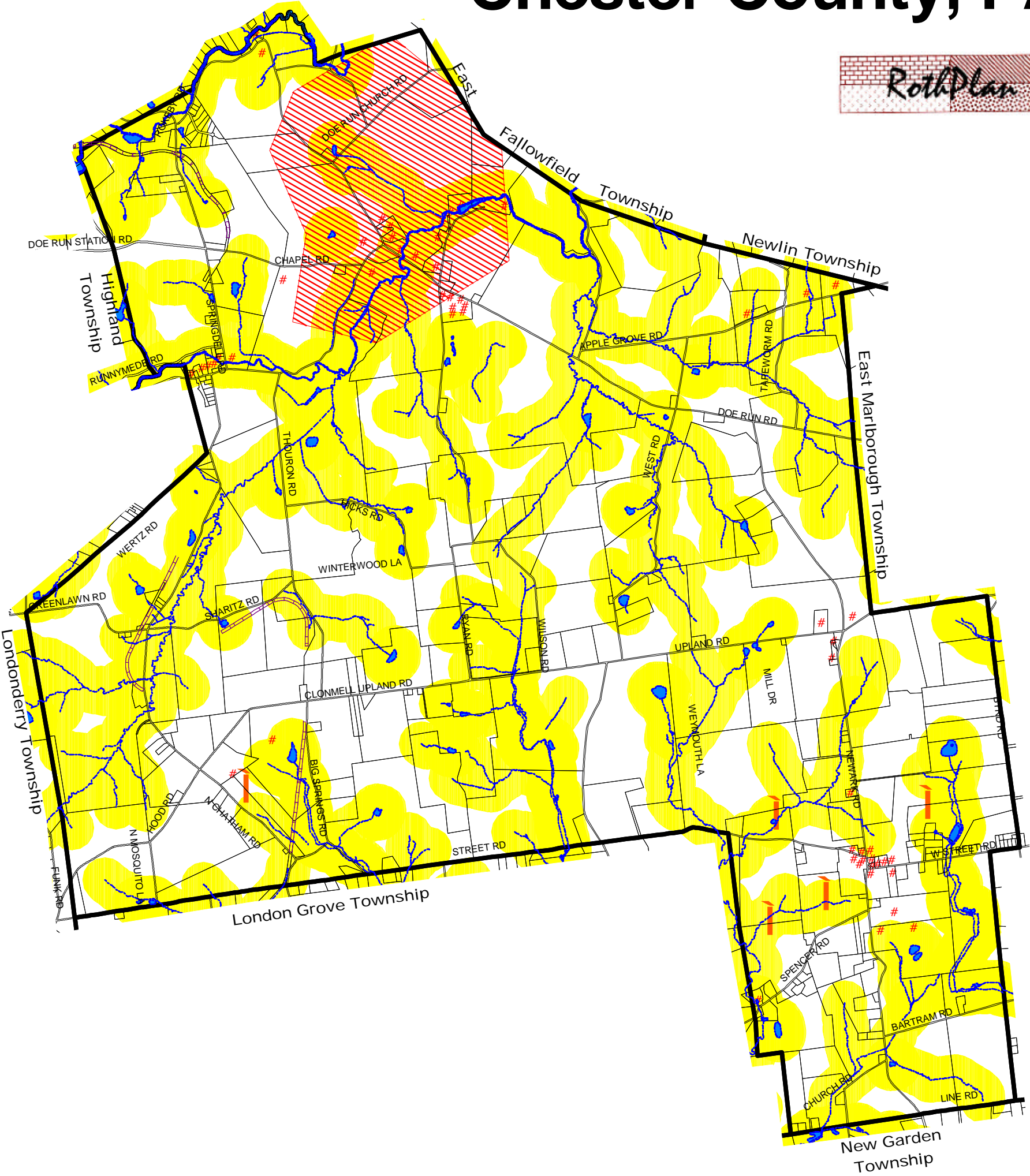
- Big Tree of PA
- Sinkholes
- Streams
- Impaired Streams
- Watershed Boundary
- Major
- Minor
- PNDI Habitats
- Steep Slopes
- FEMA Floodplains
- Woodlands
- Wetlands
- Scenic River Corridor
- Exceptional Value Watershed



3000 0 3000 6000 Feet

West Marlborough Township

Chester County, PA



CULTURAL FEATURES MAP

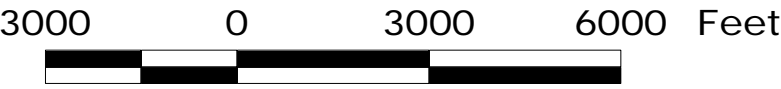
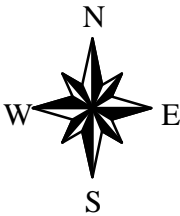
#

Historic Structures

Historic District

Known Archaeology

Suspected Archaeology



scientist, engineer and/or architect which includes the following minimum considerations:

1. A planimetric map of the site that depicts those soils contained on the site. Soils with severe development constraints shall be highlighted. The map shall also depict all existing and proposed improvements on the site;
2. A description of the site planning methods used to protect soils with severe development constraints from deleterious impacts associated with the proposed use; and,
3. A description of the construction techniques used to assure that the site's soils can safely accommodate the proposed use.

Section 506 Geology Study Map

All applications for lands depicted on the Soils and Geology Map of the West Marlborough Township Comprehensive Plan as being within the Cockeysville Formation, shall require the preparation of a preliminary hydrogeologic study. Such preliminary hydrogeologic study shall be conducted by a qualified hydrogeologist and consist of the following minimum considerations:

1. A map showing the topographic location of the site, any proposed on-site sewage disposal systems and wells. Narrative descriptions of the types of these systems shall also be furnished.
2. A description of the geologic conditions on and around the site that would affect the groundwater recharge rate and the degree of groundwater renovation. Such conditions can include, but need not be limited to, closed depressions, sinkholes, high water table conditions, springs, lineaments, faults, outcrops of bedrock, soil mottling, surface drainage into the ground, ghost lakes, etc.
3. A map and narrative description of the area that will be impacted from the proposed use of on-lot sewage disposal systems. Such analysis will consider and identify the systems' dispersion plumes and mixing zones to be calculated from the surface topography and known geologic conditions. The analysis will then describe anticipated water quality/quantity impacts to areas located downgradient and/or along any geologic strike or fault. These anticipated impacts should also consider existing and potential land uses located within the area affected.
4. Should it be determined that the proposed use(s) would result in a degradation of groundwater quality, or eliminate the potential use of nearby properties, the study should present measures that can be employed to mitigate these adverse impacts.

Should the Township determine from the preliminary hydrogeologic study that the proposed development, or any part thereof, will result in an unacceptable degradation of water quality and/or quantity, the application shall be denied.

Section 507 Slopes Study Map

All applications for lands depicted on the Natural Features Map of the West Marlborough Township Comprehensive Plan with steep slopes, shall require the preparation of a statement by a Commonwealth-registered engineer or architect which includes the following minimum considerations:

1. A topographic map of the site which highlights those areas that possess slopes exceeding eight percent (8%) and fifteen percent (15%), respectively. Also reflected on this map should be all existing and proposed site improvements (e.g., buildings, roads, sewer systems, driveways, etc.);
2. A detailed description of the methods that are being used to:
 - A. avoid the clearing of vegetation in areas that have a high potential for soil erosion;
 - B. prevent the construction of structures and other site improvements on areas with slopes exceeding fifteen percent (15%);
 - C. minimize grading throughout the site;
 - D. protect and preserve any natural wildlife and/or plant habitats that coincide with the steep-sloped areas of the site;
 - E. protect water quality on and around the site from the adverse effects of the proposed use;
 - F. manage storm water; and,
 - G. protect any environmental conditions or uses on adjoining properties; and,
3. In those instances where buildings and/or other structures are being placed on slopes exceeding eight percent (8%), a description of the methods used to overcome foundation problems shall be provided.

Section 508 Important Wildlife Habitats Map

All applications for lands depicted on the Natural Features Map of the West Marlborough Township Comprehensive Plan as being within a PNDI Habitat shall require the preparation of a statement by a professional biologist which includes the following minimum considerations:

1. A topographic map of the site that is at a scale of not less than one (1) inch equals one hundred feet (100'), and with contours at least every five feet (5'). Such a map shall highlight those areas of the site that are characterized by any important natural habitats. Additionally, a textual description of the important natural habitat's local, regional, state, and national importance shall be furnished.
2. A letter from the Pennsylvania Natural Diversity Inventory, Department of Environmental Protection, stating that the proposed use takes adequate measures to protect any important natural habitats. The letter should also describe those measures employed and any additional design, construction, or use restrictions that would further protect these species. Should it be determined that the site does not contain any important natural habitat, the letter should reflect this finding.
 - A. Should PNDI determine that the site involves an important natural habitat for fish, reptiles, and/or amphibians, the applicant shall obtain a letter from the Pennsylvania Fish Commission. Such letter shall state that the proposed use takes adequate measures to protect any important wildlife habitats. The letter should also describe those measures employed, and any additional design, construction, or use restrictions that would further protect these species;
 - B. Should PNDI determine that the site involves an important natural habitat for birds, mammals and game, the applicant shall obtain a letter from the Pennsylvania Game Commission. Such letter shall state that the proposed use takes adequate measures to protect any important wildlife habitats. The letter should also describe those measures employed, and any additional design, construction, or use restrictions that would further protect these species; and,
 - C. Should PNDI determine that the site involves an important natural habitat for

vegetation, the applicant shall obtain a letter from the Pennsylvania Department of Environmental Protection, Bureau of Forestry. Such letter shall state that the proposed use takes adequate measures to protect any important wildlife habitats. The letter should also describe those employed, and any additional design, construction, or use restrictions that would further protect these species.

3. If applicable, verification that the applicant has properly obtained all of the required permits from both the U.S. Army Corps of Engineers and the PA Department of Environmental Protection, pertaining to wetlands; and,
4. A detailed description of the methods that are being used to:
 - A. avoid the disturbance of any wetlands and/or other important wildlife habitats during and following construction on the site;
 - B. assure that the proposed use is compatible with these important habitats;
 - C. mitigate the loss of existing habitats;
 - D. replace and/or create additional land areas that will be characterized by similar environmental traits as the site's important habitats; and,
 - E. assure that those activities associated with the proposed use will remain compatible with the site's important habitats, over time.

Section 509 Historic Resources

All applications for demolitions of an historic structure and/or a structure within an Historic District as identified on the Cultural Features Map of the West Marlborough Township Comprehensive Plan shall be required to submit to the Zoning Officer all of the available following materials, for forwarding by the Township to the Chester County Historical Society (CCHS):

1. Historic deeds, surveys and site plans;
2. Current and historic photos of the property; and,
3. A description of the specific reasons why the current structure cannot accommodate the proposed use and the demolition is warranted.

Next, the applicant is required to meet within thirty (30) days of submission of an application, with the staff of the CCHS to gain their ideas about potential preservation options for the structure. If the CCHS determines that the site retains significant value and/or can be practically adapted to meet the applicant's needs and avoid the need for demolition, the CCHS shall submit its findings to the Zoning Officer within 14 days of its meeting with the applicant. After the CCHS notifies the Zoning Officer of its findings, the Zoning Officer may withhold issuance of the demolition zoning permit for no more than ninety (90) days from its original date of application.

If, after meeting with the applicant, the staff of the CCHS finds that no practical alternative exists to preserve the building/structure, the staff of the CCHS shall submit its findings to the Zoning Officer within fourteen (14) days of its meeting with the applicant. After the CCHS notifies the Zoning Officer of its findings, the Zoning Officer may issue the demolition zoning permit at his/her earliest convenience.

Should an applicant for demolition fail to submit the required materials or meet with the staff of the CCHS, the Zoning Officer shall deny the demolition zoning permit.

