ARTICLE I

GENERAL PROVISIONS

1.00 SHORT TITLE

This Ordinance shall be known and may be cited as the "Chapman Township Zoning Ordinance". The accompanying map is hereby declared to be part of this Ordinance and shall be known and may be cited as the "Chapman Township Zoning Map" hereinafter referred to as the "Zoning Map".

1.01 ORDAINING CLAUSE

This Ordinance shall become effective immediately upon enactment. Enactment by the Supervisors of the Township of Chapman is by the authority of and pursuant to the provisions of Articles VI through X-A of Act No. 247 of 1968, as amended by Act 170 of 1988, as further amended by Act 209 of 1990 and Act 131 of 1992 of the Pennsylvania General Assembly, known and cited as the Pennsylvania Municipalities Planning Code.

1.02 PURPOSE

This Ordinance is designed, adopted and enacted:

(1) To promote, protect and facilitate any or all of the following: the public health, safety, morals, and the general welfare; coordinated and practical community development and proper density of population; emergency management preparedness and operations, airports, and national defense facilities, the provisions of adequate light and air, access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, recreational facilities, public grounds, the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use, and other public requirements; as well as preservation of the natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains.

(2) To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.

(3) To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.

(4) To provide for the use of land within the Township for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multi-family dwellings in various arrangements, mobile homes and mobile home parks, provided, however, that no zoning ordinance shall be deemed invalid for the failure to provide for any other specific dwelling type.

(5) To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

1.03 INTERPRETATION

For the purpose of the interpretation and application of this Ordinance, the provisions contained herein shall be held to be the minimum requirements for the promotion of public health, safety, comfort, convenience, and general welfare.

(1) Whenever any regulations made under authority of this Ordinance require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in or under any other statute, the provisions of the regulations made under authority of this Ordinance shall govern.

(2) Whenever the provisions of any other statute require a greater width or size of yards, courts or other open spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by any regulations made under authority of this Ordinance, the provisions of such statute shall govern.

(3) Whenever any regulations pertaining to a specific use or activity under authority of this Ordinance require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required for the zoning district or generally required under this Ordinance, the greater or higher standards shall govern.

1.04 SEVERABILITY

The provisions of this Ordinance shall be severable, and if any of these provisions shall be held or declared illegal, invalid, or unconstitutional by any court of competent jurisdiction, the validity of the remaining provision of this Ordinance shall not be affected. It is hereby declared as the legislative intention that this Ordinance would have been adopted had such unconstitutional provisions not been included herein.

1.06 REPEALER

All ordinances or parts of ordinances inconsistent herewith are hereby repealed, including the Chapman Township Zoning Ordinance, enacted in 1970 and amended December 1993. Nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceeding now pending in any court or any rights accrued or liability incurred or any cause or causes of action occurred or existing under any ordinance repealed by this Ordinance. Nor shall any right or remedy of any character be lost, impaired or affected by this Ordinance.

ARTICLE II

COMMUNITY DEVELOPMENT OBJECTIVES

Amended by Ordinance 2016-01 Section II

2.00 COMMUNITY DEVELOPMENT OBJECTIVES

The Chapman Township Board of Supervisors states the following legislative finding with respect to land use, density of population, location and function of roads, and other community facilities and utilities, and other factors which the Board believes relevant in establishing community development objectives for the future development of the Township. It is the purpose of the Ordinance to reflect the objectives of the Township, to establish such other objectives as may be deemed necessary, and to provide the means and regulations whereby these objectives may be attained. In developing the following objectives reference was made to the Clinton County Comprehensive Plan adopted December 12, 1992, and the Clinton County Natural Heritage Inventory adopted February 9, 1994.

(1) Maintain the agricultural productivity of prime soils and assure the continuance of farming as an important commercial operation and life style.

(2) Minimize the impact of residential development on agriculture and ensure that normal farm practices will not be affected by such development.

(3) Develop zoning and subdivision approaches that recognize the natural and ecological importance of wooded and open space areas and encourage the preservation of open space for both public and private use.

(4) Give special protection to natural heritage sites that have qualified for inclusion in Clinton County's Natural Heritage Inventory.

(5) Give special protection to wilderness streams which are classified by the Pennsylvania Fish Commission as Exceptional Value and/or Scenic River.

(6) Promote conservation measures and regulations along all streams and waterways in the Township as a means of protecting water quality and insuring a healthy aquatic environment for fish and plant life.

(7) Preserve and protect public drinking water watersheds within the Township by mitigating adversities created by human encroachment.

(8) Encourage and facilitate of population growth that will help the Township sustain a strong tax base, maintain and improve Township roads, and increase the services available to Township residents.

(9) Encourage the extension of services whenever practicable to existing population centers that are experiencing water or septic problems and to areas where growth is both anticipated and recommended based on the most appropriate land use.

(10) Encourage additional housing opportunities for Township residents, including young families and the elderly who need affordable housing as well as new residents moving to the Township.

(11) Encourage the planning, design, and development of building sites in such a fashion as to provide for maximum safety and human enjoyment while adapting development to, and taking advantage of, the best use of the natural terrain.

(12) Encourage imaginative and innovative building techniques in order to create buildings suited to natural hillside surroundings.

(13) Design roads so that they follow natural topography, wherever possible, to minimize cutting and grading.

(14) Discourage strip-type development along Township roads that would preclude more intensive cluster and neighborhood type developments and thus limit access to interior lots that could be used for future development.

(15) Develop conservation approaches that will protect the natural ecosystem in order to promote the health and welfare of Township residents.

(16) Encourage the protection of the Township's extensive woodland and open space areas through sound conservation techniques and practice.

(17) Encourage more flexible land development which will respect and conserve natural resources such as streams, floodplain, ground water, wooded areas, and steeply-sloping areas of unusual attractiveness in the natural environment.

(18) Control development, clear cutting and other activity on hillsides to minimize pollution of streams, watersheds and underground aquifers to maintain water quality standards for domestic, recreation and commercial use.

(19) Preserve and enhance the beauty of the landscape by encouraging maximum retention of natural topographic features, such as drainage swales, streams, slopes, ridge lines, rock outcroppings, vistas, natural plant formations, and trees.

(20) Encourage seasonal use of woodland and open space areas in order to eliminate the need for permanent infra-structure, community services and other improvements that would create an undue economic burden on Township residents and change the character of the natural environment.

(21) Maintain the habitat for game and other animal and wildlife upon which residents of the Township depend for recreation, and in some cases, their livelihood.

(22) Encourage the formation of landowner and other type of associations and land conservation entities that will maintain woodland and open space areas.

(23) Minimize grading and cut-and-fill operations consistent with the retention of the natural character of hill areas.

(24) Discourage the placement of hazardous and/or low-level radioactive waste sites that could adversely compromise the natural environment and/or the health and safety of Township residents.

ARTICLE III

DEFINITIONS

Additional definitions in the following Ordinances:

- *2006-01 Section I*
- *2008-02 Section VIII*
- *2016-01 Section II*
- *2016-02 Section IX*

3.00 APPLICATION AND INTERPRETATION

It is not intended that these definitions include only words used or referred to in this Ordinance. The words are included in order to aid in the interpretation of the Ordinance for administrative purposes and in the carrying out of duties by appropriate officers and by the Zoning Hearing Board.

Unless otherwise expressly stated, the following shall, for the purpose of this Ordinance, have the meaning indicated as follows:

(1) Words used in the present tense include the future tense.

(2) The word "person" includes a profit or non-profit corporation, company, partnership or individual.

(3) The words "used" or "occupied" as applied to any land or building include the words "intended", "arranged", or "designed" to be used or occupied.

(4) The word "building" includes structure.

(5) The word "lot" includes plot or parcel.

(6) The word "shall" is always mandatory.

3.01 DEFINITION OF TERMS

Abutting: Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.

Accessory Building: A subordinate building or portion of the main building on a lot, the use of which is customarily incidental to that of the main or principal building.

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

Act 247: The Pennsylvania Municipalities Planning Code, as amended. The law, passed July 31, 1968, is the enabling legislation which permits municipalities in Pennsylvania to prepare and enact comprehensive development plans, zoning ordinances and other land use controls.

Adult Entertainment: A store or shop with more than fifteen (15) square feet of floor area devoted to the display and selling of pornographic materials consisting of pictures, drawings, photographs or other depictions, or printed matter and paraphernalia which, if sold knowingly to a child under eighteen (18) years of age, would violate the criminal laws of the Commonwealth of Pennsylvania in effect the same time thereof.

Agriculture: The cultivation of soil and other uses of land including but not by way of limitation; horticulture, mushroom growing, and the breeding and raising of customary domestic animals, dairying, pasturing, floriculture, viticulture, apiculture, and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce provided however that the operation of any such accessory uses shall be secondary to that of normal agricultural activities.

Agricultural Activities: The procedures that a farm adopts and/or uses in production and preparation of food and agricultural products for market. These uses include but are not limited to the usual noise, dust and odors involved in agricultural practices. The term includes the storage and utilization of agricultural and food processing wastes, screenings and sludges for animal feed, and the agricultural utilization of septic tank cleaning and sewage sludges which are generated off-site on land where the material will improve the soil.

Agricultural Protection Areas: Farmland preserved through the use of Pennsylvania Act 43, known as the "Agricultural Area Security Law" as signed into law. In effect, this Act provides a means by which agricultural land may be protected and enhanced as a viable segment of the Township's economy, and an economic and environmental resource of major importance.

Alterations: As applied to building or structure, means a change or rearrangement in structural parts or in the existing facilities or an enlargement, whether by extending on side, front or back or by increasing height or the moving from one location or position to another.

Amendment: Revisions to the zoning text and/or the official zoning map; the authority for any amendment lies solely with the Township Supervisors and is pursuant to the Pennsylvania Municipalities Planning Code.

Application for Zoning Permit: An application, required to be filed and approved by the Township Zoning Officer prior to start of construction or development.

Aquifer: A geological unit in which porous and permeable conditions exist and thus are capable of yielding usable amounts of water.

Aquifer Recharge Area: An area that has soils and geological features that are conducive to allowing significant amounts of surface water to percolate into groundwater.

Area, Building: The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory building.

Automobile Wrecking Yard: The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of two or more motor vehicles, which, for a period exceeding thirty (30) days, have not been capable of operating under their own power and from which parts have been or are to be removed for reuse or sale, shall constitute prima-facie evidence of an automobile wrecking yard.

Bar and/or Cocktail Lounge: Any premises wherein alcoholic beverages are sold at retail for consumption on the premises and minors are excluded therefrom by law.

Bed and Breakfast Inn: A house, or portion thereof, where short-term (not to exceed 14 days) lodging rooms and meals are provided. The operator of the inn shall live on the premises or in adjacent premises.

Billboard: A surface whereon advertising matter is set in view conspicuously and which advertising does not apply to premises wherein it is displayed or posted.

Biological Diversity Areas: Geographic areas defined and listed in the Clinton County Natural Heritage Inventory as Biological Diversity Areas (BDA). A Biological Diversity Area may consist of:

(1) Special Species Habitat

An area that includes natural or human influenced habitat that harbors one or more occurrences of plants or animals recognized as state or national species of special concern. Examples: A forested stream valley that supports a threatened plant population, a stream that provides habitat for a rare animal

(2) High Diversity Area

An area found to possess a high diversity of species of plants and animals native to the county. Example: A relatively large tract that provides a variety of habitats.

(3) Community/Ecosystem Conservation Area

An area that supports a rare or exemplary natural community (assemblage of plants and animals), including the highest quality and least disturbed examples of relatively common community types. Example: A marsh land that supports a wetland community found in no or few other sites in the county.

Boarding House: Any structure or any portion of them in which four (4) or more persons either individually or as a family are housed or lodged for hire with or without meals but without separate cooking or sanitary facilities. A rooming house, furnished room house, group home, or fraternity/sorority house shall be deemed a boarding house for the purpose of this Ordinance.

Campground: An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and other major recreational equipment, and which is primarily used for recreational purposes and retains an open air or natural character.

Cartway: That portion of the street right-of-way surface for vehicular use. Width is determined from face of curb to face of curb or from on edge of driving surface to the other edge of driving surface.

Certification of Compliance: A statement, based on an inspection, signed by the Zoning Officer, setting forth either that a building, structure or use of a parcel of land complies with this Zoning Ordinance or that a building, structure or parcel of land may lawfully be employed for specified use or both.

Church or Place of Religious Worship: An institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

Clinton County Comprehensive Plan: Adopted December 12, 1992 by the Clinton County Board of Commissioners, Clinton County Courthouse, Lock Haven, PA.

Clinton County Natural Heritage Inventory: Adopted February 9, 1994 by the Clinton County Board of Commissioners, Clinton County Courthouse, Lock Haven, PA.

Club: Buildings or facilities owned or operated by a corporation, association, or persons for a social, educational, or recreational purpose; but not primarily for profit or to render a service that is customarily carried on as a business.

Cluster Development: A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for agriculture, recreation, common open space, and preservation of environmentally sensitive areas.

Commercial Use: An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

Common Open Space: A parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of a development, not including streets, off-street parking areas, and areas set aside for public facilities.

Community Center: A place, structure, area, or other facility used in providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

Composting, Accessory Use: The term includes storage, collection, transportation, and/or use of manure, agricultural waste, food processing waste, screenings and sludges on land where the materials will improve the condition of the soil, the growth of crops or in the restoration of the kind for the same purposes. The term also includes storage arrangement, transportation, and disposal of manure, agricultural waste, food processing waste, screenings, and sludges accumulated on-site for purpose of disposal as long as the waste is not considered to be residual or hazardous wastes according to the standards set by the Pennsylvania Department of Environmental Protection. This use is customarily incidental and subordinate to the principal use and is located on the same parcel with such principal use.

Composting, Principal Use: The collection, storage, transportation and disposal of agricultural wastes, food processing wastes, screenings, sludges, manure, and biological decomposable materials from mainly, but not necessarily entirely off-site sources for the purpose of resale after the composting processes have been completed as long as the waste is not considered to be residual or hazardous wastes according to the standards set by DEP. This use is clearly the principal purpose for which a building, other structure and/or land is used, occupied or maintained under the Zoning Ordinance.

Conditional Use: Where the Board of Supervisors, in this Ordinance, have stated conditional uses to be granted or denied by the Board of Supervisors pursuant to express standard and criteria, the Board of Supervisors shall hold hearings on and decide requests for such conditional uses in accordance with such standards and criteria. In granting a conditional use, the Board of Supervisors may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, 53 P.S.§ 10101 et seq.

Conservation Areas: Environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance, or character, except in cases of overriding public interest.

Conservation Easement: An easement granting a right or interest in real property that is appropriate to retaining land or water areas predominately in their natural, scenic, open, or wooded condition; retaining such areas as suitable habitat for fish, plants, or wildlife; or maintaining existing land uses.

Day Care Center, Commercial: A facility in which care is provided for seven or more children, at any one time, where the child care areas are not being used as a family residence. All facilities require approval or licensure as specified by the Pennsylvania Department of Public Welfare and the Pennsylvania Department of Labor and Industry.

Day Care Home, Family: Any premise other than the child's own home, operated for profit or not for profit, in which child day care is provided at any one time to four, five, or six children, who are not relatives of the caregivers. Pennsylvania Department of Public Welfare registration is required and home occupation regulations herein shall be adhered to.

Day Care Home, Group: A facility in which care is provided for more than six but less than twelve children, at any one time, where the child care areas are being used as a family residence. All facilities require approval or licensure as specified by the Pennsylvania Department of Public Welfare and home occupation regulations herein shall be adhered to.

Density: A ratio of the number of dwelling units per acre which occupy or may occupy an area of land.

Development Plan: The provisions for development of a planned residential development, including a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities. The phrase "provisions of the development plan", when used in this Ordinance, shall mean the written and graphic materials referred to in this definition.

District or Zoning District: An area constituted by or pursuant to this Ordinance and delineated by text and map as to location, extent, nature and contents.

Dwelling: A building or portion thereof that provides living facilities for one or more families.

Dwelling, Multi-Family: A building or portion thereof for occupancy by three or more families living independently of each other and containing three or more dwelling units.

Dwelling, Seasonal: A dwelling not used for permanent residence, nor occupied for more than six months in each year.

Dwelling, Single-Family, Attached (Group, Row, and Townhouse): One of two or more residential buildings having a common or party wall separating dwelling units.

Dwelling, Single-Family, Detached: A residential building containing not more than one dwelling unit entirely surrounded by open space on the same lot.

Dwelling Unit: One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping.

Easement: The right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose.

Essential Service: The erection, construction, alteration or maintenance by public utilities or public service establishment or municipal or other governmental agencies of: underground gas, electrical, telephone, radio, television transmission or distribution systems; and public water, public sanitary sewer and public storm sewer facilities including wires, mains, drains, sewers, pipes, conduits, fire alarm boxes, traffic signals, hydrants and similar equipment and accessories in connection therewith; including buildings necessary for the furnishing of adequate services for the public health, safety and general welfare; excluding sanitary landfills.

Family: One or more persons occupying a dwelling unit and living as a single, non-profit housekeeping unit; provided that a group of four or more persons who are not within the second degree of kinship shall not be deemed to constitute a family.

Flood: A temporary inundation of normally dry land areas.

(1) Flood, One Hundred Year: A flood that, on the average, is likely to occur once every 100 years, i.e. that has a one percent chance of being equaled or exceeded in any given year; for the purposes of this Ordinance, the Regulatory Flood.

(2) Flood, Regulatory: A flood having a one percent chance of being equaled or exceeded in any given year; the 100 year flood.

Flood definitions amended by ordinance 2008-02 Article VIII and 2016-02 Article IX

Flood Fringe: That portion of the 100 year flood plain outside the floodway.

Flood Hazard Area: A relatively flat or low land area adjoining a stream, river, or water course which is subject to partial or complete inundation; or, any area subject to the unusual and rapid accumulation or runoff of surface waters from any source. The boundary of this area shall coincide with the boundary of the 100 year flood.

Flood Plain: For the purposes of this Ordinance, the flood plain shall be defined the same as the Flood Hazard Area.

Flood Proofing: Structural modifications or other changes or adjustments to buildings or their contents, undertaken to reduce or eliminate flood damage to them.

Floodway: The channel of a river or other water course and the adjacent land areas required to carry and discharge a flood of a 100 year frequency without cumulatively increasing the water surface elevation more than one foot at any point.

Garage, Private: An enclosed or covered space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a non-resident of the premises.

Garage, Repair: A building used primarily for making major repairs to motor vehicles, including overhauling, body work, refinishing, and upholstering and incidental servicing.

General Store: A retail establishment providing, for sale, a variety of perishable household goods. Up to thirty (30) percent of the interior floor space may be used for non-perishable and non-household goods.

Home Gardening: The cultivation of herbs, fruits, flowers, or vegetables on a piece of ground adjoining the dwelling, excluding the keeping of livestock, and permitting the sale of produce raised thereon.

Home Occupation: An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

Home Occupation, Rural: An accessory use to a customary farming operation or a non-farm household located in a rural area designed for gainful employment involving the sale of goods and services that is conducted either from within the dwelling and/or from accessory buildings.

Homeowners Association: A formally constituted non-profit association or corporation made up of the property owners and/or residents of a fixed area; may take permanent responsibility for costs and upkeep of semiprivate community facilities.

Hotel (See also motel): A facility offering transient lodging accommodations on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms, and recreational facilities.

Household Pets: Animals that are customarily kept for personal use or enjoyment within the home. Household pets shall include but not be limited to domestic dogs, domestic cats, domestic tropical birds, and rodents.

Impervious Surface: Any material that substantially reduces or prevents the infiltration of stormwater into previously undeveloped land. Impervious surface shall include graveled driveways and parking areas.

Industrial, Heavy: A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

Industrial, Light: A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Junk: Old, dilapidated, scrap or abandoned metal, paper, building material and equipment, bottles, glass appliances, furniture, beds and bedding, rags, rubber, motor vehicles, and parts thereof, and as further defined in Chapman Township Ordinance No. 21, as amended.

Junk Yard: A lot or structure, or part thereof, used primarily for the collecting, storage, and sale of waste paper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition, and for the sale of parts thereof.

Kennel: A facility housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.

Land Development: Any of the following activities:

(1) The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:
   A. A group of two or more residential or non-residential buildings, whether proposed initially or cumulatively, or a single non-residential building on a lot or lots regardless of the number of occupants or tenure; or

   B. The division or allocation of land or space, whether initially of cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

(2) A subdivision of land.

(3) Development in accordance with Section 503 (1.1), Article V of Act 247, as amended.

Land Owner: 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.

Line, Street: The dividing line between the street and the lot.

Logging: The act of cutting trees for cord wood, for timber, for pulp or for any commercial purpose, excepting therefrom a person cutting on his own property or the property of another, with his permission, for his own or his family's use, the clearing of less than one (1) acre for development of building sites, or the clearing for farm operations, if there is no altering of natural drainage courses.

Lot (See also lot of record): A platted parcel of land intended to be separately owned, developed, and otherwise used as a unit.

Lot Area: The area of horizontal plan bounded by the vertical planes through front, side, and rear lot lines.

Lot, Corner: A lot abutting on and at the intersection of two or more streets.

Lot Coverage: Determined by dividing that area of lot which is occupied or covered by the total horizontal projected surface of all buildings, including covered porches and accessory buildings, by the gross area of that lot.

Lot Depth: The average horizontal distance between the front and rear lot lines.

Lot, Flag: Lots or parcels with less frontage on a public street than is normally required. The panhandle is an access corridor to lots or parcels located behind lots or parcels with normally required street frontage.

Lot Interior: An interior lot is a lot other than a corner lot.

Lot Line, Front (See also yard front): On an interior lot, the lot line abutting a street; or, on a corner lot, the shorter lot line abutting a street; or, on a through lot, the lot line abutting the street providing the primary access to the lot; or, on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained.

Lot Line, Rear: The lot line not intersecting a front lot line that is most distant from and most closely parallel to the front lot line. A lot bounded by only three lot lines will not have a rear lot line.

Lot Line, Side: Any lot line not a front or rear lot line.

Lot of Record: A lot whose existence, location, and dimensions have been legally recorded or registered in a deed or on a plat.

Lot, Substandard: A lot or parcel of land that has less than the required minimum area or width as established by the zone in which it is located and provided that such lot or parcel was of record as a legally created lot on the effective date of the Ordinance codified in this title.

Lot, Through: A lot having its front and rear yards each abutting on a street.

Lot Width: The horizontal distance between side lot lines, measured at the required front setback line.

Manufacturing: The act of producing, preparing, or assembling finished products or goods from raw materials or component parts through the repetitious use of an established or set process.

Manufactured Home: A factory-built residential dwelling unit certified as built in compliance with the HUD Code. It is transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width or forty (40) body feet or more in length; or when erected on site, is three hundred twenty (320) or more square feet, and is built on a permanent chassis and designed to be used as a year-round dwelling with a permanent foundation and connected to the required utilities.

Mobile Home: A transportable, single family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, 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 without a permanent foundation.

Mobile Home Lot: A parcel of land in a mobile home park improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobile home.

Mobile Home Park: A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes.

Motel (See also hotel): A building or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for automobile travelers and having a parking space adjacent to a sleeping room. An automobile court or a tourist court with more than one unit or a motor lodge shall be deemed a motel.

Non-Conforming 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.

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

Non-Conforming Use: A use, whether of land or of structure, which does not comply with the applicable use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation.

Off-Site Sewer Service: A system of piping, tanks or other facility approved by DEP serving one or more lots and disposing of sewage in an approved sewage treatment facility.

Off-Site Water Service: A water distribution system approved by DEP which supplies potable to individual lots or dwelling units from a central water source located beyond the limits of the lot being served. Such system may be publicly or privately owned and operated.

On-Site Sewer Service: A single system of piping tanks or other facilities approved by DEP serving only a single lot and disposing of sewage in whole or in part into the soil.

On-Site Water Service: A single water system, well or spring, approved by DEP where applicable, serving only a single lot.

Open Pit Mining: Open pit mining shall include all activity which removes from the surface, or beneath the surface of the land, some material mineral resource, natural resource, or other element of economic value, by means of mechanical excavation necessary to separate the desired material from an undesirable one; or to remove the strata or material which overlies or is above the desired material in its natural condition and position. Open pit mining includes, but is not limited to, the excavation necessary to the extraction of: sand, gravel, topsoil, limestone, sandstone, coal, clay, shale and iron ore.

Open Space: Any parcel or designated land area in its natural state or essentially unencumbered by either principal or accessory uses, buildings, structures, or impervious surfaces.

Open Space, Common: A parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of a development, not including streets, off-street parking area, and areas set aside for public facilities.

Parcel: A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.

Parking Space: An area on a lot and/or within a building intended for the use of temporary parking of a personal vehicle. This term is used interchangeably with parking stall. Each parking space must have a means of access to a public street. Tandem parking stalls in single-family detached, single-family attached, and townhouse residential uses shall be considered to have a means of access to a public street.

Planned Residential and Seasonal Development: An area of land, controlled by a land owner, to be developed as a single entity for a number of dwelling units, the development plan for which does not correspond in lot size, bulk or type of dwelling, density, lot coverage, and required open space to the regulations established in any one zoning district.

A Planned Residential and Seasonal Development may include and shall be limited to: 1) dwelling units in detached, semi-detached, attached, or multi-storied structures, or any combination thereof; and 2) those non-residential uses deemed to be appropriate for incorporation in the design of the Planned Residential and Seasonal Development.

Planning Commission: The Planning Commission of the Township of Chapman.

Plat: A map, plan or layout of a subdivision indicating the location and boundaries of individual properties.

Principal Building: A structure in which the principal use of the site is conducted.

Principal Use: The main use of land or structures, as distinguished from a secondary or accessory use.

Private Club: An organization catering exclusively to members and their guest; or premises and building for recreational or athletic purposes which are not conducted primarily for gain, providing that any vending stands, merchandise or commercial activities are conducted only as required generally for the membership of each club.

Professional Office: The office of a member of a recognized profession. A professional office shall be considered a home occupation when conducted from a residence, by a member of the resident family and when the office is only secondary to the residential use of the building.

Public Hearing: A formal meeting held, pursuant to public notice by the governing body or planning agency, intended to form and obtain public comment prior to taking action in accordance with Act 170.

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 successive weeks in a newspaper of general circulation in the municipality. Such notice shall state 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 Uses: Includes public and semi-public uses of a welfare and educational nature, such as hospitals, nursing homes, schools, parks, churches, cemeteries, civic centers, historical restorations, fire stations, municipal and county buildings, essential public utilities that require enclosures within a building; non-profit recreational facilities; easements for alleys, streets, and public utility rights-of-way; and radio and television transmission facilities.

Recreational Vehicle: A vehicle less than thirty-eight (38) feet in length, used for temporary living or sleeping purposes, which stands on wheels. Included are travel trailers, truck campers and motor homes, and forms of camping accommodation. Such vehicles are permitted only in campgrounds or on private individual parcels.

Recreational Vehicle (RV) Park: Any lot of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

Recycling Center: A facility that is not a junk yard and in which recoverable resources, such as newspapers, glassware, plastic containers, and metal cans, are collected, stored, flattened, crushed, or bundled, essentially by hand within a completely enclosed building.

Recycling Collection Point: A collection point for small refuse items, such as bottles and newspapers, located either in a container or small structure.

Resort: A hotel or motel that serves as a destination point for visitors. A resort generally provides recreational facilities for persons on vacation. A resort shall be self-contained and provide personal services customarily furnished at hotels, including the serving of meals. Buildings and structures in a resort should complement the scenic qualities of the location in which the resort is situated.

Restaurant: An establishment that serves food and beverages primarily to persons seated within the building. This includes cafes, tea rooms, and outdoor cafes.

Right-of-Way: A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or other special use.

Road: A public or private way which affords principal means of access to abutting properties. The word "road" shall include, but not be limited to, the words "street", "highway", "alley", and "thoroughfare".

Road Center Line: The center of the surveyed road right-of-way, or where not surveyed, the center of the traveled cartway.

Road Grade: The officially established grade of the road upon which a lot fronts, or in its absence the established grade of roads upon which the lot abuts, at the midpoint of the frontage of the lot thereon. If there is no officially established grade, the existing grade of the road at such mid-point shall be taken as the road grade.

Road Classification: For the purpose of this Ordinance, the following definitions are employed:

(1) **Major Arterial**: A road, whose function is to provide for the movement of high volumes of through traffic subject to necessary control of entrances, exits and curb use.

(2) **Minor Collector**: A road or street which provides for the movement of large volumes of traffic between arterials and local roads and direct access to abutting properties.

(3) **Local**: A road whose function is to provide for local traffic movement and direct access to abutting properties.

(4) **Private or Non-Public**: All streets which are not public including, but not limited to, streets maintained by private agreements, by private owners or for which no maintenance responsibility has been established; and including all private driveway easements or right-of-ways for access.

Sanitary Landfill: A lot or land or part thereof used primarily for the disposal of garbage, refuse, and other discarded materials including, but not limited to, solid and liquid waste materials resulting from industrial, commercial, agricultural, and residential activities and approved by the PA Department of Environmental Resources.

Screen Planting: A vegetative material of sufficient height and density to conceal from the view of property owners in adjoining residential districts the structures and uses on the premises on which the screen planting is located.

Seasonal Dwelling: A dwelling intended for seasonal or leisure activity which is not intended now or in the future for year-round dwelling purposes. It includes cottages and cabins built on a permanent foundation. Such uses shall be limited to hunting and fishing seasons, vacation time, weekends, retreats and other periodic visits for a period not to exceed one hundred eighty (180) days per year.

Self-Service Station: An establishment where liquids used as motor fuels are stored and dispersed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.

Service Station: Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and body fender work are conducted.

Setback: The required minimum horizontal distance between the building line and the related front, side, or rear property line.

Sign: A structure or device designed or intended to convey information to the public in written or pictorial form.

Stable, Private: An accessory building in which livestock are kept for private use and not for hire, remuneration or sale.

Stable, Public: A building in which any livestock are kept for remuneration, hire, sale, boarding, riding, or show.

Special Exception: A use permitted in a particular zoning district pursuant to the provisions of Articles VI and IX of Act 247, the Pennsylvania Municipalities Code, as amended.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

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

Subdivision: The division or redivision 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 or ownership of 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.

Swimming Pool: Any reasonably permanent pool or open tank, not located within a completely enclosed building, and containing, or normally capable of containing, water to a depth any point greater than two feet. Farm ponds and/or lakes are not included, provided that swimming is not the primary purpose for their construction. Barrier requirements for above ground pools will be measured from the ground.

Transfer Stations: A lot or structure, or part thereof, used primarily for the collection and/or storage of garbage, refuse and other discarded materials including, but not limited to, solid and liquid waste materials resulting from industrial, commercial, agriculture and residential activities.

Travel Trailer: A vehicle that is a portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified "Travel Trailer" by the manufacturer on the trailer. Unoccupied travel trailers do not constitute mobile homes, as used in this Ordinance. All travel trailers shall display a current vehicle inspection sticker and vehicle registration plate.

Travel Trailer Park: A parcel of land used for the parking of two or more trailers for rent and occupancy by the public on a short term or seasonal basis.

Use: The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

Variance: A modification of the literal provisions of this Ordinance which the Zoning Hearing Board is permitted to grant when strict enforcement would cause undue hardship owing to circumstances unique to the individual property on which the variance is sought.

Watercourse: A channel or conveyance of surface water having a defined bed and banks, whether artificial or natural, with intermittent or perennial flow.

Water Survey: An inventory of the source, quantity, yield and use of ground water and surface-water resources within a municipality.

Wetlands: Land that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does or would support, a prevalence of vegetation typically adapted for life in saturated soil conditions. The term includes, but is not limited to, swamps, bogs, marshes, and marine meadows.

Yard: An open space which lies between the principal building or group of buildings and the nearest lot line. Such space shall be unoccupied and unobstructed from the ground upward except as may herein be permitted.

(1) Yard, Front. An open space which lies between the principal building or group of buildings and the front lot lines, unoccupied and unobstructed from the ground upward.

(2) Yard, Rear. An open space extending the full width of the lot between a principal building and the rear lot line, unoccupied and unobstructed from the ground upward.

(3) Yard, Side. An open space extending from the front yard to the rear yard between a principal building and the nearest side lot line, unoccupied and unobstructed from the ground upward.

Zoning Hearing Board: The Zoning Hearing Board of the Township of Chapman.

Zoning Map: The official zoning map of Chapman Township, together with all notations, references and amendments which may subsequently be adopted. The zoning map shall be considered a part of this Ordinance.

Zoning Officer: The administrative officer charged with the duty of enforcing the provisions of this Ordinance.

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 District in which it is located.

ARTICLE IV

ZONING DISTRICTS

4.00 ESTABLISHMENT OF DISTRICTS

For the purpose of implementing the community development objectives of this Ordinance, the following zoning districts are hereby established:

NC Nature Conservation District
C Commercial District
FA Forest and Agricultural District
I Industrial District
R Residential District

4.01 PURPOSE OF DISTRICTS

(1) **NC – Nature Conservation District**

The purpose of this District is to protect environmentally sensitive and valuable lands from any activity that would significantly alter their ecological integrity, balance, or character, except in cases of overriding public interest. Nature conservation areas can include "special protection" waters designated by the Pennsylvania Department of Environmental Resources, biological diversity areas designated by the Clinton County Natural Heritage Inventory, and watersheds that include public drinking water sources.

A. Permitted Uses *Amended by Ordinance 2006-01 Section II*

1. Family and Group Day Care Homes.
2. Home Occupations as Accessory Uses (Article VII Section 7.16)
3. Residential and Seasonal Dwellings Individual) as described in Article VII Section 7.30.

B. Special Exceptions *Amended by Ordinance 2006-01 Section VII*

1. Bed and Breakfast
2. Essential Services
3. Natural Resource Uses
4. Logging involving land areas of more than five (5) acres and subject to applicable regulations (Article VII Section 7.26).
5. Planned Residential and Seasonal Developments (Article XI).