Section 510 Archaeological Resources Map

All applications for lands depicted on the Cultural Features Map of the West Marlborough Township Comprehensive Plan as being within an area of suspected archaeological significance shall require the preparation of a statement by a professional archaeologist which includes the following minimum considerations:

1. A detailed account of a survey of archaeological resources conducted on the site and its findings. Such survey shall be conducted only after notification of the Pennsylvania Historical and Museum Commission (PAHMC) and undertaken in a manner specifically prescribed by the PAHMC;
2. A letter from the PAHMC discussing the archaeological significance of the site. This letter should also suggest whether or not further study is warranted. If further study is warranted, a description of the level of investigation needed should also be explained.
3. Should the PAHMC determine that certain portions of the site can accommodate the proposed use without risking the loss of archaeological resources contained elsewhere on the site, a detailed description of the methods that are being used to:
 - A. prevent the disturbance of archaeologically-significant areas of the site during and following construction of the proposed use;
 - B. prohibit grading in the vicinity of archaeologically-significant areas of the site; and,
 - C. orient improvements and activities of the proposed use away from the archaeologically-significant areas of the site and suspected or known archaeologically-significant areas that adjoin the site; and,
4. A detailed description of the plans for disposition of any archaeologically-significant artifacts found, or to be found, on the site.

Section 511 Surface Waters Map

All applications for lands depicted on the Natural Features Map of the West Marlborough Township Comprehensive Plan with any of the following features shall require the preparation of a statement by a Commonwealth-certified engineer and/or other qualified persons, which includes the following minimum respective considerations:

1. That the proposed use completely satisfies the requirements of Section 204 (Floodplain Zone) of this Ordinance;
2. For areas contained within the “exceptional value waters” of the White Clay Creek watershed, the following shall apply:
 - A. No solid waste disposal facilities nor quarries and other extractive-related uses shall be permitted;
 - B. All uses shall maintain a horizontal eighty foot (80') wide buffer strip from the edge of any surface water bodies; such buffer strips shall not be disturbed or graded in any way that would be detrimental to existing vegetation and ground cover (including leaves);
 - C. No on-site sewage disposal system shall be located within the Floodplain Zone nor one hundred feet (100') of the edge of any surface water body, whichever is greater;
 - D. The minimum lot area for dwellings shall be two (2) acres with a maximum lot coverage of ten percent (10%);

- E. A detailed description of the methods used to manage storm water, control soil erosion and sediment, and prevent groundwater and surfacewater degradation shall be provided; and,
 - F. The applicant shall provide a detailed description of the livestock handling techniques that will be used to prevent the degradation of surface waters.
3. For areas contained within the Lower Brandywine Scenic Rivers Corridor, the following shall apply:¹
- A. No solid waste disposal facilities, quarries and other extractive-related uses, airports/heliports, commercial processing and wholesaling of farm products, facilities for the warehousing, sales, repair and service of agricultural equipment, vehicles, feed and/or supplies, nor any other use that requires the outdoor storage of finished products, shall be permitted;
 - B. All utility lines shall be buried underground;
 - C. All structures shall maintain a two hundred foot (200') setback from the edges of Buck and Doe Runs;
 - D. All uses shall maintain a horizontal fifty foot (50') buffer strip from the edge of Buck and Doe Runs; such buffer strip shall not be disturbed or graded in anyway that would be detrimental to existing vegetation and ground cover (including leaves);
 - E. The minimum lot area for dwellings shall be two (2) acres with a maximum lot coverage of ten percent (10%);
 - F. All roads, access drives and driveways shall be designed according to standards listed in *Guidelines to Improve the Aesthetic Quality of Roads in Pennsylvania* co-authored by the Pennsylvania Departments of Transportation and Environmental Protection (June 1978); and,
 - G. All uses shall be designed and constructed according to the General Management Guidelines Applied to Brandywine and Selected Tributaries for pastoral classifications as listed on pages 128-135 of the *Lower Brandywine Scenic Rivers Evaluation and Management Study* (November, 1987) and prepared by the Pennsylvania Department of Environmental Protection and the Brandywine Conservancy, Inc.
4. For areas contained within the White Clay Creek National Scenic River the following shall apply:
- A. No commercial processing and wholesaling of farm products, facilities for the warehousing, sales, repair and service of agricultural equipment, vehicles, feed and/or supplies, nor any other use that requires the outdoor storage of finished products, shall be permitted;
 - B. All utility lines shall be buried underground;
 - C. All structures shall maintain a two hundred foot (200') setback from the edges of White Clay Creek; and,
 - D. All uses shall maintain a horizontal fifty foot (50') buffer strip from the edge of White Clay Creek; such buffer strip shall not be disturbed or graded in anyway that would be detrimental to existing vegetation and ground cover (including leaves);

Section 512 Woodlands

All applications for lands depicted on the Natural Features Map of the West Marlborough Township Comprehensive Plan as being characterized with woodlands shall comply with the following:

¹The Lower Brandywine Scenic River designation was established by Act No. 7 of 1989, P.L., effective June 16, 1989.

1. At least eighty percent (80%) of the number of trees of a minimum trunk caliper of five inches (5"), measured four and one-half feet (4½') above the ground, that exist at the time of application for zoning permit shall be maintained or replaced immediately following construction, and prior to use or occupancy.
2. Replacement trees shall be a minimum of two inches (2") in diameter measured at a height of six inches (6") above finished grade. Only those areas necessary for the construction of buildings, structures, structures and/or sewage systems, for which a zoning permit has been issued, shall be cleared of existing woodland.

Section 513 Streamside Buffers

Any property adjoining a watercourse, or portion thereof, that is typically inundated throughout the year is encouraged to provide a streamside buffer in accordance with the following standards or as approved by the Chester County Conservation District: (It is noted that landowners are encouraged to review the manual entitled "Pennsylvania Handbook of Best Management Practices for Developing Areas" published by the Pennsylvania Association of Conservation Society, Keystone Chapter, Soil and Water Conservation Society, DEP and NRCS.)

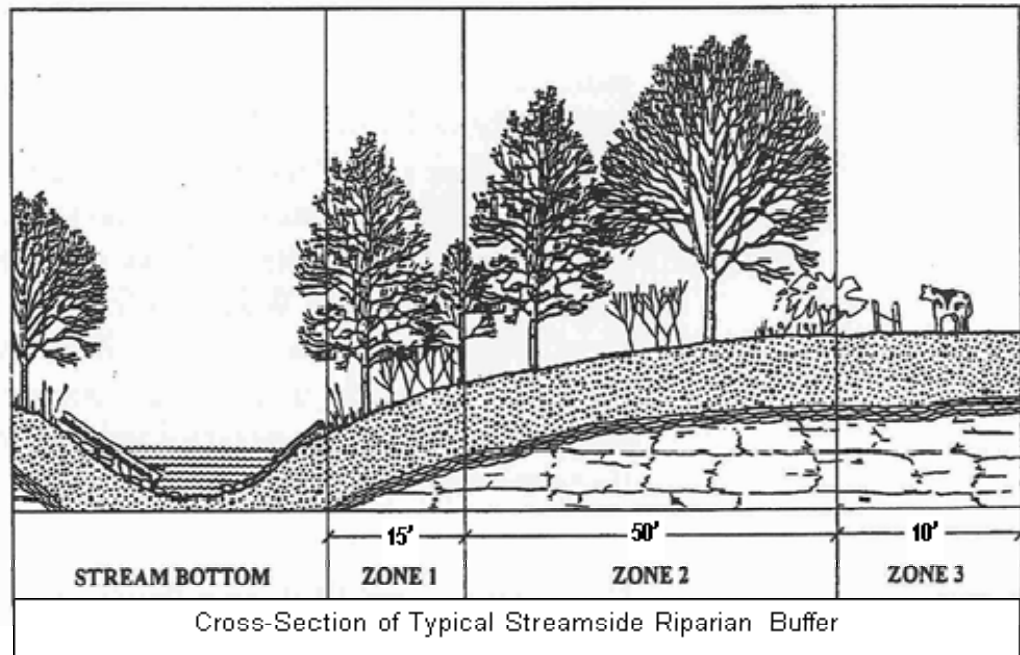
1. Buffer Delineation - A streamside buffer is comprised of the following three separate Zones:

Zone 1: The landward area located between the streambank edge under typical flow conditions fifteen feet (15'), as measured directly perpendicular from the streambank edge;

Zone 2: The area beginning at the inland edge of the above-described Zone 1 and the largest combined width of all of the following:

1. Fifty feet (50') as measured directly perpendicular from the streambank edge;
2. the 100-year floodplain;
3. any adjoining identified wetlands; and/or,
4. any adjoining area characterized by slopes exceeding twenty-five percent (25%).

Zone 3: The area beginning at the inland edge of the above-described Zone 2 and extending at least ten feet (10') inland therefrom. Where a pasture is proposed just beyond the above-described Zone 2, no Zone 3 is required.



2. Buffer Plantings - Each of the respective Zones of the streamside buffer shall include non-invasive vegetation that already exists or will be planted and maintained by the applicant using a variety of native species that satisfies the following design objectives. The applicant shall submit expert evidence that the existing and/or proposed vegetation is of sufficient size and density so as to satisfy such objectives that shall include a graphic depiction of proposed plantings and a schedule of vegetative species.

Zone 1: This Zone must include mature canopy trees and a ground cover of warm season grasses. New tree plantings should be selected, arranged and managed to accelerate canopy growth, and offer native species habitat and food supply. New grass plantings should be selected and managed to filter out pollutants, offer habitat and stabilize the streambank. All vegetation within this Zone must thrive in wet conditions;

Zone 2: This Zone must include mature canopy trees generally three rows deep with a natural groundcover. New tree plantings should be selected that are rapid growing so as to intercept passing nutrients. Such trees should also be arranged and managed to accelerate canopy growth, and offer native species habitat and food supply. Successive undercover plants should also be allowed to “evolve” with the canopy of this Zone. All vegetation selected for planting within the 100 year floodplain must thrive in wet conditions; and,

Zone 3: This Zone should be planted with warm season grasses that are allowed to mature naturally without mowing. The tall grasses shall be managed to produce uniform overland stormwater flows that do not create channels into Zone 2. New grass plantings should be selected and managed to enable controlled grazing or haying so long as the grasses are not reduced to a point such that they no longer effectively disperse the surface flow.

3. Vegetation Selection - To function properly, dominant vegetation in the riparian buffer shall be selected from the following list of selective native buffer plants list.

Plants not included on this list may be permitted by the Township when evidence is provided from qualified sources certifying their suitability for substitution. Selected species shall be noninvasive, native to the region, nursery stock grown within a locale with similar climatic conditions as found within the region, well branched, and free of disease. Any noxious and/or invasive plant species shall be removed and destroyed as defined in Section 112 of this Ordinance.

SELECTIVE NATIVE BUFFER PLANTS LIST Source: PA Natural Resources and Conservation Service (NRCS) Botanic Name / Common Name	
<u>FERNS</u> <i>Osmunda cinnamomea</i> / Cinnamon fern <i>Osmunda claytoniana</i> / Interrupted fern <i>Onoclea sensibilis</i> / Sensitive fern <u>GRASSES & SEDGES</u> <i>Andropogon gerardii</i> / Big blue stem <i>Carex scoparia</i> / Broom sedge <i>Cyperus strigosus</i> / False nut sedge <i>Carex lurida</i> / Lurid sedge <i>Elymus riparius</i> / Riverbank wild rye <i>Carex vulpinoidea</i> / Sedge <i>Juncus effusus</i> / Soft rush <i>Panicum virgatum</i> / Switch grass <i>Carex stricta</i> / Tussock sedge <i>Elymus virginicus</i> / Virginia wild rye <i>Scirpus cyperinus</i> / Wool grass	<u>FLOWERING PERENNIALS</u> <i>Penstemon digitalis</i> / Beard-tongue <i>Gentiana andrewsii</i> / Bottle gentian <i>Verbena hastata</i> / Blue vervain <i>Sisyrinchium angustifolium</i> / Blue-eyed grass <i>Eupatorium perfoliatum</i> / Boneset <i>Lobelia cardinalis</i> / Cardinal flower <i>Rudbeckia laciniata</i> / Cut-leaf coneflower <i>Veronica noveboracensis</i> / Ironweed <i>Arisaema triphyllum</i> / Jack-in-the-pulpit <i>Eupatorium fistulosum</i> / Joe-pye weed <i>Aster novae-angliae</i> / New England aster <i>Mitchella repens</i> / Partridgeberry <i>Aster puniceus</i> / Purple stemmed aster <i>Solidago gigantea</i> / Smooth goldenrod <i>Asclepias incarnate</i> / Swamp milkweed <i>Thalictrum pubescens</i> / Tall meadowrue <i>Verbesina alternifolia</i> / Wingstem <i>Geranium maculatum</i> / Wood geranium

SELECTIVE NATIVE BUFFER PLANTS LIST Source: PA Natural Resources and Conservation Service (NRCS) Common (Botanic Name)	
<u>SHRUBS</u> Black Chokeberry (<i>Aronia melanocarpa</i>) High-Bush Blueberry (<i>Vaccinium corymbost</i>) High-Bush Cranberry (<i>Viburnum trilobum</i>) Spicebush (<i>Lindera benzoin</i>) ¹ Elderberry (<i>Sambucus canadensis</i>) Silky Dogwood (<i>Cornus amomum</i>) Grey Dogwood (<i>Cornus racemosa</i>) ¹ Serviceberry (<i>Amelanchier Canadensis</i>) Maple-Leaf Viburnum (<i>Viburnum acerifolius</i>) American Hazelnut (<i>Corylus americana</i>) ¹ Choke Cherry (<i>Prunus virginiana</i>) Staghorn Sumac (<i>Rhus typhina</i>) Winterberry (<i>Ilex verticillata</i>) Arrowwood (<i>Viburnum dentatum</i>) Blackhaw Viburnum (<i>Viburnum prunifolium</i>) Nannyberry (<i>Viburnum lentago</i>) ¹ Buttonbush (<i>Cephalanthus occidentalis</i>) Red Chokeberry (<i>Aronia arbutifolia</i>) Red-Osier Dogwood (<i>Cornus stolonifera</i>) Silky Willow (<i>Salix sericea</i>)	<u>TREES²</u> Shagbark Hickory (<i>Carya ovata</i>) White Oak (<i>Quercus alba</i>) Red Oak (<i>Quercus rubra</i>) Bur Oak (<i>Quercus macrocarpa</i>) Hackberry (<i>Celtis occidentalis</i>) Butternut (<i>Juglans cineria</i>) Black Cherry (<i>Prunus serotina</i>) American Crabapple (<i>Malus coronaria</i>) Black Gum (Tupelo) (<i>Nyssa sylvatica</i>) Scarlet Oak (<i>Quercus coccinea</i>) Chestnut Oak (<i>Quercus prinus</i>) Black Willow (<i>Salix nigra</i>) Persimmon (<i>Diosptros virginiana</i>) Yellow Birch (<i>Betula alleghanienis</i>) Hop-Hornbeam (<i>Ostrya virginiana</i>) Flowering Dogwood (<i>Cornus florida</i>) Basswood (<i>Tilia americana</i>) American Elm (<i>Ulmus americana</i>) Red (Slippery) Elm (<i>Ulmus rubra</i>) Silver Maple (<i>Acer saccharinum</i>)

SELECTIVE NATIVE BUFFER PLANTS LIST
Source: PA Natural Resources and Conservation Service (NRCS)
Common (Botanic Name)

<p><u>SHRUBS</u> Speckled Alder (<i>Alnus rugosa</i>) Pussy Willow (<i>Salix discolor</i>) Ninebark (<i>Physocarpus opulifolius</i>) ¹Mountain Laurel (<i>Kalmia latifolia</i>) Witch-hazel (<i>Hamamelis virginiana</i>)</p> <p><u>TREES²</u> Swamp White Oak (<i>Quercus bicolor</i>) Pin Oak (<i>Quercus palustris</i>) Eastern Redbud (<i>Cercis canadensis</i>) Red maple (<i>Acer rubrum</i>) Quaking Aspen (<i>Populus tremuloides</i>) Sassafras (<i>Sassafras albidum</i>) Pignut Hickory (<i>Carya glabra</i>) Black Walnut (<i>Juglans nigra</i>) American Beech (<i>Fagus grandifolia</i>) Red Mulberry (<i>Morus rubra</i>) Bitternut Hickory (<i>Carya cordiformis</i>)</p>	<p><u>TREES²</u> Sugar Maple (<i>Acer saccharum</i>) Grey birch (<i>Betula populifolia</i>) Honey Locust (<i>Gleditsia triacanthos</i>) Black Locust (<i>Robinia pseudoacacia</i>) Black (Sweet) Birch (<i>Betula lenta</i>) Sycamore (<i>Platanus occidentalis</i>) Sweet Gum (<i>Liquidambar styracflua</i>) Tulip Poplar River Birch (<i>Betula nigra</i>) Paw Paw (<i>Asimina triloba</i>) Hawthorn (<i>Crataegus viridis</i>) Sweet bay Magnolia (<i>Magnolia virginiana</i>) American Wild Plum (<i>Prunus americana</i>) American Basswood (<i>Tilia americana</i>) Eastern White Pine (<i>Pinus strobus</i>) Eastern (Canadian) Hemlock (<i>Tsuga canadensis</i>) Eastern Red Cedar (<i>Juniperus virginiana</i>) White Spruce (<i>Picea glauca</i>)</p>
---	--

¹ These shrubs can be toxic to livestock and horses during certain stages.

² No more than five percent (5%) of the number of trees shall be evergreen species.

4. Buffer Use

1. Permitted uses - No use shall be permitted that interferes with the natural maturation of the buffer plantings required by Section 513.2. of this Ordinance, except as follows:
 - (a) Corridor crossings for farm vehicles and livestock and livestock watering facilities , all of which are accompanied by written evidence of approval of a water obstruction permit by the PA DEP;
 - (b) Public roads and improvements thereto that existed on the effective date of this Ordinance;
 - (c) Corridor crossings for roads and railroads provided that such crossings are accomplished upon the least possible land area and installed in such a manner that is most compatible with the required buffer plantings as described in Section 513.2. of this Ordinance;
 - (d) Bridges, with the appropriate federal and/or state permits, used in place of culverts when crossings require a seventy-two (72) inch or greater diameter pipe. Culverts consisting of slab, arch or box culverts and not corrugated metal pipe. Culverts shall be designed to retain the natural stream channel bottom to ensure the passage of water during low flow or dry weather periods
 - (e) Public sewer lines, public water lines and public utility transmission lines, provided such lines are installed in such a manner that is

most compatible with the installation and ongoing maintenance of the required buffer plantings as described in Section 513.2. of this Ordinance;

- (f) Passive recreation uses when designed to minimize the extent of harmful compaction of soil, tree root damage and avoid the channelization (natural or man-made) of surface water flow. Pedestrian paths can cross Zones 1, 2 and 3 provided that such paths are accomplished upon the least possible land area and disruption of the adjoining riparian buffer is minimized. Pedestrian paths can parallel through Zones 2 and 3. All pedestrian paths shall be provided with stable pervious surfaces;
 - (g) Streambank improvement projects that have been approved by the CCCD and/or the PA DEP.
 - (h) Removal of trees in accordance with 513.6. of this Ordinance.
 - (i) Wildlife sanctuaries, nature preserves, forest preserves and fishing areas.
 - (j) Low-impact supplemental water quality type best management practice stormwater management facilities that are not part of the primary stormwater management facilities required to attenuate peak flows.
 - (k) Timber harvesting uses as regulated by Section 324 of this Ordinance provided that any existing riparian buffer is undisturbed to the extent possible and the activities are in accordance with a soil erosion and sedimentation pollution control plan approved by the CCCD.
2. Prohibited uses – The following uses and activities are expressly prohibited within a streamside buffer. This listing of prohibited uses and activities shall not be interpreted to permit other activities not listed, unless they are permitted by Section 513.3.1. of this Ordinance:
- (a) Except as permitted in the above Section 513.4.1., any use that interferes with the natural maturation of the buffer plantings required in Section 513.2. of this Ordinance;
 - (b) Except as permitted in the above Section 513.4.1., any use that interferes with the maintenance of the buffer plantings required in Section 513.5. of this Ordinance;
 - (c) Storage and/or disposal of any toxic, hazardous or noxious materials and substances;
 - (d) Application of fertilizers, pesticides, herbicides and/or other chemicals in excess of that permitted on an approved conservation and/or nutrient management plan as approved by the CCCD, the local office of the PA Pennsylvania Natural Resources and Conservation Service and/or as permitted under the Pennsylvania Conservation Resource Enhancement Program (CREP); and,

- (e) Areas devoted to the on-site absorption of sewage effluent and/or agricultural fertilizers including but not limited to manure.

- 5. Buffer Maintenance - Streamside buffers must be generally undisturbed. Mature trees and long grasses absorb more nutrients than do manicured plants. Similarly, the more extensive root systems retain passing sediments. These characteristics reduce pollution and yield abundant food and habitat for wildlife. The temptation to “over-maintain” the streamside must be overcome. The following lists required maintenance activities for each zone and the applicant must present a working plan that demonstrates compliance with such activities and practices:

Zone 1: This Zone compels little maintenance. As trees mature, die and decay, it is important that such natural debris be allowed to decompose within the stream. This will provide important food and habitat for beneficial microorganisms, fish and amphibious animals. However, any debris that may cause a rise in the floodplain due to obstruction or displacement shall be removed promptly. Except as authorized under the Pennsylvania Conservation Reserve Enhancement Program (CREP) streamside grasses should similarly be allowed to seasonally flourish and recede. Man-made activities should be very limited and confined to perpendicular passages from Zone 2. Intensively used locations should be fitted with raised walkways and reinforced embankments. Streamside cleanup of junk and man-made debris is permitted;

Zone 2: This zone requires the most attention, but not for some time after initial planting. Here, the objective is to develop a stable and broad canopy of tree cover. The trees within Zone 2 are fast-growing and therefore consume many nutrients. The regular pruning and trimming of these trees will increase their nutrient consumption and growth rate and decrease the time to establish a closed canopy buffer (a canopy that generally blocks sunlight from reaching the surface), but should not jeopardize the important overhead canopy of shade. Except as authorized under the Pennsylvania Conservation Reserve Enhancement Program (CREP), the natural undercover should be undisturbed, except for periodic litter cleanup. Pedestrian paths can weave through Zone 2, but should be provided with raised walkways to prevent compacted soils and root damage; and,

Zone 3: This Zone also requires little maintenance. Long summer grasses should be allowed to flourish and recede with the seasons. Grazing and haying are permitted so long as the residual grass length is sufficient to disperse overland stormwater flows into Zone 2 and avoid channelization.

- 6. Emergency Tree Cutting - At any time, a landowner may cut-down any tree within a streamside buffer that, because of its condition, location or any other factor, poses an immediate threat to the public health and safety. Examples of appropriate emergency tree cutting include, but are not limited to:
 - 1. Partially uprooted trees that are likely to topple onto nearby structures, properties, roads and/or sidewalks;
 - 2. Damaged trees with split trunks due to lightning strike or wind or ice loads;

3. Trees that block emergency vehicle access during times of natural disaster, civil defense or rescue;
 4. Trees that have been partially damaged or fallen that threaten to cause an immediate rise in floodwaters;
 5. Trees that have been certified by a qualified forester to be afflicted with a contagious disease, blight or infection or damage from natural causes, from which the tree is unlikely to recover;
 6. Trees that have been certified by a qualified forester to be dead; and,
 7. Trees that have been certified by a qualified forester to be an invasive species.
7. Pennsylvania Conservation Resource Enhancement Program (CREP) - It is the express intent of this Section 513 of this Ordinance to facilitate landowner participation within the Pennsylvania Conservation Resource Enhancement Program (CREP). Any requirement, except for required buffer delineation, of this Section 513 of this Ordinance that is inconsistent with an approved CREP management plan shall not apply, but only to the extent that it is inconsistent with the CREP.