C. Area and Bulk

1. The lot area and density for single family dwellings, including mobile homes and recreational dwellings shall meet the requirements of Article VII Sections 7.23 and 7.30, and Article XI.
2. Minimum lot width at setback two hundred fifty (250) feet.
3. Minimum lot depth at setback two hundred fifty (250) feet.
4. Minimum lot setback of all buildings from sides is twenty-five (25) feet.
5. Maximum building height shall be thirty-five (35) vertical feet consisting of no more than three stories.

(2) **C – Commercial District**

The purpose of this District is to set aside areas that can support a mixture of commercial, government, and residential uses including commercial shops, contractor warehouse and service operations, and municipal buildings. Such uses are intended to encourage new small business activity that is compatible with the rural character of the Township.

A. Permitted Uses *Amended by Ordinance 2006-01 Section III*

1. Banks and Financial Services
2. Essential Services
3. Hotels and Motels
4. Professional Offices
5. Restaurants, Bar/cocktail lounge, and other places serving food and beverages.
6. Rural Retail Shopping Center
7. Stores and Personal Service Shops for the conducting of general merchandise and retail business.
8. Movie Theaters

B. Special Exceptions *Amended by Ordinance 2006-01 Section VIII*

1. Animal Hospitals, Kennels and Veterinary Facilities
2. Automobile Filling Station (Including Minor Repair)
3. Automobile Repair or Body Work Facility
4. Automobile Sales
5. Car Wash
6. Clubs, Lodges and Fraternal Organizations
7. Liquid Fuel Storage and Distribution
8. Mini-Warehouse
9. Recycling Collection Points

C. Area and Bulk

1. Minimum Lot Size
   A. 30,000 square feet with on-lot water and sewerage (providing the lot meets all applicable DEP on-lot sewage disposal requirements)
   B. 20,000 square feet with on-lot water and off-lot sewerage
   C. 20,000 square feet with off-lot water and on-lot sewerage (providing the lot meets all applicable DEP on-lot sewage disposal requirements)
   D. 10,000 square feet with off-lot water and sewerage
2. Minimum Lot Width at Setback – One Hundred (100) feet.
3. Minimum Lot Depth – Seventy-five (75) feet.

D. Coverage

All buildings, including accessory buildings, shall cover not more than fifty (50) percent of the lot area.

E. Setbacks

All buildings including accessory buildings.
1. Front Yard: Minimum of twenty (20) feet from the right-of-way line. Corner lots shall be construed as having two front yards.
2. Side Yard: Ten (10) feet.
3. Rear Yard: Twenty (20) feet.
4. When abutting Residential Use: Twenty-five(25) feet.

F. Height

Maximum height for all buildings shall be three stories or thirty-five (35)feet, whichever is less.

(3) **FA – Forest and Agricultural District**

This District is intended to permit a variety of low density and principally residential and recreational uses that are in keeping with the hilly and wooded non-developed areas of the Township. Activities that relate to forest, agricultural, and outdoor uses are permitted in this District.

A. Permitted Uses *Amended by Ordinance 2006-01 Section IV*

1. Agricultural Uses as defined in Article III Definitions.
2. Essential Services.
3. Family and Group Day Care Homes.
4. Home occupations as accessory uses (Article VII Section 7.16)
5. Seasonal dwellings.
6. Single-family detached dwellings including mobile homes, provided that the mobile home is placed on a permanent foundation which shall be of poured concrete or cement block and properly anchored (Article VII Section 7.23).
7. Two-family attached dwellings.

B. Special Exceptions

1. Animal Hospitals, Kennels and Veterinary Facilities
2. Bed and Breakfast/Guest Home.
3. Campgrounds, commercial and private.
4. Cemeteries.
5. Church related educational or day care facilities subject to appropriate state day care regulations.
6. Churches.
7. Clubs.
8. Rural day care centers.
9. Logging involving land areas of more than five (5) acres and subject to applicable regulations (Article VII Section 7.26).
10. Group Homes
11. Mining and extractive operations.
12. Mobile Home Parks
13. Multi-Family Dwellings.
14. Natural Resource Uses.
15. Planing Mill (Sawmill).
16. Professional Offices.
17. Public Uses
18. Recycling Collection Points.
19. Retirement Community.
20. Rural Retail Shopping Center.

Amended by
- *Ordinance 2006-01 Section IX*
- *Ordinance 2016-01 Section III*

C. Area and Bulk ***Amended by Ordinance 2016-01 Section IV***

1. The lot area for all uses within this Forest District shall not be less than one acre (43,560 sq ft) provided the lot meets all applicable DEP on-lot sewage disposal requirements.

2. Minimum lot width at setback and minimum lot depth are 150 linear feet.

CI. Coverage

1. All buildings, including accessory buildings, shall not cover thirty-five percent (35%) of the lot.

E. Setbacks ***Amended by Ordinance 2016-01 Section V***

1. Front Yard – Principal Building: Minimum of thirty-five (35) feet from the right-of-way line. Corner lots shall be construed to have two front yards.

2. Side Yard – Principal Building: Each lot shall have two (2) side yards, neither of which shall be less than fifteen (15) feet. All accessory buildings shall be a minimum of eight (8) feet from any side lot line.

3. Rear Yard – Principal Building: Minimum of twenty-five (25) feet. All accessory buildings shall be a minimum of eight (8) feet from any rear lot line.

4. Buildings housing livestock (including dog kennels) or poultry shall not be closer than fifty (50) feet to any public right-of-way nor two hundred (200) feet to a residential district or residential structure other than the owner's.

F. Height ***Amended by Ordinance 2016-01 Section VI***

1. Buildings devoted to farm use shall be exempt from height regulations.

2. The maximum building height for a single-family detached dwelling shall be three stories or thirty-five (35) vertical feet, whichever is less.

(4) **I – Industrial District**

The intent of this District is to provide areas where various commercial and light industrial activities can be accommodated without creating undesirable or incompatible situations with neighboring land uses and to provide areas for new industrial growth.

A. Permitted Uses *Amended by Ordinance 2006-01 Section V*

1. Automobile Filling Station (including minor repairs).
2. Automobile Repair or Body Work Activity.
3. Car Wash.
4. Essential Services.
5. Manufacturing.
6. Warehousing Facilities.
7. Automobile Sales.

B. Special Exceptions

1. Adult Entertainment
2. Chemical Plants and Storage Facilities.
3. Composting, Principal Use.
4. Junk Yards.
5. Liquid Fuel Storage and Distribution.
6. Natural Resource Uses.
7. Planing Mill/Sawmill.
8. Sanitary Landfills and Transfer Stations.

Amended by Ordinance 2006-01 Section X
Ordinance 2016-01 Section VII

C. Area and Bulk

1. Minimum Lot Size. ***Amended by Ordinance 2016-01 Section VIII***

   A. 43,560 square feet with on-lot water and sewerage (providing the lot meets all applicable DEP on-lot sewage disposal requirements)
   B. 30,000 square feet with on-lot water and off-lot sewerage
   C. 30,000 square feet with off-lot water and on-lot sewerage (providing the lot meets all applicable DEP on-lot sewage disposal requirements)
   D. 20,000 square feet with off-lot water and sewerage

2. Minimum Lot Width at Setback – One Hundred (100) feet.

3. Minimum Lot Depth at Setback – One Hundred (100) feet.

D. Setbacks ***Amended by Ordinance 2016-01 Section IX***

All buildings including accessory buildings

1. Minimum of twenty-five (25) feet from right-of-way lines.

2. Minimum of twenty-five (25) feet on all sides.

3. When abutting Residential Use – fifty (50) feet.

(5) **R – Residential District**

Amended by
Ordinance 2006-01 Section VI
Ordinance 2016-01 Section X

This District is intended to encourage low density development in rural areas. In order to maintain the community's rural character, minimum lot sizes, building setbacks, and buffer requirements have been established. And to foster an appropriate residential environment, compatible public and semi-public uses such as churches and recreational facilities are permitted in this District while industrial and commercial activities, with the exception of home occupations, are discouraged.

A. Permitted Uses

1. Family and Group Day Care Homes.
2. Home Occupations as accessory uses (Article VII Section 7.16).
3. Multi-family attached dwellings not exceeding three (3) units.
4. Single-family detached dwellings including mobile homes, provided that the mobile home is placed on a permanent foundation which shall be of poured concrete or cement block and properly anchored (Article VII Section 7.23).
5. Two-family attached dwellings.

B. Special Exceptions

1. Bed and Breakfast/Guest House.
2. Cemetery.
3. Churches.
4. Church Related Educational Facilities.
5. Church Related Day care Facilities.
6. Essential Services.
7. Group Homes
8. Professional Offices.
9. Retirement Community.

C. Area and Bulk – Minimum Lot Size.

1. The regulations for single and multi-family dwellings in the residential zone are as follows:

   A. 43,560 square feet with on-lot water and sewerage (providing the lot meets all applicable DEP on-lot sewage disposal requirements)

   B. 30,000 square feet with on-lot water and off-lot sewerage.

   C. 30,000 square feet with off-lot water and on-lot sewerage (providing the lot meets all applicable DEP on-lot sewage disposal requirements)

   D. 20,000 square feet with off-lot water and sewerage

2. Minimum Lot Width at Setback – One Hundred (100) feet

3. Minimum Lot Depth at Setback – One Hundred twenty-five (125) feet

D. Coverage

Lot Coverage: All buildings, including accessory buildings, shall cover not more than thirty-five (35) percent of the lot.

E. Setbacks ***Amended by Ordinance 2016-01 Section X***

All buildings including accessory buildings

1. Front Yard: Minimum of twenty-five (25) feet from the right-of-way line. Corner lots shall be construed to have two front yards.

2. Side Yards: Each lot shall have two (2) side yards, neither of which shall be less than ten (10) feet.

   All accessory buildings shall be a minimum of eight (8) feet from any side lot line. ***Changed to five (5) feet***

3. Rear Yards: Minimum of twenty (20) feet in depth.

   All accessory buildings shall be a minimum of eight (8) feet from any side lot line.

F. Height ***As per Ordinance 2016-01 Section X E(4):"No accessory buildings shall be permitted in the front yard"***

The maximum building height for all buildings shall be three stories or thirty-five (35) feet, whichever is less.

4.02 ZONING MAP

The boundaries of the Zoning Districts shall be shown on the map attached to and made a part of this Ordinance which shall be designated the "Official Zoning Map". The same map and all the notations, references, and other data shown thereon are hereby incorporated by reference into this Ordinance as if all were fully described within the text of this Ordinance.

4.03 INTERPRETATION OF ZONING DISTRICT BOUNDARIES

Where uncertainty exists as to boundaries of any District as shown on said map, the following rules shall apply.

(1) District boundary lines are intended to follow or be parallel to the center line of streets, streams and railroads, and lot or property lines as they exist on a recorded deed or plan or record in the Clinton County Recorder of Deed's office at the time of the adoption of this Ordinance, unless such District boundary lines are fixed by dimensions as shown on the Zoning Map.

(2) Where a District boundary is not fixed by dimensions and where it approximately follows lot lines and where it does not scale more than ten (10) feet there from, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.

(3) In unsubdivided land or where a District boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by the use of the scale appearing on the maps.

(4) In cases of uncertainty as to the true location of a District boundary line in a particular instance, the Zoning Officer shall request the Zoning Hearing Board to render its determination provided, however, that no boundary shall be changed by the Zoning Hearing Board.

ARTICLE V

DISTRICT REGULATIONS

5.00 APPLICATION OF DISTRICT REGULATIONS

The regulations set forth in this Article for each District shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

(1) No building, structure, or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the District in which it is located.

(2) No building or other structure shall hereafter be erected or altered:

A. To exceed height or bulk requirements.

B. To occupy a greater percentage of lot area.

C. To accommodate or house a greater number of families, except as permitted in a residential conversion.

D. To have narrower or smaller rear yards, front yards, side yards, or other open space than herein required or in any other manner be contrary to this Ordinance.

5.01 USE REGULATIONS AND DIMENSIONAL REQUIREMENTS

The specific use regulations and dimensional requirements pertaining to each District are contained in Article IV of this Ordinance.

ARTICLE VI

SPECIAL REGULATIONS

6.00 INTENT

This Article lists specific controls over general aspects of land utilization which are not included elsewhere in this Ordinance. The Chapman Township Zoning Officer has the right and authority to perform or have performed by an independent party and relevant investigation or study to assure public safety, health and welfare and require the cost to be borne by the applicant. The following regulations shall apply to all Zoning Districts and uses as applicable.

6.01 PUBLIC UTILITY CORPORATION EXEMPTIONS

The provisions of this Zoning Ordinance shall not apply to any existing or proposed building or extension thereof used by any public utility corporation, if upon petition of the corporation, the Public Utility Commission shall, after a public hearing, decide that the present or proposed location or use of the building in question is reasonably necessary for the convenience or welfare of the public.

Amended by Ordinance 2016-01 Section XIV

6.02 ENVIRONMENTAL PERFORMANCE STANDARDS

The Chapman Township Board of Supervisors may require safeguards to assure compliance with certain environmental standards. When required, the applicant shall demonstrate that adequate provisions will be made to reduce and minimize any objectionable elements related to this Section.

Upon request of the Township, the owner shall furnish or obtain proof at his own expense that he is in compliance with the following environmental standards:

(1) Air Management

A. The burning of tires, plastic, or any toxic substance is not permitted.

B. No gasses, vapors or fumes shall be emitted which are harmful to persons, property, animals, or vegetation.

C. No radioactive vapors or gasses shall be emitted.

D. No objectionable odors other than agricultural in origin, shall be detectable beyond the property boundaries.

(2) Solid Waste Management

No storage of waste materials on a lot shall be permitted in excess of thirty (30) days. All waste materials awaiting transport shall be kept in enclosed containers and be screened from view.

(3) Noise and Vibration

A. The noise limit at lot lines shall be sixty-five (65) decibels.

B. No physical vibration shall be perceptible without use of an instrument at the lot boundaries.

(4) Lighting and Heat

A. All lighting shall be shielded and not cause a glare beyond the lot boundary.

B. Any operation producing heat shall prevent any effect from the heat beyond the property lines.

(5) Electromagnetic

All electromagnetic radiation shall comply with the regulations of the Federal Communication Commission (FCC).

(6) Ground Water Supplies

No use shall endanger ground water levels and quality nor adversely affect ground water supplies of nearby properties.

6.03 STREAM CORRIDORS AND SINKHOLES

Land uses, including agricultural land uses, which occur adjacent to streams and/or sinkholes shall require an undisturbed buffer or filter strip along the stream or sinkhole. The requirement for a buffer applies to all streams and watercourses which are defined as a channel or conveyance of surface water having a defined bed and banks, whether artificial or natural, with intermittent or perennial flow.

(1) The purpose of the buffer is to intercept sediment and pollutants from project runoff occurring overland before they reach the stream, and/or sinkhole, thereby protecting local water resources and the environment.

(2) The buffer width shall be a minimum of fifty (50) feet measured from the stream bank or sinkhole to the area of the proposed soil disturbance. This buffer width shall apply to each side of the watercourse where soil disturbance is proposed. If the watercourse marks the project boundary, the buffer requirement shall apply to only one side of the stream.

(3) Where the subdivision and land development has a slope in excess of eight (8) percent, the following buffer widths shall apply to each applicable side of the watercourse:

% Slope	Buffer Width
0–8%	50'
8–15%	65'
15–25%	80'
25% +	100'

(4) For calculation of slope, the site may not be averaged over its gross acreage. Only the area within one hundred (100) feet of the watercourse shall be considered for the purpose of slope calculation.

(5) If the land on each side of the stream bank has different slope characteristics, a different buffer width would be required on each side of the stream.

(6) The buffer shall consist of existing or new vegetation or a combination thereof, as in the following order or preference:

A. Existing hedgerow, woodlot, brush and/or uncultivated fields which are naturally occurring along the stream.

B. A combination of existing vegetation (such as above) and newly-established vegetation.

C. A newly established area of trees, bushes and grasses, where no vegetation existed prior to development.

(7) Stream encroachment work or any development within fifty (50) feet of a stream bank would require a permit from DEP and the US Army Corps of Engineers. The applicant shall provide written determination from the applicable regulatory body or a copy of the required permit prior to final Subdivision and Land Development Plan approval.

6.04 BUILDING HEIGHT EXCEPTIONS

Height regulations shall not apply to agricultural structures, silos, water towers, church spires, belfries, antennas, chimneys, architectural ornament, or appurtenances placed above the roof level not intended for human occupance, except for satellite dishes.

6.05 BUILDING SETBACK EXCEPTIONS

The required building setback for a proposed building may be decreased to the average setback of existing buildings within one hundred (100) feet on each side of the proposed building. Setback reduction may occur when adjacent buildings have less than the front yard requirement for the applicable District, but in no case shall the reduction encroach upon the street right-of-way. The granting of a variance shall be the authority of the Chapman Township Zoning Hearing Board.

6.06 REQUIRED YARD EXCEPTIONS

No structure or part of a structure shall be erected within or shall project into any required yard setback except:

(1) Overhanging eaves, gutters, cornices or solar energy collector not exceeding two (2) feet in width.

(2) Arbors, trellises, garden sheds, flagpoles, unroofed steps, unroofed terraces, awnings, movable canopies, walls, fences and other similar uninhabitable structures shall be permitted, provided they are not more than eight (8) feet in height.

(3) Unenclosed fire escapes which extend no more than six (6) feet into any required yard area.

6.07 OBSTRUCTIONS

(1) On a corner lot, no structure shall be erected or enlarged, and no vegetation shall be planted or maintained which may cause visual obstruction to motorists on any public road.

(2) Clear sight triangles shall be provided at all street intersections. Within such triangles, no object shall be permitted which obscures vision above the height of thirty (30) inches and below ten (10) feet, measured from the centerline grade of intersecting streets. Such triangles shall be established from a distance of fifty (50) feet from the point of intersection of the center lines of local and collector streets. Triangles shall be established from a distance of one hundred-fifty (150) feet for all intersections with arterial streets.

6.08 FLOOD PLAIN MANAGEMENT *Also see: Flood Plain Ordinances 2008-02 and 2016-02*

Flood plain management is the responsibility of the individual municipality. Chapman Township has in place and administers a flood plain management ordinance. Therefore, in addition to the requirements established by this Ordinance, any activity in a designated flood prone area will be subject to the Chapman Township Floodplain Management Ordinance.

6.09 OUTDOOR STORAGE OF MATERIALS AND EQUIPMENT

(1) Commercial Equipment Storage AND Parking

Commercial or industrial equipment including, but not limited to, trucks in excess of 16000 GVW (gross vehicle weight), construction equipment and machinery, and other commercial or industrial materials, vehicles, equipment and supplies shall not be parked or stored outside overnight in any residential district, except for the temporary parking or storing of materials, vehicles, equipment or supplies used in conjunction with an ongoing construction, service or repair project within the residential district. Proof of the ongoing construction, service or repair project shall be in the form of a valid building permit, if one is required, under this or any other ordinance, or by prior written notice to the Township including an estimate of the length of the project if the project is intended to last longer than seven (7) days.

(2) Recreational Vehicle Storage

Recreational vehicles, as defined by this Ordinance, may be parked and stored within a district in any carport or enclosed building or may be parked outdoors provided the vehicle is at least three (3) feet from any lot line. No such equipment shall be used for living, sleeping or housekeeping purposes.

(3) On-Lot Storage of Vehicles

No vehicle without current license and inspection, trailer, boat or similar vehicle shall be parked or stored outside in any district unless within an enclosed building or carport. No such equipment shall be used for living, sleeping or housekeeping purposes.

6.10 TRAVEL TRAILER OCCUPANCY AND STORAGE REQUIREMENTS

Travel trailers equipped with holding tank facilities and that are not connected to a permitted sewage treatment system (public sewer, in-ground holding tank, absorption bed system) shall not remain on a lot that does not contain a residential structure for more than thirty (30) consecutive days.

Travel trailers not equipped with holding tank facilities and that are not connected to a permitted sewage treatment system (public sewer, in-ground holding tank, absorption bed system) shall not remain on a lot that does not contain a residential structure for more than ten (10) consecutive days.

6.11 EROSION AND SEDIMENTATION CONTROL AND STORM WATER MANAGEMENT PLAN REQUIREMENTS

Given the Community Development Objectives as outlined in Article II of this Ordinance, and the large number of biological diversity areas and streams with Exceptional Value and Scenic River designations in Chapman Township, the Township Zoning Officer may require an applicant for a zoning permit to submit an Erosion AND Sedimentation Control plan.

(1) Storm water management controls are intended to reduce the impact of storms, enhance groundwater recharge, prevent erosion, sedimentation and flooding and maintain natural drainage ways. The specific intent of these controls is that storm water runoff from any site during and after site disturbance be no greater than that which existed prior to development.

(2) The Erosion and Sedimentation Control Plan shall be designed to adequately control, collect and dispose of storm water drainage from the site including, if necessary, storm sewers, culverts, ditches, swales, retention ponds or and other related storm water control facilities.

(3) Storm frequencies for 2, 5, 10, 25, 50 AND 100 year events shall be evaluated and no greater runoff rate shall be permitted after development than what existed prior to development.

(4) The minimum storage capacity shall be that volume required by routing the after-development 25 year, 24 hour frequency storm released at a rate not to exceed the before-development 10 year, 24 hour discharge.

(5) Information and references regarding the design of ponds or retention basins shall be determined by using the "Standards for Water Management Basin", Centre AND Clinton County Erosion and Sedimentation Control Handbook, 1974 edition, and "Standard Specifications for Ponds", US Department of Agriculture Service Manual, May, 1977, Code 376, or another method approved by the Township.

An Erosion and Sedimentation Control plan consists of two parts: (a) a narrative describing the project and giving the purpose and the engineering assumptions and calculations for control measures and facilities; and (b) a map or maps describing the topography of the area and showing proposed alterations to the area and the erosion and sedimentation control measures and facilities.

(1) The narrative must include the following:

A. General description of the project.
B. General description of storm water handling.
C. General description of accelerated erosion control.
D. General description of sedimentation control.
E. Date project is to begin and expected date final stabilization will be completed.
F. Training and experience of person preparing the plan.

(2) A map of the project area must show the following topographic features:

A. The location of the project relative to highways, municipalities or other identifiable landmarks.
B. Contours at an interval that will adequately describe the topography.
C. Boundary lines of the project area.
D. Acreage of the project.
E. Streams, lakes, ponds or other bodies of water within the project area and/or in the vicinity of the project.
F. Types, depth, slope and aerial extent of soils must be shown. Type may be specified as in a soil survey.
G. Other physical features including scale of map and north arrow.

(3) The proposed alterations to the area must be shown on an additional map.

A. Changes to land surfaces and vegetative cover.
B. Areas of cut and fills.
C. Structures, roads, paved areas, buildings.
D. Storm water control facilities.
E. Contours of finished area at an interval that will adequately described the final topography.

(4) The amount of stormwater runoff from the project area and the upstream water shed area must be described in narrative form. Methods of calculation, factors considered and provisions for safe storm water handling and disposal must be included.

(5) Temporary control measures and facilities for use during earthmoving activities must be shown on a map and described in a narrative. Types, locations, and dimensions of control measures and facilities must be included along with design considerations and calculations. A schedule of staging, installation and operations of the measures and facilities must be outlined in the narrative.

(6) Permanent control measures and facilities for site restoration and long term protection must be shown on a map and described in a narrative.

(7) A maintenance program for the control facilities must be described in a narrative. The methods, frequency and ultimate disposal site for solid waste material must be considered. The facilities must be maintained for their designated operations to insure adequate performance.

In general, all of the above requirements are to be shown on an Erosion and Sedimentation Control plan unless the activity is for minor earthmoving or on a small land area. In any case, sufficient detail must be shown to clearly indicate the plan's effectiveness.

Submission of an Erosion and Sedimentation Control plan to the Township Zoning Officer does not alleviate the applicant's responsibility to obtain all other applicable federal, state and local permits.

6.12 SITE PLANNING REQUIREMENTS IN THE NATURE CONSERVATION (NC) ZONING DISTRICT

This Section is applicable to all subdivision and land development activity in the Nature Conservation (NC) Zoning District involving less than 25 acres. If such activity involves twenty-five (25) acres or more, the provisions of Article XI, Planned Residential and Seasonal Developments, shall apply.

(1) All applications for a zoning permit in the Nature Conservation (NC) District shall include a site plan, copy of proposed deed restrictions in the form of covenants and a model deed which references the covenants. Both the approved site plan and covenants shall be recorded by the applicant at the Clinton County Recorder's Office before issuance of a zoning permit.

(2) The site plan shall locate and identify:

A. Existing and proposed man-made features, including the following: buildings, accessory structures, parking areas, roads normally passable by motor vehicles, sewage disposal facilities, water supply sources, and utilities.

B. Natural features including the following:

1. Wetlands, as shown on the National Wetlands Inventory map of the project area or identified by field assessment;

2. Exceptional Value and Scenic River designated streams as classified by the Pennsylvania Fish Commission;

3. Biological diversity areas as recorded in the Chapman Township Natural Heritage Inventory;

4. Lakes and ponds and watercourses;

5. Areas of slope in excess of twenty-five (25) percent of greater;

6. Soils characterized as unsuitable for building sites or susceptible to septic tank infiltration as classified in Interpretation of Engineering Properties of Soils found in the Chapman Township Soil Survey.

(3) No construction or other activity such as logging shall be carried out within one hundred (100) feet of the features identified above. In the case of wetlands, biological diversity areas and exceptional value and scenic river designated streams there shall be no activity within two hundred (200) feet of the stream. In all cases, proposed land development shall be located so that there is the least impact on these features as possible. Applicable State and Federal permits shall be obtained by the applicant before a zoning permit is issued.

(4) Restrictions and Covenants shall address the following:

A. Any required permits and their conditions;

B. Statement regarding the protection of the natural features listed above and that the owner/applicant shall not disturb the natural environment within a one hundred (100) foot setback of such features;

C. Statement that the owner/applicant will be responsible for the private maintenance of driveways, access roads, sewage disposal facilities, water supply, storm drainage facilities and utilities.

D. Statement that the lot owners shall be responsible for any greater level of service or maintenance than currently exists on the public roads which for purposes of this Ordinance shall only include snow/ice removal, clearing of fallen trees and power lines, stabilization of a mud condition, and repair of drainage washouts.

E. Statement that the lot owners recognize the risks involved in developing in a remote area and that the Township, the Commonwealth of Pennsylvania, and emergency organizations such as fire, medical, and police services shall not be liable to provide the same level of services that would otherwise be expected in a more accessible region.

6.13 PLANNED RESIDENTIAL DEVELOPMENT

A Planned Residential Development as defined by Act 247, the Pennsylvania Municipalities Planning Code, shall be permitted in any zoning district described in this ordinance with the exception of the Nature Conservation and the Commercial Industrial Districts, providing it meets the minimum standards provided by Article IV, Section 4.01 (5) Commercial Residential District and provided it meets the minimum standards provided in the Clinton County Subdivision and Land Development Ordinance.

The following are the purposes of the Planned Residential Development:

(1) To respond to the growing demand for housing of all types and design;

(2) To encourage innovations in residential and nonresidential development and renewal so that the growing demand for housing and other development may be met by greater variety in type, design, and layout of buildings;

(3) To encourage the conservation of natural features and more efficient use of auxiliary open space;

(4) To provide greater opportunities for better housing and recreation to all citizens and residents of this Commonwealth.

(5) To encourage a more efficient use of land and of public services and to reflect changes in the technology of land development so that economies secured may benefit those who need homes; and

(6) To provide a procedure which can relate the type, design and layout of residential and nonresidential development to the particular site and the particular demand for housing existing at the time of development in a manner consistent with the preservation of the property values within existing residential and nonresidential areas.

6.14 RESORT FACILITIES

A. A resort facility shall be permitted in the Forest and Agricultural Districts (FA) by conditional use as may be granted by the Board of Supervisors provided the requirements of this section are met and provided the development meets the

minimum standards provided in the Clinton County Subdivision and Land Development Ordinance.

B. A resort facility under this section shall include a ski resort, golf course, country club and any other place generally equipped with lodging accommodations and facilities for recreation to which people go for rest, relaxation, entertainment and sports activities, either public, private, commercial or non-profit.

C. A resort facility shall meet the following minimum requirements:

1. Minimum lot size shall be 50 acres. No outdoor active recreation area shall be located nearer to any lot line than 300 feet.

2. Outdoor play areas shall be sufficiently screened as to protect the neighborhood from inappropriate noise and other disturbances consistent with the regulations contained in Article IX of this Ordinance.

3. Parking shall be provided in accordance with the schedule adopted in Article X for all structures within the facility. In addition to said parking, additional parking of one space for each employee plus two parking spaces for each 1000 square feet of developed land area shall also be provided.

4. Lot coverage for all structures, parking areas and other impervious surfaces shall not exceed 25% of the total gross land area.

5. Proof of satisfactory water and sewage disposal plans. An approval by any state agency of either the water and/or sewage disposal plan shall be sufficient.

6. All preliminary plans must be reviewed by the County Conservation District, County Planning Commission, and Township Planning Commission prior to a conditional use application being filed.

7. All improvements for streets, driveways, utilities, landscaping, storm water management, etc. shall be designed and constructed in conformance with the standards and requirements of the Clinton County Subdivision and Land Development Ordinance and shall comply with the provisions of Section 6.11 of this Ordinance.

8. Appropriate site plans prepared by a professional engineer or architect shall be presented with the application for the conditional use.

ARTICLE VII
SUPPLEMENTAL REGULATIONS

Amended by Ordinance 2016-01 Section XI-XV

7.00 APPLICABILITY OF SUBDIVISION AND LAND DEVELOPMENT ORDINANCE

Where the regulations identified in this Article apply to subdivision and land development activities, they shall be subject to the provisions of Clinton County's Subdivision and Land Development Ordinance. Plan and procedural requirements for land development are presented in Articles III and IV of said Ordinance. Developers must meet the requirements of said Ordinance in all land development activity.

In addition to the lot size, setback, and other requirements that may be required for each of the land uses listed below, all land uses shall meet the requirements of the District in which they are located. In the event of a conflict, the more restrictive provisions shall apply.

7.01 ADULT ENTERTAINMENT (COMMERCIAL STORES)

Within the I District, adult commercial stores are permitted as a special exception subject to the following requirements:

(1) The building or structure of such use shall be located not less than five hundred (500) feet from any residential use or district, public or private school, church, day care centers, recreation facility or any other religious, institutional, or educational use.

(2) No such use shall be located within two thousand (2,000) feet of a similar use.

(3) No materials sold within shall be visible from any window, door, or exterior of the building.

(4) No person under the age of eighteen (18) years of age shall be permitted within an adult commercial store or sold any pornographic material.

(5) Signage shall be limited to one attached sign no larger than twenty (20) square feet. Signage may be lighted by a covered and recessed fixture located at the top or base of the sign.

7.02 ANIMAL HOSPITALS AND VETERINARY FACILITIES

Within the C and FA Districts, animal hospitals and veterinary facilities are permitted by special exception, subject to the following requirements:

(1) All animal boarding facilities that are not wholly-enclosed, any outdoor animal pens, or runways shall be located within the rear yard.

(2) Any animal boarding facility that is not wholly-enclosed, any outdoor animal pens, stalls, or runways shall be a minimum of one hundred (100) feet from all property lines.

(3) All outdoor pasture/recreation areas shall be enclosed to prevent the escape of the animals; all such enclosures shall be set back a minimum of ten (10) feet from all property lines.

7.03 AUTOMOBILE FILLING STATION (INCLUDING MINOR REPAIR)

Within the C District, automobile filling stations, (including minor incidental repair) are permitted by special exception, subject to the following conditions:

(1) The subject property shall front on an arterial or collector road as defined in the Definition Section of this Ordinance.

(2) The subject property shall be set back at least three hundred (300) feet from any lot containing a school, day care facility, playground, library, hospital or nursing, rest or retirement home.

(3) The storage of motor vehicles (whether capable of movement or not) for more than one (1) month period is prohibited.

(4) Any parts removed from repaired vehicles shall not remain on the site longer than forty-eight (48) hours.

(5) The outdoor storage of auto parts shall not be permitted.

(6) Access driveways shall be a minimum of thirty (30) feet wide.

(7) All ventilation equipment associated with fuel storage tanks shall be set back one hundred (100) feet and screened from any adjoining residential properties in accordance with Article IX of this Ordinance.

7.04 AUTOMOBILE REPAIR OR BODY WORK FACILITY

Automobile repair garage, including paint spraying and body and fender work shall be permitted as a special exception in the C District, subject to the following requirements:

(1) All automobile parts, refuse, and similar articles shall be stored within a building or enclosed area.

(2) All repair and paint work shall be performed within an enclosed building.

(3) No junk vehicles may be stored in the open for a period of longer than one hundred eighty (180) days. No more than three (3) such vehicles may be stored in the open.

(4) Signage shall be limited to one attached sign no larger than twenty (20) square feet and/or one (1) perpendicular hanging sign no larger than twelve (12) square feet and one free standing sign no larger than twelve (12) square feet set back at least twenty (20) feet from the adjoining road right-of-way. In the event the financial establishment is located at an intersection, two (2) such signs shall be permitted.

(5) Minimum lot width of not less than two hundred fifty (250) feet shall be provided along each street on which the lot abuts.

(6) Access to roads shall be at least one hundred (100) feet from the intersection of any streets.

7.05 AUTOMOBILE SALES

Sale of automobiles by a duly franchised new car dealership, used car sales, truck, trailer, cycle and boat rental shall be permitted as a special exception within the C District, subject to the following requirements:

(1) Minimum lot width of not less than two hundred fifty (250) feet shall be provided along each street on which the lot abuts.

(2) Access to roads shall be at least one hundred (100) feet from the intersection of any streets.

(3) All automobile parts and similar articles shall be stored within a building.
(4) All fuel shall be stored within a building or enclosed area.

(5) Lubrication, oil changes, tire changes, and minor repairs must be performed within a building.

(6) Signage shall be limited to one attached sign no larger than twenty (20) square feet and/or one (1) perpendicular hanging sign no larger than twelve (12) square feet and one free standing sign no larger than twelve (12) square feet set back at least twenty (20) feet from the adjoining road right-of-way. In the event the financial establishment is located at an intersection, two (2) such signs shall be permitted.