Article 6

Nonconformities

Section 600 Continuation

Except as otherwise provided in this section, any lawful use, building, or structure existing at the time of enactment of this Ordinance may be continued, although it is not in conformity with the regulations specified by this Ordinance. However, signs are subject to amortization as described in Section 608 this Ordinance.

Section 601 Abandonment

If a nonconforming use of land or building or structure ceases or is discontinued for a continuous period of one (1) year or more, subsequent use of such building, structure, or land shall be in conformity with the provisions of this Ordinance. Vacating of buildings or structures, nonuse of land, or non-operative status of such land, buildings or structures shall be conclusive evidence of a discontinued use.

Section 602 Extension of a Nonconforming Use of Land

Any lawful nonconforming use of land exclusive of buildings and structures and the use contained therein, may be extended upon the lot upon which it exists at the time of the effective date of this Ordinance, but such extension shall conform to area and lot regulations and to the design standards of this Ordinance. The extension of a nonconforming use on a lot shall be limited to the lot which was in existence on the effective date of this Ordinance.

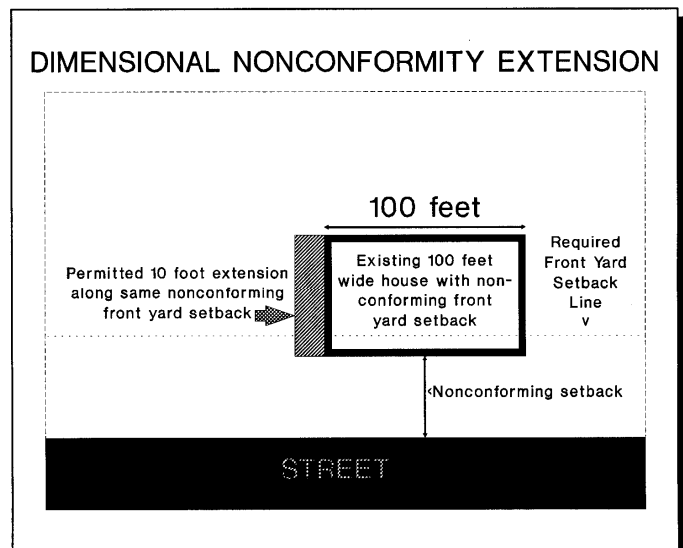
Section 603 Expansion or Alteration

603.1. Any nonconforming use may be expanded or altered through the obtainment of a special exception, and subject to the following criteria, and those contained in Section 704.3.:

1. Expansion of the nonconformity shall be confined to the lot on which it was located on the effective date of this Ordinance, or any amendment thereto creating the nonconformity;
2. The total of all such expansions or alterations of use shall not exceed an additional fifty percent (50%) of the area of those buildings or structures devoted to the nonconforming use as they existed on the date on which such buildings or structures first became nonconformities. The applicant shall furnish conclusive evidence as to the extent of the nonconformity when it was created;

3. Provision for vehicular access, off-street parking and off-street loading shall be consistent with standards required by this Ordinance;
4. Provision for yards, building height and building area shall be consistent with the standards required for permitted uses in the zone in which the nonconformity in question is located;
5. Appearance should be harmonious with surrounding properties; this feature includes, but is not limited to, landscaping, enclosure of principal and accessory uses, height control, sign control, architectural control, and maintenance of all improvements and open spaces;
6. Buffers and screens shall be provided as necessary to adequately protect neighboring properties. This includes, but is not limited to, fences, walls, plantings, and open spaces;
7. The expansion shall not create new dimensional nonconformities or further increase existing dimensional nonconformities, except as provided for in Section 603.2. of this Ordinance;
8. No expansion of a nonconforming structure or a nonconforming use located outside of a structure existing on the effective date of this Ordinance shall be permitted in the Floodplain Zone; and,
9. Excluding expansion, any modification, alteration, repair, reconstruction or improvement of any kind to a nonconforming use or structure located in the Floodplain Zone shall be permitted when either elevated above the base flood elevation or floodproofed in accordance with the requirements described in Section 204.7. of this Ordinance. In no case, shall any modification, alteration, repair, reconstruction, or improvement cause unacceptable increases in flood height, velocities or frequencies;

603.2. Any dimensional nonconformity may be reduced as a permitted use, even if the reduction does not entirely eliminate the dimensional nonconformity. Furthermore, any structure that has one or more nonconforming setbacks may be extended along the same nonconforming setback(s) line, up to a maximum of ten percent (10%) of the area of the building that follows the setback when it was originally made nonconforming; the diagram below illustrates this regulation. Nothing within this section shall be interpreted to allow an increase in any dimensional nonconformity.



Section 604 Substitution or Replacement

Any nonconforming use may be replaced or substituted by another nonconforming use by special exception, if the Zoning Hearing Board determines that the proposed use is at least equally compatible with the surrounding area as the original nonconforming use. In addition, the proposed nonconforming use shall not increase any dimensional nonconformities.

Section 605 Restoration

Any lawful nonconforming building or other structure which has been involuntarily damaged or destroyed by fire, explosion, windstorm, or other similar active cause may be reconstructed in the same location, provided that:

1. The reconstructed building or structure shall not exceed the height, area, or volume of the damaged or destroyed building or structure and such reconstructed building or structure shall not increase any dimensional nonconformities; and,
2. Reconstruction shall begin within one (1) year from the date of damage or destruction and shall be carried on without interruption.

Section 606 Nonconforming Lots of Record

Subject to the regulations expressed in Section 508(4) of the Act, in any zone in which single-family, detached dwellings are permitted, a single-family, detached dwelling may be erected on any single lot of record at the effective date of this Ordinance notwithstanding limitations imposed by other provisions of this Ordinance. Such lot must be in single and separate ownership or not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet all the lot and area requirements of the zone.

Section 607 Previously Expanded Nonconforming Uses and Structures

It is the express intent and purpose of this Ordinance that if a building, structure, sign, or land was expanded or extended to the limits of expansion for a nonconforming building, structure, sign, or use of land as authorized by a prior zoning regulation or ordinance, no further expansion of said building, structure, sign, or land shall be authorized. In the event a nonconforming building, structure, sign, or use of land was expanded to a portion of the limits of expansion authorized by a prior zoning regulation or ordinance, additional expansion, if permitted by this Ordinance, shall only be authorized to the amount of expansion not previously utilized pursuant to said prior zoning regulation or ordinance.

Section 608 Amortization of Nonconforming Signs

Any sign that was legally existing as of the effective date of this Ordinance, that does not comply with the provisions listed in Section 314 of this Ordinance, shall be considered a nonconforming sign. All nonconforming signs may continue for a period up to five (5) years from the effective

date of this Ordinance. After the five (5) year continuance period, all nonconforming signs shall be removed, reconstructed and/or altered so that they comply with all of the provisions contained within Section 314 of this Ordinance. Any improvements, repairs, reconstructions, or any other alterations made to the nonconforming sign during the five (5) year continuance period shall not waive the requirements for elimination of the nonconforming signs at the end of the continuance period. This section shall not apply to any legally-existing, nonconforming billboards.

Article 7

Zoning Hearing Board

Section 700 Establishment and Membership

When used hereafter in this Article, the word "Board" shall mean the Zoning Hearing Board.

There shall be a Zoning Hearing Board which shall consist of five (5) members who shall be appointed by resolution by the Board of Supervisors. The membership of the Board shall consist of residents of the Township. Their terms of office shall be five (5) years and shall be so fixed that the term of office of no more than two (2) members shall expire each year and of the initial appointments of the two (2) additional members (when converted from a three (3) member Board), one shall be appointed for a one-year term and one shall be appointed for a two-year term. The Board shall promptly notify the Board of Supervisors of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Township. Any member of the Board may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the Board of Supervisors taken after the member has received fifteen (15) days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

The Board of Supervisors may appoint by resolution at least one (1) but no more than three (3) residents of the Township to serve as alternate members of the Board. The term of office of an alternate member shall be three (3) years. When seated pursuant to the provisions of Section 701, an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this Ordinance and as otherwise provided by law. Alternates shall hold no other office in the Township, including Zoning Officer and membership on the Planning Commission. Any alternate may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of the Board nor be compensated pursuant to Section 702, unless designated as a voting alternate member pursuant to Section 701 of this Ordinance.

Section 701 Organization of Board

The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board, as provided in Section 703. If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate as many alternate members of the Board to sit on the Board as may be needed to provide a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the

Board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates. The Board may make, alter, and rescind rules and forms for its procedure, consistent with Ordinances of the Township and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Township, and shall submit a report of its activities to the Board of Supervisors upon request.

Section 702 Expenditures for Services

Within the limits of funds appropriated by the Board of Supervisors, the Board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the Board of Supervisors. Alternate members of the Board may receive compensation, as may be fixed by the Board of Supervisors, for the performance of their duties when designated as voting members of the Board pursuant to Section 701, but in no case shall such compensation exceed the rate of compensation authorized to be paid to the members by the Board of Supervisors.

Section 703 Hearings

703.1. The Board shall conduct hearings and make decisions in accordance with the following requirements:

1. Public notice (as defined herein) and written notice shall be given to the applicant, the Zoning Officer, such other persons as the Township Board of Supervisors shall designate by Ordinance and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by Ordinance or, in the absence of Ordinance provision, by rules of the Board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.
2. The Board of Supervisors may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs, and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants, or expert witness costs.
3. The hearing shall be held within sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.

703.2. The hearings shall be conducted by the Board, or the Board may appoint any member as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the Township, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.

- 703.3. The parties to the hearing shall be the Township, any person affected by the application who has made timely appearance of record before the Board, and any other person, including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
- 703.4. The chairman or acting chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- 703.5. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- 703.6. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- 703.7. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer; or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.
- 703.8. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved, except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- 703.9. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of the Act or of any Ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within forty-five (45) days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within sixty (60) days from the date of the applicant's

request for hearing, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in Section 703.1. of this Ordinance. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

- 703.10. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

Section 704 Board's Functions

The Zoning Hearing Board shall have the exclusive jurisdiction to hear and render decisions in the following matters:

- 704.1. Substantive Challenges to the Validity of the Zoning Ordinance, except those brought before the Board of Supervisors pursuant to Section 803.6. of this Ordinance.
1. If a challenge heard by a Zoning Hearing Board is found to have merit, the decision of the Zoning Hearing Board shall include recommended amendments to the challenged Ordinance which will cure the defects found. In reaching its decision, the Zoning Hearing Board shall consider the amendments, plans and explanatory material submitted by the landowner and shall also consider;
 - A. The impact of the proposal upon roads, sewer facilities, water supplies, schools, and other public service facilities;
 - B. If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to, and affordable by, classes of persons otherwise unlawfully excluded by the challenged provisions of the Ordinance or Map;
 - C. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodland, wetlands, floodplains, aquifers, natural resources, and other natural features;
 - D. The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources, and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and,

E. The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

2. The Zoning Hearing Board shall render its decision within forty-five (45) days after the conclusion of the last hearing. If the Board fails to act on the landowner's request within this time limit, a denial of the request is deemed to have occurred on the 46th day after the close of the last hearing.
3. The Zoning Hearing Board shall commence its hearings within sixty (60) days after the request is filed, unless the landowner requests or consents to an extension of time.
4. Public notice of the hearing shall be provided as specified in Section 803.2.2. of this Ordinance.

704.2. Reserved for future use.

704.3. Application for Special Exceptions pursuant to the expressed following requirements:

1. Filing Requirements - For any use permitted by special exception, a special exception must be obtained from the Zoning Hearing Board. In addition to the required zoning permit information (See Section 801), each special exception application shall include the following:
 - A. Ground floor plans and elevations of proposed structures;
 - B. Names and addresses of adjoining property owners, including properties directly across a public right-of-way;
 - C. A scaled drawing (site plan) of the site with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this Ordinance; and,
 - D. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this Ordinance.
2. General Criteria - Each applicant must demonstrate compliance with the following:
 - A. The proposed use shall be consistent with the purpose and intent of the Zoning Ordinance;
 - B. The proposed use shall not detract from the use and enjoyment of adjoining or nearby properties;
 - C. The proposed use will not substantially change the character of the subject property's neighborhood;
 - D. Adequate public facilities are available to serve the proposed use (e.g., schools, fire, police and ambulance protection, sewer, water and other utilities, vehicular access, etc.);

- E. For development within the Floodplain Zone, that the application complies with those requirements listed in Sections 204.9. and 204.11. of this Ordinance;
 - F. The proposed use shall comply with those criteria specifically listed in Article 4 of this Ordinance. In addition, the proposed use must comply with all other applicable regulations contained in this Ordinance; and,
 - G. The proposed use will not substantially impair the integrity of the Township's Comprehensive Plan or Environmental Assessment.
3. Conditions - The Zoning Hearing Board, in approving special exception applications, may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same Zone. These conditions shall be enforceable by the Zoning Officer, and failure to comply with such conditions shall constitute a violation of this Ordinance and be subject to the penalties described in Article 8.
 4. Site Plan Approval - Any site plan presented in support of the special exception pursuant to Section 704.3.1.C. shall become an official part of the record for said special exception. Approval of any special exception will also bind the use in accordance with the submitted site plan; therefore, should a change in the site plan be required as part of the approval of the use, the applicant shall revise the site plan prior to the issuance of a zoning permit. Any subsequent change to the use on the subject property not reflected on the originally approved site plan shall require the obtainment of another special exception approval.
 5. Expiration of Special Exceptions - Unless otherwise specified by the Board, a special exception which has been authorized shall expire if:
 - A. the applicant fails to obtain a building or use and occupancy permit within one (1) year from the date of authorization of the special exception;
 - B. the applicant fails to commence a substantial amount of work within six (6) months from the date of issuance of the zoning permit; or,
 - C. the applicant fails to reasonably and promptly pursue completion of the project after issuance of the zoning permit.
 6. The burden of establishing compliance with all specific and general criteria and procedures in both conditional uses and special exceptions shall remain with the applicant.
 7. Applications for special exceptions within the Floodplain Zone shall comply with all applicable requirements in Section 204 of this Ordinance.

704.4. Variances - The Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. The Board may, by rule, prescribe the form of application to the Zoning Officer. The Board may grant a variance, provided the following findings are made where relevant in a given case:

1. That there are unique physical circumstances or conditions, including

irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or Zone in which the property is located;

2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is therefore necessary to enable reasonable use of the property;
 3. That such unnecessary hardship has not been created by the appellant;
 4. That the variance, if authorized, will not alter the essential character of the Zone or neighborhood in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare;
 5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulations in issue;
 6. That variances within the Floodplain Zone shall require compliance with all applicable regulations contained in Section 204 of this Ordinance;
 7. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance. These conditions shall be enforceable by the Zoning Officer and failure to comply with such conditions shall constitute a violation of this Ordinance and subject to the penalties described in Article 8; and,
 8. Expiration of Variances - Unless otherwise specified by the Board, a variance which has been authorized shall expire if:
 - A. the applicant fails to obtain a building or use and occupancy permit within one (1) year from the date of authorization of the variance;
 - B. the applicant fails to commence a substantial amount of work within six (6) months from the date of issuance of the zoning permit; or,
 - C. the applicant fails to reasonably promptly pursue completion of the project after issuance of the zoning permit.
- 704.5. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
- 704.6. Appeals from a determination by the Floodplain Administrator with reference to the administration of any provisions contained within Section 204 (Floodplain Zone) of this Ordinance.
- 704.7. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of the Zoning Ordinance.
- 704.8. Appeals from the Zoning Officer's determination under Section 916.2 (and any

subsequent amendments) of the Act.

- 704.9. Appeals from the determination of the Zoning Officer or municipal engineer in the administration of any land use ordinance with reference to sedimentation and erosion control, and/or storm water management for applications not involving a subdivision/land development, nor a planned residential development as regulated in Articles V and VII of the Act, respectively.

Section 705 Parties Appellant Before the Board

Appeals under Sections 704.5., 704.6., 704.7., 704.8., and 704.9., and proceedings to challenge this Ordinance under Sections 704.1. and 704.2., may be filed with the Board in writing by the landowner affected, any officer or agency of the Township, or any person aggrieved. Requests for a variance under Section 704.4., and for special exception under Section 704.3., may be filed with the Board by any landowner or any tenant with the permission of such landowner. Any appeal shall state:

1. The name and address of the appellant and applicant.
2. The name and address of the landowner of the real estate to be affected.
3. A brief description and location of the real estate to be affected by such proposed change, together with a plot plan drawn to scale with sufficient clarity to show the nature and character of the request.
4. A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof.
5. A statement of the section of this Ordinance under which the request may be allowed, and reasons why it should or should not be granted.

Section 706 Time Limitations

No person shall be allowed to file any proceeding with the Board later than thirty (30) days after an application for development, preliminary or final, has been approved by the Zoning Officer or the agency responsible for granting such approval if such proceeding is designed to secure reversal or to limit the approval in any manner, unless such person alleges and proves that he had no notice or knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest.

The failure of anyone other than the landowner to appeal from an adverse decision by the Zoning Officer on a challenge to the validity of this Ordinance or the Official Zoning Map pursuant to Section 916.2 of the Act, as amended, shall preclude an appeal from a final approval, except in the case where the final submission substantially deviates from the approved tentative preliminary approval.

Section 707 Stay of Proceeding

Upon filing of any proceeding referred to in Section 705, and during its pendency before the Board, all land development pursuant to any challenged Ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed, unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case, the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals on petition after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee but such waiver may be revoked by him if an appeal is taken from a final decision of the court. The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.

If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond, and the appellate court sustains the order of the court below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by the petitioner.

Section 708 Appeal

Any person, taxpayer, or the Township aggrieved by any decision of the Board may, within thirty (30) days after such decision of the Board, seek review by the Court of Common Pleas of such decision in the manner provided by the laws of the Commonwealth of Pennsylvania and Article X-A of the Act as amended.

Article 8

Administration

Section 800 Administration and Enforcement

800.1.

Administration:

1. Zoning Officer - The provisions of this Ordinance shall be enforced by an agent, to be appointed by the Board of Supervisors, who shall be known as the Zoning Officer. The Zoning Officer shall be appointed at the first meeting of the Board of Supervisors in January, to serve until the first day of January next following, and shall thereafter be appointed annually to serve for a term of one (1) year and/or until his successor is appointed. The Zoning Officer may succeed himself. He/she shall receive such fees or compensation as the Board of Supervisors may, by resolution, provide. The Zoning Officer shall not hold any elective office within the Township.
2. Duties - The duties of the Zoning Officer shall be:
 - A. To receive, examine and process all applications as provided by the terms of this Ordinance. The Zoning Officer shall also issue zoning permits for special exception and conditional uses, or for variances after the same have been approved.
 - B. To record and file all applications for zoning permits or certificates of use and occupancy, and accompanying plans and documents, and keep them for public record.
 - C. To inspect properties to determine compliance with all provisions of this Ordinance, as well as conditions attached to the approval of variances, special exceptions, conditional uses, and curative amendments;
 - D. To inspect nonconforming uses, structures and lots, and to keep a filed record of such nonconforming uses and structures, together with the reasons why the Zoning Officer identified them as nonconformities, as a public record and to examine them periodically, with the view of eliminating the nonconforming uses under the existing laws and regulations.
 - E. Upon the request of the Board of Supervisors or the Zoning Hearing Board, present to such bodies facts, records and any similar information on specific requests, to assist such bodies in reaching their decisions.
 - F. To be responsible for keeping this Ordinance and the Official Zoning Map up-to-date, including any amendments thereto.

- G. Upon the granting by the Zoning Hearing Board, of a variance pertaining to the Floodplain Zone, the Zoning Officer shall notify the applicant in writing within fifteen (15) days that:
 - a. The granting of the variance may result in increased premium rates for flood insurance; and,
 - b. Such variances may increase the risks to life and property, pursuant to Section 204.10.5. of this Ordinance.
- H. Upon the approval by the Zoning Hearing Board of a special exception, or upon the approval of a conditional use by the Board of Supervisors for development located within the Floodplain Zone, written notice of the approval shall be sent by registered mail from the Zoning Officer to the Pennsylvania Department of Community and Economic Development.
- I. To remain eligible for the National Flood Insurance Program, the Zoning Officer shall submit a biannual report to the Federal Emergency Management Agency concerning the status of the Program in the Township (the report form shall be provided by the Federal Insurance Administration). To comply with the Pennsylvania Flood Plain Management Act of 1978, Act 166, the zoning officer shall complete and submit the, Floodplain Annual Report to the Pennsylvania Department of Community and Economic Development
- J. To render a preliminary opinion regarding a proposed land use in accordance with Section 916.2. of the Act.
- K. To revoke a permit or approval issued under the provisions of this Ordinance in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based on for any other cause set forth in the Zoning Ordinance, or otherwise permitted by law;

800.2. Enforcement - This Ordinance shall be enforced by the Zoning Officer of the Township. No zoning permit or certificate of use and occupancy shall be granted by him/her for any purpose, except in compliance with the literal provisions of this Ordinance. The Zoning Officer may be authorized to institute civil enforcement proceedings as a means of enforcement when acting within his/her scope of employment.

800.3. Violations - Failure to secure a zoning permit prior to a change in use of land or structure, or the erection, construction, or alteration of any structure or portion thereof, shall be a violation of this Ordinance. It shall also be a violation of this Ordinance to undertake other deliberate actions which are contrary to the terms of the Ordinance and any conditions placed upon the approval of special exceptions, variances, and conditional uses. Each day that a violation is continued shall constitute a separate offense.

If it appears to the Township that a violation of this Ordinance enacted under the Act or prior enabling laws has occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice, as provided in the following:

1. The enforcement notice shall be sent to the owner of record of the parcel

on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.

2. An enforcement notice shall state at least the following:
 - A. The name of the owner of record and any other person against whom the Township intends to take action.
 - B. The location of the property in violation.
 - C. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the Ordinance.
 - D. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
 - E. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in the Ordinance.
 - F. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

800.4. Enforcement Remedies - Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Zoning Ordinance enacted under the Act or prior enabling laws shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than five hundred dollars (\$500) plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of the Zoning Ordinance shall be paid over to the Township.

800.5. Causes of Action - In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of any Ordinance enacted under the Act or prior enabling laws, the governing body or, with the approval of the governing body, an officer of the municipality, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate

action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the municipality at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the governing body of the municipality. No such action may be maintained until such notice has been given.

Section 801 Zoning Permits

801.1.

General Requirements for Zoning Permits:

1. A zoning permit shall be required prior to:
 - A. a change in use of land or structure;
 - B. the erection or construction of a structure or portion thereof;
 - C. the improvement or alteration of any existing structure which has a value in excess of \$1,000, where such improvement or portion thereof increases the amount of space which the structure encloses;
 - D. the demolition or removal of any structure;
 - E. the alteration or development of any improved or unimproved real estate, including, but not limited to any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land;
 - F. the erection or alteration of any signs specified in Section 314 of this Ordinance; and/or
 - G. the construction or installation of animal waste impoundments, lakes, ponds, dams, or other water retention basins.