7.06 BED AND BREAKFAST/GUEST HOUSE

The use and occupancy of a detached dwelling for the accommodation of transient guests is permitted by special exception in any district which permits single-family dwelling units, subject to the following requirement:

(1) No more than six (6) guest rooms may be provided. No more than two (2) adults and three (3) children may occupy one guest room.

(2) There shall be no advertising visible outside the premises to attract guests other than a single, non-illuminated sign which shall not exceed twelve (12) square feet. No external alterations, additions, or changes to the exterior structure shall be permitted except as required by the Pennsylvania Department of Labor and Industry.

(3) The use shall be carried on primarily by members of the immediate family which must reside on the premises. Non-resident employees shall be limited to two (2) in addition to the resident members of the family.

(4) There shall be no separate kitchen or cooking facilities in any guest room. Food served to guests on the premises shall be limited to breakfast and afternoon refreshments only.

(5) The use of any amenities provided by the guest house such as swimming pool or tennis courts shall be restricted in use to the guests.

(6) The use may not be established until there is compliance with all Township zoning rules and regulations.

7.07 CAMPGROUND, COMMERCIAL AND PRIVATE

Commercial and private campgrounds (including recreational vehicle parks and cottage developments) shall be permitted as special exceptions in the FA Zoning District, subject to the following requirements:

(1) All campgrounds are subject to Township permitting procedures and to the provisions for land development as found in the Clinton County Subdivision and Land Development Ordinance and are subject to plan submittal procedures of Articles III and IV of that Ordinance.

(2) All campgrounds must secure a Campground Permit from the Pennsylvania Department of Environmental Protection.

(3) Minimum tract size for all campgrounds in the FA Zoning District is fifteen (15) acres.

(4) The following requirements apply to all private camps and cottage development:

A. Permitted use shall be seasonal only, not exceeding one hundred eighty (180) days during any calendar year.
B. No mobile homes shall be permitted.

C. Cottages shall be clustered, but the maximum overall density shall not exceed one (1) cottage for every two (2) acres.

(5) The following standards apply to all commercial campgrounds:

A. There shall be a minimum of two thousand (2,000) square feet of area provided each campsite.

B. Campsites shall abut internal driveways for vehicular ingress and egress, except for tent campsites which shall be two hundred fifty (250) feet maximum from an internal driveway.

C. All campgrounds shall furnish centralized sanitary and garbage collection facilities that shall be set back a minimum of one hundred (100) feet from any property line. Such facilities shall be screened from adjoining residentially-zoned properties.

D. Recreational vehicles shall be separated from each other and from other structures by at least ten (10) feet. Any accessory structure such as attached awnings, carports, or individual storage facilities shall, for purposes of this separation requirement, be considered to be part of the vehicle.

(6) Accessory Uses:

A. Accessory uses such as management headquarters, camp store, "bathhouse" and structures customarily incidental to operation of a campground are permitted, provided:

1. Such establishments shall be restricted in their use to occupants of the campground only.

2. Their commercial character (which would attract customers other than occupants of the campground) shall be invisible.

B. Signage shall be limited on two (2) signs which together total twenty (20) square feet of sign face.

7.08 CAR WASH

Within the C District, car washes are permitted as a special exception subject to the following requirements:

(1) No sinkhole, stream or watercourse shall be used for the draining of car wash affluent or waste water.

(2) Each washing bay shall provide an on-site stacking lane at least eighty (80) feet long.

7.09 CEMETERY

Within the FA and R Districts, cemeteries, including mausoleums are permitted by special exception, subject to the following conditions:

(1) The minimum lot area shall be five (5) acres.

(2) The cemetery association, or operators, must provide assurances that water supplies of properties surrounding the cemetery will not be contaminated by burial activity.

(3) Burial plots or facilities shall not be permitted in flood plain areas.

7.10 CHEMICAL PLANTS AND STORAGE FACILITIES

Chemical plants and storage facilities shall be permitted as a special exception in the I District subject to the following requirements:

(1) All activities must be in compliance with applicable federal, state and local regulations.

(2) An Erosion and Sedimentation Control Plan, as described in Section 6.11 and approved by the Clinton County Soil Conservation District, shall be implemented to minimize the adverse impact of the activity. Additional measures determined as necessary by the Township Planning Commission may be required.

(3) All activities except outdoor material storage must be conducted within an enclosed structure.

(4) All activities must be entirely fenced with opaque material at least ten (10) feet in height. A living fence may not be substituted.

(5) No activity or part thereof will be located closer than three hundred (300) feet to the lot line of any school, hospital, nursing home or dwelling unit.

(6) Setbacks on all sides must be at least three hundred (300) feet.

7.11 CHURCH RELATED EDUCATIONAL OR DAY CARE FACILITIES

Within the FA and R Districts, church related and day care facilities are permitted as a special exception, subject to the following requirements:

(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 onsite outdoor play area shall be provided, at a rate of one hundred (100) square feet per/user. 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 (25) feet from all property lines. Outdoor play areas shall be completely enclosed by a six-foot-high fence, and screened from adjoining residentially-zoned properties. 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-day period.

(4) Passenger "drop-off" areas shall be provided and arranged so that passengers do not have to cross traffic lines 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 District.

7.12 CLUBS, LODGES AND FRATERNAL ORGANIZATIONS

Within the C District, clubhouses, lodges and fraternal organizations are permitted by special exception subject to the following requirements:

(1) All private clubs shall have access to a private or public road.

(2) All off-street parking shall be located to the sides or rear of the principal structure but no closer than twenty-five (25) feet from the right-of-way line of adjoining road(s) or thirty (30) feet from any adjoining residential lot lines.

(3) All outdoor recreation/activity areas shall be set back at least fifty (50) feet from any property line.

(4) A vegetative buffer shall be provided along any adjoining residential zoned property.

7.13 COMMERCIAL DAY CARE CENTER

A commercial day care center is permitted as a special exception in the FA and R Districts, subject to the following requirements:

(1) Care is provided for seven (7) or more children, at any one time, where the child care areas are not being used as a family residence.

(2) All facilities require approval or licensure, as specified by the Pennsylvania Department of Public Welfare and the Pennsylvania Department of Labor and Industry.

(3) The minimum yard, setback and lot width requirements for other permitted uses in the applicable zoning districts shall be met.

(4) Sewer and water services shall be provided in accordance with the Clinton County Subdivision and Land Development Ordinance.

(5) No commercial day care center shall be constructed within one-half (0.5) mile radius of any other group home.

7.14 COMPOSTING AS A PRINCIPAL USE

Composting as a principal use shall be permitted as a special exception in the I District subject to the following requirements:

(1) All activities must be in compliance with all applicable federal, state and local regulations.

(2) An Erosion and Sedimentation Control Plan, as described in Section 6.11 and approved by the Clinton County Soil Conservation District, shall be implemented to minimize the adverse impact of the activity. Additional measures determined as necessary by Chapman Township may be required.

(3) All activities except outdoor material storage must be conducted within an enclosed structure.

(4) All activities must be entirely fenced with opaque material at least ten (10) feet in height. A living fence may not be substituted.

(5) No activity or part thereof will be located closer than three hundred (300) feet to the lot line of any school, hospital, nursing home or dwelling unit.

(6) Setbacks on all sides must be at least three hundred (300) feet.

7.15 GROUP HOME

Group homes are facilities intended to accommodate special persons (Article III Definitions) and are permitted as special exceptions in the FA and R Districts, subject to the following requirements:

(1) The number of persons living in such a group home shall be four (4) or more in number and shall include at least one (1) on-site support staff member who shall not be included in the maximum number.

(2) All group home structures should have the appearance of single family or other traditionally residential structures.

(3) All group homes shall meet the minimum yard, setback and lot width requirements for detached dwellings in the applicable Zoning District.

(4) A group home must be sponsored and operated by a group, organization or corporation licensed by either the Township or the State. Proof of licensing shall be submitted with applications for the group home use. Proof of compliance with all applicable Township or State regulations shall be furnished to the Township Zoning Officer within three (3) months of the granting of the zoning permit.

(5) Sewer and water services shall be provided in accordance with the Clinton County Subdivision and Land Development Ordinance.

(6) No group home shall be constructed within a one-half (0.5) mile radius of any other group home.

7.16 HOME OCCUPATION

Home occupations are permitted as accessory uses in all Districts except C and I, subject to the following requirements:

(1) The home occupation shall be carried on only by a member of the immediate family with a maximum of two (2) non-resident employees.

(2) The character or external appearance of the dwelling unit or accessory structure must be consistent with the Zoning District. No display of products may be shown so as to be visible from outside.

(3) A nameplate not larger than six (6) square feet in area shall be permitted. It can be neither animated or illuminated by direct light.

(4) Not more than forty-five (45) percent of the habitable floor area of a dwelling unit may be devoted to a home occupation.

(5) The premises must at all times be kept neat and orderly.

(6) The use will not result in substantial increase in traffic. A twenty (20) percent increase in traffic shall be regarded as substantial.

(7) The use will not involve any waste product other than domestic sewerage or municipal waste.

(8) The use will not involve the sale of any item except as incidental to the home occupation.

(9) If an existing accessory building is to be enlarged or a building constructed to accommodate the proposed use, the building after enlargement or construction shall not have a floor area in excess of fifty (50) percent of the floor area of the principal building.

(10) The use will not be one which creates dust, heat, glare, smoke, vibration audible noise, or odors outside the building.
(11) The applicant must supply to the Township Zoning Officer such information to ensure that all of the above requirements will be met. The zoning permit once issued shall continue in effect as long as there is no change in the nature or extent of the use.

7.17 JUNK YARDS

Within the I District, junk yards shall be permitted as a special exception, subject to the following requirements:

(1) Compliance with Chapman Township Ordinance No. 21, as amended.

(2) The deposit or storage for more than one hundred twenty (120) days of two (2) or more motor vehicles not having valid inspection stickers issued by the Pennsylvania Department of Transportation, excluding farm vehicles, or of two (2) or more wrecked or broken vehicles, or the major parts of two (2) or more such vehicles, shall be deemed to make the lot a junk yard.

(3) No material shall be placed in any junk yard in such a manner that is capable of being transferred out of the junk yard by wind, water, or other natural causes.

(4) The boundaries of any junk yard shall at all times be clearly delineated.

(5) All paper, rags, cloth and other fibers, and activities involving the same, other than loading and unloading, shall be kept within fully enclosed buildings.

(6) The land area used for junk yard purposes shall not be less than five (5) acres and shall not be exposed to public view from any public street or road by virtue of its location on a hillside or location on a plateau below street level.

(7) Screening of the junk yard from neighboring land uses shall, as a minimum, require the following:

A. The junk yard shall be entirely enclosed by a fence at least eight (8) feet by no more than ten (10) feet high constructed of approved fencing material with access only through solid gates. Such fence or wall shall be kept in good repair. A chain link fence with opaque insets and dense plantings of evergreen, which shall shield the view of the property, or acceptable perennial species, is an example of an approved fencing material.
B. The contents of such a junk yard shall not be placed or deposited to a height greater than the height of the fence or wall herein prescribed.
C. The fence or wall shall be situated no closer to any street or property line than fifty (50) feet. Between the fence or wall and the street or property line, additional buffer plantings shall be placed so as to minimize the effect of a single fence and hedgerow.

(8) All materials shall be stored in such a manner as to prevent the breeding or harboring of rats, insects, or other vermin. When necessary, this shall be accomplished by enclosure in containers, raising of materials above the ground, separation of types of material, preventing the collection of stagnant water, extermination procedures, or other means.

(9) No burning shall be carried on in any junk yard. Fire shall be prevented and hazards avoided by organization and segregation of stored materials, with particular attention to the separation of combustibles from other materials and enclosure of combustibles where necessary (gas tanks shall be drained), by the provision of adequate aisles at least fifteen (15) feet for escape and fire fighting, and by other necessary measures.

7.18 KENNELS

Within the C and FA Districts, kennels are permitted by special exception subject to the following requirements:

(1) All animal boarding buildings that are not wholly-enclosed and any outdoor animal pens, stalls or runways shall be located within the rear yard.

(2) All animal boarding buildings that are not wholly-enclosed and any outdoor animal pens, stalls, or runways shall be a minimum of one hundred (100) feet away from all property lines.

(3) All outdoor running areas shall be enclosed to prevent the escape of the animals; all such enclosures shall be a minimum of ten (10) feet from all property lines.

(4) All animal wastes shall be regularly and properly disposed of.

(5) The applicant shall demonstrate a working plan to prevent or alleviate any noise problems emanating from animals boarded on the site.

7.19 LIQUID FUEL STORAGE AND DISTRIBUTION

Operations utilizing liquid fuel storage and distribution shall be permitted as a special exception in the C and I Districts subject to the following requirements:

(1) No activity or part thereof shall be located closer than three hundred (300) feet to the lot line of any school, hospital, nursing home or dwelling unit, nor closer than one hundred (100) feet from a public right-of-way.

(2) The activity must be entirely fenced with opaque material at least ten (10) feet in height. A living fence may not be substituted.

7.20 LOGGING INVOLVING LAND AREA OF MORE THAN TWENTY-FIVE (25) ACRES

This section DELETED by Ordinance 2016-01 Section XI

The Chapman Township Zoning Officer shall require the applicant to comply with all of the following when environmental conditions exist that impact on public safety, health and welfare of the residents of the Township.

(1) A copy of all applicable federal, state and local permits shall be provided to the Township Zoning Officer.

(2) An erosion and sedimentation control plan, as described in Section 6.11 and approved by Clinton County Soil Conservation District, shall be implemented to minimize the adverse impact of the activity. Additional measures determined as necessary by the Planning Commission may be required.

(3) A study or studies performed to the satisfaction of Chapman Township showing the impact of the use on public safety, health and welfare including, but not limited to, public or individual water systems, transportation networks, air quality, water quality, etc. The cost of said study shall be borne by the applicant.

7.21 MANUFACTURING

Manufacturing, including the production, processing, cleaning, testing, and distribution of materials, goods, foodstuffs, and products shall be a permitted use in the I District subject to the following requirements:

(1) The screen requirements of Article IX and the sign regulations of Article VIII of this Ordinance shall be met.
(2) Parking: Three (3) off-street parking spaces for every four (4) employees on the largest shift, plus one (1) space for each company vehicle normally stored on the premises.

(3) Wholesale sales are permitted when linked with production of the sale items on the same premises.

(4) No toxic or chemical wastes shall be stored on the site except in a manner approved by the PA Department of Environmental Resources and with the knowledge of the fire companies serving the area.

7.22 MINI-WAREHOUSE

Warehouse/storage units provided for lease to the general public for the purpose of storage of small-scale articles are permitted as a special exception in the C District, subject to the following requirements:

(1) Unit Requirements:

Maximum number of units - four (4).
Maximum square feet per unit - 3,000 sq. ft.

(2) No outdoor storage shall be permitted.

(3) There shall be no storage of explosive, toxic, radioactive or highly flammable materials.

(4) Area shall be kept free of junk and debris at all times.

7.23 MOBILE HOMES ON INDIVIDUAL LOTS

A mobile home shall be permitted on an individual lot in any District permitting single family residences. When reviewing permit applications for such mobile homes, the Township Zoning Officer shall utilize the following criteria and may require additional information to be submitted where it is necessary in order to adequately protect the health, safety, and welfare of Township residents.

(1) Every lot to be used for the placement of an individual mobile home shall have a gross area at least equal to the minimum lot size of the District in which it is located. In addition, the unit must be situated on the lot to meet the applicable minimum setback line requirements.

(2) All mobile homes shall be placed upon one of the following types of foundations:

A. Permanent Foundation. A permanent foundation shall consist of no less than footers or masonry construction set well below the frost line. Such foundation shall be constructed to leave no unnecessary open space between the mobile home and the foundation, except for windows or other openings as might be necessary for purposes such as flood proofing.

B. Stand or Pad. A pad or stand, properly graded, placed and compacted so as to be durable and adequate to support maximum anticipated loads during all seasons may be utilized.

(3) Every mobile home shall be firmly anchored to its foundation prior to the unit being occupied. The mobile home foundation shall be provided with anchors and tie-downs, such as cast-in-place concrete "deadman" eyelets embedded in concrete or runways, screw augers or arrow head anchors. The anchoring system shall be designed to resist a wind velocity of at least ninety (90) miles per hour.

(4) Each mobile home shall have a continuous wall around its entire perimeter in accordance with one of the following methods:

A. Permanent Walls. A permanent wall may be constructed of concrete or masonry and shall extend from the unit floor system to concrete footing below the subgrade frost line; i.e. the extension of a permanent foundation.

B. Skirting. If a masonry wall is not used, each mobile home shall be encircled with skirting designed to compliment its appearance. Skirting shall include materials which have been prefabricated for this specific purpose. Bales of hay or plywood shall not be allowed.

(5) Access to crawl space created by the installation of a wall shall be provided by means of a door or panel capable of being locked.

(6) Every unit to be used as a dwelling unit must contain a minimum of six hundred fifty (650) square feet of habitable floor area.

(7) Every unit which is to be placed in the Floodplain must comply with all provisions contained in the Municipal Floodplain Ordinance.

7.24 MOBILE HOME PARKS

Mobile home parks are permitted as a special exception in the A and FA Districts, subject to the provisions of Article VII of the Clinton County Subdivision and Land Development Ordinance.

7.25 MULTI-FAMILY DWELLINGS

Multi-family dwellings shall be defined as a single structure designed for and constructed to contain three (3) or more dwelling units and shall be permitted as a special exception in the FA, and R Districts. Every such structure shall meet the requirements of Article VI, Section 602.4 of the Clinton County Subdivision and Land Development Ordinance and the requirements outlined below:

(1) Design Standards

A. Site Plan Specifications and Procedures
All procedures shall conform to Articles III and IV of the Clinton County Subdivision and Land Development Ordinance.

B. Minimum Lot Area

1. Each multi-family dwelling shall have a gross area at least equal to the minimum lot size for the District in which it is located, plus an additional fifteen (1500) square feet for each dwelling unit where the structure is situated in a residential district.

2. Where individual dwelling units of a townhouse or other single-family attached dwellings are to be conveyed, and adequate arrangements can be made for sewage treatment, the following shall apply:

Interior Lot Area	8,000 sq. ft.
Exterior Lot Area	10,000 sq. ft.

C. Traffic access and Parking Facilities. All new streets or access drives shall be designed and constructed in accordance with Article X of this Ordinance.

D. Sewage and Water Facilities. The developer must provide adequate water and sewage facilities, preferable by public or community facilities and comply with Sections 510 and 511 of the Clinton County Subdivision and Land Development Ordinance.

E. Application for multi-family dwellings shall include a Stormwater Management Plan in accordance with Section 513 of the Clinton County Subdivision and Land Development Ordinance.

7.26 NATURAL RESOURCES, MINING AND EXTRACTIVE OPERATIONS

Natural resource uses such as logging involving more than five (5) acres, excavating, quarrying, mining, and the processing of top soils, gravel, sand, clay, shale or other natural formations such as natural gas production and/or storage, shall be permitted as a special exception in the FA and I Districts subject to the following requirements:

(1) All activities must be compliance with all applicable federal, state and local regulations.

(2) An Erosion and Sedimentation Control Plan, as described in Article VI Section 6.11 and approved by the Clinton County Soil Conservation District, shall be implemented to minimize the adverse impact of the activity. Additional measures determined as necessary by Chapman Township may be required.

(3) When applying for a zoning permit, the application shall provide the following plans and information:

Site Plan Specifications

A. The applicant shall provide a full set of all documentation and plans required to meet the permit requirements of the PA Department of Environmental Protection.

B. Analysis of the impact upon roads shall be presented and the weight of trucks indicated.

Performance Standards

A. Access. Truck access shall minimize danger to traffic and avoid nuisance to surrounding properties.

B. Dust Abatement. The applicant shall describe how mud and dust will be controlled during operations.

C. Setbacks. No excavation, quarry wall, storage or area in which processing is conducted shall be located within two hundred (200) feet of any lot line, two hundred (200) feet of any street right-of-way, or within two hundred (200) feet of any zoning district boundary line.

7.27 PLANING MILL/SAWMILL

Planing mills where wood products are sold or processed to finished items shall be permitted as a special exception in the FA, and I Districts.

(1) The principal use may be combined with a lumber yard.

(2) The screening requirements of Article IX of this Ordinance shall be met.

(3) The noise level shall not exceed sixty-five (65) decibels at property line.

(4) As a minimum, the structure containing the saws and/or planing equipment shall be located at a minimum of two hundred (200) feet from any residential property.

(5) No chemicals or creosote shall be used on the premises as an additive to the wood products in any case where the facility is located closer than two hundred (200) feet of a water course.

7.28 PROFESSIONAL OFFICES

Professional offices shall be permitted as a special exception in the FA and R Districts subject to the following requirements:

(1) Examples of permissible professional offices include the practice of engineering, medicine and dentistry, law, accounting, and architecture.

(2) One (1) off-street parking space shall be provided for each three hundred fifty (350) square feet of office space in addition to any other uses requiring parking spaces.

(3) Access is from a primary street which has a right-of-way width of not less than thirty-two (32) feet.

7.29 RECYCLING COLLECTION POINTS

Recycling collection points, or drop box sites, designed for the efficient disposal and collection of recyclable materials, may be established as a special exception in the FA, C and R Districts, subject to the following requirements:

(1) All recyclable shall be placed in enclosed and labeled containers expressly provided for this purpose.

(2) The container, or containers, shall be setback at least twenty (20) feet from the roadway right-of-way, or thirty (30) feet from the center line of the roadway, whichever is greater. A paved apron at least ten (10) feet wide is also required.

(3) The recycling area shall have a buffer on each side, which consist of trees and shrubs.

7.30 RESIDENTIAL AND SEASONAL DWELLINGS (INDIVIDUAL)

Individual residential and seasonal dwellings that are not part of a Planned Residential and Seasonal Development as described in Article XI are permitted in the Nature Conservation (NC) District, subject to the following requirements;

(1) The minimum lot size is five (5) acres per dwelling. However, one (1) seasonal dwelling may be permitted on a lot of less than five (5) acres if the lot existed prior to the effective date of this Ordinance, and there are no existing dwellings on the lot.

(2) There shall be only one principal building per lot. All other buildings and uses shall be limited to accessory uses which are clearly incidental and subordinate in size and mass to the principal use.

(3) Temporary living arrangements for seasonal dwellings shall not be allowed for more than one hundred eighty (180) days per year. Temporary living arrangements using recreational vehicles as defined in Article III of this Ordinance shall not be allowed.

(4) All living arrangements, whether temporary or permanent, shall comply with the Municipal Privy Ordinance which includes soil suitability testing and approval by the Sewage Enforcement Officer.

(5) Individual dwelling units located in the District shall comply with applicable provisions of the Township Subdivision and Land Development Ordinance. If an inconsistency is found, the stricter requirement shall apply.

7.31 RESIDENTIAL CONVERSION

The following standards shall apply to the conversion of an existing single family detached dwelling when permitted under this Ordinance:

(1) The maximum number of dwelling units resulting from conversion shall be three (3).

(2) The minimum space per dwelling unit shall be seven hundred (700) square feet.

(3) The conversion dwelling shall maintain the facade and appearance of a single dwelling with a single front entrance. The dwelling units may share the single front entrance.

(4) Except as may be necessary for purposes of safety, the building shall retain the same structural appearance it had before such conversion.

(5) Additional entrances, when required, shall be placed on the side or rear of the building. Exterior stairways and fire escapes shall be located on the rear wall in preference to either side wall, and in no case be located on a front or side wall facing a street.

(6) Separate cooking and sanitary facilities shall be provided for each dwelling unit, except where a family relative or dependent customarily takes their meals with a family member.

(7) A floor plan shall be included with the application. A lot plan shall also be included in the application which identifies off-street parking and other lot improvements.

(8) The minimum lot area and bulk regulations for the applicable zoning district shall be met.

(9) Twenty-five (25) percent of the lot area shall be reserved and maintained as common open space for residents of the dwelling units.

7.32 RESIDENTIAL DEVELOPMENT ON AGRICULTURALLY PRODUCTIVE LAND

Single-family dwelling units shall be located so as to utilize the least agriculturally productive land feasible in order to minimize interference with agricultural production.

(1) Land shall be considered of low quality for agricultural use if:

A. The land cannot feasibly be farmed due to existing features of the site such as rock outcroppings, surface rock that inhibits plowing, heavily wooded areas or slopes in excess of fifteen (15) percent;

B. The land consists of Soil Classes III, IV, or V; or

C. Identified as such by the Clinton County Conservation District.

(2) The minimum lot size per dwelling shall be one (1) acre.

(3) Prime farmland, Soil Classes I and II, shall not be used for residential development except in the case where 1) the size or shape of the parcel will not permit efficient use of farm machinery, or 2) no other land on the tract can be used for residential development.

(4) In any case, the maximum number of units which can be located on prime farmland shall not exceed one (1) single family residence for every ten (10) acres.

7.33 RETIREMENT COMMUNITY

Within the FA, and R Districts, a retirement community designed to accommodate people of retirement age is permitted as a special exception, subject to the following requirements:

(1) The density, open space, minimum site area and impervious surface standards for the applicable zoning district and use shall be met.

(2) Residents must be at least fifty-five (55) years of age, with no children at home under the age of eighteen (18).

(3) Prior to final approval, the Township must be satisfied with legal arrangements pertaining to age restrictions.

(4) A multi-purpose community center is permitted as part of the retirement development.

7.34 ROADSIDE FARM STAND

A permanent structure or building used for the display and sale of farm products, produced or raised on the premises shall be permitted as an accessory use in the FA District, subject to the following requirements:

(1) Such use shall exclude card tables, wagons, benches and similar temporary set-ups that do not accompany a permanent farm stand.

(2) The roadside farm stand is an accessory use to a farm.

(3) A roadside farm stand may only be located on the lot from which the products for sale in it originate.

(4) There shall be only one (1) roadside farm stand per lot.

(5) A roadside farm stand may also sell farm products from any farm abutting the lot on which the farm stand is located.

(6) Combined building floor area and horizontal space within or under a structure shall not exceed fifteen hundred (1500) square feet.

(7) A farm stand may be located on a lot with other permitted uses.

7.35 RURAL RETAIL SHOPPING CENTER

A neighborhood or small retail shopping center, or plaza, that is planned and designed as a complex of related structures shall be permitted as a special exception within the District, and a permitted use in the C District, subject to the following requirements:

(1) Rural shopping centers shall have a minimum site area of five (5) acres.

(2) Medical office, professional office, retail stores, service businesses, financial establishment, eating place, indoor entertainment, and theater may be permitted.

(3) The development shall be designed as a single architectural style.

(4) The distance between buildings shall be twenty (20) feet.

(5) Lighting facilities shall be provided and arranged in a manner which will protect neighboring properties from direct glare.

(6) A landscaped buffer along any residential or agricultural area shall be provided and shall be not less than seventy-five (75) feet in width, measured from the shopping center boundary. The buffer shall consist of trees and shrubs and ground cover with a minimum cover of five (5) trees per one hundred (100) lineal feet. Trees shall be at least two (2) inch caliper and staked at the time of planting. Other buffer requirements of this Ordinance shall also apply.

(7) All streets, parking areas, loading and other areas designed for vehicular use shall be in accordance with Article X of this Ordinance.

7.36 SANITARY LANDFILLS AND TRANSFER STATIONS

Sanitary landfills and transfer stations shall be permitted as a special exception in the I District subject to the following requirements:

(1) All activities must be in compliance with all applicable federal, state and local regulations.

(2) All activities must be entirely fenced with an opaque material at least ten (10) feet in height. A living fence shall not be substituted.

(3) Setbacks on all sides must be at least three hundred (300) feet.

(4) All access roads must be constructed to meet the requirements of the Pennsylvania Department of Transportation Form 408.

7.37 SWIMMING POOLS (PRIVATE)

Private swimming pools are permitted in all Districts except C and I as an accessory use, subject to the following requirements:

(1) The pool shall be intended and shall be used solely for the enjoyment of the occupants and their guests of the principal use of the property.

(2) The pool shall be located in either the rear or side yard of the property.

(3) All in-ground pool areas shall be fenced or otherwise protected so as to prevent uncontrolled access by children from the street or adjacent properties. The barrier shall be not less than four (4) feet in and shall be maintained in good condition.

(4) For above ground pools, the pool shall be fenced as described above or it shall contain a fence and locked gate around its deck or a retractable ladder when not in use.

Amended by Ordinance 2006-01 Sections XI, XII, XIII, XIV, XV, and XVI
The following sections have been added:
Section 7.38 *"Regulations Governing Communications Antenna, Antenna Arrays & Communications Equipment Buildings"*
Section 7.39 *"General Regulations and Standards Governing Communications Towers*
Section 7.40 *"Regulations & Standards Governing Temporary Wireless Communications Facilities*

Further Amended by Ordinance 2016-01 Sections XII, XIII, XIV, and XV

Section 7.41 *"Regulations Governing Oil & Gas Operations"*
Section 7.42 *"Regulations Governing Natural Gas Compressor, Storage Facilities & Metering Stations"*
Section 7.43 *"Noise Protection Levels"*
Section 7.44 *"Regulations Governing Farm Animals"*

ARTICLE VIII

SIGN REGULATIONS

8.00 GENERAL

The following regulations shall apply to all Zoning Districts.

(1) Permits to construct, install, and maintain signs shall be obtained from the Township Zoning Officer.

(2) Signs may be erected and maintained only when in compliance with the provisions of this Ordinance and all other Ordinances and Regulations relating to the erection, alteration, or maintenance of signs.

(3) Signs shall not contain moving parts nor use flashing or intermittent illumination. The source of light shall be steady and stationary.

(4) No sign shall be placed in a position, or have illumination that it will cause any danger to pedestrians or vehicular traffic.

(5) Floodlighting of any sign shall be arranged so that the source of light is not visible nor glare is detected from any property line or vehicular access, and that only the sign is illuminated.

(6) No sign other than official traffic signs shall be erected within the right-of-way lines of any street.

(7) Every sign must be constructed of durable material and be kept in good condition. Any sign which is allowed to become dilapidated shall be removed by the owner, or upon failure of the owner to do so, by the Township at the expense of the owner or lessee. The Township Zoning Officer shall make such determination as to state of repair. All violations shall be corrected within ninety (90) days of receiving notice of violation.

(8) No sign shall be erected or located as to prevent free ingress to or egress from any window, door, fire escape, sidewalk or driveway.

(9) No sign shall be erected which emits smoke, visible vapors or particles, sound or odor.

(10) No sign shall be erected which uses an artificial light source, or reflecting device, which may be mistaken for a traffic signal.

(11) No sign shall be erected containing information which implies that a property may be used for any purpose not permitted under the provisions of this Ordinance.

(12) No sign shall be placed on any tree except political signs, yard or garage sale signs, hunting and trespassing signs. Any political, yard or garage sale signs must be removed no later than five (5) days after the cessation of the posted event.

(13) The distance from ground level to the highest part of any free-standing sign shall not exceed eight (8) feet in residential districts.

(14) No free-standing sign shall be located within the street right-of-way.

(15) Signs shall not project above the maximum building height permitted in any District in which they are located.

(16) Signs necessary for the identification, operation, and protection of public utilities, may be erected within the street right-of-way when authorized by the Township Zoning Officer for a special purpose and for a specified time.

(17) Only parallel signs are permitted in areas of limited yard setback.

(18) All signs erected along the right-of-way of a state highway shall be in accordance with the regulations of Pennsylvania Department of Transportation.

8.01 SIGNS PERMITTED IN THE R DISTRICT

(1) Official traffic signs.

(2) Identification signs, bulletin or announcement boards for schools, churches, hospitals, or similar institutions, and for clubs, lodges, farms, estates, or similar uses, provided that:

A. No more than two such signs shall be erected on any frontage to any one property.

B. The area on one side of any such sign shall not exceed twelve (12) square feet.

(3) Professional, home occupation, or name sign indicating the name, profession, or activity of the occupant of a dwelling, provided:

A. The area of any one side of any such sign shall not exceed six (6) square feet.

B. One such sign shall be permitted for each permitted use or dwelling.

C. Signs indicating a permitted non-residential use shall be erected on the property where that use exists.

D. The sign shall not be illuminated or animated.

(4) Real estate signs, including signs advertising the rental or sale of premises, provided that:

A. The area on any one side of any such sign shall not exceed six (6) square feet.

B. A sign shall be located on the property to which it refers.

C. Such signs shall be removed within fourteen (14) days upon the sale of the premises.

D. Not more than one such sign shall be placed on any one street frontage.

(5) Temporary signs of contractors, architects, special events, and the like, provided that:

A. Such signs shall be removed within fourteen (14) days upon completion of the work or special event.

B. The area of such signs shall not exceed six (6) feet.

C. Such signs shall be located on the applicable property.

(6) Signs advertising an existing non-conforming use, provided that:

A. The area on one side of such sign shall not exceed six (6) square feet.

B. The sign shall be erected only on the applicable premises.

C. No more than one such sign shall be erected on any one street frontage.

(7) Signs necessary for the identification and protection of public utility corporation facilities, provided that the area of one side of such sign shall not exceed four (4) square feet.

(8) Signs within a residential subdivision to direct persons to a rental office or sample unit within that subdivision provided that the area on one side of any such sign shall not exceed two (2) square feet.

(9) Trespassing signs and signs indicating the private nature of the premises. The area of any one side of such signs shall not exceed two (2) square feet and the signs shall be placed at intervals of not less than one hundred (100) feet along any street frontage.

(10) Sign denoting the name of a subdivision or development, provided that:

A. The area on one side of such sign shall not exceed twenty-four (24) square feet.

B. The sign shall be erected only on the premises on which the subdivision or development is located.

C. No more than one such sign shall be erected on any one street frontage.

(11) Free-standing signs, provided that no more than one (1) free-standing sign, exclusive of all directional signs, shall be allowed on any one property.

8.02 SIGNS PERMITTED IN THE C AND I DISTRICTS

(1) Any sign permitted under Section 8.01 of this Article.

(2) Commercial signs, provided that:

A. The total area on one side of all signs placed on or facing any one street frontage of any one premises shall not exceed twenty (20) square feet, except in the case of a tract or building housing more than one commercial use.

B. In the case of a building, or tract of land housing more than one use, one permanent directory or identifying sign for the building or tract may be erected. The area on one side of said sign shall not exceed forty (40) square feet. In addition, for each use located within that building, or on the same lot, one wall-mounted sign shall be permitted. The area of such sign shall not exceed twelve (12) square feet, may be attached to that portion of the building housing in use.

C. No more than two separate signs shall face any one street frontage for any one use except in the case of a tract containing a directory sign.

(3) Directional signs, provided that:

A. The area on one side of a directional sign shall not exceed two (2) square feet.

(4) Free-standing signs, provided that:

A. No more than one (1) free-standing sign exclusive of all directional signs shall be allowed on any one property.

B. The area on one side of a free-standing sign shall not exceed thirty-two (32) square feet, exclusive of all directional signs.

8.03 SIGNS PERMITTED IN THE FA DISTRICT

(1) Any sign permitted under Section 8.01 of this Article.

(2) Commercial signs, provided that the total area on one side of all signs placed on or facing any one street frontage of any one premises shall not exceed sixteen (16) square feet.

8.04 EXISTING SIGNS

(1) Existing signs may be continued provided that all such signs shall conform to the General Requirements as set forth in Section 8.00 of this Article.

(2) Any sign existing at the time of the passage of this Ordinance that does not conform with the regulations of the District in which such sign is located shall be considered a nonconforming use and may continue in such use in its present location until replacement or rebuilding becomes necessary, at which time a zoning permit will be required and the sign brought into conformity with this Ordinance.

8.05 BILLBOARDS

Within the C and FA Districts, billboards are permitted by special exception beside State Highway Route 120 in Chapman Township subject to the following criteria:

(1) No billboard shall be located within one thousand (1000) feet of another billboard.

(2) All billboards shall be a minimum of fifty (50) feet from all side and rear property lines.

(3) All billboards shall be set back at least fifty (50) feet from any road right-of-way lines.

(4) All billboards shall be set back at least one hundred (100) feet from any land within a Residential District.

(5) No billboard shall obstruct the view of motorists on adjoining roads, or the view of adjoining commercial or industrial uses, which depend upon visibility for identification.

(6) No billboard shall exceed an overall size of three hundred (300) square feet, nor exceed twenty-five (25) feet in height.

ARTICLE IX

SCREENING REGULATIONS

9.00 SCREENING

It is the intent of the screening provisions to provide visual and auditory separation between potentially incongruous land uses. It is a further intent of the following provisions to provide flexibility to the developer or property owner to create effective concealment through performance design requirements below.

9.01 WHERE APPLICABLE

Screening requirements shall be applicable under the following circumstances:

(1) Where a proposed non-agricultural use abuts an FA District;

(2) Where a proposed non-residential use abuts an existing residential use;

(3) Where any proposed multiple family residential building of four or more dwelling units, (including a retirement village, mobile home park, and the like) abuts an existing single family residential area;

(4) Mobile home parks shall be screened along their entire perimeter, as specified in Article VII of the Clinton County Subdivision and Land Development Ordinance;

(5) Any other instance where screening is required by this Ordinance, or deemed necessary by the County and/or Township during its review of a site plan;

(6) Screening is not required if the features to be screened are set back four hundred (400) feet or more from the lot line along which screening would otherwise be required.

(7) Surrounding any in-ground swimming pool, hot tub or other man-made structure containing exposed water.

9.02 FEATURES TO BE SCREENED

In addition to the Zoning District boundary areas described above, the following land development features shall be screened on the lot for which development is proposed:

(1) Loading and unloading areas;

(2) Parking lots for seven (7) or more vehicles;

(3) Storage of products or raw materials;

(4) Refuse storage;

(5) Mechanical equipment, vents, fans and the like.

9.03 SCREENING LOCATION ON THE LOT

(1) For screening of features, screening may be located anywhere on the lot provided it effectively shields the features to be screened.

(2) For a Zoning District buffer, screening shall be located at the lot perimeter representing the Zoning District boundary.

(3) Screening may be interrupted for necessary driveways to the street, provided a gap in the screening is thirty (30) feet maximum.

9.04 SCREENING METHODS

Effective screening may be accomplished through use of any one or combination of the following:

(1) Placement of features to be screened behind an existing or proposed landform/berm.

(2) Use of existing or proposed ninety (90) opaque architectural barriers such as walls, fences and buildings, provided they are architecturally compatible with the style of buildings on the abutting lot(s) that necessitate the screening.

(3) Use of existing woody vegetation masses such as hedges, woodlands and hedgerows, provided they are preserved intact during construction on the site.

(4) Proposed woody vegetation plantings such as trees and shrubs.

9.05 REQUIRED WIDTH OF BUFFER SCREEN

The width of buffering screen located between divergent land uses shall be in response to the degree of land use conflict. The width shall be as follows:

A buffer of seventy-five (75) feet width of existing or newly-planted trees is required where any proposed commercial and/or industrial uses abut the NC, FA or R Districts.

A buffer of fifty (50) feet width of existing or newly-planted trees is required where a proposed residential use abuts NC or FA Districts. This screen shall also be required as a minimum around proposed mobile home parks.

A planted buffer of twenty-five (25) feet width is required between any other incongruous land uses so deemed by the Township.

To meet the above screening requirements in part or in whole, existing wood lots and hedgerows should be utilized, if they exist.

9.06 SCREENING DESIGN

(1) For areas requiring a screen width of fifty (50) feet or more, a tree plantation or a combination of trees and shrubs is required.

(2) Where trees are proposed for screening, at least one (1) tree that normally achieves a height greater than thirty (30) feet shall be planted for every twenty (20) linear feet of distance required to be screened. Any resulting fraction of this division shall be rounded up to the next whole number. Location of the required trees is flexible.

(3) Where proposed shrubs are used, the maximum distance between plant centers shall be eight (8) feet.

(4) At a minimum, screening shall be of sufficient height and density to constitute a continuous opaque screen in summer months to a height of six (6) feet within a period of three (3) years of planting.

(5) Proposed trees and shrubs shall be healthy, typical of their species, have normal growth habits with well developed branches and vigorous root systems.

9.07 PERFORMANCE STANDARDS

(1) The developer should consider placing improvements on the land in a manner that would lessen the extent and cost of required screening. Examples of sensitive design include the following:

A. Situating development in or behind existing vegetation such as woodlots or hedgerows.

B. Consolidating development in the smallest possible land area.

C. Situating development far from the lot line.

D. Situating development behind landform crests.

(2) To assure compliance with screening requirements, the applicant shall provide a screening plan to enable the Township to access whether proposed screening will create an effective buffer at necessary points. The screening plan may include any one of the following: plot plan with view analysis, landscaping and grading plan, topographic profiles and cross-sections, or photographic evidence. The screening plan shall be drawn to scale and proposed plants shall be indicated, including type, quantity, size at planting time, and spacing.

9.08 MAINTENANCE REQUIREMENTS

(1) Any proposed tree or shrub planted for screening purposes which dies shall be replaced. Determination of acceptable plant survival shall be made by an agent authorized by the Township.

(2) Any fence, wall or other architectural method utilized for screening shall be maintained in a structurally sound condition, and the surfaces facing the lot line shall be maintained for an attractive appearance.

(3) Any land form or existing vegetation mass approved for screening shall not be altered, except for usual maintenance.

(4) The owner shall be responsible for continual maintenance of the screening. A note on the subdivision land development or site plans shall indicate this, and be signed by the applicant.

9.09 FENCE REQUIREMENTS ***Amended Ordinance 2016-01 Section XVI***

All fences constructed or installed within the Township, whether required by this Article or otherwise, shall be of uniform height, the minimum of which shall be 4 feet (5 feet for fences surrounding an in-ground swimming pool, hot tub or other man-made structure containing exposed water) and the maximum of which shall be 8 feet. Fence height shall be measured from undisturbed virgin soil to the highest point of the fencing material, including posts, boards, chain, gates or any other portion of the fence. The property owner shall be required to specify the uniform height of the fence on any building permit application that may be required. The fence shall further be located a minimum of 2 feet from any boundary line to insure sufficient area for maintenance and upkeep. All fencing or portions thereof shall be maintained in a neat and orderly fashion, with any missing or broken parts replaced within thirty (30) days. The exterior of all fences shall be of a uniform color. Property owners who wish to conform the height of the fence to the rolling topography of a particular property and not have a uniform height of the fence shall be required to obtain a variance from the Zoning Hearing Board.

As per 2016.01 Section XVI: "Fences shall not be subject to any setback requirements"

ARTICLE X

TRAFFIC CONTROL, INTERNAL CIRCULATION, LOADING AND OFF-ROAD PARKING

10.00 ACCESS AND TRAFFIC CONTROL

To minimize traffic congestion and hazard, control road access and encourage orderly development of street frontage, the following regulations shall apply:

(1) Every building erected or altered shall be on a lot adjacent to a public road or have access to a public road via an approved private road.

(2) Unless clearly impractical or inappropriate, lots which abut two (2) or more roads shall have direct access only to the road of lesser functional classification.

(3) Where lots are created having frontage on expressways, arterial, and collector roads any proposed development road pattern shall also provide frontage to local roads within the subdivision.

(4) Each use with less than one hundred (100) feet of road frontage shall not have more than one ingress and egress lane to such road. No use with one hundred (100) feet or more of road frontage shall have more than two (2) accessways to any one road for each three hundred (300) feet of road frontage. A common access point for two (2) or more uses is encouraged, where practical, to minimize vehicular access points along roads classified other than local roads.

(5) All driveways to any public road shall be located a minimum of forty (40) feet from any intersection of road centerlines.

(6) Provision shall be made for safe and efficient ingress and egress to and from public roads, without undue congestion or interference with normal traffic flow. The developer shall be responsible for the design and construction, and the costs thereof, of any necessary traffic control device and/or highway modifications required by the Township, Township or the Pennsylvania Department of Transportation.

(7) The maximum width of driveway entrances and exits onto a public road, measured at the road line and within the road right-of-way, shall be fourteen (14) feet for one-way driveways and twenty-eight (28) feet for two-way driveways. The radius of the edge of the driveway apron shall not exceed twenty-five (25) feet.

(8) For seasonal homes located in the Nature Conservation (NC) District, this Section shall be superseded by Article XI.

10.01 INTERNAL CIRCULATION

The following regulations shall apply to multiple family residential, commercial and industrial uses, unless otherwise specified:

(1) Design of Access Aisles and Drives

A. Internal drives and service areas shall be designed to prevent blockage of vehicles entering or leaving the site. Drives may be one-way or two-way. Egress to the road shall be in a forward direction.

B. Accessways, parking areas and loading areas shall have clearly defined parking bays and circulation designated by markings, curbs, and/or

landscaped islands, so that patrons shall not impede traffic as a result of any confusion as to location of entrances and exits.

C. All interior drives and accessways shall be paved with an approved all-weather surfaces, and shall be graded, properly drained and maintained in a good condition. Interior drives shall have a maximum grade of eight (8) percent.

D. Minimum interior drive cartway widths (with no abutting parking):

Use	Two Lane Two-Way Drives	One Lane One-Way Drive
Multi-family Residential	20 feet	12 feet
Commercial/office	22 feet	12 feet
Industrial	26 feet	15 feet

E. Common or shared access driveways to parking and loading areas are permitted and encouraged provided landowners submit an agreement of maintenance responsibility.

(2) Fire Lane Easements

Any use or building located more than six hundred (600) feet from a road shall provide a dedicated fire lane easement consisting of an unobstructed right-of-way width of thirty (30) feet.

10.02 LOADING AND UNLOADING

In connection with any use, building or structure which requires the receipt or distribution of materials by trucks or similar vehicles there shall be provided a sufficient number of off-street loading and unloading berths in accordance with the following requirements:

(1) Location

Loading and unloading areas shall not be located between the building setback line and street line, and loading facilities shall be screened in accordance with Article IX.

(2) Space Allowed

A. Space allowed to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements of any off-street parking facilities or portions thereof.

B. Loading and unloading space shall be at least twelve (12) feet wide with fourteen (14) feet of vertical clearance, and shall have an adequate maneuvering area.

(3) Surface

Loading and unloading areas shall have an all-weather surface.

10.03 OFF-STREET PARKING

(1) Applicability

A. Off-street parking facilities shall be provided whenever:

1. A building is constructed or a new use is established.

2. An existing building or its use is changed so as to require more parking facilities.

B. Off-street parking facilities existing at the effective date of this Ordinance shall not be reduced to an amount less than that required under this Ordinance for a similar new building or use.

(2) Use

A. Off-street parking shall be an accessory use solely for the parking of patrons, occupants and/or employees.

B. No motor vehicle repair work of any kind except emergency service shall be permitted within parking lots.

(3) Location

A. All parking spaces shall be on the same lot as the principal building except herein described. Parking spaces may be located within a structure or in the open.

B. The parking spaces may be located elsewhere than on the same lot when authorized by the Zoning Hearing Board, subject to some portion of the off-street parking area being within three hundred (300) feet of an entrance, regularly used by patrons.

C. For all residential dwellings, the parking spaces shall be within one hundred (100) feet of the dwelling unit they serve.

D. No parking or paved area shall directly abut a street.

(4) Size and Design of Parking Lot

A. In the layout of parking lots, standard parking dimensions shall be utilized. 10 x 20

B. Up to one-third (1/3) of the total parking spaces may be designed for compact vehicles. minimum 171 sq ft.

C. Parking lots shall be landscaped in accordance with Article IX.

D. Parking lots shall be illuminated at night.

E. Parking lots shall have an all-weather surface.

F. Parking lots shall have a minimum slope of one (1) percent and a maximum slope of five (5) percent. Stormwater run-off shall not be directed across pedestrian walkways or other lots.

(5) Handicapped Parking

The following shall apply to commercial, industrial, office, institutional, and educational uses:

A. If the total number of required parking spaces exceeds twenty (20), a minimum of two (2) percent of the total number of parking spaces, but not

less than two (2) parking spaces, shall be designed for physically handicapped persons.

B. Said spaces shall be most accessible and approximate to the building or buildings which the parking spaces shall serve.

C. Each space or group of spaces shall be identified with a clearly visible marking displaying the international symbol or access.

D. Each space shall be twelve (12) feet wide and shall abut a level, paved surface.

10.04 SPECIFIC PARKING REQUIREMENTS

Specific parking requirements for various uses in each District shall be as follows:

Parking Residential Uses

(1) Townhouses and multi-family low-rise apartments: two (2) parking spaces per dwelling unit.

(2) Residential conversion units: two (2) spaces per dwelling unit.

(3) Mobile homes: two (2) spaces per dwelling unit.

Parking for Public and Semi-Public Uses

(1) Places of worship or other public auditorium: one (1) parking space for every three (3) seats provided for assembly.

(2) Nursing and convalescent homes: one (1) parking space for every three (3) beds plus one (1) space for each employee on the largest shift.

(3) Clinic and medical five (5) patient spaces per doctor and one (1) space for each staff member.

(4) Day care centers: one (1) space for each employee and an off-street loading and unloading area to accommodate one (1) space for each six (6) children cared for in the center.

(5) Parks and playgrounds which include spectator seating: one (1) parking space for every three (3) seats.

Parking for Commercial Uses

(1) Retail stores and commercial uses: one (1) parking space for every three hundred (300) square feet of floor space used for sales purposes and one (1) space for each employee.

(2) Supermarkets and dairy stores: one (1) parking space for every two hundred (200) square feet of floor space used for sales purposes and one (1) space for each employee.

(3) Eating and drinking establishments: one (1) parking space for every two and one-half (2 1/2) seats for patron use and one (1) space for each employee.

(4) Drive-in and fast-food restaurants: one (1) space for every ten (10) square feet of floor area and one (1) space for each employee.

(5) Bowling alleys: five (5) parking spaces for each pair of lanes and one (1) space for each employee.

(6) Skating rinks: one (1) space for every one hundred (100) square feet of skating area and one (1) space for each employee.

(7) Billiard and pool rooms: two (2) spaces per billiard or pool table and one (1) space for each employee.

(8) Miniature golf and driving ranges: one (1) space per hole and one (1) space for each employee.

(9) Golf courses: six (6) spaces per hole and one (1) space for each employee.

(10) Animal kennels: one (1) parking space for every three (3) kennel runs and one (1) space for each employee.

(11) Office buildings and professional offices: one (1) parking space for each two hundred (200) square feet of floor area or fraction thereof.

(12) Motels, hotels and tourist homes: one (1) parking space for each unit and one (1) space for each employee on the largest shifts.

(13) Barber and beauty shops: two (2) parking spaces per shop plus one and one-half (1 1/2) spaces per chair.

(14) Shopping centers: one (1) parking space for each three hundred fifty (350) square feet of gross floor area or fraction thereof.

(15) Home occupations: two (2) parking spaces for each dwelling unit, one (1) space for each non-resident employee.

(16) Gasoline service stations and car washes: one (1) parking space for each employee on the largest shift.

Parking for Industrial Uses

The total parking area shall be twenty-five (25) percent of the building's gross floor area. Space shall also be provided for visitors and handicapped.

ARTICLE XI

PLANNED RESIDENTIAL AND SEASONAL DEVELOPMENTS

11.00 PURPOSES

The purpose of this Article is to permit developments of residential and seasonal dwellings in the Nature Conservation District in accordance with the community development objectives of this Ordinance and with the following specific purposes:

(1) Perpetuate the wild and remote character of the Nature Conservation District by requiring the clustering of new development, thereby reducing development sprawl and disturbance of the natural environment; and,

(2) Relate new development to the physical context of the site, such as sensitive natural features and existing man-made improvements; and,

(3) Respect and conserve natural resources prevalent in this area, including biological diversity areas, headwater springs, exceptional value and high quality streams, areas of unusual natural beauty, woodland expanses and wildlife habitat.

(4) Preserve and protect the public drinking water sources by mitigating adversities created by human encroachment.

11.01 APPLICABILITY OF PROVISIONS

Any conveyance of the land by the property owner (including but not limited to rent, lease or option) shall not exempt the applicant from compliance with the provisions of this Ordinance and the Clinton County Subdivision and Land Development Ordinance. The provisions of this Article shall apply to all applications for planned residential and seasonal development in the Nature Conservation District regardless of ownership or applicant status.

11.02 CONDITIONS FOR PLANNED RESIDENTIAL AND SEASONAL DEVELOPMENTS

(1) Special exception applications for planned residential and seasonal developments (hereafter abbreviated as "PRSD") shall not be considered or approved unless the following conditions are met:

A. The PRSD shall consist of an initial undivided tract of at least twenty-five (25) acres. Large tracts may be re-subdivided but the minimum resultant lot size shall be twenty-five (25) acres.

B. The PRSD shall lie entirely within the Nature Conservation (NC) Zoning District.

C. The tract of land to be developed shall be in one ownership, or in the case of multiple ownership, it shall be developed according to a single plan with common authority and common responsibility.

D. All dwellings must comply with the applicable municipal sewage facilities plan.

11.03 STANDARDS FOR PLANNED RESIDENTIAL AND SEASONAL DEVELOPMENTS

(1) Use Regulations

A. A PRSD may include the following uses:

1. Residential and seasonal dwellings as the only principal use.

2. Accessory uses and structures provided they are clearly incidental and subordinate to the principal use and are not located in the common open space areas.

3. Harvesting of forest products, but excluding any building or structures for this use on the property.

4. Recreational facilities intended solely for the use of residents of the development, deemed to be appropriate by the Township Zoning Hearing Board.

5. Temporary living arrangements that include recreational vehicles such as travel trailers, truck campers and motor homes.

B. The following uses are expressly prohibited:

1. Any commercial activity except rental of permitted seasonal dwellings, permitted mineral extraction and logging.

2. Temporary living arrangements including recreational vehicles as defined in Article III of this Ordinance, for more than one hundred twenty (120) days per year.

(2) Duration of Seasonal Dwellings Usage

A. Use of seasonal dwellings in the NC District shall be limited to a maximum of one hundred eighty (180) days per year. At the discretion of the lot owner, this time may be accumulated in consecutive days, forty-five (45) days per quarter, or any other schedule which does not exceed one hundred eighty (180) days per year.

B. Use of temporary living arrangements shall be limited to a maximum of one hundred twenty (120) days per year. At the discretion of the lot owner, this time may be accumulated in consecutive days, thirty (30) days per quarter, or any other schedule which does not exceed one hundred twenty (120) days per year.

C. As a condition of the zoning permit, the lot owner must indicate the intended schedule of use of the property for the first three (3) years. A statement describing the anticipated days of usage per quarter shall be filed with the zoning permit. Every three (3) years, subsequent schedules shall be sent to the Township Zoning Officer within one month of the three (3) year anniversary date. However, any change in the schedule of usage within the three (3) year period shall be conveyed by letter to the Township Zoning Officer, indicating the changes in the schedule of use. Such a permit shall be required for both Temporary Living Arrangements and Seasonal Dwelling Usage. A change from one type of use, i.e. from Temporary Living Arrangements to Seasonal Dwelling, shall require a new permit whenever the change occurs.

(3) Density

The number of dwelling units permitted on a lot, or a tract held in common ownership, shall be determined by dividing the gross acreage by five (5) acres per dwelling. A resulting fraction of a dwelling may be rounded up to the next whole number if the fraction is one-half (1/2) or greater.

(4) Area and Bulk Requirements Pertaining to all Planned Residential and Seasonal Developments.

A. If a dwelling unit is constructed on a lot or lease parcel subdivided from the original tract, the minimum lot size shall be five (5) acres.

B. Any building shall be set back a minimum of one hundred (100) feet minimum from a lot line created within the development.

C. Any dwelling unit shall be set back a minimum of two hundred (200) feet from another dwelling unit.

D. The maximum total floor area of any dwelling unit shall be seven thousand five hundred (7500) feet.

E. Maximum building height is thirty-five (35) feet.

(5) Site Planning Requirements

A. The PRSD must comply with the design standards of the Clinton County Subdivision and Land Development Ordinance.

B. The PRSD must comply with the applicable municipal sewage facilities plan.

C. No construction of buildings or soil disturbance shall occur within two hundred (200) feet of streams, wetlands or lakes.

D. Total site disturbance shall be kept to a minimum and shall not exceed one (1) acre more than the building and access areas.

E. Proposed private roads and driveways serving three (3) or more dwelling units shall comply with the following requirements:

1. Minimum cartway width shall be sixteen (16) feet.

2. Minimum right-of-way width shall be thirty-five (35) feet.

3. Maximum road grade shall be fourteen (14) percent.

4. Adequate turnaround area at a road end shall be provided for emergency vehicles.

F. Provision shall be made for safe and efficient ingress and egress to and from public roads, without undue congestion or interference with normal traffic flow within the Township. The developer shall be responsible for the design and construction, and the costs thereof, of any necessary traffic control device and/or highway modifications required by PennDOT or the Department of Environmental Protection.

(6) Signage

Only the following signs are permitted in a PRSD:

A. A maximum of two (2) identification signs are permitted per PRSD. Maximum sign face square footage for these signs combined is twenty (20).

B. Each dwelling unit may have one (1) identification sign at the end of the driveway giving it access. Maximum sign square footage is two (2).

C. Real estate signs, including signs advertising the rental or sales of premises, provided that:

1. The area on any one side of such sign shall not exceed four (4) square feet.

2. Only one (1) sign is permitted per property.

D. Trespassing signs and signs indicating the private nature of the premises. The area on any side of such signs shall not exceed two (2) square feet and the signs shall be placed at intervals on the lot of not less than one hundred (100) feet.

(7) Ownership Options and Requirements

All development of land under the PRSD shall be based on either of the following two alternatives: Common Open Space Development Option or Private Ownership of Open Space.

11.04 COMMON OPEN SPACE DEVELOPMENT OPTION

A developer and/or land owner who seeks to meet the open space provisions through the set aside of open space under a common ownership shall address the following requirements:

(1) All dwelling units must be situated in a cluster or clusters that occupy no more than forty (40) percent of the gross acreage. The dwellings may be located on individual subdivided lots or lease parcels, or they may be sighted together on a large lot(s) held in one ownership.

(2) The limit of cluster shall be delineated on the PRSD plan which shall show private land ownership and common open space as described below.

(3) There is no limit to the number of permitted dwelling units allowed in one cluster provided the number of dwellings do not exceed the total permitted on the site, as described in Section 11.03 above.

(4) There is no limit to the size in area of a cluster provided that it not exceed the allowable maximum percentage of forty (40) percent of the total gross acreage of the lease parcel or subdivision.

(5) The number of clusters permitted in a PRSD shall be limited as follows:

Number of dwellings permitted in the development	Number of clusters permitted in the development
1–5	1
6–10	2
11–15	3
16–20	4
21–25	5
26+	6

(6) Clusters within the same development shall have a minimum distance of five hundred (500) feet between cluster limits. If this separation distance cannot be met, then dwelling units must be consolidated in fewer clusters.

(7) Clusters shall incorporate existing buildings, if possible.

(8) Ownership of Common Open Space

Any of the following methods may be used to preserve, own, and/or maintain open space: developer/owner, homeowners association, dedication in fee simple, dedication of easements, or transfer to a private conservation organization.

A. Developer/Owner: The developer/landowner may continue to own outright the open space and draft a plan for the mutual use of this space by all property owners and, at the owners' sole discretion, by the public. Such intent and plans for ownership and maintenance shall be submitted to the Township Zoning Hearing Board at the time the PRSD is submitted for approval.

B. Homeowners Association: The open space may be held in common ownership by a homeowners' association. Such ownership shall be subject to all of the provisions for homeowners associations set forth in Article VII of the Pennsylvania Municipalities Planning Code.

C. Fee-Simple Dedication: Chapman Township may, but shall not be required to, accept any portion or portions of the open space provided: (1) such land shall be freely accessible to the public; (2) there shall be no cost to the municipality involved; (3) the municipality agrees to and has access to maintain such lands; and (4) the open space shall be in an acceptable condition to the municipality at the time of transfer with regard to size, shape, location and improvement.

D. Dedication of Easements: Chapman Township may accept, but shall not be required to accept, easements to any portion or portions of the open space. In such cases, the land remains in the ownership of the individual, or homeowners association while the easements are held in public ownership. The municipality may require this method where it deems this to be the most appropriate way of preserving land in open space.

E. Transfer to a Private Conservation Organization: With permission of the Township, (which shall not be unreasonably withheld) an owner may transfer either the fee simple title, with appropriate deed restrictions running in favor of the Township or easements, to a private, non-profit organization, among whose purposes is to conserve open space land and/or natural resources provided that: (1) the organization is acceptable to the Township and is a bona fide conservation organization with perpetual existence; (2) the conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions; and (3) a road and common open space maintenance agreement acceptable to the Township is entered into by the developer and the organization

11.05 PRIVATE OWNERSHIP OF OPEN SPACE

The landowner or developer shall have the option to sell and/or develop lots based on the private ownership of parcels in the PRSD provided they meet the density requirements set forth in Section 11.03(3).

(1) The principle of open space shall be maintained and no more than forty (40) percent of the gross acreage of an individual parcel may be developed. Plans to preserve as open space the remaining sixty (60) percent of these parcels, including agreements to be executed by the buyer or user to insure such an open space requirement, shall be submitted with the PRSD application.

(2) To the greatest extent possible the private open space to be set aside by the developer and the individual lot owner or user shall be contiguous with the open space of adjoining tracts. Such massing of private open space may not be possible where the size and/or location of the parcel, the terrain, or other natural features make it impracticable. In such an event and provided he has tried to comply with the contiguous open space requirement, the landowner, and/or developer, shall communicate the particular circumstances and his selected alternative to the Township Zoning Hearing Board.

(3) At his option, however, the landowner and/or developer may choose to sell or develop any number, or percentage, of the permitted number of lots if he should choose, according to the cluster and open space requirements of Section

11.03. In such lots the landowner or developer must conform to all provisions of Section 11.04, Common Open Space Provisions.

11.06 LOCATION, DESIGN AND LAYOUT OF COMMON OPEN SPACE

(1) The open space shall be maintained permanently in a natural vegetative state, except for: forestry uses; firewood cutting; limited view openings; construction of necessary access roads; utility corridors; and improvement of wildlife habitat.

(2) No buildings are permitted in the common open space.

(3) Location of common open space shall incorporate as much as possible water resources or other unique features.

11.07 DEED RESTRICTIONS AND COVENANTS

Deed restrictions, in the form of covenants running with the property, shall be recorded with the Clinton County Recorder of Deeds. All deeds shall refer to the covenants. Proof of such recorded restrictions shall be submitted to the Township prior to issuance of any permits. Such restrictive covenants shall address the following issues:

(1) Building shells shall be completed within one (1) year of commencement of construction during which period temporary living arrangements are permitted. Following the one (1) year period, the Township may grant up to two (2) six-month extensions. A Zoning Permit must be secured and conspicuously posted at the site during this period.

(2) Soil disturbance shall be prohibited within two hundred (200) feet of watercourses, wetlands or lakes.

(3) Total site disturbance shall be limited to one (1) acre in addition to the building square footage area, and access areas.

(4) Common open space lands shall remain free of buildings and the natural environment of the open space shall be preserved.

(5) The cost and responsibility of maintaining common open space shall be borne by the property owner or designated organization. If the open space is not properly maintained, the Township may assume responsibility and maintenance in accordance with Article VII of the Pennsylvania Municipalities Planning Code.

(6) Provisions for establishing private rights-of-way for the use of:

A. Lot owners, their guests, heirs and assigns;

B. Emergency response;

C. Inspection of premises by the Chapman Township Zoning Officer and Sewage Enforcement Officer.

(7) The location and extent of utility installation shall be the sole responsibility of the applicable utility and property owner.

(8) Each property owner shall keep his lot free of trash and junk and shall maintain structures in a good state of repair.

(9) Temporary living arrangements including recreational vehicles as defined in Article III of this Ordinance are allowed for a maximum of one hundred twenty (120) days per year.

ARTICLE XII

SPECIAL EXCEPTIONS

12.00 SPECIAL EXCEPTIONS AND CONDITIONAL USES

For any use permitted by special exception, a special exception must be obtained from the Township Zoning Hearing Board. Unless otherwise specified or specifically extended by the Township Zoning Hearing Board, a special exception authorized by the Board expires if the applicant fails to obtain, where required to do so, a zoning permit within six (6) months of the date of the authorization of the special exception.

12.01 REFERRAL TO PLANNING COMMISSION

Where the Chapman Township Zoning Ordinance has stated special exceptions to be granted or denied by the Township Zoning Hearing Board pursuant to the express standards and criteria, the Township Zoning Hearing Board shall hear and decide request from such special exceptions in accordance with such standards and criteria. All applications for a special exception shall be referred to the Township Planning Commission who shall make a study thereof and recommendation thereon to the Board within thirty (30) days from the date of the receipt of said application.

12.02 REFERRAL TO TOWNSHIP ZONING HEARING BOARD

The Township Zoning Hearing Board may grant a special exception if the use meets all standards and criteria in this Ordinance and the following general provisions:

(1) Purpose – The purpose of the proposed use must be consistent with the Township's community development objectives.

(2) Compatibility – The proposed use shall be in the best interest of properties in the general area.

(3) Suitability – The proposed use shall be suitable for the population served, frequency of use, adequacy of space and traffic generation.

(4) Serviceability – Assurance shall be made as to the adequacy and availability of utility services such as sanitary and storm sewers, water, trash and garbage collection and disposal.

(5) Accessibility – The proposed use shall provide adequate ingress and egress, interior circulation of both pedestrian and vehicles.

(6) Water Supply – The applicant must establish that there is an adequate water supply in accordance with Section 5.10 of the Clinton County Subdivision and Land Development Ordinance.

(7) Drainage – The applicant must establish compliance with drainage requirements of Section 5.12 and Section 5.13 in the Clinton County Subdivision and Land Development Ordinance.

(8) Sewage – The applicant must establish that adequate provisions will be made to dispose of the sewerage consistent with the Pennsylvania Department of Environmental Resources.

(9) In granting a special exception, the Township Zoning Hearing Board may attach other reasonable conditions and safeguards it deems necessary to meet the purposes of this Ordinance.

The applicant shall have the duty of presenting evidence supporting the required findings. The burden of persuasion shall be upon the applicant as to the requirements herein.

The Township Zoning Hearing Board has the right to perform or have performed by a professional consultant relevant investigations or studies to assure the public safety, health and welfare and require the costs to be borne by the applicant.

Parties before the Township Zoning Hearing Board who object to the special exception application shall have the duty of presenting evidence on the general effect of a proposed special exception if the objecting parties desire the Township Zoning Hearing Board to consider the following issues:

(1) That the grant of the special exception shall not materially increase traffic congestion in the roads and highways, nor cause nor encourage commercial or industrial traffic to use residential streets, so as to pose a substantial threat to the health and safety of the community:

(2) That adequate water, sewage, storm drainage, fire and police protection and other public requirements can not be provided for the use;

(3) That overcrowding of land or undue congestion of population will result thereby;

(4) That the use of adjacent land and buildings will be discouraged and the value of the adjacent land and buildings will be impaired by the location, nature and height of buildings, walls and fences.

(5) That the proposed use will adversely affect the health, safety or welfare of the general public.

Parties before the Township Zoning Hearing Board who object to the special exception application shall have the duty of presenting evidence on the general policy concerns arising from the proposed special exception if the objecting parties desire the Zoning Hearing Board to consider the following issues:

(1) That the location of the use, including location with respect to the existing or future streets giving access to it, is not in harmony with the orderly and appropriate development of the zoning district in which the use is to be located;

(2) That the nature and intensity of the operations involved are not in harmony with the orderly and appropriate development of the zone in which the use is to be located;

(3) That the overall effect thereof shall not be in harmony with the Township Comprehensive Plan.

Mere allegations by objecting parties of an adverse impact on general policy concerns shall not be considered evidence. Objecting parties desiring findings to be made on any of the matters set forth in this subsection must present into evidence facts which support a finding of an adverse impact on general policy concerns. Upon presentation of such evidence by objecting parties, the applicant shall have the opportunity to present rebutting evidence on these issues. In the event that the objecting parties have properly raised any issue under this subsection, the burden of persuasion shall be upon the objecting party.

The Township Zoning Hearing Board shall make findings in writing within the time period allowed under the applicable provisions of the Pennsylvania Municipalities Planning Code and this Ordinance.