No zoning permit shall be required for repairs or maintenance of any structure or land provided such repairs do not change the use or the exterior dimensions of the structure, or otherwise violate the provisions of this Ordinance;

2. Application for zoning permits shall be made in writing to the Zoning Officer on a form specified for such purpose;
3. Application for a permit shall be made by the Owner or Lessee of any building or structure, or the agent of either; provided, however, that if the application is made by a person other than the Owner or Lessee, it shall be accompanied by a written authorization of the Owner or the qualified person making an application, that the proposed work is authorized by this Owner. The full names and addresses of the Owner, Lessee, Applicant, and of the responsible officers, if the Owner or Lessee is a corporate body, shall be stated in the application;
4. Applications for a permit shall be accompanied by a fee as prescribed by the Township Board of Supervisors pursuant to resolution. No application shall be considered complete or permit issued without payment of the required fee. The payment of fees under this section shall not relieve the applicant or holder of said permit from payment of other fees that may be

required by this Ordinance or by another ordinance or law;

5. The Zoning Officer may call upon other Township Staff, Township-appointed consultants, or both, in the review of submitted materials for applications;
6. No zoning permit shall be issued except in conformity with:
 - A. all applicable regulations of this Ordinance;
 - B. any conditions imposed upon the site by the Zoning Hearing Board or the Board of Supervisors; and,
 - C. any recorded subdivision or land development plan;
7. In all instances in which the Zoning Officer expresses a reasonable doubt as to the ability of a proposed use to meet all of the above-described requirements, it will be incumbent upon the applicant to furnish adequate evidence in support of his application. If such evidence is not presented, the zoning permit will be denied;
8. Zoning permits shall be granted or refused within ninety (90) days from date of submission of evidence showing compliance with all applicable local, State and Federal requirements;
9. The Zoning Officer may revoke a permit or approval issued under the provisions of this Ordinance in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other cause set forth in the Zoning Ordinance;
10. Where a permit is required by this Ordinance, but the work is commenced or the use is commenced or changed prior to obtaining such permit, the fees set by ordinance or resolution of the Township Board of Supervisors for such permit shall be doubled. The doubling of the permit fee shall be required to reflect the additional expense incurred by the Township resulting from the need to inspect the property, respond to any complaints, issue any enforcement notices, process the application as soon as it is received, or any combination thereof. The payment of such increased permit fee shall not relieve any person from complying with all requirements of this Ordinance or any other applicable Township ordinances or from any penalties or enforcement actions authorized by this Ordinance or the Act;
11. Issuance of Permits - Upon receiving the application, the Zoning Officer shall examine the application and supporting information to determine compliance with this Zoning Ordinance and other applicable Township regulations. The Zoning Officer shall determine if any applicable conditional use, special exception or variance approvals have been obtained. No zoning permit shall be issued unless the applicant presents the Zoning Officer with proof that any applicable subdivision approval, land development approval, or both, has been granted, a sewage permit has been issued by the Township Sewage Enforcement Officer and/or the Chester County Health Department for the lot, a Highway Occupancy Permit from the Department of Transportation has been issued if applicable, and all other required Township, State and Federal approvals and permits have been granted or issued. In addition, no zoning permit

shall be issued for any property with an existing zoning violation.

No zoning permit shall be issued for any activity that is required to have an improvement guarantee, until an improvement guarantee is accepted by resolution of the Board of Supervisors. The definitions, requirements and procedures of the improvement guarantee shall be in compliance with the prevailing Subdivision and Land Development Ordinance.

If the application or plans do not conform to the provisions of all pertinent laws, the Zoning Officer shall reject such application in writing, stating the reasons therefore. He shall inform the applicant of his right to appeal to the Zoning Hearing Board in the event such application is rejected. If satisfied that the proposed work, use, or both, conforms to the provisions of the Zoning Ordinance and all laws and ordinances applicable thereto, and that the certificate of use and occupancy as required herein has been applied for, he shall issue a permit therefor;

12. Reconsideration of Application - An applicant whose request for a permit has been denied by the Zoning Officer may make a later application for a permit provided all deficiencies which were the basis for the prior denial of the permit have been eliminated. The Zoning Officer shall not be required to make a new inspection of the application if this condition is not met;
13. Expiration of Permit - The permit shall expire after one (1) year from the date of issuance; provided, however, that the same may be extended every six (6) months for a period not to exceed an additional two (2) years, upon written request by the applicant which demonstrates good cause to the Zoning Officer.
14. Compliance with Ordinance - The permit shall be a license to proceed with the work and should not be construed as authority to violate, cancel, or set aside any of the provisions of the Zoning Ordinance, except as stipulated by the Zoning Hearing Board;
15. Compliance with Permit and Plot Plan - All work or uses shall conform to the approved application and plans for which the permit has been issued as well as the approved plot plan;
16. Display of Zoning Permit - All approved zoning permits shall be prominently displayed on the subject property during construction, renovation, reconstruction, repair, remodeling or the conduct of other site improvements. Such permit displays shall occur within five (5) days of permit issuance, or prior to the commencement of actual work on the site, whichever occurs first. Such permit display shall be continuous until the site receives its certificate of use and occupancy; and,
17. Temporary Use Permits - It is recognized that it may be in accordance with the purpose of this Ordinance to permit temporary activities for a limited period of time, which activities may be prohibited by other provisions of this Ordinance. If such uses are of such a nature and are so located that, at the time of petition of special exception, they will:
 - A. In no way exert a detrimental effect upon the uses of land and activities normally permitted in the zone, or

- B. Contribute materially to the welfare of the Township, particularly in a state of emergency, under conditions peculiar to the time and place involved, then, the Board of Supervisors may direct the Zoning Officer to issue a permit for a period not to exceed six (6) months. Such permits may be extended not more than once for an additional period of six (6) months;

801.2. Application for All Zoning Permits:

1. Applications shall contain a general description of the proposed work, development, use or occupancy of all parts of the structure or land and shall be accompanied by plans in duplicate drawn to scale and showing the following:
 - A. Actual dimensions, shape and acreage of lot to be developed;
 - B. Exact site location, including the address, and dimensions of any structures to be erected, constructed and altered or uses to be established;
 - C. Existing and proposed uses, including the number of occupied units, businesses, etc., all structures are designed to accommodate;
 - D. Off-street parking and loading spaces and outdoor display or storage areas;
 - E. Utility systems affected and proposed;
 - F. Other proposed alteration of any improved or unimproved real estate;
 - G. The number of anticipated employees;
 - H. Any other lawful information that may be required by the Zoning Officer to determine compliance with this Ordinance; and,
 - I. Copies of any applicable approved subdivision or land development plans;
 - J. Information required by Article 5 of this Ordinance; and,
2. If the proposed use, development, excavation or construction is located within the Floodplain Zone, the applicant shall comply with Section 204.3.D. of this Ordinance.

801.3. Application for Zoning Permits for Uses in the B-1 Zone:

1. A location plan showing the tract to be developed, zone boundaries, adjoining tracts, significant natural features, and streets for a distance of two hundred feet (200') from all tract boundaries.
2. A plot plan of the lot showing the location of all existing and proposed buildings, driveways, parking lots showing access drives, circulation patterns, curb cut accesses, parking stalls access from streets, screening

fences and walls, waste disposal fields or other methods of sewage disposal, other construction features on the lot, and the location of all topographical features.

3. A description of the operations proposed in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, water pollution, vibration, fire hazards, safety hazards, or the emission of any potentially harmful or obnoxious matter or radiation.
4. Engineering plans for treatment and disposal of sewage and industrial waste, tailings or unusable by-products.
5. Engineering plans for the handling of traffic, noise, glare, air pollution, water pollution, vibration, fire hazards, or safety hazards, smoke, or emission of any potentially harmful or obnoxious matter or radiation.
6. Designation of the manner by which sanitary sewage and storm water shall be disposed and water supply obtained.
7. The proposed number of shifts to be worked and the maximum number of employees on each shift.
8. Where use by more than one firm is anticipated, a list of firms which are likely to be located in the center, their floor area, and estimated number of employees.

Application for permits under this section, along with accompanying plans and data shall be submitted by the Zoning Officer to the Planning Commission for the Commission's review and comment at their next regularly scheduled meeting. The Planning Commission shall review the material to determine that the proposed development is in harmony with the intent of the Zoning Ordinance and the Comprehensive Plan. The Planning Commission shall make its comments on the application within forty-five (45) days of its receipt. The Zoning Officer shall take into consideration the comments of the Planning Commission in his approval or denial of the application.

801.4.

Use and Occupancy Permits:

1. Upon completion of the erection or alteration of any building or portion thereof authorized by any permit, and prior to occupancy or use, the holder of such permit shall notify the Zoning Officer of such completion. No permit shall be considered complete or permanently effective, nor shall any building be occupied or lot used, until said official has issued a use and occupancy permit certifying that the work has been inspected and approved as being in conformity with the permit and the provisions of this and other applicable Ordinances.
2. In the B-1 Zone in which performance standards are imposed, no use and occupancy permit shall become permanent until thirty (30) days after the facility is fully operating when, upon a re-inspection by the Zoning Officer, it is determined that the facility is in compliance with all performance standards.
3. Use and occupancy permits shall be granted or denied within thirty (30) days from the date of application.

Section 802 Fees

All fees shall be determined by the Board of Supervisors, and a schedule of such shall be made available to the general public. The Board of Supervisors may reevaluate the fee schedule and make necessary alterations to it. Such alteration shall not be considered an amendment to this Ordinance and may be adopted at any public meeting of the Board of Supervisors by resolution.

Section 803 Amendments

803.1. Power of Amendment - The Board of Supervisors may from time to time, amend, supplement, change, or repeal this Ordinance including the Official Zoning Map. Any amendment, supplement, change, or repeal may be initiated by the Township Planning Commission, the Board of Supervisors or by a petition to the Board of Supervisors by an interested party.

803.2. Hearing and Enactment Procedures for Zoning Amendments:

1. Public Hearing – Before voting on the enactment of the Zoning Ordinance and/or Zoning Map amendments, the Board of Supervisors shall conduct a public hearing to inform the general public of the nature of the amendment, and to obtain public comment. Such public hearing shall be conducted after public notice and electronic and/or mailed notice (as defined herein and listed below) has been given.
2. Public Notice - Before conducting a public hearing, the Board of Supervisors shall provide public notice as follows:
 - A. Notice shall be published once each week for two successive weeks in a newspaper of general circulation in the Township. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days, and the second publication shall not be less than seven (7) days, from the date of the hearing. Publication of the proposed amendment shall include either the full text thereof or the title and brief summary, prepared by the Township solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:
 - A copy of the full text shall be supplied to a newspaper of general circulation in the Township at the time the public notice is published; and,
 - An attested copy of the proposed Ordinance shall be filed in the County Law Library or other County office designated by the County Commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said Ordinances.
 - B. For Zoning Map amendments, public notice shall also include the Township posting of a sign or signs at one or more conspicuous locations deemed sufficient by the Township along the perimeter of the subject property; these sign(s) shall be posted at least one week prior to the hearing and will exhibit the nature, date, time, and

location of the hearing.

- C. For curative amendments, public notice shall also indicate that the validity of the Ordinance and/or map is in question, and shall give the place where and the times when a copy of the request including any plans, explanatory material or proposed amendments may be examined by the public.
- D. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the Board of Supervisors shall hold another public hearing, pursuant to public notice, mailed notice and electronic notice before proceeding to vote on the amendment.

- 3. **Electronic and/or Mailed Notice** - In addition to the public notice requirements defined herein, an owner of a tract or parcel of land located within a municipality, or an owner of the mineral rights in a tract or parcel of land within a municipality, may request that the municipality provide written or electronic notice of a public hearing which may affect such tract or parcel of land.