12.03 CONDITIONS FOR GRANTING A SPECIAL EXCEPTION

In granting a special exception, the Township Zoning Hearing Board may attach such reasonable conditions and safeguards in addition to those expressed in this Ordinance, considered necessary to implement the purposes of this Ordinance, including conditions which are more restrictive than those established for other uses in the same district and may require among others and where appropriate the following:

(1) Interior drives and an automobile parking arrangement that prevents blockage of vehicles entering or leaving the site and minimal conflicts between pedestrian/ vehicular and vehicular/vehicular points of intersection or contact and/or landscape barriers.

(2) Areas for loading and unloading delivery trucks and other vehicles and for the servicing of shops by refuse collection, fuel and other service vehicles and shall be so arranged that they may be used without blockage or interference with the use of accessway of automobile parking facilities.

(3) Screened storage of any proposed outside materials and screened separation between mix use in conformance with this Ordinance.

(4) Landscaping of any part or portion of the site which is not used for building, other structures, loading or parking spaces and aisles, sidewalks and designated storage areas to:

A. Restrict blowing trash;
B. Retain and absorb surface water runoff;
C. Deter improper and unsafe access to the site by the public.

(5) Any proposed display of signs which does not constitute a hazard to public safety by reason of location, content, coloring, or manner of illumination or by any other display method so as to obstruct or detract vision at drive or free ingress and egress from a site, window, fire escape or door.

(6) Adequate easements or rights-of-way for drainage and utilities.

(7) Positive drainage away from the buildings and proper surface water drainage so as to prevent ponding or the erosion and flooding of abutting properties and street.

(8) Appropriate stormwater and soil erosion and sedimentation measures must be taken.

(9) Protection and mitigation measures to assure the integrity of individual or public water systems.

12.04 REQUIREMENTS FOR SUBDIVISION AND LAND DEVELOPMENT APPROVAL

Within six (6) months of receiving special exception approval from the Chapman Township Zoning Hearing Board, the landowner, where required to do so, shall apply for land development plan approval as stipulated in the Clinton County Subdivision and Land Development Ordinance.

12.05 CONDITIONAL USES

For any use permitted by a conditional use, a conditional use must be obtained from the Board of Supervisors. Unless otherwise specified or specifically extended by the Board of Supervisors, a conditional use authorized by the Board expires if the applicant fails to obtain, where required to do so, a zoning permit within six 6) months of the date of the authorization of the conditional use.

12.06 REFERRAL TO PLANNING COMMISSION

The Board of Supervisors shall request an advisory opinion from the Planning Commission on any application for a conditional use. The Planning Commission shall submit a report for such advisory opinion prior to the date of the public hearing held buy the Board of Supervisors on an application. The Planning Commission as well as the Board of Supervisors may request a report from the Township engineer or consultant.

12.07 APPLICATION REQUIREMENTS FOR CONDITIONAL USES

1) The landowner shall make a written request to the Board of Supervisors who will hold a hearing on his application. The request shall contain a statement reasonably informing the Board of Supervisors of the matters that are of issue.

2) The application shall be accompanied by all plans and other materials as may be required by this Ordinance, and further shall be accompanied by all necessary filing fees. A request shall not be deemed to be filed unless it is accompanied by all necessary materials and the required filing fee.

3) The Board of Supervisors shall hold a hearing upon the request, commencing no later than sixty (60) days after the request is filed, unless the applicant requests and consents in writing to an extension.

4) The Board of Supervisors shall conduct hearings and make decisions in accordance with the procedures set forth in this Ordinance for the Zoning Hearing Board and under the Pennsylvania Municipalities Planning Code.

12.08 REFERRAL TO BOARD OF SUPERVISORS *Amended by Ordinance 2016.01 Section XVII*

The Board of Supervisors may grant a conditional use if the use meets all standards and criteria in this ordinance in accordance with the following general conditions:

A. In granting a conditional use, the Board of Supervisors shall make findings of fact consistent with the provisions of this Ordinance. The Board of Supervisors shall not approve a conditional use except in conformance with the conditions and standards outlined in this Ordinance.

B. The Board of Supervisors shall grant a conditional use only if it finds adequate evidence that any proposed development submitted will meet all the following general requirements as well as any specific requirements and standards listed herein for the proposed use. The Board of Supervisors shall among other things require that any proposed use and location be:

1. In the best interest of the Township, the convenience of the community and the public welfare.

2. Suitable for the property in question, and designed, constructed, operated and maintained so as to be in harmony with the existing character of the general vicinity.

3. In conformance with all applicable requirements of this Ordinance and all township ordinances.

4. Suitable in terms of effect on highway traffic and safety.

5. In accordance with sound standards of land development practice.

C. In addition to the above, the Board of Supervisors shall further consider and follow the general provisions and procedures as outlined in Sections 12.02 and 12.03 regarding a special exception request before the Porter Township Zoning Hearing Board. ***2016-01 Sect XVII changed to "Chapman Township"***

12.09 REQUIREMENT FOR SUBDIVISION AND LAND DEVELOPMENT APPROVAL

Within six (6) months of receiving conditional use approval from the Board of Supervisors, the landowner, where required to do so, shall apply for land development plan approval as stipulated in the Clinton County Subdivision and Land Development Ordinance.

ARTICLE XIII

NONCONFORMING USES

13.00 NONCONFORMING STRUCTURES

Any nonconforming use or structure legally existing at the time of the adoption of this Ordinance or which is created whenever a District is changed by amendment hereafter, may be continued, altered, reconstructed, changed, sold, or maintained even though it does not conform to the regulations of the District in which it is located, except as provided below. It is the intent of this Ordinance to permit these nonconformities to continue until they are abandoned. The Township Zoning Officer may identify and register the nonconforming uses and structures existing as of the effective date of this Ordinance, to provide written assurance of the right to continue the use.

13.01 NONCONFORMING STRUCTURE ALTERATIONS

Repairs and structural alterations may be made to a nonconforming building or a building occupied by a nonconforming use. If the building is damaged by fire, flood, or other natural causes, it may be reconstructed, restored, or used as before provided that:

(1) Work shall commence within one (1) year of the damage.

(2) Reconstruction shall not exceed the size, bulk, and area that existed prior to the damage, unless approved by the Zoning Hearing Board.

(3) If the nonconformity is located within the 100 year floodplain, new construction shall comply with all of the requirements contained in the applicable municipal floodplain ordinance.

13.02 ABANDONMENT

If any nonconforming use or structure is abandoned for a period of one (1) year, the future use of such building or land shall be in conformity with the District regulations. A nonconforming use shall be judged as abandoned when there occurs a cessation of any such use or activity by an apparent act or failure to act on the part of the tenant or owner to reinstate such use within a period of one (1) year from the date of cessation or discontinuance.

13.03 EXTENSION, ALTERATIONS, ADDITIONS

Extension, alterations, and additions may be made to nonconforming structures or uses provided that they do not extend the use or structure by more than fifty (50) percent of the area occupied by such use at the effective date of this Ordinance; that such non-conforming use or structure is not located in the Nature Conservation (NC) District; the Zoning Hearing Board approves such proposed extension or expansion; and provided further that any extensions or enlargements shall conform to the yard and height regulations of the District in which it is situated and, in the case of a nonconforming use, be immediately adjacent to the existing non-conforming use.

13.04 OTHER NONCONFORMING USES

A nonconforming use of a building or land may be changed to a nonconforming use of the same or a more restricted classification. Whenever a nonconforming use of a building or land has been changed to use of a more restricted classification or to a conforming use, such use shall not thereafter be changed to a use of a less restricted classification.

13.05 EXPANSION OF NONCONFORMING USES

A nonconforming use may be extended, provided expansion is part of normal operations and provided that:

(1) Any extension shall take place only on the lot or contiguous lots held in the same ownership as that existing at the time the use became nonconforming.

(2) No nonconforming use shall be extended to displace a conforming use.

(3) Any extension shall conform with the regulations of the District in which it is located.

(4) For nonconforming uses whose normal operations involve natural expansion (quarries, landfills, cemeteries, etc.), expansion of area shall be permitted by right up to fifty (50) percent of the volume or area of the non-conformity; for expansion beyond fifty (50) percent, a special exception shall be required.

13.06 NONCONFORMING LOTS

Any nonconforming lot legally existing at the time of the adoption of this Ordinance or which is created whenever a District is changed by amendment hereafter, may be continued and/or maintained even though it does not conform to the regulations of the District in which it is located. It is not the intent of this Ordinance to be overly restrictive or to cause a hardship for any property owner, but rather to allow these nonconforming lots to continue until they are eliminated as single entities, possibly through the addition of such lots to adjacent property.

In the case of a lot of record which existed at the effective date of this Ordinance and which does not meet the minimum area requirements for the District in which it is located, a permitted structure may be placed on the parcel provided that:

(1) The owner does not own adjoining land which could be combined to form a conforming lot.

(2) Each side yard is not less than five (5) feet when adjoining another lot and ten (10) feet when adjacent to any street.

(3) The rear yard is not less than ten (10) feet.

(4) The front yard conforms to the minimum distance required.

(5) Where needed, the site has an approved sewage disposal system or an appropriate sewage permit.

(6) The site and its intended use complies with all other applicable provisions of this Ordinance.

13.07 DELINQUENT PROPERTIES

If Chapman Township acquires title to any property by reason of tax delinquency and such property is not redeemed and is sold as provided by law, the future use of such property shall be in conformity with all provisions of this Ordinance.

13.08 LIST OF NONCONFORMING USES

The Township Zoning Officer may prepare a complete list of all nonconforming uses existing at the time of the adoption of the Ordinance or its amendment. The list shall contain the names and addresses of the owner(s), any occupancy other than the

owner, the Township Assessor's tax map number and the nature and extent of the nonconforming use.

Owners of lots occupied by a nonconforming use may secure a certificate of nonconformance from the Township Zoning Officer. Such certificate ensures the owner the right to continue the nonconforming use.

The list of nonconforming uses may be filed with the Township Zoning Hearing Board and in the Office of the Clinton County Recorder of Deeds. The list may be corrected yearly, as needed.

ARTICLE XIV
ADMINISTRATION AND ENFORCEMENT

Amended by
Ordinance 2008-02 Article II - ADMINISTRATION
Ordinance 2011-02 Section I -Permits
2016-01 Section XVIII -Permits
Ordinance 2016-02 Article III- ADMINISTRATION (Flood Plains)

14.00 THE ZONING OFFICER

The provisions of the Township Zoning Ordinance shall be enforced by an agent to be appointed by the Township Supervisors who shall be known as the Township Zoning Officer.

The Township Zoning Officer shall have all the duties and powers conferred by the Township Zoning Ordinance in addition to those reasonably implied for that purpose. He/She shall not issue a zoning permit in connection with any contemplated erection, construction, alterations, repair, extension, replacement and/or use of any building, structure, sign and/or land unless it first conforms with the requirements of this Zoning Ordinance, with all other ordinances of the Township, and with the laws of the Commonwealth of Pennsylvania. He/She shall:

(1) Receive and process applications, and issue zoning permits for the erection, construction, alteration, repair, extension, replacement and/or use of any building, structure, sign, and/or land designated in this Ordinance.

(2) At his/her discretion examine, or cause to be examined, all buildings, structures, signs, and/or land or portions thereof, for which an application has been filed for the erection, construction, alteration, repair, extension, replacement, and/or use before issuing any permit. Thereafter, he/she may make such inspections during the completion of work for which a permit has been issued. Upon completion of the building, structure, sign and/or change, a final inspection shall be made and all violations of the approved plans or zoning permit shall be noted and the holder of the zoning permit shall be notified of the discrepancies.

(3) Keep a record of all applications received, all zoning permits issued, reports of inspections, notices, and orders issued, and the complete recording of all pertinent factors involved.

14.01 ZONING PERMITS

REPLACED AS PER Ordinance 2011-02 Section I then Amended by Ordinance 2016-01 Section XVII

It shall be unlawful to commence the excavation for or the construction or alteration of any buildings, until the Township Zoning Officer has issued a zoning permit for such work. ~~No zoning permit shall be required for construction or alterations when the fair market value of the work is less than one thousand dollars ($1,000.00). No zoning permit shall be required for repairs to or maintenance of any building, structure or grounds provided such repairs do not change the use or otherwise violate the provisions of this Ordinance.~~

14.02 CERTIFICATE OF COMPLIANCE

It is unlawful to commence a use or occupy a newly constructed structure until the Township Zoning Officer has issued a Certificate of Compliance. Prior to the issuance of a Certificate of Compliance, the Township Zoning Officer will conduct a final inspection to assure compliance with the approved plan or permit. No Certificate of Compliance will be issued until all applicable provisions of the Ordinance are met.

14.03 FORM OF APPLICATION

Amended by Ordinance 2008-02 Article II Section 2.02 "Application Procedures and Requirements"

Application for a zoning permit shall be made by the owners or lessees 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 the 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.

The application shall contain a general description of the proposed work, use and occupancy of all parts of the building, structure, or sign and such additional information as may be required by the Township Zoning Officer. The application for the zoning permit shall be accompanied by a plot plan of the proposed building, structure, or sign drawn to scale with sufficient clarity to show the nature and character of the work to be performed, including off-street parking and loading space if required, the location of new and existing construction, and the distances of the same from the existing lot lines.

14.04 ISSUANCE OF ZONING PERMITS ***Additional requirements Ordinance 2008-02 Article II Section 2.01***

Upon receiving the application, the Township Zoning Officer shall examine it within five (5) days after filing. If the application or plans do not conform to the provisions of all pertinent local laws, he shall reject the application in writing, stating the reasons for rejection. He shall inform the applicant of his right to appeal to the Township Zoning Hearing Board in the event such application is rejected. If satisfied that the proposed work and/or use conforms to the provisions of the Township Zoning Ordinance and all laws and ordinances applicable thereto, a zoning permit shall be issued.

14.05 EXPIRATION OF ZONING PERMIT ***Also see Ordinance 2008-02 Article II Section 2.07***

The zoning permit shall expire one (1) year from the date of issuance; provided, however, that the permit may be extended by the Township Zoning Officer every six (6) months for a period not to exceed an additional one (1) year.

14.06 REVOCATION OF PERMIT ***Also see Ordinance 2008-02 Article II Section 2.08***

The Township Zoning Officer may revoke a zoning permit or approval issued under the provisions of this Zoning 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.

14.07 PAYMENT OF FEES ***Also see Ordinance 2008-02 Article II Section 2.09***

No zoning permit to begin work for any activity covered by this Ordinance shall be issued until the fees set by the resolution of the Township Supervisors shall be paid to the Township Zoning Officer. The payment of fees under this section shall not relieve the applicant or holder of the zoning permit from payment or other fees that may be required by this Ordinance, or any other ordinance or law.

14.08 COMPLIANCE WITH ORDINANCE

The zoning 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 this Zoning Ordinance, except as stipulated by the Township Zoning Hearing Board.

14.09 COMPLIANCE WITH PERMIT AND PLOT PLAN ***Also see Ordinance 2008-02 Article II Section 2.05***

All work or uses shall conform to the approved application and plans for which the zoning permit has been issued as well as the approved plot plan.

14.10 ENFORCEMENT, SANCTIONS AND REMEDIES *Also see Ordinance 2008-02 Article II Section 2.10*

The construction, erection, replacement, alteration, repair, extension, replacement and/or use of any structure, building, sign, and/or land or the change of use, area of use, percentage of use or extension or displacement of the use of any structure, building, sign, and/or land without first obtaining a zoning permit, are hereby declared to be violations of this Zoning Ordinance.

The Chapman Township Zoning Officer shall serve a written notice of violation or order on the person responsible for the violation and such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation. However, in no case shall the person so served abandon the premises in such a condition so as create a hazard or menace to the public safety, health or welfare.

The Enforcement Notice shall be prepared and sent to the owner of the parcel on which the violation has occurred. The 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 specific date for compliance.
e. That the recipient of the notice has the right to appeal to the Zoning Hearing Board in the time period appeal.
f. That failure to comply or failure to appeal will result in clearly described sanctions.

Any person, partnership or corporation who or which shall violate the provisions of this Zoning Ordnance, shall, upon being found liable thereof in a civil enforcement proceeding, pay a penalty of not more than $500.00 plus all court costs including reasonable attorney's fees. Each day that a violation is continued shall constitute a separate violation. All penalties collected in violation of the Zoning Ordinance shall be paid to Chapman Township for the general use of the Township.

The imposition of the penalties herein prescribed shall not preclude the Township or the Supervisors, or the Zoning Officer with the approval of the Board of Supervisors, from instituting in the name of the Township any appropriate action to prevent unlawful erection or construction or construction or to restrain, correct or abate a violation or to prevent illegal use or occupancy of any structure, building, sign, land and/or premises or to stop an illegal act, conduct, business, use or occupancy of a structure, building, sign and/or land in or about any premises.

The rights and remedies provided in this Ordinance are cumulative and are in addition to all other remedies provided by law.

ARTICLE XV

ZONING HEARING BOARD

Amended by Ordinance 2016-01 Section II

15.00 CREATION AND MEMBERSHIP

The Township Supervisors shall appoint a Zoning Hearing Board, consisting of three (3) Township residents. Of the initial appointees to this Board, one (1) shall be designated until the first day of January following the date of this Ordinance, one (1) until the first day of the second January thereafter, and one (1) until the first day of the third January thereafter. Their successors in office shall be appointed on the expiration of their respective terms to serve three (3) years. The members of the Board shall be removable for cause, by the Township Supervisors, upon written charges and after public hearing, if the member shall request it in writing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

The Township 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 this Section, an alternate shall be entitled to participate in all proceedings and discussions of the board at 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 act and as otherwise provided by law. Alternates shall hold no other office in the municipality, including membership on the planning commission and zoning officer. 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 unless designated as a voting alternate member pursuant to this Section.

15.01 REMOVAL OF MEMBERS

Any Zoning Hearing Board member may be removed for malfeasance or nonfeasance in office or for other just cause by a majority vote of the Board of Township Supervisors which appointed the member, taken after the member has received fifteen (15) days advance notice of the intent to take such vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

15.02 ORGANIZATION OF ZONING HEARING BOARD

The Zoning Hearing 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 Zoning Hearing Board, but the Zoning Hearing 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 Zoning Hearing Board as provided in Article IX, Section 908 of the Pennsylvania Municipalities Planning Code, Act 247, as amended. The Zoning Hearing Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Township and laws of the Commonwealth of Pennsylvania. The Zoning Hearing Board shall keep full public records of its business, and shall submit a report of its activities to the Council once a year.

15.03 POWERS AND DUTIES

(1) The Zoning Hearing Board shall hear and decide on all matters referred to it or upon which it is required to pass under this Ordinance.

(2) The Zoning Hearing Board shall hear and decide appeals from any order, requirement, decision or determination made by the Zoning Officer in the administration of this Ordinance.

(3) The Zoning Hearing Board shall hear requests for variances from the requirements of this Ordinance where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. The Board may grant a variance provided the following findings are made where relevant in a given case:

A. 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 circumstances or conditions generally created by the provisions of the Township Zoning Ordinance in the neighborhood or district in which the property is located;

B. 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 the Township Zoning Ordinance and that the authorization of variance is therefore necessary to enable the reasonable use of the property;

C. That such unnecessary hardship has not been created by the applicant;

D. That the variance, if authorized, will not alter the essential character of the neighborhood or district 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;

E. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this act and the Township Zoning Ordinance.

(4) The Zoning Hearing Board shall hear and decide requests for special exceptions in those cases where this Ordinance indicates a special exception may be granted subject to compliance with the standards and criteria prescribed. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in the Ordinance, as it may deem necessary to implement the purposes of the Ordinance.

(5) The Zoning Hearing Board may conduct a hearing and take evidence on a substantive challenge and amendment to this Ordinance filed by a landowner. The Zoning Hearing Board may further make findings of fact relative to the challenge, and cause to be made a record or transcript, which may serve as the basis for further action. The Zoning Hearing Board shall not make recommendations or render an opinion in such matters, and has no authority to alter, change, or otherwise grant relief in such cases.

15.04 PROCEDURES

(1) Variance:

A. The landowner shall file a written request for a variance with the Zoning Officer along with all maps, plans and text which may be relevant to the request. Said request shall be accompanied by a fee specified by the Chapman Township Board of Supervisors.

B. The Zoning Officer shall transmit the request and any information received therewith, along with the file on said issue forthwith to the Zoning Hearing Board.

C. Upon receipt of a request for variance, the Zoning Hearing Board shall establish a time and place to hear said request within sixty (60) days.

D. The Zoning Hearing Board shall render a written decision and inform the applicant of said decision within forty-five (45) days of the final hearing date.

E. Hearings by the Zoning Hearing Board shall be conducted in accordance with Section 908 of Act 247, the Pennsylvania Municipalities Planning Code as amended.

(2) Special Exceptions:

A. The landowner shall file a written request for the granting of a special exception along with all maps, plans and text which may be necessary to explain the development proposed and its conformance with the standards and criteria of this Ordinance with the Zoning Officer. Said request shall be accompanied by a fee specified by the Board of Township Supervisors.

B. The Zoning Officer shall transmit the request and background data forthwith to the Zoning Hearing Board.

C. The Zoning Hearing Board shall schedule a public hearing with public notice within sixty (60) days of said request.

D. The Zoning Hearing Board shall render a written decision and inform the applicant of said decision within forty-five (45) days of the final hearing date unless, upon mutual consent of the Board and applicant, it is agreed to continue the proceedings.

E. The Zoning Hearing Board shall make its decision in accordance with Section 913 of Act 247, the Pennsylvania Municipalities Planning Code as amended.

(3) Appeal of the Zoning Officer's Decision:

A. Appeals arising from the Zoning Officer's decision on a specific provision of this Ordinance shall be handled in the same manner as a variance request.

(4) When the landowner is notified of the decision of the Zoning Hearing Board granting a variance or special exception, the landowner must effectuate the Board's decision within six (6) months of said notification; otherwise, said notification becomes null and void and filling of a subsequent request for a variance or special exception will be necessitated.

15.05 TIME LIMITATIONS

Any person aggrieved by the rendering of a decision by the Board of Township Supervisors or the Zoning Officer shall have thirty (30) days in which to file an appeal or request for review with the Zoning Hearing Board from the date of said decision.

15.06 APPEALS TO THE ZONING HEARING BOARD

Appeals to the Zoning Hearing Board may be made by any one person or by any Township official or agency aggrieved or affected by any decision of the Zoning Officer. Such appeal shall be taken within a reasonable time as provided by the rules of the Board and Act 247 as amended, by filing with the Zoning Officer and with the Board a notice of appeal specifying the grounds thereof.

The Zoning Officer shall immediately transmit to the Zoning Hearing Board all the papers constituting the record upon which the action appealed from was taken. An appeal shall state:

(1) The name and address of the owner or the appellant.

(2) The name and address of the owner of the real estate to be affected by such proposed change.

(3) A brief description and location of the real estate to be affected by such proposed change.

(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 variance or exception requested may be allowed and reasons why it should be granted.

The following section is DELETED and replaced as per Ordinance 2011-02 Section II

Upon receiving an appeal, the Zoning Hearing Board shall fix a reasonable time and place for a public hearing thereon and shall give the notice as follows:

(1) By advertising at least one (1) week before the hearing, at least one (1) time in a newspaper of general circulation within the Township.

(2) By mailing due notice of at least six (6) days prior to the date of the hearing to the parties of interest.

(3) By mailing due notice thereof to the Township Supervisors, the Township Planning Commission, the Zoning Officer, and such other persons who make timely requests for the notice.

15.07 PUBLIC HEARING

The Zoning Hearing Board shall conduct a public hearing on such appeal at which hearing any party may appear in person or by agent or attorney, and all of said parties so affected shall be given an opportunity to be heard. All proceedings shall be conducted in accordance with Article IX of Act 247. Decisions or findings of the Board shall be rendered in accordance with Article IX of Act 247, as amended.

15.08 APPEALS FROM THE BOARD RULINGS

Any person aggrieved by any decision of the Zoning Hearing Board or any taxpayer may appeal to the County Court of Common Pleas under the procedure set forth in Article IX of Act 247, as amended.

15.09 EFFECT OF BOARD'S DECISION

If the variance is granted or the issuance of a permit is approved, or other action by the appellant is authorized, the necessary permit shall be secured and the authorized action begun within three (3) months from the date of written decision when the variance is finally granted or the issuance of a permit is finally approved or the other action by the appellant is authorized; and the building or alteration, as the case may be, shall be completed within twelve (12) months of said date. For good cause the Board may, upon application in writing stating the reasons therefore, extend either the three (3) months or twelve (12) months period.

Should the appellant or applicant fail to obtain the necessary permits within said three (3) months period or having obtained the permit should he fail to commence work thereunder within such three (3) months period, it shall be conclusively

presumed that the appellant or applicant has waived, withdrawn, or abandoned his appeal or his application and all provisions, variances and permits granted to him shall be deemed automatically rescinded by the Board.

Should the appellant or applicant commence construction or alteration within said three (3) months period, but should he fail to complete such construction or alteration within said twelve (12) month's period, the Board may upon ten (10) days notice in writing, rescind or revoke the granted variance, or the issuance of the permit or permits, or the other action authorized to the appellant or applicant, if the Board finds that a good cause appears for the failure to complete within such twelve (12) months period, and if the Board further finds that conditions have so altered or changed in the interval since the granting of the variance, permit or action, that revocation or rescinding of the action is justified.

ARTICLE XVI

AMENDMENTS

16.00 AMENDMENTS

The Board of Supervisors may from time to time, after public notice and hearing as hereinafter prescribed, amend, supplement, change or repeal this Ordinance including the Zoning Map. Any amendment, supplement, change, or repeal may be initiated by the Planning Commission for its recommendations and shall be specifically found by the Township Supervisors to be in accordance with the spirit and intent of the formally adopted portions of the Township Comprehensive Plan before final action is taken.

(1) When an amendment, supplement, change or repeal is initiated by the Township Planning Commission, the proposal shall be presented to the Board of Supervisors who shall then proceed in the same manner as with a petition to the Board of Supervisors which has already been reviewed by the Planning Commission.

(2) When an amendment, supplement, change or repeal is initiated by the Board of Supervisors, it shall submit the proposal to the Township Planning Commission for review and recommendations.

(3) A petition for an amendment, supplement, change or repeal shall contain as fully as possible all the information requested by the Zoning Officer and shall 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.

16.01 REFERRAL TO TOWNSHIP PLANNING COMMISSION

After receipt of the petition by the Township, said petition shall be presented to the Township Planning Commission, for review and recommendations. A report of said review, together with any recommendations shall be given to the Board of Supervisors in writing within forty-five (45) days from the date of said referral. If the Township Planning Commission shall fail to file such a report within the time and manner specified, it shall be conclusively presumed that the Planning Commission has approved the proposed amendment, supplement, change or repeal.

16.02 PUBLIC HEARING

The Township Supervisors shall fix a time and place for a public hearing on the proposed amendment and shall public notice of the hearing in the manner prescribed by Act 247, as amended.
At the time and place specified, the Township Supervisors shall conduct a hearing on said petition to amend, supplement, change or repeal the Zoning Ordinance or Zoning Map, and shall thereafter within a period of ninety (90) days either reject the proposed change or enact an ordinance implementing the proposed change.

16.03 AUTHENTICATION OF OFFICIAL ZONING MAP

Whenever there has been a change in the boundary of a Zoning District or the reclassification of the Zoning District adopted in accordance with the above, the change on the official map shall be made, and shall be duly certified by the Township and shall thereafter be refiled as part of the permanent records of the Township.

16.04 PURPOSE

The Board of Supervisors by Ordinance, may, upon recommendation of the Township Planning Commission, or upon petition and subject to procedures provided by law, amend, supplement, change, or repeal the regulations, District boundaries or classifications of property established by this Ordinance.

16.05 CITIZEN REQUEST FOR AMENDMENT TO TEXT OR MAP

Requests for changes in the Township Zoning Ordinance may be made by owners of land zoned by the Township or by their authorized agents and shall be filed with the Township Zoning Officer on forms prescribed by him/her. Applications shall contain all information necessary to assure a full and accurate presentation of facts including:

(1) The applicant's name and address and that of his representative, and the interest of every person represented in the application.

(2) Verification by at least one of the owners attesting to the truth and correctness of facts and information presented.

(3) A plan showing the extent of the area to be rezoned, if this be the nature of the request, and showing the streets bounding the area, the use and zone classification of abutting districts, and the names and addresses of property owners of land within two hundred (200) feet of the area.

(4) A statement of the circumstances in the proposed and abutting districts and any other factors on which the applicant relies as reasons for supporting the proposed rezoning.

The Zoning Officer shall review the application to determine whether it conforms with the requirements listed above. If satisfactory, the Zoning Officer shall immediately submit the application to the Township Planning Commission for review. Upon review, it shall be submitted to the Board of Supervisors, who shall follow the procedures enumerated in Section 16.03.

16.06 PLANNING COMMISSION REQUESTS FOR AMENDMENT TO TEXT OR MAP

Amendments to the Zoning Ordinance text or map may be initiated by the Township Planning Commission according to procedures enumerated in Section 15.04 submitted to the Board of Supervisors, who shall follow the procedures described in Section 16.03.

16.07 PROCEDURES OF THE BOARD OF SUPERVISORS

The Board of Supervisors shall adhere to the following procedures when amending the Zoning Ordinance:

(1) Preparation of Amendments

The Board of Supervisors may request the Township Planning Commission to prepare amendments to the Zoning Ordinance using the same procedure set forth in Act 247, the Pennsylvania Municipalities Planning Code as amended.

(2) Referral to the County Planning Commission

The Board of Supervisors shall submit each amendment to the Clinton County Planning Commission at least thirty (30) days prior to the public hearing on such proposed amendment to afford the County Planning Commission an opportunity to submit recommendations.

(3) Public Hearing

After receiving requests for amending the Zoning Ordinance and after receiving the recommendations of the Township and County Planning Commissions, the Board of Supervisors shall hold a public hearing and cause notice to be given in the manner prescribed in Section 16.07.

(4) Revision of Amendment

If, after the public hearing held upon the amendment, the proposed amendment is revised or further revised to include land previously not affected by it, the Board of Supervisors shall hold another public hearing in the manner prescribed in Section 15.07 before proceeding to vote on the amendment.

(5) Voting on Amendment

The Board of Supervisors shall consider the recommendations of the Township and County Planning Commissions and testimony presented at the public hearing. The Board of Supervisors shall vote on the proposed amendment within ninety (90) days of the last public hearing.

(6) Notice of Decision

The applicant and others so requesting shall receive notice of the decision of the Board of Supervisors through the Zoning Officer.

16.08 PROCEDURES OF THE TOWNSHIP PLANNING COMMISSION

The Township Planning Commission shall follow the procedures set forth below for amending the Zoning Ordinance:

(1) Preparation of Amendments

At the request of the Board of Supervisors, or on its own initiative, the Township Planning Commission:

A. Shall prepare the text and map of the proposed zoning amendments as well as make any necessary studies.

B. May hold a public meeting or meetings pursuant to public notice.

C. Shall present to the Board of Supervisors the proposed zoning amendment, with recommendations and explanatory materials.

(2) Review Amendments

In the case of an amendment other than that prepared by the Township Planning Commission, the Planning Commission shall review each such amendment submitted to it by the Board of Supervisors. It shall consider whether or not such proposed amendment would be consistent with and desirable in the furtherance of the community development objectives upon which the Zoning Ordinance is based. The Planning Commission shall submit its recommendations prior to the public hearing scheduled by the Board of Supervisors.

16.09 PROCEDURES UPON CURATIVE AMENDMENTS

A landowner who desires to challenge on substantive grounds the validity of the Zoning Ordinance or 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 with a written request that his challenge and proposed amendment be heard and decided as provided for in Section 16.01.

The Board of Supervisors shall commence a public hearing thereon within sixty (60) days of the request as provided in Section 16.07.

The curative amendment shall be referred to the Township and County Planning Commissions and notice of public hearing thereon shall be given. The public hearing shall be conducted similarly as those conducted by the Zoning Hearing Board, except that all references therein to the Zoning Hearing Board shall, for the purpose of curative amendments, be references to the Board of Supervisors.

16.10 PROCEDURES UPON MUNICIPAL CURATIVE AMENDMENTS

(1) The Board of Supervisors, by formal action, may declare its Zoning Ordinance or portions thereof substantially 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 Zoning Ordinance which may include:

1. References to specific uses which are either not permitted or not permitted in sufficient quantity.

2. Reference to a class of use or uses which require revision.

3. Reference to the entire ordinance which requires revisions.

B. Begin to prepare and consider a curative amendment to the Zoning 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, or reaffirm the validity of, its Zoning Ordinance pursuant to the provisions required by Article XV to cure the declared invalidity of the Zoning Ordinance.

(3) Upon the initiation of the procedures, the Board of Supervisors shall not be required to entertain or consider any landowner's curative amendment filed under Section 16.01 nor shall the Zoning Hearing Board be required to give a report, subsequent to the declaration and proposal based upon grounds which are identical to or substantially similar to those specified in the resolution.

(4) Upon completion of the procedures as set forth, above, no rights to a cure pursuant to the provisions of Section 16.05 and 16.06 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 there has been a curative amendment pursuant to this Section.

(5) The Board of Supervisors having utilized the procedures as set forth above, may not utilize said procedure for a thirty-six (36) month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of the Zoning Ordinance, provided, however, if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the Township by virtue of a change in statute or 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 its Ordinance to fulfill said duty or obligation.

16.11 PUBLIC HEARINGS

Before voting on the enactment of an amendment the Board of Supervisors shall hold a public hearing thereon pursuant to public notice as follows:

(1) Public notices of proposed zoning ordinances and amendments shall include either the full text thereof, or a brief summary setting forth the principal provisions in reasonable detail, and a reference to a place within the Township where copies of the proposed ordinance or amendment may be examined, in addition to the time and place of hearing; and

(2) A public notice of a proposed zoning ordinance or amendment shall be published once each week for two (2) successive weeks, the first notice to appear not less than fourteen (14) days nor more than thirty (30) days before the date fixed for the hearing, in a newspaper of general circulation in the Township.