- A. Mailed notice shall be required only if an owner of a tract or parcel of land located within a municipality, or an owner of the mineral rights in a tract or parcel of land within the municipality has made a written request that the notice be mailed and has supplied the municipality with a stamped, self – addressed envelope prior to a public hearing.
- B. Electronic notice shall be required only if an owner of a tract or parcel of land located within a municipality, or an owner of the mineral rights in a tract or parcel of land within the municipality has made a written request that notice be sent electronically and has supplied the municipality with an electronic address prior to a public hearing and only if that municipality maintains the capability of generating an electronic notice. An owner of a tract or parcel of land located within a municipality, or an owner of the mineral rights in a tract or parcel of land within the municipality making the request and supplying an electronic address may at any time notify the municipality that the owner of the tract or parcel of land located within the municipality, or the owner of the mineral rights in the tract or parcel of land within the municipality no longer will accept electronic notice, and in that event the municipality may no longer provide electronic notice.
- C. An owner of a tract or parcel of land located within a municipality, or an owner of the mineral rights in a tract or parcel of land within the municipality who has requested a mailed notice shall be solely responsible for the number, accuracy and sufficiency of the envelopes supplied. The municipality shall not be responsible or liable if the owner of a tract or parcel of land located within a municipality, or an owner of the mineral rights in a tract or parcel of

land within the municipality does not provide to the municipality notice of any changes in the owner's mailing address.

- D. An owner of a tract or parcel of land located within a municipality, or an owner of the mineral rights in a tract or parcel of land within the municipality who has requested electronic notice shall be solely responsible for the accuracy and functioning of the electronic address provided to the municipality. The municipality shall not be responsible or owner of a tract or parcel of land located within a municipality, or an owner of the mineral rights in a tract or parcel of land within the municipality does not provide to the municipality notice of any changes to the owner's electronic address.
 - E. A municipality shall deposit a mailed notice in the United States mail or provide electronic notice not more than 30 and not less than seven days prior to the scheduled date of the hearing as shown on the notice.
 - F. For each public hearing, the municipal secretary or zoning officer shall prepare, sign and maintain a list of all mailed notices, mailing dates, electronic notices and electronic notice dates. The signed list shall constitute a presumption that the notice was given.
 - G. The mailed notice shall be deemed received by an owner of a tract or parcel of land located within a municipality, or an owner of the mineral rights in a tract or parcel of land within the municipality on the date deposited in the United States mail.
 - H. The electronic notice shall be deemed received by an owner of a tract or parcel of land located within a municipality, or an owner of the mineral rights in a tract or parcel of land within the municipality on the date the municipality electronically notifies the owner.
 - I. Failure of an owner of a tract or parcel of land located within a municipality, or an owner of the mineral rights in a tract or parcel of land within the municipality to receive a requested mailed notice or electronic notice shall not be deemed to invalidate any action or proceedings under the Act.
- 4. Chester County Planning Commission Referrals - All proposed amendments shall be submitted to the Chester County Planning Commission at least thirty (30) days prior to the public hearing on such amendments. The Chester County Planning Commission may submit recommendations to the Board of Supervisors within forty-five (45) days of such referral. The Board of Supervisors cannot act upon the amendment until it has received a recommendation from the Chester County Planning Commission; however, should the Chester County Planning Commission fail to submit its recommendation within forty-five (45) days, the Board of Supervisors may proceed without its recommendation.
 - 5. Unionville Area Region Referrals - All proposed amendments shall be submitted to the governing bodies of East Marlborough and Newlin Townships for review at least thirty (30) days prior to the hearing on the

proposed amendment(s). The governing bodies of East Marlborough and Newlin Townships shall have the right to submit their comments, including a specific recommendation to adopt or not to adopt the proposed amendment(s), to the Board of Supervisors no later than the date of the public hearing. Failure to provide comments shall be construed as a recommendation to adopt the proposed amendment(s).

6. Adjournment of Public Hearing - If, during the public hearing process, the Board of Supervisors needs additional time to understand the proposal, inform the public, receive public comment, and/or render a decision, it may adjourn the public hearing to a time and place certain.
7. Within thirty (30) days after enactment, a copy of the amendment to the Zoning Ordinance shall be forwarded to the Chester County Planning Commission.

803.3. Amendments Initiated by the Township Planning Commission - When an amendment, supplement, change, or repeal is initiated by the Township Planning Commission, the proposal shall be presented to the Board of Supervisors which shall then proceed in the same manner as with a petition to the Board of Supervisors which has already been reviewed by the Township Planning Commission.

803.4. Amendment Initiated by the Board of Supervisors - When an amendment, supplement, change, or repeal is initiated by the Board of Supervisors, such amendment, supplement, change, or repeal shall follow the procedure prescribed for a petition under Section 803.2.

803.5. Amendment Initiated by a Petition from an Interested Party - A petition for amendment, supplement, change, or repeal for a portion of this Ordinance shall include an accurate legal description and surveyed plan of any land to be rezoned, and all of the reasons supporting the petition to be considered. The petition shall also be signed by at least one record owner of the property in question whose signature shall be notarized attesting to the truth and correctness of all the facts and information presented in the petition. A fee to be established by the Board of Supervisors shall be paid upon the filing of such petition for change and for the purpose of defraying the costs of the proceedings prescribed herein. The Board of Supervisors may require duplicate sets of petition materials.

803.6. Curative Amendment by a Landowner - A landowner who desires to challenge on substantive grounds the validity of the Ordinance or the Official Zoning Map, or any provision thereof which prohibits or restricts the use or development of land in which he has an interest, may submit a curative amendment to the Board of Supervisors (including all of the reasons supporting the request to be considered) with a written request that his challenge and proposed amendment be heard and decided, as provided in Sections 609.1 and 916.1 of the Act, as amended. The Board of Supervisors shall commence a hearing thereon within sixty (60) days of the request.

1. In reviewing the curative amendment, the Board of Supervisors may deny the request, accept the request as submitted, or may adopt an alternative amendment which will cure the challenged defects. The Board of Supervisors shall consider the curative amendments, plans and explanatory

material submitted by the landowner, and shall also consider;

- A. The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
 - B. If the proposal is for a residential use, the impact of the proposal upon regional housing needs, and the effectiveness of the proposal in providing housing units of a type actually available to, and affordable by, classes of persons otherwise unlawfully excluded by the challenged provisions of the Ordinance or map;
 - C. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodland, wetlands, floodplains, aquifers, natural resources, and other natural features;
 - D. The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts;
 - E. The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare; and,
 - F. For challenges alleging the exclusion of one or more land uses within the Township, the Board of Supervisors shall consider the availability of uses permitted within the zoning ordinances throughout the Unionville Area Region pursuant to Section 916.1.(h) of the Act.
2. The Board of Supervisors shall render its decision within forty-five (45) days after the conclusion of the last hearing.
 3. If the Board of Supervisors fails to act on the landowner's request within the time limits referred to in Section 803.6.2., a denial of the request is deemed to have occurred on the 46th day after the close of the last hearing.
 4. Public notice of the hearing shall include notice that the validity of the Ordinance or Map is in question and shall give the place where and the times when a copy of the request including any plans, explanatory material or proposed amendments may be examined by the public.
 5. The challenge shall be deemed denied when:
 - A. The Board of Supervisors fails to commence the hearing within sixty (60) days;
 - B. The Board of Supervisors notifies the landowner that it will not adopt the curative amendment;
 - C. The Board of Supervisors adopts another curative amendment which is unacceptable to the landowner; or
 - D. The Board of Supervisors fails to act on the request forty-five (45)

days after the close of the last hearing on the request, unless the time is extended by mutual consent by the landowner and Township.

6. Where, after the effective date of the Act, a curative amendment proposal is approved by the grant of a curative amendment application by the Board of Supervisors pursuant to this section, or a validity challenge is sustained by the Zoning Hearing Board pursuant to Section 704.1., or the court acts finally on appeal from denial of a curative amendment proposal or a validity challenge, and the proposal or challenge so approved requires a further application for subdivision or land development, the developer shall have two years from the date of such approval to file an application for preliminary or tentative approval for a subdivision, land development or planned residential development. Within the two-year period, no subsequent change or amendment in the zoning, subdivision or other governing Ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. Upon the filing of the preliminary or tentative plan, the provisions of Section 508 (4) of the Act shall apply.
7. Where the proposal appended to the curative amendment application or the validity challenge is approved but does not require further application under any subdivision or land development ordinance, the developer shall have one year within which to file for a zoning permit. Within the one-year period, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. During these protected periods, the court shall retain or assume jurisdiction for the purpose of awarding such supplemental relief as may be necessary.

803.7. Curative Amendment by the Board of Supervisors:

1. The Board of Supervisors, by formal action, may declare this Ordinance or portions thereof substantively invalid and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following such declaration and proposal, the Board of Supervisors shall:
 - A. By resolution, make specific findings setting forth the declared invalidity of the Ordinance or portions thereof which may include:
 - a. references to specific uses which are either not permitted or not permitted in sufficient quantity.
 - b. references to a class of use or uses which require revision; or
 - c. references to the entire Ordinance which requires revisions.
 - B. Begin to prepare and consider a curative amendment to the Ordinance to correct the declared invalidity.
2. Within one hundred eighty (180) days from the date of the declaration and proposal, the Board of Supervisors shall enact a curative amendment to validate, or reaffirm the validity of, this Ordinance pursuant to the provisions required by Section 609 of the Act in order to cure the declared invalidity of the Ordinance.

3. Upon the date of the declaration and proposal, the Board of Supervisors shall not be required to entertain or consider any curative amendment filed by a landowner. Nor shall the Zoning Hearing Board be required to give a report, upon request, for a challenge to the validity of the Ordinance under Section 704.1. subsequent to the declaration and proposal, based upon the grounds identical to or substantially similar to those specified in the resolution required by this section. Upon the enactment of a curative amendment to, or the reaffirmation of the validity of, this Ordinance, no rights to a cure by amendment or challenge shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended Zoning Ordinance for which the Board of Supervisors propose to prepare a curative amendment.
4. The Board of Supervisors, having utilized the procedures as set forth in this section, may not again utilize said procedures for a thirty-six (36) month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of the Ordinance; provided, however, that if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the Township by virtue of a Pennsylvania Appellate Court decision, the Board of Supervisors may utilize the provisions of this section to prepare a curative amendment to the Ordinance to fulfill this duty or obligation.

803.8. Authentication of Official Zoning Map - Whenever there has been a change in the boundary of a Zone or a reclassification of the Zone adopted in accordance with the above, the change on the Official Zoning Map shall be made, and shall be duly certified by the Township Secretary and shall thereafter be refiled as part of the permanent records of the Township.

803.9. Any applicant requesting an amendment to the Zoning Ordinance and/or Map shall submit information about such request that complies with this Ordinance and justifies the request. In addition, the applicant must submit, in a format that can be adopted by the Board of Supervisors, the necessary amendments that make the West Marlborough Township Comprehensive Plan generally consistent with the requested amendment.

Section 804 Conditional Uses

804.1. Filing of Conditional Use - For any use permitted by conditional use, a conditional use must be obtained from the Board of Supervisors. In addition to the information required on the zoning permit application, the conditional use application must show:

1. Ground floor plans and elevations of proposed structures.
2. Names and addresses of adjoining property owners, including properties directly across a public right-of-way.
3. A scaled drawing (site plan) of the site with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this

Ordinance; and,

4. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this Ordinance.

804.2. General Criteria - Each applicant must demonstrate compliance with the following:

1. The proposed use shall be consistent with the purpose and intent of the Zoning Ordinance;
2. The proposed use shall not detract from the use and enjoyment of adjoining or nearby properties;
3. The proposed use will not effect a change in the character of the subject property's neighborhood;
4. Adequate public facilities are available to serve the proposed use (e.g., schools, fire, police and ambulance protection, sewer, water, and other utilities, vehicular access, etc.);
5. For development within the Floodplain Zone, that the application complies with those requirements listed in Sections 204.9. and 204.11. of this Ordinance;
6. The proposed use shall comply with those criteria specifically listed in Article 4 of this Ordinance. In addition, the proposed use must comply with all other applicable regulations of this Ordinance;
7. The proposed use will not substantially impair the integrity of the Township's Comprehensive Plan, nor the *Environmental Assessment*; and,
8. The burden of establishing compliance with all specific and general criteria and procedures in both conditional uses and special exceptions shall remain with the applicant.

804.3. Conditions - The Board of Supervisors, in approving conditional use applications, may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same Zone. These conditions shall be enforceable by the Zoning Officer and failure to comply with such conditions shall constitute a violation of this Ordinance and be subject to the penalties described in this Article.

804.4. Site Plan Approval - Any site plan presented in support of the conditional use pursuant to Section 804.1. shall become an official part of the record for said conditional use. Approval of any conditional use will also bind the use in accordance with the submitted site plan; therefore, should a change in the site plan be required as part of the approval of the use, the applicant shall revise the site plan prior to the issuance of a zoning permit. Any subsequent change to the use on the subject property not reflected on the originally approved site plan, shall require the obtainment of another conditional use approval.

804.5. Expenditures for Services - Fees - The applicant for a conditional use shall deposit with the Township such a sum of money as shall be deemed sufficient by the Board of Supervisors to pay the cost of expenses for the hearing. These costs may include, but are not limited to, cost of providing notice and costs of the record for the Board and the applicant. Funds deposited in excess of the actual cost of the requested hearing may be returned to the applicant upon completion of the proceedings, and, in the event that the costs of the hearing exceed the funds deposited, the applicant shall pay to the Township funds equal to such excess cost.

804.6. Hearing Procedures:

1. Before voting on the approval of a conditional use, the Board of Supervisors shall hold a public hearing thereon, pursuant to public notice. The Board of Supervisors shall submit each such application to the Township Planning Commission at least thirty (30) days prior to the hearing on such application to provide the Township Planning Commission an opportunity to submit recommendations. If, after any public hearing held upon an application, the proposed application is revised, the Board of Supervisors shall hold another public hearing, pursuant to public notice, before proceeding to vote on the application;
2. Public notice as defined herein, and written notice shall be given to the applicant, the Zoning Officer, such other persons as the Board of Supervisors shall designate by Ordinance, and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by Ordinance or, in the absence of Ordinance provision, by rules of the Board of Supervisors. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing;
3. The Board of Supervisors may prescribe reasonable fees with respect to hearings. Fees for said hearings may include compensation for the secretary, notice and advertising costs, and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses, expenses for engineering, architectural, or other technical consultants, or expert witness costs;
4. The parties to the hearing shall be the Township, any person affected by the application who has made timely appearance of record before the Board of Supervisors, and any other person, including civic or community organizations permitted to appear by the Board of Supervisors. The Board of Supervisors shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board of Supervisors for that purpose;
5. The Chairman or Acting Chairman of the Board of Supervisors shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties;
6. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument

and cross-examine adverse witnesses on all relevant issues;

7. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded;
8. The Board of Supervisors may keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board of Supervisors. The cost of the original transcript shall be paid by the Board of Supervisors if the transcript is ordered by the Board of Supervisors; or shall be paid by the person appealing the decision of the Board of Supervisors if such appeal is made, and in either event, the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof; and,
9. The Board of Supervisors shall not communicate, directly or indirectly, with any party or his representative in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advise from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present;
10. The Board of Supervisors shall render a written decision or, when no decision is called for, make written findings on the conditional use application within forty-five (45) days after the last hearing before the Board of Supervisors. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found;
11. Where the Board of Supervisors fails to render the decision within the period required by this subsection, or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board of Supervisors to meet or render a decision as hereinabove provided, the Board of Supervisors shall give public notice of the decision within ten (10) days from the last day it could have met to render a decision in the same manner as required by the public notice requirements of this act. If the Board of Supervisors shall fail to provide such notice, the applicant may do so; and,
12. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction. A copy of the final decision or, where no decision is called for, of the findings, shall be delivered to the applicant personally, or mailed to him no later than the day following its date.

804.7. Expiration of Conditional Uses - Unless otherwise specified by the Board, a conditional use which has been authorized shall expire if:

1. The applicant fails to obtain a building or use and occupancy permit within one (1) year from the date of authorization of the conditional use;
2. The applicant fails to commence a substantial amount of work within six (6) months from the date of issuance of the zoning permit; or,
3. The applicant fails to reasonably and promptly pursue completion of the project after issuance of the zoning permit.

Section 805 Repealer

Any resolution, ordinance, or part of any resolution or ordinance inconsistent herewith, and any amendments thereof, are hereby expressly repealed.

Section 806 Effective Date

Ordained and enacted into law this _____, 2015, to become effective five (5) days from the date hereof.

**BOARD OF SUPERVISORS
West Marlborough Township**

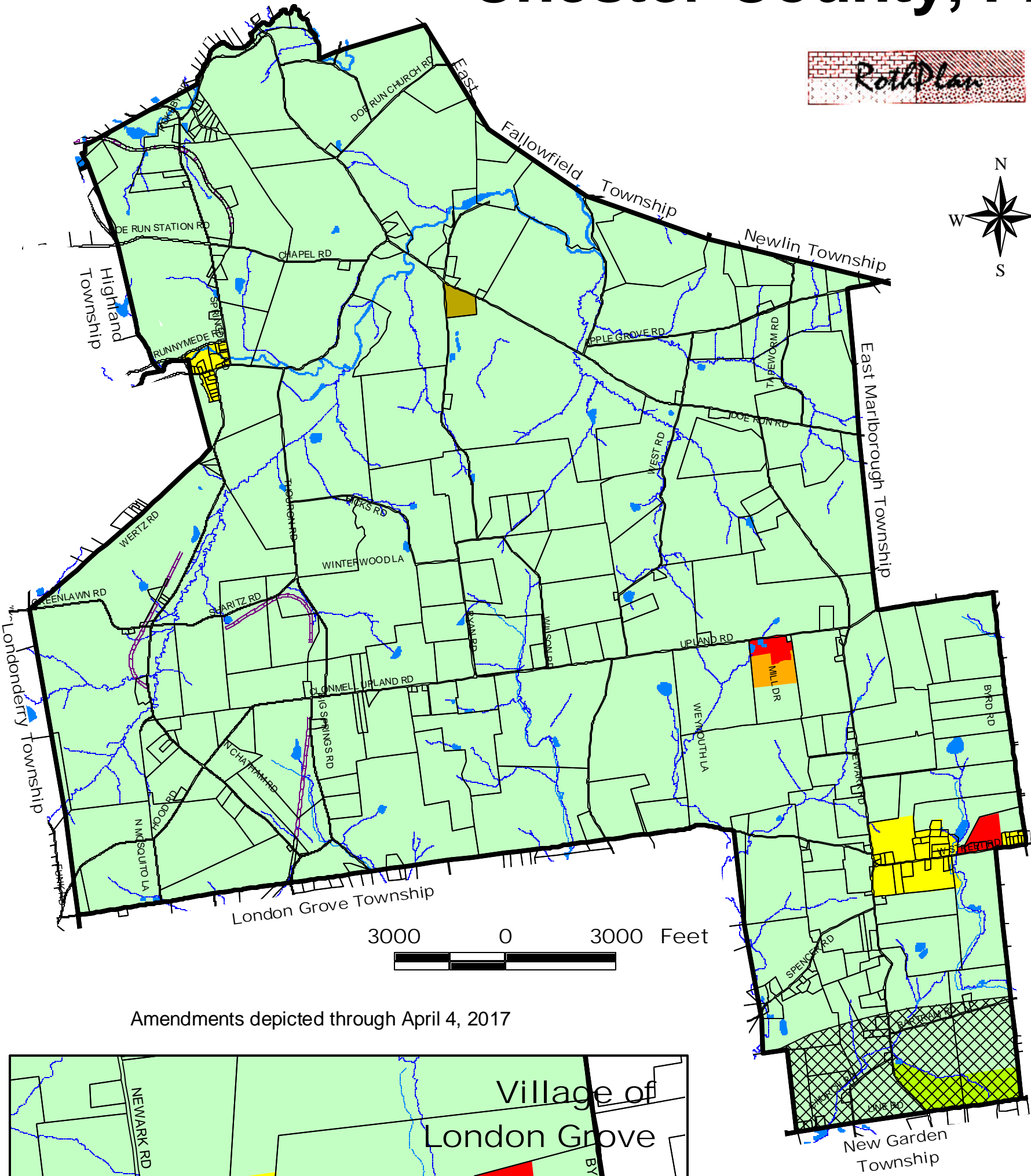
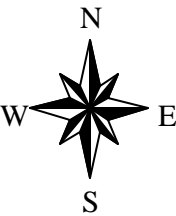
Chairman

Vice-Chairman

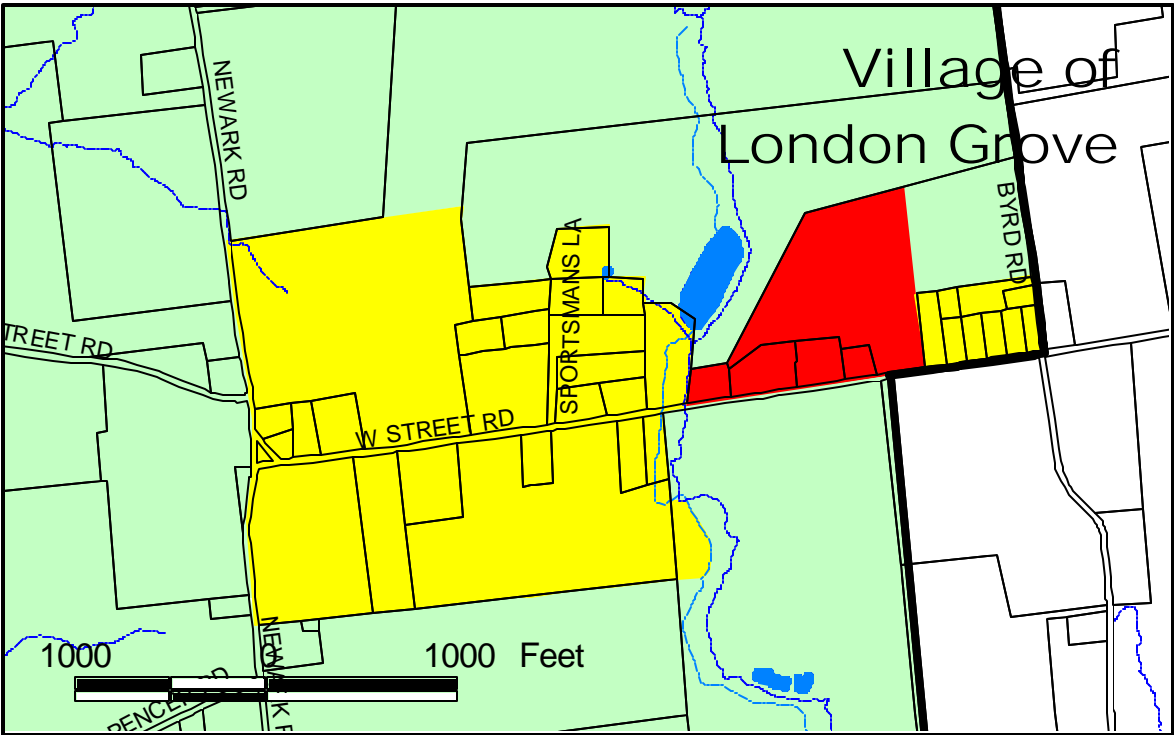
Member

ATTEST:

West Marlborough Township Chester County, PA



Amendments depicted through April 4, 2017



- OFFICIAL ZONING MAP**
- Agriculture-Conservation
 - Agriculture - Rural Development
 - R-1 Village Residential
 - R-2 Medium to High Density Residential
 - Historic Village Residential
 - B-1 Local Business
 - AS Airport Safety