16.12 PUBLICATION AND AVAILABILITY BEFORE ENACTMENT

Proposed zoning ordinances and amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this Section.

The vote on the enactment of zoning ordinances and amendments by the Board of Supervisors shall be within ninety (90) days after last public hearing.

(1) Public Notice shall include the time and place of the meeting at which passage will be considered, a reference to a place within the municipality where copies of the proposed ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof.

(2) The proposed ordinance or amendment shall be published once in a newspaper of general circulation not more than sixty (60) days nor less than seven (7) days prior to passage. Publication of the proposed ordinance or amendment shall include either the full text or the title and a brief summary, prepared by the municipal solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

A. A copy shall be supplied to the newspaper of general circulation at the time the public notice is published.

B. An attested copy of the proposed ordinance shall be filed at the Township Municipal Building.

(3) In the event substantial changes are made in the proposed ordinance or amendment, before voting upon enactment, the governing body shall, at least ten (10) days prior to enactment, re-advertise the changes in a brief summary.

16.13 DISTRIBUTION AFTER ENACTMENT

Within thirty (30) days after enactment, a copy of the Zoning Ordinance or Amendment shall be forwarded to the Township Planning Commission.

ARTICLE XVII

APPENDIX SECTION

17.00 WATERSHEDS THAT INCLUDE PUBLIC DRINKING WATER SOURCES

The following tracts of land describe public drinking water sources that are zoned NC–Nature Conservation District.

(1) Paddy Run/Skunk Hollow Watershed

All those certain parcels of land situated in Chapman Township, Clinton County, Pennsylvania, and more particularly described as follows:

Commencing at the intersection of Pfoutz Valley Road at the intersection of the Noyes Township/Chapman Township boundary; thence in a Southerly direction along Pfoutz Valley Road and Summerson Mountain Road approximately 6.1 miles to the crest of the ridge dividing Skunk Hollow from Young Woman's Creek; thence along said ridge South fifty–two (52°) degrees twenty–four (24') minutes East a distance of five thousand (5,000') feet to a point; thence toward the town of North Bend South twenty–eight (28°) degrees fifty–six (56') minutes East a distance of two thousand three hundred twenty (2,320') feet to a point; thence toward Skunk Hollow Run South fifty–five (55°) twenty (720') feet to a point on Skunk Hollow Run; thence along Skunk Hollow Run South forty–nine (49°) degrees thirty–eight (38') minutes East a distance of three hundred (300') feet to a point; thence crossing Summerson Mountain Road South seventy–five thousand (5000') feet to the divide for Paddy's Run; thirty–one (31') minutes West a distance of eight thousand four hundred sixty–five (8,465') feet; thence North twenty–four (24°) degrees thirty (30') minutes West a distance of six thousand seven hundred seventy (6,770') feet to the township Noyes Township and Chapman Township in a Northerly direction approximately ten thousand five hundred (10,500') feet, West (8,900') feet, Easterly one thousand six hundred fifty (1,650') the intersection of Pfoutz Valley Road with the Noyes Township/Chapman Township boundary lines, the place of beginning. Containing +/–8,000 acres.

Comprising all or portions of the following properties as identified by Tax Parcel No:

08-01-0018-00-C	09-01-0059-A	09-01-0068-A	08-01-0019	09-01-0059-B-C
09-01-0068-000-C	08-01-0019-A	09-01-0059-C9C	09-01-0069	09-01-0025
09-01-0059-E	09-01-0070	08-01-0019	09-01-0059-F	09-01-0071
08-01-0027	09-01-0059-F-C	09-01-0071-A	08-01-0027-A-C	09-01-0059-I-C
09-01-0071-B	08-01-0027-B	09-01-0062-D	09-01-0072	08-01-0028-000-C
09-01-0063-000-C	09-01-0073	08-01-0033	09-01-0064	09-01-0074
08-01-0036	09-01-0065-000-C	09-01-0076-A	09-01-0037	09-01-0066
09-01-0076-B	08-01-0040	09-01-0066-A	09-01-0076-C	09-01-0057
09-01-0067	09-01-0077	09-01-0078-000-1		

(2) Gleasonton Watershed

All those certain parcels of land situated in Chapman Township, Clinton County, Pennsylvania, and more particularly described as follows:

Commencing at a point, said point being located approximately three hundred (300') feet Northeast of the Womens Creek; thence North eighty–five (85°) degrees seventeen (17') minutes East a distance of seven thousand one hundred eighteen (7,118') feet to the divide with Dry Run; thence South distance of five thousand three hundred thirty–six (5,336') feet to the divide with the West Branch of the Susquehanna River; thence North sixty–eight (68°) degrees fifty–six (56') minutes West a

distance of four thousand four hundred forty-two (4,442') feet to a point near the town of Gleasonton; thence parallel to the old road and Young Women's Creek North eighteen (18°) degrees zero (0') minutes West a distance of two thousand eight hundred seventy-eight (2,878') feet to the place of beginning. Containing 500 acres +/-.

Comprising all or portions of the following properties as identified by Tax Parcel No:

07-01-0008-000-TC 07-01-0009-000-C 07-01-0011 07-01-0008-B4 07-01-0010

(3) Farwell Watershed

All those certain parcels of land situated in Chapman Township, Clinton County, Pennsylvania, and more particularly described as follows:

Beginning at a point located along the former Fairchild Street in the town of Farewell near the pump house for the Farwell Water Company; thence North fifty-four (54°) degrees twenty-five (25') minutes West a distance of one thousand six hundred forty-seven (1,647') feet to a point; thence North sixteen (16°) degrees forty-two (42') minutes East a distance of one thousand six hundred ninety-seven (1,697') feet to the top of a ridge; thence along the top of the ridge North of seven hundred (700') feet to a point; thence along the top of the ridge North fifty-seven (57°) degrees fifty-six (56') minutes East a distance of seven hundred thirty (730') feet to a point; thence South forty-seven (47°) degrees fifty-six (56') minutes East a distance of one thousand three hundred forty (1,340') feet to a point' thence South twenty (20°) degrees seventeen (17') minutes West a distance of two thousand one hundred ninety-eight (2,198') feet to the place of beginning. Containing 75 acres +/-.

Comprising all portions of the following properties as identified by Tax Parcel No:

08-01-0033 08-01-0037

17.01 A LISTING AND DESCRIPTION OF BIOLOGICAL DIVERSITY AREAS FOUND IN CHAPMAN TOWNSHIP

A Biological Diversity Area (BDA) is an area of special significance because of its plant and animal life. A BDA can be one of three types. The first category is *Special Species Habitat*. It is defined as an area that includes natural or human influenced habitat that harbors one or more occurrences of plants or animals recognized as state or national species of concern. The second category is called a *High Diversity Area*. This is because it is an area found to possess a high diversity of species of plants and animals native to the county. The third and final category is the *Community/Ecosystem Conservation Area*. This area supports a rare or exemplary natural community (assemblage of plants and animals), including the highest quality and least disturbed examples of relatively common community types.

(1) Boggs Hollow Watershed BDA

Boggs Hollow is a high gradient clearwater stream with an exceptional value designation by the Pennsylvania DEP, Bureau of Water Quality, from its headwaters to its confluence with the West Branch of the Susquehanna River. The watershed is compact and recently undisturbed. Dry slopes of mixed oak, yellow and black, birch, and red maple transform to a more mesic cover of sugar maple, tulip tree black cherry, and rhododendron on the lower slopes along the stream. The Boggs Hollow Watershed is not exceptionally diverse, but it is a contiguous piece of forest that

joins the Bucktail State Park Natural Area and the West Branch with the high plateaus an important linkage of habitat.

(2) Hyner View BDA

The Hyner View BDA is one of exceptional significance. Hyner View State Park sits atop Hyner Mountain and affords one of the most spectacular views of the West Branch Valley on the whole plateau. This area is periodically cleared to maintain an unobstructed view and to provide a take-off point for hang gliders. This small mountain top park is part of the Hyner View BDA, and the home of an endangered plant in Pennsylvania depending on the natural openings in the forest created by fire and withthrow, this plant has found suitable habitat within the developed sections within the park. This BDA is demonstrably secure globally, though it may be quite rare in parts of its range, especially at the periphery. On the state level it is critically imperiled because of extreme rarity (5 or fewer occurrences or very few remaining individuals or acres) or because of some factors making it especially vulnerable to extirpation from the state.

(3) Paddy Run Watershed BDA

The Paddy Run Watershed BDA includes most of Paddy Run and its watershed. It is a high gradient clearwater stream that was recently upgraded to exceptional value by the Pennsylvania DEP. Paddy Run supplies Renovo with its drinking water. McNearney Swamp lies at the top of the McNearney Branch of Paddy's Run. This swamp is a large wetland that once supported a Northern Conifer Swamp. Removal of large white pines and eastern hemlocks in the early 1900's elevated the water table, encouraged the growth of wet site species like alder and cattails and discouraged the re-colonization of conifers. There is evidence of beaver activity at McNearney Swamp. The U.S. Fish and Wildlife Service along with the Bureau of Forestry constructed several ponds as part of a wildlife habitat improvement program. Civilian Conservation Corps plantings of Norway spruce, Scotch pine, and blue spruce, are now colonizing sections of the open grass/sedge meadow in the wetland. It is more extensively and recently disturbed than similar wetlands, but the potential for recovery exists and its unique habitat makes it a significant resource.

(4) Seven Mile Branch Pond BDA

The Seven Mile Branch Pond BDA lies at the confluence and the Seven Mile Branch, and contains a natural pond, probably formed by beaver activity. Although not recently, the grass-covered humps of the old beaver dams are scattered through the area. A colony of watershield grows in the pond and numerous grasses, sedges and rushes grow around the perimeter. Plantings of white spruce, larch, and thickets of Japanese barberry can also be seen in the area.

(5) Fork Hill Road BDA

The Fork Hill Road BDA lies on the ridge between Bull Run and the right branch of the Young Woman's Creek. This site includes a patch of northern hardwood - conifer forest containing large, old eastern hemlocks and beech. Just within the Susquehannock State Forest, this is one of the best examples of this forest type in Clinton County and is also a nesting site of an animal of special concern in Pennsylvania.

(6) Dry Run Road Wetland BDA

The Dry Run Road Wetland BDA contains a small wetland that sits to the south of Dry Run Road. It has a state significance level of one, which means it is critically imperiled because of extreme rarity. This fluctuating natural pool supports several species of sedge and deserves recognition because of the diversity it lends to the surrounding dry oak forest and the possibility of it supporting a plant of special concern.

17.02 A LISTING AND DESCRIPTION OF DEP EXCEPTIONAL VALUE WATERS DESIGNATED IN CHAPMAN TOWNSHIP

A stream or watershed designated by the Pennsylvania Department of Environmental Resources as Exceptional Value Waters constitutes an outstanding national, state, regional or local resource, such as waters of national, state or county parks or forests, or waters which are used as a source of unfiltered potable water supply, or waters of wildlife refugees or state game lands, or waters which have been characterized by the Fish Commission as "Wilderness Trout Streams", and other waters of substantial recreational or ecological signification.

In Chapman Township the Paddy Run and Boggs Hollow watersheds have been designated as Exceptional Value Waters.

ARTICLE XVIII

REPEALER AND EFFECTIVE DATE

18.00 REPEALER

The existing Zoning Ordinance, enacted in 1970, and entitled Chapman Township Zoning Ordinance, and all supplements and amendments thereto, are hereby repealed. Provided, however, if the present Ordinance is held to be ineffective or invalid by reason of some irregularity in or impediment to its passage, this repealer shall also be ineffective as aforesaid. Then and in an event, the Zoning Ordinance of 1970, together with its supplements and amendments, would necessarily remain in full force and effect.

18.01 EFFECTIVE DATE

The effective date of this Ordinance shall be fourteen (14) days after the date of enactment.

18.02 ENACTMENT

Enacted and ordained into an Ordinance this_____1998

CHAPMAN TOWNSHIP BOARD OF SUPERVISORS

_____
Dennis Trout, Chairman

_____
Patricia Lundfelt, Vice-Chairman

_____
Tim L. Horner

ATTEST:

_____
Dionne Werts, Secretary

18.03 RECOMMENDATION FOR APPROVAL BY CHAPMAN TOWNSHIP PLANNING COMMISSION

Recommended for approval to the Chapman Township Board of Supervisors by the Chapman Township Planning Commission on the day of , 1998.

CHAPMAN TOWNSHIP PLANNING COMMISSION

_____
Tim L. Horner, Chairman

ATTEST:

_____
Dionne Werts,Secretary

ORDINANCE NO. 2006- 01

AN ORDINANCE OF THE TOWNSHIP OF CHAPMAN SETTING FORTH AN AMENDMENT TO THE CHAPMAN TOWNSHIP ZONING ORDINANCE, AS HERETOFORE AMENDED, ESTABLISHING STANDARDS FOR THE PLACEMENT, LOCATION AND DESIGN OF COMMERCIAL COMMUNICATIONS TOWERS, ANTENNAS AND ANTENNA ARRAYS

WHEREAS, the demand for personal wireless communications services by Chapman Township and Clinton County residents and businesses continues to grow ; and

WHEREAS, a township and county-wide distribution and siting of telecommunications towers is desirable to meet that demand; and

WHEREAS, there is a need to ensure that the Township's development regulations appropriately balance the need to permit telecommunications facilities necessary to provide residents and businesses adequate and efficient communications services against the need to ensure that such telecommunications facilities do not adversely impact neighboring residents; and

WHEREAS, the Chapman Township Board of Supervisors therefore desires to encourage efficient and adequate wireless communication services within Chapman Township while at the same time, protecting the public health, safety and welfare; and

WHEREAS, in an effort to facilitate efficient and adequate communications services and protect the interests of its residents, the Chapman Township Board of Supervisors desires to regulate the construction and the placement of telecommunications facilities; and

WHEREAS, it is necessary to amend the Chapman Township Zoning Ordinance in order to accomplish the above.

NOW THEREFORE, THE CHAPMAN TOWNSHIP BOARD OF SUPERVISORS ordains that the Chapman Township Zoning Ordinance shall be amended as follows:

SECTION I. ARTICLE III, Section 3.01 of the Chapman Township Zoning Ordinance, "DEFINITIONS" shall be amended to include the following definitions:

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ANTENNA ARRAY - One or more Communications Antennas (as hereinafter defined) used for the transmission or reception of Wireless Communications (as hereafter defined). The Antenna Array is not, and does not include, the Communications Tower or Antenna Support Structure as defined in this Article.

ANTENNA SUPPORT STRUCTURE - Any structure designed and constructed specifically to support an Antenna Array or Communications Antenna and may include a Monopole, Lattice (self-supporting) tower, Guyed or "guy-wire" support tower and other similar structures.

COMMUNICATIONS ANTENNA - Any device used for the transmission or reception of Wireless Communications (as hereafter defined) including without limitation omni-directional or whip antennas, directional or panel antennas, and parabolic or disc antennas owned or operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. This definition shall not include private residence mounted satellite dishes or television antennas or amateur radio equipment including, without limitation, ham or citizen band radio antennas.

CO-LOCATION - Use of an Antenna Support Structure or Communications Tower by two or more Wireless Communications carriers or by one Wireless Communications carrier for more than one type of Wireless Communications technology, or the placement of a Communications Antenna or Antenna Array to an existing structure such as a building, church, governmental building or structure, water tank, Public Utility Transmission Tower (as hereafter defined) or other Structure.

COMMUNICATIONS EQUIPMENT BUILDING - An unmanned building or cabinet containing electronic receiving and relay equipment required for the operation of Communications Antennas.

COMMUNICATIONS TOWER - Any ground-mounted structure, including an Antenna Support Structure, that is designed and constructed primarily for the purpose of supporting one or more Communications Antennas or Antenna Arrays for the transmission or reception of Wireless Communications (as hereafter defined) including a Monopole, Lattice (self-supporting) tower, Guyed or "guy-wire" support tower and other similar structures. The term does not include supportive structures on residential dwellings for private, non-commercial purposes, including television antennas, private satellite dishes, and amateur or citizens band radios.

DIRECTIONAL ANTENNA - A Communications Antenna that transmits and/or receives Wireless Communications in a directional pattern of less than 360 degrees.

ESSENTIAL SERVICES - The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems and their essential buildings, excluding Communications Towers, Communications Antennas, Antenna Arrays and Wireless Communications Facilities as defined herein.

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FAA - The Federal Aviation Administration.

FCC - The Federal Communications Commission.

GUYED TOWER - A monopole or lattice tower that is tethered or tied to the ground or other surface by cables.

LATTICE TOWER - A self-supporting tower Structure with multiple legs and cross-bracing of structural steel.

MAXIMUM HEIGHT OF A COMMUNICATIONS TOWER - The vertical distance measured from the top of the foundation to the top point on the Communications Tower, Communications Antennas, Antenna Array or lightning rod, whichever is the highest.

MONOPOLE -A Communications Tower that is self-supporting with a single shaft, generally constructed of steel.

OMNI-DIRECTIONAL ANTENNA - A thin rod that serves as a Communications Antenna to transmit or receive Wireless Communications in a 360 degree radial pattern.

PANEL ANTENNA - A flat surface Communications Antenna usually deployed in three sectors (i.e., 0 to 120 degrees, 120 to 240 degrees, and 240 to 360 degrees) and used to receive or transmit radio frequency signals from or into that sector only.

PRE-EXISTING COMMUNICATIONS TOWERS AND ANTENNAS - Any Communications Tower or Communications Antenna for which a permit has been issued prior to the date of this Amendment.

PUBLIC UTILITY TRANSMISSION TOWER - A structure, owned and operated by a public utility electric company regulated by the Pennsylvania Public Utility Commission, designed and used to support overhead electricity transmission lines.

STRUCTURE - Anything built, constructed or erected which requires location on the ground or attachment to something located on the ground.

TEMPORARY WIRELESS COMMUNICATIONS FACILITY -Any tower, pole, antenna, vehicle, "cell on wheels" (COW), or similar Structure designed for use while a Wireless Communications Facility is under construction or being modified or repaired, or for a special event or conference.

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WIRELESS COMMUNICATIONS - Any wireless services as defined in the Federal Telecommunications Act which includes FCC licensed commercial wireless telecommunications services, cellular, PCS, specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and other similar services that currently exist or that may in the future be developed.

WIRELESS COMMUNICATIONS FACILITY - An all encompassing definition for any Communications Towers, Communications Antennas, Antenna Support Structures, Antenna Arrays, poles, antennas, equipment buildings, or other structures intended for use in connection with the transmission and receipt of Wireless Communication.

SECTION II. ARTICLE IV, Section 4.01(1) (A) of the Chapman Township Zoning Ordinance, shall be amended by adding the following Permitted Uses in the Nature Conservation District (NC):

4. Communications Antennas or Antenna Arrays which are mounted or attached to any existing building or Structure, including, but not limited to, Public Utility Transmission Towers, churches, governmental buildings or facilities, agricultural buildings, Pre-Existing Communications Towers, water tank or other structures, subject to the standards set forth in Section 7.38 herein.

5. Communications Equipment Buildings subject to the standards set forth in Section 7.38 herein,

6. Temporary Wireless Communications Facility subject to the standards set forth in Section 7.40 herein.

SECTION III. ARTICLE IV, Section 4.01(2) (A) of the Chapman Township Zoning Ordinance, shall be amended by adding the following Permitted Use in the Commercial District (C):

9. Communications Antennas or Antenna Arrays which are mounted or attached to any existing building or Structure, including, but not limited to, Public Utility Transmission Towers, churches, governmental buildings or facilities, agricultural buildings, Pre-Existing Communications Towers, water tank or other structures, subject to the standards set forth in Section 7.38 herein.

10. Communications Equipment Buildings subject to the standards set forth in Section 7.38 herein.

11. Temporary Wireless Communications Facility subject to the standards set forth in Section 7.40 herein.

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SECTION IV. ARTICLE IV, Section 4.01(3) (A) of the Chapman Township Zoning Ordinance, shall be amended by adding the following Permitted Use in the Forest and Agricultural District (FA):

8. Communications Antennas or Antenna Arrays which are mounted or attached to any existing building or Structure, including, but not limited to, Public Utility Transmission Towers, churches, governmental buildings or facilities, agricultural buildings, Pre-Existing Communications Towers, water tank or other structures, subject to the standards set forth in Section 7.38 herein.

9. Communications Equipment Buildings subject to the standards set forth in Section 7.38 herein.

10. Temporary Wireless Communications Facility subject to the standards set forth in Section 7.40 herein.

SECTION V. ARTICLE IV, Section 4.01(4) (A) of the Chapman Township Zoning Ordinance, shall be amended by adding the following Permitted Use in the Industrial District (I):

8. Communications Antennas or Antenna Arrays which are mounted or attached to any existing building or Structure, including, but not limited to, Public Utility Transmission Towers, churches, governmental buildings or facilities, agricultural buildings, Pre-Existing Communications Towers, water tank or other structures, subject to the standards set forth in Section 7.38 herein.

9. Communications Equipment Buildings subject to the standards set forth in Section 7.38 herein.

10. Temporary Wireless Communications Facility subject to the standards set forth in Section 7.40 herein.

SECTION VI. ARTICLE IV, Section 4.01 (5) (A) of the Chapman Township Zoning Ordinance, shall be amended by adding the following Permitted Use in the Residential District (R):

6. Communications Antennas or Antenna Arrays which are mounted or attached to any existing building or Structure, including, but not limited to, Public Utility Transmission Towers, churches, governmental buildings or facilities, agricultural buildings, Pre-Existing Communications Towers, water tank or other structures, subject to the standards set forth in Section 7.38 herein.

7. Communications Equipment Buildings subject to the standards set forth in Section 7.38 herein.

8. Temporary Wireless Communications Facility subject to the standards set forth in Section 7.40 herein.

SECTION VII. ARTICLE IV, Section 4.01(1) (B) of the Chapman Township Zoning Ordinance, shall be amended by adding the following Special Exception Use in the Nature Conservation District
(NC):

6. Communications Towers subject to the standards set forth in Section 7.39 herein.

SECTION VIII. ARTICLE IV, Section 4.01 (2) (B) of the Chapman Township Zoning Ordinance, shall be amended by adding the following Special Exception Use in the Commercial District (C):

6. Communications Towers subject to the standards set forth in Section 7.39 herein.

SECTION IX. ARTICLE IV, Section 4.01 (3) (B) of the Chapman Township Zoning Ordinance, shall be amended by adding the following Special Exception Use in the Forest and Agricultural District (FA):

21. Communications Towers subject to the standards set forth in Section 7.39 herein.

SECTION X. ARTICLE IV, Section 4.01(4)(B) of the Chapman Township Zoning Ordinance, shall be amended by adding the following Special Exception Use in the Industrial District (I):

6. Communications Towers subject to the standards set forth in Section 7.39 herein.

SECTION XI. ARTICLE VII of the Chapman Township Zoning Ordinance shall be amended by adding the following Section 7.38:

SECTION 7.38 - REGULATIONS GOVERNING COMMUNICATIONS ANTENNAS, ANTENNA ARRAYS AND COMMUNICATIONS EQUIPMENT BUILDINGS

(1) Communications Antennas, Antenna Arrays and Antenna Support Structures shall not be located or permitted on any single-family dwelling, townhouse or duplex.

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(2) Communications Antennas, Antenna Arrays and Antenna Support Structures mounted on a building or other structure shall be no higher than twenty (20') feet above the existing Structure.

(3) Omni-directional or whip Communications Antennas shall not exceed twenty (20') feet in height and seven (7") inches in diameter.

(4) Directional or Panel Communications Antennas shall not exceed eight (8') feet in height and three (3') feet in width.

(5) Communications Antennas shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.

(6) Communications Equipment Buildings shall not exceed twelve (12) feet in height and five hundred seventy-five (575) square feet in area. Communications Equipment Buildings may only be used for the housing of equipment necessary to service the Wireless Communications Facility located on the premises.

(7) The owner or operator of Communications Antennas shall be licensed by the Federal Communications Commission to operate such antennas.

(8) The following general application requirements apply to all Communications Antennas, Antenna Arrays and Antenna Support Structures that are erected, sited, constructed or placed within Chapman Township:

(a) Each permit application for the placement of a Communications Antennas, Antenna Arrays or Antenna Support Structures shall be accompanied by the following:

(i) A completed application form, with original signatures, from the applicant(s);

(ii) A written statement or graphic depiction that describes or depicts the proposed Communications Antennas, Antenna Arrays or Antenna Support Structures;

(iii) Certification and documentation from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or other Structure, considering wind and other loads associated with such mount or location;

(iv) Detailed construction and elevation drawings indicating how the antennas will be mounted on the structure to be reviewed for compliance with the Chapman Township Building Code and other applicable law;

(v) Evidence of agreements and/or easements necessary to provide access to the building or Structure on which the Communications Antennas, Antenna Array(s) or Antenna Support Structure are to be mounted so that installation and maintenance of such improvements and any Communications Equipment Building can be accomplished;

(vi) A copy of the applicant's current Federal Communications Commission license;

(vii) The name, address and emergency telephone number for the operator of the Communications Antennas, Antenna Arrays or Antenna Support Structures;

(viii) A Certificate of Insurance evidencing general liability coverage in the minimum amount of $1,000,000 per occurrence and property damage coverage in the minimum amount of $1,000,000 million per occurrence covering the Wireless Communications Facility; and

(ix) The applicable permit fee in accordance with the standards set forth by the Chapman Township Board of Supervisors.

(b) Subdivision and land development review and approval shall not be required for an application solely involving Co-Location and the placement of an accessory Communications Equipment Building, provided the Communications Equipment Building is unmanned.

(c) All Communications Antennas, Antenna Arrays and Antenna Support Structures shall be constructed, operated, maintained and monitored in compliance with all applicable federal (i.e. FCC and FAA) and state standards and requirements.

(d) Communications Antennas, Antenna Arrays and Antenna Support Structures that would be classified as a hazard to air navigation, as defined by the FAA, are not permitted.

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SECTION XII. ARTICLE VII of the Chapman Township Zoning Ordinance shall be amended by adding the following Section 7.39:

SECTION 7.39 - GENERAL REGULATIONS AND STANDARDS GOVERNING COMMUNICATIONS TOWERS

(1) GENERAL APPLICATION REQUIREMENTS - The following requirements apply to all Communications Towers that are erected, sited, constructed or placed within Chapman Township:

(a) Each permit application for the placement of a Communications Tower shall be accompanied by the following:

(i) A completed application form, with original signatures, from the applicants;

(ii) A written statement or graphic depiction that describes or depicts the proposed Communications Tower including the type of construction (monopole, lattice tower, guyed tower), tower height and the provision for co-location;

(iii) Certification and documentation from a Pennsylvania registered professional engineer that the proposed Communications Tower will be designed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association/Telecommunications Industry Association and applicable requirements of the Building Code of Chapman Township and other applicable law;

(iv) Evidence of agreements and/or easements necessary to provide access to the Communications Tower so that installation and maintenance of such Communications Tower and any Communications Equipment Building can be accomplished;

(v) A copy of the applicant's current Federal Communications Commission license;

(vi) The name, address and emergency telephone number for the operator of the Communications Tower;

(vii) A Certificate of Insurance evidencing general liability coverage in the minimum amount of $1,000,000 per occurrence and property damage coverage in the minimum amount of $1,000,000 million per occurrence covering the Wireless Communications Facility;

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(viii) A site plan depicting, among other things:

(i) property lines, with distances and bearings illustrated;
(ii) existing site improvements, including buildings and structures;
(iii) existing and proposed roadways and easements on the property;
(iv) the proposed Communications Tower, including tower height; and
(v) proposed landscaping, including existing vegetation where applicable.

(ix) The applicable permit fee in accordance with the standards set forth by the Chapman Township Board of Supervisors; and

(x) If applicable, the applicant shall provide a copy of the FAA's response to the submitted Notice of Proposed Construction or Alteration (FAA Form 7460-1).

(b) A communications tower may be located on a lot occupied by other principal structures and may occupy a leased parcel within a lot provided the leased parcel meets the minimum lot size requirements for the zoning district.

(c) Subdivision review and approval shall not be required for a leased or licensed parcel upon which a Communications Tower is proposed to be constructed, provided the Communications Equipment Building is unmanned. Land development review and approval in accordance with the provisions of the Chapman Township Subdivision and Land Development Ordinance shall be required for any application involving the construction of a Communications Tower.

(d) All Wireless Communications Facilities shall be constructed, operated, maintained and monitored in compliance with all applicable federal (i.e. FCC and FAA) and state standards and requirements.

(2) DESIGN OF COMMUNICATIONS TOWERS - All Communications Towers shall be designed and constructed as follows:

(a) Except as otherwise provided herein, all Communications Towers shall be a nonspecular, medium grey color or shall have a galvanized, matte finish surface.

(b) In all applicable zoning districts, the Maximum Height of any Communications Tower shall be 200 feet; provided, however, that the Zoning Hearing Board by special exception may grant additional height to allow for the minimum height necessary for the Communications Tower to perform its function and to satisfy the applicant's radio frequency propagation needs as clearly demonstrated to the Township through the use of modeling and propagation studies. The Zoning Hearing Board may impose any reasonable conditions necessary to protect the interests of the public and the adjoining property owners.

(c) If the Communications Tower is more than 100 feet high, but less than 150 feet high, it shall be engineered and constructed to accommodate at least one (1) other user. If the Communications Tower is at least 150 feet high, it shall be designed to accommodate at least two (2) additional users. Towers shall be designed to allow for the future rearrangement of antennas upon the tower and to accept antennas at varying heights.

(d) The minimum setback of Communications Towers shall be as required in the applicable zoning district; provided, however, that no Communications Tower shall be located closer than 150 feet of, or 100% of the proposed Communications Tower height, whichever is greater, from any adjoining parcel of land that is residentially developed or residentially zoned.

e) No minimum lot, lease area and/or license area is required for a Wireless Communications Facility. Except as otherwise provided herein, the setbacks of the parent tract perimeter boundaries shall apply.

(f) A Communications Tower may be located on a lot occupied by other principal structures.

(g) Except as required by the FAA, no Communications Tower may use artificial or strobe lighting.

(3) ADDITIONAL REGULATIONS AND STANDARDS FOR COMMUNICATIONS TOWERS:

(a) Access shall be provided to the Communications Tower and Communications Equipment Building by means of a public street or easement to a public street. The easement shall be a minimum of 20 feet in width.

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(b) An applicant proposing the construction of a Communications Tower shall demonstrate that a good faith effort has been made to obtain permission to mount the Communications Antennas on an existing building, Structure or Communications Tower. A good faith effort shall require that all owners of potentially suitable structures within a one-quarter (1/4) mile radius of the proposed Communications Tower site be contacted and that one or more of the following reasons for not selecting such structure apply:

(i) Coverage diagrams and technical reports demonstrate that co-location on existing Structures is not technically possible in order to serve the carrier's need;

(ii) The proposed antennas and related equipment would exceed the structural capacity of the existing Structure and its reinforcement cannot be accomplished at a reasonable cost;

(iii) The proposed antennas and related equipment would cause radio frequency interference with other existing equipment on the existing Structure and the interference cannot be prevented at a reasonable cost;

(iv) Existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function;

(v) The addition of the proposed Communications Antennas and related equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation;

(vi) A commercially reasonable agreement could not be reached with the owners of such Structures; or

(vii) Other reasons make it impractical or impossible to place the equipment planned by the applicant on existing Structures.

(c) All guy wires associated with a Guyed Tower shall be clearly marked at ground level so as to be visible at all times and shall be located within a fenced enclosure. The exposed, aboveground portion of guy anchors shall be no less than 25 feet from the nearest property line. Guy wires shall not cross or encroach on any utility rights-of-way.

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(d) The compound surrounding a Communications Tower shall be secured by a fence with a minimum height of six (6) feet and a maximum height of eight (8) feet to limit accessibility to the general public. The top portion of the fence may have barbed wire attached to it.

(e) No signs shall be mounted on a Communications Tower, except as may be required by the Federal Communications Commission, Federal Aviation Administration or other governmental agency that has jurisdiction, provided, however, that a sign shall be affixed to the security fence in an accessible and visible location containing the name and address of the owner of the Communications Tower and a 24-hour emergency telephone number.

(f) Adequate off street parking, but no less than one space, shall be provided within the fenced compound area. Parking of vehicles shall not impede traffic flow on and off the site.

(g) If the Communications Tower is to be located within 200 feet of any adjoining parcel of land that is residentially developed or residentially zoned, the base of a Communications Tower shall be landscaped so as to screen the foundation, base and Communications Equipment Building from the adjacent property.

(h) All abandoned or unused Communications Towers and ancillary equipment shall be removed within 180 days of cessation of operation and the site shall be restored to a natural condition. Communications Towers that cease to operate for 12 consecutive months shall be determined to have terminated operation and must be removed within 180 days. In the event that the Communications Tower and ancillary equipment are not removed within 180 days as provided herein, the facilities may be removed by Chapman Township and the costs associated with the removal assessed against the applicant and the owner of the property upon which the facilities exist.

(i) Upon completion of construction and prior to the issuance of a certificate of occupancy or the commencement of operations, the applicant for the proposed Communications Tower must provide Chapman Township with certification and documentation from a Pennsylvania registered professional engineer that a proposed Communications Tower has been constructed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association-Telecommunications Industry Association and applicable requirements of the Building Code of Chapman Township and other applicable law.

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(j) Communications Towers shall be maintained in accordance with the requirements of the Building Code of Chapman Township.

(k) All federal, state and local permits required for the siting and operation of communications towers, antennas and facilities shall be provided to the Township upon receipt or renewal.

(l) All Communications Antennas and Antenna Arrays initially to be attached to a Communications Tower by the operator shall comply with the requirements of Sections 7.38(2), 7.38(3), 7.38(4), 7.38(5), 7.38(7) and 7.38(8)(c) herein.

(m) All Communication Equipment Buildings shall comply with the requirements of Section 7.38(6) herein.

SECTION XIII. ARTICLE VII of the Chapman Township Zoning Ordinance, shall be amended by adding the following Section 7.40:

SECTION 7.40 - REGULATIONS AND STANDARDS GOVERNING TEMPORARY WIRELESS COMMUNICATIONS FACILITIES

(1) A Temporary Wireless Communications Facility shall be permitted for test purposes, emergency communications, a special event or conference, or in the event of equipment failure for a maximum period of one hundred eighty (180) days.

(2) A zoning permit shall be required for each Temporary Wireless Communications Facility.

SECTION XIV. The provisions of this Ordinance shall not apply to Pre-Existing Communications Towers and Antennas unless the same are altered, modified or replaced.

SECTION XV. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION XVI. The provisions of this Ordinance shall be effective on the earliest date permissible by law.

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ORDAINED AND ENACTED into an Ordinance and passed by the Chapman Township Board of Supervisors on this 17 day of October, 2006.

ATTEST:

Dionne J. Wertz
Secretary

Chairman

Supervisor

Supervisor

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CHAPMAN TOWNSHIP, CLINTON COUNTY, PENNSYLVANIA
ORDINANCE NO. 2008-02

AN ORDINANCE REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A PERMIT FOR ANY CONSTRUCTION OR DEVELOPMENT; PROVIDING FOR THE ISSUANCE OF SUCH PERMITS; SETTING FORTH CERTAIN MINIMUM REQUIREMENTS FOR NEW CONSTRUCTION AND DEVELOPMENT WITHIN AREAS OF THE TOWNSHIP OF CHAPMAN, COUNTY OF CLINTON, PENNSYLVANIA WHICH ARE SUBJECT TO FLOODING; AND ESTABLISHING PENALTIES FOR ANY PERSONS WHO FAIL, OR REFUSE TO COMPLY WITH, THE REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE.

BE IT ENACTED and ORDAINED by the Supervisors of Chapman Township, Clinton County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

ARTICLE I GENERAL PROVISIONS

Section 1.00 Intent

The intent of this Ordinance is to:

A. Promote the general health, welfare, and safety of Chapman Township, Clinton County, Pennsylvania.

B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.

C. Minimize danger to public health by protecting water supply and natural drainage.

D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.

E. Comply with federal and state floodplain management requirements.

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Section 1.01 Applicability

A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Township of Chapman unless a Permit has been obtained from the Permit Officer.

B. A Permit shall not be required for minor repairs to existing buildings or structures.

Section 1.02 Abrogation

This Ordinance supersedes any other conflicting provisions which may be in effect in identified floodplain areas.

Section 1.03 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 1.04 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 acceptable engineering methods of study. Larger floods may occur. 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 damage.

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

ARTICLE II ADMINISTRATION

Section 2.00 Permits Required

Permits shall be required before any construction or development is undertaken within any area of the Township of Chapman.

Section 2.01 Issuance of Permit

A. The Permit Officer 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.

B. Prior to the issuance of any zoning permit, the Permit Officer 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.

C. 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 Township of Chapman and until all required permits or approvals have been first obtained from the Department of Environmental Protection Regional Office.

In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community and Economic Development, shall be notified by the Township of Chapman prior to any alteration or relocation of any watercourse.

Section 2.02 Application Procedures and Requirements

A. Application for such a Permit shall be made, in writing, to the Permit Officer on forms supplied by the Township of Chapman. Such application shall contain the following:

1. Name and address of applicant.
2. Name and address of owner of land on which proposed construction is to occur.
3. Name and address of contractor.
4. Site location including address.
5. Listing of other permits required.
6. Brief description of proposed work and estimated cost, including a breakout of the flood-related cost and the market value of the building before the flood damage occurred.

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7. A plan of the site showing the exact size and location of the proposed construction, as well as, any existing buildings or structures.

B. 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 Permit Officer 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; and

(c) adequate drainage is provided so as to reduce exposure to flood hazards.

C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Permit Officer to make the above determination:

1. A completed Permit Application Form.

2. 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:

   a. north arrow, scale, and date;

   b. topographic contour lines, if available;

   c. all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;

   d. the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development;

   e. the location of all existing streets, drives, and other access ways; and

   f. 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.

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3. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:

   a. the proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;

   b. the elevation of the one hundred (100) year flood;

   c. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one hundred (100) year flood; and

   d. detailed information concerning any proposed floodproofing measures.

   e. supplemental information as may be necessary under 34 PA Code, Chapter 401-405 as amended, and Sec.1612.5.1, Section 104.7 and 109.3 of the 2003 IBC and Section R106.1.3 and R104.7 of the 2003 IRC.

4. The following data and documentation:

   a. 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 one hundred (100) year 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.

   b. Detailed information needed to determine compliance with Section 4.03 F., Storage, and Section 4.04, Development Which May Endanger Human Life, including:

      i) The amount, location and purpose of any materials or substances referred to in Sections 4.03 F. and 4.04 which are intended to be used, produced, stored or otherwise maintained on site.

      ii) 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 4.04 during a one hundred (100) year flood.

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d. The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."

e. Where any excavation of grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

Section 2.03 Review by County Conservation District

A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the Permit Officer to the County Conservation District for review and comment prior to the issuance of a Permit. The recommendations of the Conservation District shall be considered by the Permit officer for possible incorporation into the proposed plan.

Section 2.04 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 Permit Officer to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, etc.) for review and comment.

Section 2.05 Changes

After the issuance of a Permit by the Permit Officer, 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 Permit Officer. Requests for any such change shall be in writing, and shall be submitted by the applicant to Permit Officer for consideration.

Section 2.06 Placards

In addition to the Permit, the Permit Officer shall issue a placard 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 Permit Officer.

Section 2.07 Start of Construction

Work on the proposed construction and/or development shall begin within six (6) months and shall 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 Permit Officer. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation of basement, footings, piers, or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.

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Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Permit Officer to approve such a request.

Section 2.08 Inspection and Revocation

A. During the construction period, the Permit Officer 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 shall make as many inspections during and upon completion of the work as are necessary.

B. In the discharge of his duties, the Permit Officer 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.

C. In the event the Permit Officer 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 Permit Officer shall revoke the Permit and report such fact to the Board of Supervisors of Chapman Township for whatever action it considers necessary.

D. A record of all such inspections and violations of this ordinance shall be maintained.

E. The requirements of the 34 PA Code Chapter 401-405 and the IBC (Sections 109.3.3, 1612.5.1, 104.7 and 103.8) and the 2003 IRC (R106.1.3, 109.1.3 and R104.7) or latest revisions thereof pertaining to elevation certificates and record retention shall be considered.

Section 2.09 Fees

Applications for a Permit shall be accompanied by a fee, payable to the Township of Chapman. Fees shall be established from time to time by resolution of the Board of Supervisors of Chapman Township. An Application shall be deemed incomplete unless accompanied by the appropriate fees.

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Section 2.10 Enforcement

A. Notices

Whenever the Permit Officer 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 Permit Officer 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 action which, if taken, will effect compliance with the provisions of this Ordinance.

B. 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 Permit Officer or any other authorized employee of the municipality shall be guilty of an offense and, upon conviction, shall pay a fine to Township of Chapman of not less than Twenty-five Dollars ($25.00) nor more than Six Hundred Dollars ($600.00) plus costs of prosecution. In default of such payment, such person shall be imprisoned in county prison for a period not to exceed ten (10) days. Each day during which any violation of this Ordinance continues shall constitute a separate offense. 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 and all such persons shall be required to correct or remedy such violations and noncompliances 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 of Chapman Township to be a public nuisance and abatable as such.

Section 2.11 Appeals

A. Any person aggrieved by any action or decision of the Permit Officer concerning the administration of the provisions of this Ordinance, may appeal to the Board of

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Supervisors of Chapman Township. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Permit Officer.

B. Upon receipt of such appeal the Board of Supervisors of Chapman Township shall set a time and place, within not less than ten (10) nor more than thirty (30) days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.

C. Any person aggrieved by any decision of the Board of Supervisors of Chapman Township may seek relief therefrom by appeal to court, as provided by the laws of this Commonwealth including the Pennsylvania Flood Plain Management Act.

D. All appeals shall be governed by the procedures contained in the Local Agency Law, 2 Pa. C. S. A. §101, et seq.

ARTICLE III IDENTIFICATION OF FLOODPLAIN AREAS

Section 3.00 Identification

The identified floodplain area shall be any areas of the Township of Chapman, subject to the one hundred (100) year flood, which is identified as Zone A (Area of Special Flood Hazard) in the Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) for Clinton County to take effect on September 26, 2008 and the accompanying maps or the most recent revision thereof as issued by the Federal Emergency Management Agency, including all digital data developed as part of the Flood Insurance Study.

Section 3.01 Description of Floodplain Areas

The identified floodplain area shall consist of the following specific areas if so identified on the Flood Insurance Study and accompanying maps:

A. FW (Floodway Area) - the areas identified as "Floodway" in the AE Zone in the Flood Insurance Study prepared by the FEMA. The term shall also include floodway areas which have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the Flood Insurance Study.

B. FF (Flood-Fringe Area) - the remaining portions of the one hundred (100) year floodplain in those areas identified as an AE Zone in the Flood Insurance Study, where a floodway has been delineated.

The basis for the outermost boundary of this area shall be the one hundred (100) year flood elevations as shown in the flood profiles contained in the Flood Insurance Study.

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C. FE (Special Floodplain Area) - the areas identified as Zone AE in the Flood Insurance Study, where one hundred (100) year flood elevations have been provided, but no floodway has been delineated.

D. FA (General Floodplain Area) - the areas identified as Zone A in the Flood Insurance Study for which no one hundred (100) year flood elevations have been provided. When available, information from other Federal, State, and other acceptable sources shall be used to determine the one hundred (100) year elevation, as well as a floodway area, if possible. When no other information is available, the one hundred (100) year elevation shall be determined by using a point on the boundary of the identified floodplain area which is nearest the construction site in question.

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 Township of Chapman.

Section 3.02 Changes in Identification of Area

The identified floodplain area may be revised or modified by the Board of Supervisors of Chapman Township where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency (FEMA).

Section 3.03 Boundary Disputes

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Permit Officer and any party aggrieved by this decision or determination may appeal to the Board of Supervisors of Chapman Township. The burden of proof shall be on the appellant. All appeals shall be governed by the procedures contained in the Local Agency Law, 2 Pa. C. S. A. §101, et seq.

ARTICLE IV TECHNICAL PROVISIONS

Section 4.00 General

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 been first obtained from the Department of Environmental Protection Regional Office.

In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.

B. 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.

Section 4.01 Special Requirements for FW, FE and FA Areas

A. With any FW (Floodway Area), the following provisions apply:

1. Any new construction, development, use, activity, or encroachment that would cause any increase in flood heights shall be prohibited.

2. No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection Regional Office.

B. Within any FE (Special Floodplain Area), no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the one hundred (100) year flood more than one (1) foot at any point.

C. Within any FE (Special Floodplain Area) or FA (General Floodplain Area), the following provisions apply:

1. 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 a permit is obtained from the Department of Environmental Protection Regional Office.

2. Any new construction or development, which would cause any increase in flood heights shall be prohibited within any floodway area.

Section 4.02 Elevation and Floodproofing Requirements

A. Residential Structures

Within any identified floodplain area, any new construction or substantial improvement of a residential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation. The design and construction standards and specifications contained in the 2003 IBC (Sec.

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1612.4,1603.1.6 and 3403.1) and in the 2003 IRC (Sec. R323.1.4, R323.2.1, and R323.2.2) and ASCE 24 (Sec. 2.4 and 2.5, Chap. 5) and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

B. Non-residential Structures

1. Within any identified floodplain area, 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 by such structure shall remain either completely or essentially dry during any flood up to that height.

2. Any non-residential structure, or part thereof, having a lowest floor which is not elevated to at least the one hundred (100) year flood elevation shall be floodproofed in a completely or essentially dry manner 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.

3. The design and construction standards and specifications contained in the IBC (Sec. 1603.1.2, 1603.1.6, 1605.2.2, 1606.5, 1612.5.1 and 3403.1. and ASCE 24 (Secs. 2.4 and Chap. 7) and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

C. Space below the lowest floor.

1. Fully enclosed space below the lowest floor (including basement) is prohibited.

2. Partially enclosed space below the lowest floor (including basement) 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 "partially enclosed space" also includes crawl spaces.

Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

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a. 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.

b. The bottom of all openings shall be no higher than one (1) foot above grade.

c. Openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

3. Consideration may be given to the requirements of 34 PA Code (Chapters 401-405 as amended) and the 2003 IRC (Secs.R323.2.2 and R323.1.4) and the 2003 IBC (Secs. 1612.4, 1612.5, 1202.3.2 and 1203.3.3.

D. 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:

1. 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.

3. Floor area shall not exceed 600 square feet.

3. The structure will have a low damage potential.

4. The structure will be located on the site so as to cause the least obstruction to the flow of flood waters.

5. Power lines, wiring, and outlets will be at least one and one-half (1 ½) feet above the 100 year flood elevation.

6. Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.

7. Sanitary facilities are prohibited.

8. The structure shall be adequately anchored to prevent flotation or 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:

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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.

b. The bottom of all openings shall be no higher than one (1) foot above grade.

c. 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.

Section 4.03 Design and Construction Standards

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

A. Fill

If fill is used, it shall:

1. Extend laterally at least fifteen (15) feet beyond the building line from all points;

2. Consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;

3. Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;

4. 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 Permit Officer; and,

5. Be used to the extent to which it does not adversely affect adjacent properties. The provisions contained in the 2003 IBC (Sec. 1801.1 and 1803.4) shall be utilized.

B. 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 insure 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. The provisions contained in the 2003 IBC (Appendix G401.5) shall be utilized.

C. Water and Sanitary Sewer Facilities and Systems

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1. All new or replacement water and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.

2. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.

3. No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.

4. The design and construction provisions of the UCC and 34 PA Code (Chapters 401-405 as amended) and contained in the 2003 IBC (Appendix G. Secs. 401.3 and 401.4), the 2003 IRC (Sec. 323.1.6), the ASCE 24-98 (Sec. 8.3), FEMA #348, Protecting Building Utilities From Flood Damages and The International Private Sewage Disposal Code (Chapter 3) shall be utilized.

D. 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.

E. Streets

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

F. 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 4.04, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation and/or flood proofed to the maximum extent possible.

G. 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.

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H. Anchoring

1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.

2. 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.

3. The design and construction requirements of the UCC pertaining to this subsection as referred to in 34 PA Code (Chapters 401-405 as amended) and contained in the 2003 IBC (Secs. 1605.2.2, 1605.3.1.2, 1612.4 and Appendix G501.3), the IRC (Secs. R301.1 & R323.1.1) and ASCE 24-98 (Sec. 5.6) shall be utilized.

I. Floors, Walls and Ceilings

1. 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.

2. Plywood used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.

3. 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.

4. Windows, doors, and other components at or below the Regulatory Flood Elevation shall be made of metal or other "water-resistant" material.

5. The provisions of the UCC pertaining to this subsection and referenced in the 34 PA Code (Chapters 401-405 as amended) and contained in the 2003 IBC (Secs. 801.1.3, 1403.2, 1403.4, 1403.6 and 1404.2), the 2003 IRC (Secs. R323.1.7 & R501.3) and ASCE 24-98 (Chapter 6).

J. Paints and Adhesives

1. Paints and other finishes used at or below the Regulatory Flood Elevation shall be of "marine" or "water-resistant" quality.

2. Adhesives used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.

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3. All wooden components (doors, trim, cabinets, etc.) shall be finished with a "marine" or "water-resistant" paint or other finishing material.

4. The standards and specifications contained in 34 PA Code (Chapters 401-405, as amended) the 2003 IBC (Secs. 801.1.3, 1403.7 and Appendix G) and the 2003 IRC (Secs. R323.1.7.

K. Electrical Components

1. Electrical distribution panels shall be at least three (3) feet above the one hundred (100) year flood elevation.

2. Separate electrical circuits shall serve lower levels and shall be dropped from above.

3. The provisions pertaining to the above provisions and referenced in the UCC and 34 PA Code (Chapters 401-405) as amended and contained in the 2003 IBC (Sec. 1612.4), the IRC (Sec. R323.1.5), the 2000 IFGC (Secs. R301.5 and R1601.3.8) and ASCE 24 (Chapter 8) shall be utilized.

L. Equipment

1. 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.

2. The provisions pertaining to the above provision and referenced in the UCC and 34 PA Code (Chapters 401-405), as amended and contained in the 2003 IBC (Sec. 1612.4), the 2003 IRC (Secs. R323.1.5) the 2000 IFGC (Secs. R301.5 and R1601.3.8) and ASCE 24 (Chapter 8) shall be utilized.

M. 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.

Section 4.03N. Uniform Construction Code Coordination

The Standards and Specifications contained 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/or supplement the requirements of this ordinance.

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International Building Code (IBC) 2003 or the latest edition thereof:
Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

International Residential Building Code (IRC) 2003 or the latest edition thereof:
Secs. R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

Section 4.04 Development Which May Endanger Human Life

A. 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:

- will be used for the production or storage of any of the following dangerous materials or substances; or,

- 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,

- will involve the production, storage, or use of any amount of radioactive substances;

Shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

1. Acetone
2. Ammonia
3. Benzene
4. Calcium carbide
5. Carbon disulfide
6. Celluloid
7. Chlorine
8. Hydrochloric acid
9. Hydrocyanic acid
10. Magnesium
11. Nitric acid and oxides of nitrogen
12. Petroleum products (gasoline, fuel oil, etc.)
13. Phosphorus
14. Potassium
15. Sodium
16. Sulphur and sulphur products
17. Pesticides (including insecticides, fungicides, and rodenticides)

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18. Radioactive substances, insofar as such substances are not otherwise regulated.

B. Within any FW (Floodway Area), any structure of the kind described in Subsection A., above, shall be prohibited.

C. Within any FE (Special Floodplain Area) or FA (General Floodplain Area), any new or substantially improved structure of the kind described in Subsection A., above, shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

D. Where permitted within any floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be:

1. Elevated or designed and constructed to remain completely dry up to at least above the one hundred (100) year flood elevation and,

2. Designed to prevent pollution from the structure or activity during the course of a one hundred (100) year flood.

Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

Section 4.05 Special Requirements for Manufactured Homes

A. Within any FW (Floodway Area), manufactured homes shall be prohibited.

B. Within any FA (General Floodplain Area) or FE (Special Floodplain Area), manufactured homes shall be prohibited within the area measured fifty (50) feet landward from the top of-bank of any watercourse.

C. Where permitted within any floodplain area, all manufactured homes, and any improvements thereto, shall be:

1. Placed on a permanent foundation.

2. Elevated so that the lowest floor of the manufactured home is at least above the elevation of the one hundred (100) year flood.

3. Anchored to resist flotation, collapse, or lateral movement.

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4. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2003 International Residential Building Code or the U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing, 1984 Edition, draft or latest revision thereto shall apply and 34 PA Code Chapter 401-405.

5. Consideration shall be given to the installation requirements of the 2003 IBC (Appendix G, Sec. 501.1-3) and the 2003 IRC (Sec. R323.2, R323.3, R102.7.1, and Appendix AE101, 604 and 605) or the most recent revisions thereto and 34 PA Code Chapter 401-405, as amended where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the units(s) proposed installation.

ARTICLE V ACTIVITIES REQUIRING SPECIAL PERMITS

Section 5.00 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 unless a Special Permit has been issued by the Township of Chapman:

A. 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:

1. hospitals
2. nursing homes
3. jails or prisons
4. sewage treatment plants

B. 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.

Section 5.01 Application Requirements for Special Permits

Applicants for Special Permits shall provide five copies of the following items:

A. A written request including a completed Permit Application Form.

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B. A small scale map showing the vicinity in which the proposed site is located.

C. 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:

1. North arrow, scale and date;

2. Topography based upon the North American Vertical Datum of 1929, showing existing and proposed contours at intervals of two (2) feet;

3. All property and lot lines including dimensions, and the size of the site expressed in acres or square feet;

4. The location of all existing streets, drives, other access ways, and parking areas, with information concerning widths, pavement types and construction, and elevations;

5. The location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man made features affecting, or affected by, the proposed activity or development;

6. The location of the floodplain boundary line, information and spot elevations concerning the one hundred (100) year flood elevations, and information concerning the flow of water including direction and velocities;

7. The location of all proposed buildings, structures, utilities, and any other improvements; and

8. Any other information which the municipality considers necessary for adequate review of the application.

D. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:

1. Sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate;

2. For any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor;

3. Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the one hundred (100) year flood;

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4. Detailed information concerning any proposed floodproofing measures;

5. Cross section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths;

6. Profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades; and

7. Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

E. The following data and documentation:

1. Certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;

2. Certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the one hundred (100) year flood;

3. A statement, certified by a registered professional engineer, architect, landscape architect, or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a one hundred (100) year flood, including a statement concerning the effects such pollution may have on human life;

4. A statement certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on one hundred (100) year flood elevations and flows;

5. A statement, certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the one hundred (100) year flood elevation and the effects such materials and debris may have on one hundred (100) year flood elevations and flows;

6. The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development;"

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7. 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;

8. Any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Protection under Section 302 of Act 1978-166; and

9. An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a one hundred (100) year flood.

Section 5.02 Application Review Procedures

Upon receipt of an application for a Special Permit by the Township of Chapman the following procedures shall apply in addition to those of Article II:

A. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Township of Chapman Planning Commission and Township of Chapman engineer for review and comment.

B. If an application is received that is incomplete, the Township of Chapman shall notify the applicant in writing, stating in what respect the application is deficient.

C. If the Township of Chapman decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.

D. If the Township of Chapman approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community and Economic Development, by registered or certified mail, within five (5) working days after the date of approval.

E. Before issuing the Special Permit, the Township of Chapman shall allow the Department of Community and Economic Development thirty (30) days, after receipt of the notification by the Department, to review the application and decision made by the Township of Chapman.

F. If the Township of Chapman does not receive any communication from the Department of Community and Economic Development during the thirty (30) day review period, it may issue a Special Permit to the applicant.

G. If the Department of Community and Economic Development should decide to

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disapprove an application, it shall notify the Township of Chapman and the applicant, in writing, of the reasons for the disapproval, and the Township of Chapman shall not issue the Special Permit.

Section 5.03 Special Technical Requirements

A. In addition to the requirements of Article IV of this Ordinance, the following minimum requirements shall also apply to any proposed development requiring a Special Permit. If there is any conflict between any of the following requirements and those in Article IV of this Ordinance or in any other code, ordinance, or regulation, the more restrictive provision shall apply.

B. No application for a Special Permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:

1. Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:

   a. The structure will survive inundation by waters of the one hundred (100) year flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the one hundred (100) year flood elevation.

   b. The lowest floor (including basement) elevation will be at least above the one hundred (100) year flood elevation.

   c. The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the one hundred (100) year flood.

2. Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

All 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 Township of Chapman and the Department of Community and Economic Development.

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ARTICLE VI EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

Section 6.00 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 6.01 shall apply.

Section 6.01 Improvements

The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:

A. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the one hundred (100) year flood.

B. No expansion or enlargement of an existing structure shall be allowed within any FE area that would, together with all other existing and anticipated development, increase the one hundred (100) year flood elevation more than one (1) foot at any point.

C. 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.

The above activity shall also address the requirements of the 34 PA Code Chapters 401-405, as amended and the 2003 IBC (Sec. 3402.1 and 1612.4) and the 2003 IRC (Sec. 323.1.4).

D. The requirements of 34 PA Code Chapter 401-405, as amended and the 2003 IRC (Secs. R102.7.1, R105.3.1 and Appendices E and J) or the latest revision thereof and the 2003 IBC (Secs. 101.3, 3403.1 and Appendix G) or the latest revision thereof shall also be utilized in conjunction with the provisions of this section.

ARTICLE VII VARIANCES

Section 7.00 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 Board of

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Supervisors of Chapman Township may, upon request, grant relief from the strict application of the requirements.

Section 7.01 Variance Procedures and Conditions

Requests for variances shall be considered by the Board of Supervisors in accordance with the procedures contained in Section 2.11 and the following:

A. No variance shall be granted for any construction, development, use, or activity within any floodway area that would cause any increase in the one hundred (100) year flood elevation.

B. No variance shall be granted for any construction, development, use, or activity within any FE area that would, together with all other existing and anticipated development, increase the one hundred (100) year flood elevation more than one (1) foot at any point.

C. No variance shall be granted for any of the requirements pertaining specifically to development regulated by Special Permit (Article V) or to Development Which May Endanger Human Life (Section 4.04).

D. If granted, a variance shall involve only the least modification necessary to provide relief.

E. In granting any variance, the Board of Supervisors shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Ordinance.

F. Whenever a variance is granted, the Township of Chapman shall notify the applicant in writing that:

   1. The granting of the variance may result in increased premium rates for flood insurance.

   2. Such variances may increase the risks to life and property.

G. In reviewing any request for a variance, the Township of Chapman shall consider at a minimum, the following:

   1. That there is good and sufficient cause.

   2. That failure to grant the variance would result in exceptional hardship to the applicant.

   3. That the granting of the variance will (i) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety,

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or extraordinary public expense, (ii) nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.

H. A complete record of all variance requests and related actions shall be maintained by the Township of Chapman. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one hundred (100) year flood.

ARTICLE VIII DEFINITIONS

Section 8.00 General

Unless specifically defined below, words and phrases used in this Ordinance shall be interpreted so as to give this Ordinance its most reasonable application.

Section 8.01 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. Basement - means any area of the building having its floor below ground level on all sides.

3. 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.

4. Completely dry space - a space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.

5. 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.

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6. Essentially dry space - a space which will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to the passage of water.

7. Flood - a temporary inundation of normally dry land areas.

8. 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.

9. Floodproofing - means 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.

10. Floodway - the designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Ordinance, the floodway shall be capable of accommodating a flood of the one hundred (100) year magnitude.

11. Historic structure - any structure that is:

    (i) 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;

    (ii) 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;

    (iii) 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

    (iv) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

        (1) By an approved state program as determined by the Secretary of the Interior or

        (2) Directly by the Secretary of the Interior in states without approved programs.

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12. Identified floodplain area - the floodplain area specifically identified in this Ordinance as being inundated by the one hundred (100) year flood.

13. Land development - Any of the following activities:

    (1) The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:

        (i) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or

        (ii) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

    (2) A subdivision of land.

14. 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.

15. 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.

16. Manufactured home park - a parcel of land under single ownership, which has been planned and improved for the placement of two or more manufactured homes for non-transient use.

17. Minor repair - the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain

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leader, gas, oil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

18. New construction - structures for which the start of construction commenced on or after December 3, 1979, and includes any subsequent improvements thereto.

19. One hundred year flood - a flood that, on the average, is likely to occur once every one hundred (100) years (i.e. that has one (1) percent chance of occurring each year, although the flood may occur in any year).

20. 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.

21. Recreational vehicle - a vehicle which is (i) built on a single chassis; (ii) not more than 400 square feet, measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light-duty truck; (iv) not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

22. Regulatory flood elevation - the one hundred (100) year flood elevation.

23. Special permit - a special approval which is required for hospitals, nursing homes jails, and new manufactured home parks and subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.

24. Structure - anything constructed or erected on the ground or attached to the ground including, but not limited to buildings, sheds, manufactured homes, and other similar items. This term includes any man-made object having an ascertainable stationary location on or in land or water whether or not affixed to land.

25. Subdivision - the division or redivision 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 te acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

26. Substantial additions to manufactured home parks – Any repair, reconstruction, c improvement of an existing manufactured home park or manufactured home subdivision, where such repair, reconstruction, or improvement of the streets,

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utilities, and pads will equal or exceed 50% of the value of the streets , utilities, and pads before the repair, reconstruction, or improvement is started.

27. 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.

28. Substantial improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which 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 either:

(1) 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, or;

(2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

29. 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 Commonwealth floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

ARTICLE IX ENACTMENT

This Ordinance shall become effective on September 26, 2008 and shall remain in force until modified, amended or rescinded.

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ADOPTED by the Board of Supervisors of Chapman Township, Clinton County, Pennsylvania this 5 day of AUGUST, 2008.

Chairman

Supervisor

Supervisor

ATTEST:

Secretary

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CHAPMAN TOWNSHIP, CLINTON COUNTY, PENNSYLVANIA

ORDINANCE NO. 2011-2

AN ORDINANCE ADOPTING AN AMENDMENT TO THE CHAPMAN TOWNSHIP ZONING ORDINANCE ADOPTED APRIL 6, 1998; AMENDING SECTION 14.01 STATING THE REQUIREMENTS FOR ZONING PERMITS; AMENDING SECTION 15.06 STATING THE REQUIREMENTS FOR NOTICE FOR HEARINGS BEFORE THE ZONING HEARING BOARD; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF

WHEREAS, Chapman Township, Clinton County, Pennsylvania is a second class township organized and operating under the laws of the Commonwealth of Pennsylvania; and

WHEREAS, on April 6, 1998, the Board of Supervisors of Chapman Township adopted the Chapman Township Zoning Ordinance; and

WHEREAS, the Board of Supervisors of Chapman Township wish to amend and modify certain provisions of said Zoning Ordinance.

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of Chapman Township, Clinton County, Pennsylvania as follows, to wit:

SECTION I: Section 14.01 (entitled "Zoning Permits") of the Chapman Township Zoning Ordinance adopted April 6, 1998 is hereby deleted in its entirety and replaced with the following provision:

Section 14.01 Zoning Permits

It shall be unlawful to commence the excavation for or the construction or alteration of any building or structure, including but not limited to dwellings, commercial or industrial buildings, additions, garages, pools, sheds and fences, until the Township Zoning Officer has issued a zoning permit for such work. Zoning permits shall also be required for the construction, alteration or demolition of land improvements such as sidewalks, driveways, patios and retaining walls. Zoning permits shall also be required for any change, addition or expansion of the use of any lot, building or structure. No zoning permit shall be required for repairs to or maintenance of any building, structure or lot provided such repairs or maintenance do not change the use or footprint of any existing building or structure or otherwise violate the provisions of this Ordinance. This paragraph shall not limit the responsibility of a property owner to secure a building permit pursuant to the provisions of the Uniform Construction Code or other applicable law or ordinance..

SECTION II. Section 15.06 (entitled "Advertising") of the Chapman Township Zoning Ordinance adopted April 6, 1998 is hereby deleted in its entirety and replaced with the following provision:

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Section 15.06 Notice for Zoning Hearings

Upon receiving an application or appeal the Zoning Hearing Board shall fix a reasonable time and place for public hearing thereon and shall give public notice as required by the provisions of the Municipalities Planning Code. In addition, the Zoning Hearing Board shall provide written notice by first class mail at least ten (10) days prior to the date of the hearing to the Applicant or Appellant and to any parties who may make a timely written request for the notice. The Applicant or Appellant shall further be required to provide written notice by mail or personal service at least seven days prior to the date of the hearing on all property owners owning property located within 200 feet of the premises subject to the hearing. Notice shall be mailed to the address of record for the adjoining property owners as maintained on the assessment records available through the Clinton County Assessment Office. Proof of service shall be deemed satisfied upon presentation of an official stamped proof of mailing on the appropriate United States Postal Service Form indicating the mailing of said notice at least 10 day prior to the date of the hearing to the addresses on the records of the Clinton County Assessment Office. Proof of personal service or any other form of service shall be in the form of an affidavit stating the date, place and manner of service.

SECTION III. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

SECTION IV. This ordinance shall take effect five (5) days from the date of enactment.

ENACTED AND ORDAINED into law by the Township of Chapman, Clinton County, Pennsylvania on this 1 day of November, 2011.

ATTEST:

Elizabeth Whitty
Secretary/Treasurer

Tim Horner, Supervisor

Charles Rossell, Supervisor

George R. Machak, Supervisor

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CHAPMAN TOWNSHIP, CLINTON COUNTY, PENNSYLVANIA

ORDINANCE NO. 2016 - 01

AN ORDINANCE OF THE TOWNSHIP OF CHAPMAN SETTING FORTH AMENDMENTS TO THE CHAPMAN TOWNSHIP ZONING ORDINANCE, AS AMENDED; ESTABLISHING STANDARDS FOR THE PLACEMENT AND LOCATION OF OIL AND GAS OPERATIONS; ESTABLISHING STANDARDS FOR THE PLACEMENT AND LOCATION OF NATURAL GAS COMPRESSOR AND STORAGE FACILITIES AND METERING STATIONS; FOR CORRECTING A TYPOGRAPHICAL ERROR IN SECTION X OF ORDINANCE NO. 2006-01 RELATED TO COMMUNICATION TOWERS BY SPECIAL EXCEPTION USE IN THE INDUSTRIAL DISTRICT; AMENDING THE SETBACK REQUIREMENTS FOR ACCESSORY STRUCTURES IN RESIDENTIAL DISTRICTS; DELETING REGULATIONS REGARDING LOGGING INVOLVING LAND AREA OF MORE THAN 25 ACRES; ESTABLISHING STANDARDS FOR NOISE PROTECTION LEVELS IN THE FOREST AND AGRICULTURAL AND INDUSTRIAL DISTRICTS; ADDING REGULATIONS REGARDING OUTDOOR FARM ANIMALS; AMENDING THE STANDARDS FOR THE PLACEMENT OF FENCES; AMENDING THE REQUIREMENTS FOR ZONING PERMITS; FOR CORRECTING A TYPOGRAPHICAL ERROR IN ARTICLE XII SECTION 12.08(C); PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

WHEREAS, the Pennsylvania Supreme Court has authorized the local regulation of Oil and Gas Operations with respect to surface land use and for Natural Gas Compressor and Storage Facilities and Metering Stations; and

WHEREAS, the Chapman Township Board of Supervisors desires to allow for the reasonable development of Oil and Gas Operations with respect to surface land use and for the placement of Natural Gas Compressor and Storage Facilities and Metering Stations within Chapman Township under certain standards and conditions; and

WHEREAS, in an effort to facilitate the reasonable placement of Oil and Gas Operations and Natural Gas Compressor and Storage Facilities and Metering Stations

within Chapman Township and in an effort to protect the interest of its residents, the Chapman Township Board of Supervisors desires to regulate the placement and location of said facilities; and

WHEREAS, the Chapman Township Board of Supervisors further desire to amend the Chapman Township Zoning Ordinance to change certain setback requirements, to add regulations regarding outdoor farm animals, and to make certain procedural and technical changes to the Zoning Ordinance; and

WHEREAS, it is necessary to amend the Chapman Township Zoning Ordinance in order to accomplish the above.

NOW THEREFORE, the Chapman Township Board of Supervisors ordains that the Chapman Township Zoning Ordinance shall be amended as follows:

SECTION I. Article II Section 2.00 of the Chapman Township Zoning Ordinance shall be amended by adding the following paragraph:

25. Encourage the use of best practices in the placement and location of Oil and Gas Operations and of Natural Gas Compressor and Storage Facilities and Metering Stations.

SECTION II: Article III, Section 3.01 of the Chapman Township Zoning Ordinance, "Definitions" shall be amended to include the following definitions:

Oil and Gas Operations: Shall include:

1. Well location assessment, including seismic operations, well site preparations, construction, drilling, hydraulic fracturing and site restoration associated with an oil or gas well of any depth;

2. Water or other fluids storage areas consisting of tanks, trailers or buildings used exclusively for Oil and Gas Operations; said storage may include natural or manmade impoundment areas exposed to natural elements provided only fresh water is stored in said impoundment areas;

3. Construction, installation, use, maintenance and repair of oil and gas midstream pipelines;

4. Construction, installation, use, maintenance and repair of all equipment directly associated with activities specified in Paragraphs 1, 2 and 3 above to the extent that (i) the equipment is necessarily located at or immediately adjacent to a well site, water storage area and oil and gas pipeline; and (ii) the activities are authorized and permitted under the authority of a federal or commonwealth agency.

Natural Gas Compressor and Storage Facility:

A permanent structure with equipment, tanks and site disturbance used to process and/or compress gas that is used as a midstream operation supporting oil and gas production, including that portion of a subsurface geological stratum in to which gas is or may be injected for storage purposes or to test suitability of the stratum for storage.

Metering Station:

A permanent structure with equipment, tanks and site disturbance which is used as a midstream operation for the purpose of metering or measuring the flow and/or volume of gas or oil.

Drilling:

The drilling or re-drilling of a well or the deepening of an existing well.

Staging Facility:

A facility or location on a permitted site for the storage of equipment and vehicles used to support gas development activities at other permitted sites.

Well:

A borehole drilled or being drilled for the purpose of or to be used for the production or pumping of gas, oil or water.

Water Reuse Storage Facility:

Tanks of any construction (metal, fiberglass, concrete, etc.) use for the storage of water that has been used and is being reused in the drilling operations.

Drilling Equipment:

The derrick or drilling rig, all parts and appurtenances to such structures and every piece of apparatus, machinery or equipment use, erected or maintained for use in connection with Oil and Gas Operations in an oil and gas site:.

Drilling Site:

The area occupied by the drilling equipment and/or other facilities and structures necessary for or incidental to the drilling, production, storage, compressing, metering, treating or processing of oil and gas.

SECTION III. Article IV, Section 4.01(3) of the Chapman Township Zoning Ordinance shall be amended by adding the following special exception uses in the Forest and Agricultural District (FA):

22. Oil and Gas Operations subject to the standards set forth in Section 7.41 herein.

23. Natural Gas Compressor and Storage Facilities subject to the standards set forth in Section 7.42 herein.

24. Metering Station subject to the standards set forth in Section 7.42 herein.

SECTION IV. Article IV, Section 4.01(3) (C) of the Chapman Township Zoning Ordinance shall be amended by adding the following provision:

3. Notwithstanding the above, lot area requirements and minimum lot width and minimum lot depth requirements for Oil and Gas Operations and Natural Gas Compressor and Storage Facilities shall be as set forth in Sections 7.41 and 7.42, respectively, of the Chapman Township Zoning Ordinance.

SECTION V. Article IV, Section 4.01(3) (E) of the Chapman Township Zoning Ordinance shall be amended by adding the following provision:

5. Notwithstanding the above, setback requirements for Oil and Gas Operations and Natural Gas Compressor and Storage Facilities shall be as set forth in Sections 7.41 and 7.42 of the Chapman Township Zoning Ordinance.

SECTION VI. Article IV, Section 4.01(3) (F) of the Chapman Township Zoning Ordinance shall be amended by adding the following provision:

3. Notwithstanding the above, all regulations for building height requirements for Oil and Gas Operations and Natural Gas Compressor and Storage Facilities shall be as set forth in Sections 7.41 and 7.42 of the Chapman Township Zoning Ordinance.

SECTION VII. Article IV, Section 4.01(4) (B) (i) of the Chapman Township Zoning Ordinance shall be amended by adding the following special exception use in the Industrial District:

B9. Communication Towers subject to the standards set forth in Section 7.39 herein.

B10. Oil and Gas Operations subject to the standards set forth in Section 7.41 herein.

B11. Natural Gas Compressor and Storage Facilities subject to the standards set forth in Section 7.42 herein.

B12. Metering Station subject to the standards set forth in Section 7.42 herein.

SECTION VIII. Article IV, Section 4.01(4) (C) of the Chapman Township Zoning Ordinance shall be amended by adding the following paragraph:

4. Notwithstanding any other provision of this ordinance, the minimum lot size, minimum lot width and minimum lot depth requirements for Oil and Gas Operations and Natural Gas Compressor and Storage Facilities shall be as set forth in Sections 7.41 and 7.42 of the Chapman Township Zoning Ordinance.

SECTION IX. Article IV, Section 4.01(4)(D) of the Chapman Township Zoning Ordinance shall be amended by adding the following provision:

4. Notwithstanding the above, all setbacks for Oil and Gas Operations and for Natural Gas Compressor and Storage Facilities shall be as set forth in Sections 7.41 and 7.42, respectively, of the Chapman Township Zoning Ordinance.

SECTION X. Article IV Section 4.01(5)(E) of the Chapman Township Zoning Ordinance shall be amended to provide the following setbacks within the Residential District:

E. Setback: All buildings including accessory buildings.

1. Front Yard: minimum of 25 feet from the right of way line. Corner lots shall be construed to have two front yards.

2. Side Yards: Each lot shall have two (2) side yards, neither of which shall be less than 10 feet between the side lot line and the principal building.

3. Rear Yards: Minimum of 20 feet in depth in the rear lot line and the principal building.

4. All accessory buildings and structures shall be a minimum of 5 feet from any side or rear lot line. No accessory buildings shall be permitted in the front yard.

SECTION XI. Article VII Section 7.20 of the Chapman Township Zoning Ordinance (regulating logging in areas over twenty-five acres) is hereby deleted in its entirety.

SECTION XII. Article VII of the Chapman Township Zoning Ordinance shall be amended by adding the following Section 7.41:

Section 7.41-Regulations Governing Oil and Gas Operations:

1. Oil and Gas Operations, excluding oil and gas pipelines, water pipelines, access roads or security facilities, may not take place within Three Hundred (300') feet of an existing building.

2. The edge of the disturbed area associated with any oil and gas operation must maintain a Two Hundred (200') foot setback from the edge of any solid blue line stream, spring or body of water as identified on the most current 7.5 minute topographic quadrangle map of the United States Geological Survey.

3. No oil and gas site may be located within a 100 year flood plain.

4. No well may be drilled within Three Hundred (300') feet of any wetlands greater than one (1) acre in size and the edge of the disturbed area of any Oil and Gas Operations site much contain a Two Hundred (200') setback from the boundary of the wetlands.

5. An oil and gas site must have a minimum lot area of five (5) acres and shall not exceed ten (10) acres without special approval from the Chapman Township Zoning Hearing Board.

6. All water reuse storage facilities shall be located within the oil and gas site and shall be setback a minimum of fifty (50') feet from all boundary lines. An oil and gas site may be improved by a workforce housing facility provided the facility is located within the oil and gas site and is setback a minimum of fifty (50') feet from all boundaries.

7. Oil and gas sites shall be constructed and operated in compliance with all federal and state regulations, statutes and environmental standards.

8. Oil and gas sites shall be subject to the noise protection levels set forth in Section 7.43.

9. Oil and gas sites shall be subject to the screening regulations contained in Article IX.

10. Oil and gas workforce housing facilities shall comply with all PA Department of Environmental Protection Permit regulations. They shall be limited to oil and gas site development uses and shall not be converted to any other use. Upon expiration of the DEP permit, the oil and gas workforce housing facility shall be dismantled and its site restored to its original state.

11. In all oil and gas sites were exterior lighting is needed, light pollution impacts shall be considered. Downward-direct fixtures shall be used. All exterior lighting shall be capable of being turned off and shall be in use only when human operators are present on the site.

12. For all oil and gas projects, complete site restoration must be achieved within one (1) year of termination of production in accordance with PA Department of Environmental Protection regulations.

13. The application for a special exception for Oil and Gas Operations shall include a site plan as part of the application. The site plan shall be certified by a registered engineer or registered landscape architect and shall verify that the applicant has satisfied all applicable regulations of the Chapman Township Zoning Ordinance.

14. The maximum height of any permanent structure involved in Oil and Gas Operations shall not exceed 35 feet. Any temporary structure may exceed this height provided the temporary structure is removed within one year of the granting of a special exception unless otherwise directed by the Zoning Hearing Board. All temporary structures intended for use shall be listed as part of the application for special exception.

15. The provisions of this Section 7.41 of this Ordinance shall not apply to any Oil and Gas Operations lawfully existing as of the date this amending Ordinance is effective unless the same are altered, modified or replaced.

SECTION XIII. Article VII of the Chapman Township Zoning Ordinance shall be amended by adding the following Section 7.42:

Section 7.42-Regulations Governing Natural Gas Compressor and Storage Facilities and Metering Stations:

1. A Natural Gas Compressor and Storage Facility must have a minimum lot area of 10 acres. A stand-alone Metering Station shall comply with all lot area, setback and height regulations for the underlying district in which it is located.

2. The following buffer requirements shall apply to all Natural Gas Compressor and Storage Facilities. The buffer requirements are applicable to all roads, drilling units and/or structures in existence at the time the application is made to the municipality for a special exception authorizing the development of a Natural Gas Compressor and Storage Facility:

a. No part of a Natural Gas Compressor and Storage Facility shall be located within Five Hundred (500') feet of any public road.

b. No part of a Natural Gas Compressor and Storage Facility shall be located within Five Hundred (500') of any residential dwelling unit.

c. No part of a Natural Gas Compressor and Storage Facility shall be located within One Thousand Five Hundred (1,500') of any residential zoning district.

d. No part of a Natural Gas Compressor and Storage Facility shall be located within Five Hundred (500') feet from any church, public library, public park or trail or other public facility. State Game Lands or State Forest shall not be considered a public park or trail or public facility for purposes of this provision.

e. No part of a Natural Gas Compressor and Storage Facility shall be located within One Thousand Five Hundred (1,500') feet from any public or private school or hospital.

3. The applicant shall be required to secure all necessary federal, state and/or local permits. All written materials including, but not limited to, those associated with the permits submitted to any federal, state or local governing body or regulatory agency shall also be submitted to the municipality for review, comment and approval at the special exception hearing.

a. Failure to maintain compliance with all federal, state and local permits shall result in termination of a special exception use permit.

b. A site security plan shall be required at the time of application and shall be followed at all times following approval.

c. An illumination plan shall be required at the time of application and shall be followed at all times following approval. Lighting on the site shall use full cut off fixtures with shielding and be located to limit spillover onto adjacent properties.

d. The perimeter of the fenced in facility shall be landscaped with a mixture of deciduous and evergreen trees and shrubs to provide a visually pleasing screen of the facility. Any facility constructed in a naturally forested area shall be exempt from landscape requirements provided a natural buffer of fifty (50') feet is maintained around the perimeter of the site except for any necessary access drives.

e. The Zoning Hearing Board may impose other site specific conditions as it deems necessary to protect the public health, safety and welfare. The applicant shall be required to establish that such Natural Gas Compressor and Storage Facilities or Metering Station shall not substantially injure or detract from the lawful existing permitted uses of neighboring properties nor substantially damage the health, safety or welfare of the municipality or its residents and property owners.

f. No Natural Gas Compressor and Storage Facility or Metering Station shall be located within a One Hundred (100) year flood plain.

g. No Natural Gas Compressor and Storage Facility or Metering Station shall be located within Three Hundred (300') feet of any wetlands greater than one (1) acre in size.

4. The provisions of this Section 7.42 of this Ordinance shall not apply to any Natural Gas Compressor and Storage Facilities or Metering Station lawfully existing as of the date this amending Ordinance is effective unless the same are altered, modified or replaced.

SECTION XIV. Article VII of the Chapman Township Zoning Ordinance shall be amended by adding the following Section 7.43:

A. Noise Protection Levels: With the exception of the noise sources exempted in Subsection (B) and (C) hereinafter, the sound level within the Forest and Agricultural and Industrial Districts, including from a Natural Gas Compressor and Storage Facility and from a Metering Station, shall not exceed an average of 65 dBA for a 10 minute period. The sound level shall be measured with a sound level meter that confirms to the specification published by the American National Standards Institute (ANSI). The sound level shall be measured at the nearest property lot line.

B. Exemptions to Noise Standards: The maximum permissible sound level limits set forth above shall not apply to any of the following noise sources:

1. The operation of motor vehicles or other transportation vehicles, operations involved in the construction or demolition of structures and any emergency alarm signals;

2. Sound needed to alert people about an emergency or building, equipment or facility security alarms;

3. Repair or construction work to provide electricity, water or other public utilities between the hours of 6:00 A.M. and 9:00 P.M. except for clearly emergent repairs which are not restricted by time;

4. Household power tools and lawnmowers between the hours of 6:00 A.M. and 9:00 P.M.;

5. Construction or operations (including the occasional use of blasting and contraction) and repairs of public facilities (including sidewalks and streets) within the hours of 6:00 A.M. and 9:00 P.M. except for clearly emergent repairs which are not restricted by time.

6. The unamplified human voice.

C. Oil and Gas Operations shall comply with the provisions of Section 7.43 only to the extent that there are no federal or state laws or regulations to the contrary.

SECTION XV. Article VII of the Chapman Township Zoning Ordinance shall be amended by adding the following Section 7.44:

Section 7.44 -Regulations Governing Farm Animals:

1. Outdoor farm animals shall only be permitted in the Nature/Conservation District, Forest and Agricultural District and Industrial District., subject to the following conditions:

a. All minimum lot area, setback and height regulations for the underlying district shall apply.

b. All feces accumulated on private property shall be removed by using the approved sanitary method of double bagging and placed in the trash for collection. Feces shall not accumulate outside. Manure that has been composted may be utilized in gardens.

c. No farm animal shall be permitted to run unrestrained or at large on any road, sidewalk, play area, park, street or alley or on abutting private property of others.

d. All feed, water and other items associated with the farm animal shall be protected in a way that prevents infestation by rats, mice or other rodents, vermin or vectors. Failure to properly store these items shall constitute a violation of this Ordinance.

2. Domesticated cats and dogs shall not be considered a farm animal under this Ordinance and may be permitted in any zoning district.

SECTION XVI. Article IX Section 9.09 of the Chapman Township Zoning Ordinance shall be amended to provide as follows:

Fence Requirements:

All fences constructed or installed within the Township, whether required by this Article or otherwise, shall be of uniform height, the minimum of which shall be 4 feet (5 feet for fences surrounding an in-ground swimming pool, hot tub or other man-made structure containing exposed water) and the maximum of which shall be 8 feet. Fence height shall be measured from undisturbed virgin soil to the highest point of the fencing material, including posts, boards, chain, gates or any other portion of the fence. The property owner shall be required to specify the uniform height of the fence on any building permit application that may be required. Fences shall not be subject to any setback requirements. All fencing or portions thereof shall be maintained in a neat and orderly fashion, with any missing or broken parts to be replaced within thirty (30) days. The exterior of all fences shall be of a uniform color. Property owners who wish to conform the height of the fence to the rolling topography of a particular property and not have a uniform height of the fence shall be required to obtain a variance from the Zoning Hearing Board.

SECTION XVII. Article XII Section 12.08(C) of the Chapman Township Zoning Ordinance shall be amended to refer to the Chapman Township Zoning Hearing Board and

not the Porter Township Zoning Hearing Board. The remaining provisions of Section 12.08(C) shall remain in full force and effect.

SECTION XVIII. Article XIV Section 14.01 of the Chapman Township Zoning Ordinance shall be amended to provide as follows:

Zoning Permits:

It shall be unlawful to commence excavation for, construction of or exterior alteration of any buildings or structures until the Township Zoning Officer has issued a zoning permit for such work.

SECTION XIX. All Ordinances or parts of Ordinances that conflict with the provisions of this Ordinance are hereby repealed to the extent to such conflict.

SECTION XX. The provisions of this Ordinance shall be effective on the earliest date permissible by law.

DULY ORDAINED OR ENACTED by the Township of Chapman Board of Supervisors, County of Clinton, Commonwealth of Pennsylvania in lawful session assembled this 1 day of March, 2016.

ATTEST:

Elizabeth J. Whitty
Secretary

CHAPMAN TOWNSHIP SUPERVISORS

Tim Horner, Chairman

George R. Machak, Vice-Chairman

Gregory G. Werts, Supervisor

SEAL

2016-02

AN ORDINANCE REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A PERMIT FOR ANY CONSTRUCTION OR DEVELOPMENT; PROVIDING FOR THE ISSUANCE OF SUCH PERMITS; SETTING FORTH CERTAIN MINIMUM REQUIREMENTS FOR NEW CONSTRUCTION AND DEVELOPMENT WITHIN AREAS OF THE CHAPMAN TOWNSHIP, CLINTON COUNTY, PENNSYLVANIA WHICH ARE SUBJECT TO FLOODING; AND ESTABLISHING PENALTIES FOR ANY PERSONS WHO FAIL, OR REFUSE TO COMPLY WITH, THE REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE.

- **WHEREAS,** the Chapman Township, Clinton County, Pennsylvania participates in the National Flood Insurance Program (NFIP); and
- **WHEREAS**, the Chapman Township, Clinton County, Pennsylvania's participation in the NFIP mandates that the Chapman Township, Clinton County, Pennsylvania regulate construction and Development within areas of the Chapman Township, Clinton County, Pennsylvania that are subject to Flooding to ensure that such construction and Development activities are in compliance with NFIP requirements; and
- **WHEREAS**, the Chapman Township, Clinton County, Pennsylvania desires to provide a floodplain development permit process which shall be of the least inconvenience to the public, and which shall comply with Federal and State Floodplain Management requirements.
- **NOW, THEREFORE BE IT ENACTED AND ORDAINED,** by the Board of Supervisors, Chapman Township, Clinton County, Pennsylvania, as follows:

ARTICLE I - 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 Chapman Township, Clinton County, Pennsylvania does hereby order as follows.

ARTICLE II - GENERAL PROVISIONS

Section 2.01 – Intent

The intent of this Ordinance is to:

A. Promote the general health, welfare, and safety of the Chapman Township, Clinton County, Pennsylvania.
B. Encourage the utilization of appropriate construction practices in order to prevent or minimize Flood damage in the future.
C. Minimize danger to public health by protecting water supply and natural drainage.
D. Reduce financial burdens imposed on the Chapman Township, Clinton County, Pennsylvania, its governmental units, and its residents, by preventing excessive Development in areas subject to Flooding.
E. Comply with federal and state floodplain management requirements.

Section 2.02 - 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 the Chapman Township, Clinton County, Pennsylvania unless a Floodplain Development Compliance Certificate has been obtained from the Floodplain Administrator.

Section 2.03 - 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 2.04 - 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 2.05 - 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 Chapman Township, Clinton County, Pennsylvania or any officer or employee thereof for any Flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

ARTICLE III - ADMINISTRATION
Section 3.01 - Designation of the Floodplain Administrator
A Floodplain Administrator, appointed by Resolution of the Chapman Township, Clinton County, Pennsylvania, shall be charged with the responsibility to administer and enforce the provisions of this Ordinance within the Chapman Township, Clinton County, Pennsylvania. 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
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 Chapman Township, Clinton County, Pennsylvania of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program (NFIP) 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 Chief Executive Officer of the Municipality.

Section 3.02 - Permits Required
A Floodplain Development Compliance Certificate shall be required before any construction or Development is undertaken within any area of Chapman Township, Clinton County, Pennsylvania that is subject to Flooding.

Section 3.03 - Duties and Responsibilities of the Floodplain Administrator

A. The Floodplain Administrator shall issue a Floodplain Development Compliance Certificate only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this Ordinance, and all other applicable codes and ordinances.

B. Should any construction or Development involve a Land Development, as that term is defined in this Ordinance, a land development plan shall be submitted to the Municipal Engineer for review under both this Ordinance and the Chapman Township, Clinton County, Pennsylvania's Subdivision and Land Development Ordinance.
C. All other Applicants shall provide the Floodplain Development Compliance Certificate to the individual or individuals having certification under the Pennsylvania UCC who shall be responsible for inspection of the proposed construction or Development to assure its compliance with the Pennsylvania UCC.
D. Prior to the issuance of any Floodplain Development Compliance Certificate, the Floodplain Administrator shall review the Floodplain Development Permit Application 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 Floodplain Development Compliance Certificate shall be issued until this determination has been made.
E. 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.
F. The Floodplain Administrator shall maintain in perpetuity all records associated with the requirements of this Ordinance including, but not limited to, finished construction elevation data, permitting, inspection, and enforcement.
G. The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning the Chapman Township, Clinton County, Pennsylvania's participation in the National Flood Insurance Program (NFIP).
H. The responsibility, authority, and means to implement the commitments of the Floodplain Administrator can be delegated from the individual identified. However, the ultimate responsibility lies with the individual appointed by the Chapman Township, Clinton County, Pennsylvania as the Floodplain Administrator.
I. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC or the latest edition thereof adopted by the State of Pennsylvania.

Section 3.04 - Application Procedures and Requirements

A. Application for a Floodplain Development Compliance Certificate shall be made, in writing, to the Floodplain Administrator on forms supplied by the Chapman Township, Clinton County, Pennsylvania. Such application shall contain the following:
    1. Name and address of Applicant.
    2. Name and address of owner of land on which proposed construction is to occur.
    3. Name and address of contractor.
    4. Name and address of engineer (if applicable).
    5. Name and address of property appraiser (if applicable).
    6. Site location including address.
    7. Listing of other permits required.
    8. 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.
    9. A plan of the site showing the exact size and location of the proposed construction as

well as any existing Buildings or Structures.

B. If any proposed construction or Development is located entirely or partially within any Identified Floodplain Area, Applicants shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
    1. all such proposals are consistent with the need to minimize Flood damage and conform with the requirements of this Ordinance, and all other applicable codes and ordinances; and
    2. all utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate Flood damage; and
    3. adequate drainage is provided so as to reduce exposure to Flood hazards; and
    4. Structures will be anchored to prevent floatation, collapse, or lateral movement; and
    5. building materials are Flood resistant; and
    6. appropriate practices that minimize Flood damage have been used; and
    7. electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.

C. 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:
    1. A completed Floodplain Development Permit Application form.
    2. 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:
        a. North arrow, scale, and date.
        b. Topographic contour lines, if available.
        c. All property and lot lines including dimensions, and the size of the site expressed in acres or square feet.
        d. The location of all existing and proposed Buildings, Structures, and other improvements, including the location of any existing or proposed Subdivision and/or Land Development.
        e. The location of all existing streets, drives, and other access ways.
        f. 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.
        g. Plans of all proposed Buildings, Structures and other improvements, drawn at suitable scale showing the following:
            1. The proposed Lowest Floor elevation of any proposed Building based upon North American Vertical Datum of 1988 (NAVD88).
            2. The elevation of the Base Flood.
            3. Supplemental information as may be necessary under 34 PA Code, the 2009 IBC or the 2009 IRC or latest edition thereof adopted by the State of Pennsylvania.
        h. The following data and documentation:
            1. An Elevation Certificate signed and sealed by a registered professional land surveyor or registered professional engineer.
            2. Detailed information concerning any proposed Floodproofing measures and corresponding elevations.
            3. If available, information concerning Flood depths, pressures, velocities, impact and uplift forces and other factors associated with a Base Flood.
            4. Documentation, certified by a registered professional engineer or

architect, to show that the cumulative effect of any proposed Development within the Floodway Area (see Section 4.02.A of this Ordinance) when combined with all other existing and anticipated Development, will not increase the Base Flood Elevation at any point.

5. 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 4.02.B of this Ordinance) 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 Chapman Township, Clinton County, Pennsylvania.
6. 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 Floodproofing measures which have been incorporated into the design of the Structure and/or the Development.
7. Detailed information needed to determine compliance with Sections 5.03.F and 5.04 of this Ordinance, including:
    a. The amount, location and purpose of any materials or substances referred to in Sections 5.03.F and 5.04 of this Ordinance 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 5.04 of this Ordinance during a Base Flood.
    c. The appropriate component of the Department of Environmental Protection's A Planning Module for Land Development.
    d. Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sediment pollution control.

Section 3.05 - 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. Chapman Township, Clinton County, Pennsylvania Planning Commission, Municipal Engineer, etc.) for review and comment.

Section 3.06 - Changes

After the issuance of a Floodplain Development Compliance Certificate by the Floodplain Administrator, no changes of any kind shall be made to the Floodplain Development Permit Application; Floodplain Development Compliance Certificate; or any of the plans, specifications, or

other documents submitted with the Floodplain Development Permit 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 3.07 - Placards

In addition to the Floodplain Development Compliance Certificate, the Floodplain Administrator shall issue a placard, or similar document, which shall be displayed at the construction and/or Development project site during the time construction is in progress. This placard shall include a brief description of the project, the location of the project, date of its issuance, the Floodplain Development Compliance Certificate number, and the signature of the Floodplain Administrator.

Section 3.08 - Start of Construction

Work on the proposed construction and/or Development shall begin within one hundred eighty (180) days after the date of issuance of the Floodplain Development Compliance Certificate. Work shall also be completed within twelve (12) months after the date of issuance of the Floodplain Development Compliance Certificate or the Floodplain Development Compliance Certificate shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. A Floodplain Development Compliance Certificate holder shall notify the Floodplain Administrator of the date for commencement of construction and/or Development at least seven (7) days prior thereto. The issuance of the Floodplain Development Compliance Certificate does not refer to any 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 Structures, 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 Floodplain Development Compliance Certificate is compliant with the Ordinance and FIRM/FIS in effect at the time the extension is granted.

Section 3.09 - Inspection and Revocation

A. During the construction period, the Floodplain Administrator shall inspect the premises to determine that the work is progressing in compliance with the information provided on the Floodplain Development Permit Application. The Floodplain Administrator shall make as many inspections during and upon completion of the work as are necessary.
B. In the event that the Floodplain Administrator discovers that the work does not comply with the Floodplain Development 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 Floodplain Development Compliance Certificate and report such fact to Chapman Township, Clinton County, Pennsylvania for whatever action it considers necessary.

C. A record of all such inspections and Violations of this Ordinance shall be maintained.
D. The requirements of 34 PA Code, Chapters 401 405 (as amended); the IBC (Sections 109.3.3, 1612.5.1, 104.7, and 103.8, or latest revisions thereof); and the 2003 IRC (R106.1.3, R109.1.3 and R104.7, or latest revisions thereof) pertaining to elevation certificates and record retention shall be considered.

Section 3.10 - Fees

Fees payable to the Chapman Township, Clinton County, Pennsylvania by an Applicant and/or Developer shall be established from time to time by Resolution of the Chapman Township, Clinton County, Pennsylvania for the following:

A. Review of the Floodplain Development Permit Application, and any related documents.
B. Review by the Municipal Engineer of the Floodplain Development Permit Application.
C. Review by the Municipal Engineer of any and all information concerning the construction and/or Development.
D. Any and all fees associated with an Applicant,s or Developer,s request for a Letter of Map Revision (LOMR) or Conditional Letter of Map Revision (CLOMR).

Section 3.11 Enforcement

A. 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:

1. be in writing; and
2. include a statement of the reasons for its issuance; and
3. allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires; and
4. 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; and
5. contain an outline of remedial actions which, if taken, will effect compliance with the provisions of this Ordinance; and
6. the penalties/court proceedings which may be imposed should the Violation not be remedied.

B. 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 Chapman Township, Clinton County, Pennsylvania shall be guilty of a summary offense and upon conviction shall pay a fine to Chapman Township, Clinton County, Pennsylvania, of not less than one hundred dollars ($100.00) nor more than six hundred dollars ($600.00) plus costs of prosecution, including, but not limited to attorney's fees, expert witness fees, filing fees, costs of service, and the like. In default of such payment, such Person shall be imprisoned in county prison for a period not to exceed ten (10) days. Each day during which any Violation of this Ordinance continues shall constitute a separate offense. 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, Chapman Township, Clinton County, Pennsylvania to be a public nuisance and abatable as such.

Section 3.12 - Appeals

A. 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.

B. Upon receipt of such appeal the Chapman Township Zoning Hearing Board shall set a time and place, within not less than ten (10) nor more than forty-five (45) days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.

C. Any Person aggrieved by any decision of the Chapman Township Zoning Hearing Board may seek relief therefrom by appeals to courts of the Commonwealth, as provided by applicable law(s), including the Pennsylvania Flood Plain Management Act.

ARTICLE IV - IDENTIFICATION OF FLOODPLAIN AREAS

Section 4.01 - Identification

The Identified Floodplain Area shall be any areas of Chapman Township, Clinton County, Pennsylvania, classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated June 2016 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 (FIS).

The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Chapman Township, Clinton County, Pennsylvania and declared to be a part of this Ordinance.

Section 4.02 - Description and Special Requirements of Identified Floodplain Areas

The Identified Floodplain Area shall consist of the following specific areas:

A. 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.

1. 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 analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in Flood levels within the Chapman Township, Clinton County, Pennsylvania during the occurrence of the Base Flood Discharge.

2. 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.

B. 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.

1. 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.

2. 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.

a. Floodplain Development Compliance Certificate shall be granted for any construction, Development, use, or activity within any AE Area/District without Floodway unless it is demonstrated that the cumulative effect of the proposed Development would not, together with all other existing and anticipated Development, increase the Base Flood Elevation more than one (1) foot at any point.

b. 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.

C. 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 following procedures shall be used to determine the Base Flood Elevation:

1. For all non-Accessory Structures (including residential, commercial, industrial, and institutional structures), the Applicant shall be required to submit a Letter of Map Amendment (LOMA) to FEMA to either remove the non-Accessory Structure from the A Zone, or obtain a Base Flood Elevation for a non-Accessory Structure that cannot be removed from the A Zone.

2. For all Accessory Structures:

a. The Base Flood Elevation may be determined by using the elevation of a point on the boundary of the Identified Floodplain Area which is nearest the construction site; or

b. The Chapman Township, Clinton County, Pennsylvania may require the Applicant to determine the elevation using 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 standards. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow for a thorough technical review by the Chapman Township, Clinton County, Pennsylvania.

D. 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 one 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 Flood waters around and away from Structures on slopes.

Section 4.03 - Changes in Identification of Area

The Identified Floodplain Area may be revised or modified by the [Board, Council, etc.] where studies or information provided by a qualified agency or individual 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, the Chapman Township, Clinton County, Pennsylvania shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data. See 5.01 B for situations where FEMA notification is required.

Section 4.04 - Boundary Disputes

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Floodplain Administrator in consultation with the Township Engineer, and any party aggrieved by this decision or determination may appeal to the Chapman Township, Clinton County, Pennsylvania Zoning Hearing Board. The Chapman Township, Clinton County, Pennsylvania Zoning Hearing Board shall set a time and place, within not less than ten (10) nor more than forty-five (45) days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties. The burden of proof shall be on the appellant.

Section 4.05 - Jurisdictional Boundary Changes

Prior to Development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the Chapman Township, Clinton County, Pennsylvania shall review Flood hazard data affecting the lands subject to boundary changes. The Chapman Township, Clinton County, Pennsylvania 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.

ARTICLE V - TECHNICAL PROVISIONS

Section 5.01 - General

A. Alteration or Relocation of Watercourse

1. 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 Chapman Township, Clinton County, Pennsylvania, and until all required permits or approvals have first been obtained from the Department of Environmental Protection Regional Office.
2. 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.
3. In addition, FEMA and the Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.

B. When Chapman Township, Clinton County, Pennsylvania proposes to permit the following encroachments:

1. any Development that causes a rise in the Base Flood Elevations within the Floodway; or
2. 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
3. alteration or relocation of a stream (including but not limited to installing culverts and bridges) the Chapman Township, Clinton County, Pennsylvania 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; and
b) upon receipt of the Administrators conditional approval of map change and prior to approving the proposed encroachments, 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; and
c) upon completion of the proposed encroachments, provide as built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.

C. 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.

Section 5.02 Elevation and Floodproofing Requirements

A. Residential Structures

1. 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.

2. 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 4.02.C of this Ordinance.

3. 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.

4. 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 State of Pennsylvania, and ASCE 24 and 34 PA Code (Chapters 401 405 as amended) shall be utilized, where they are more restrictive.

B. Non Residential Structures

1. In AE, A1 30 and AH Zones, any New Construction or Substantial Improvement of a nonresidential 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:

a. is Floodproofed so that the Structure is watertight with walls substantially impermeable to the passage of water and,

b. has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:

2. 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 4.02.C of this Ordinance.

3. 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.

4. Any nonresidential 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.

5. 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 State of Pennsylvania, and ASCE 24 and 34 PA Code (Chapters 401 405 as amended) shall be utilized, where they are more restrictive.

C. Space below the Lowest Floor

1. Basements are prohibited within the Identified Floodplain Area.

2. 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.

3. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

a. 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.

b. the bottom of all openings shall be no higher than one (1) foot above grade.

c. openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of Flood waters.

D. 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 Historic Structure's continued designation as a Historic Structure. Documentation that a specific Ordinance requirement will cause removal of the Historic 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 Historic Structure.

Section 5.03 - Design and Construction Standards

The following minimum standards shall apply for all construction and Development proposed within any Identified Floodplain Area:

A. Fill

If fill is used, it shall:

a. extend laterally at least fifteen (15) feet beyond the building line from all points; and

b. consist of soil or small rock materials only sanitary landfills shall not be permitted; and

c. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling; and

d. 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

e. be used to the extent to which it does not adversely affect adjacent properties.

B. Drainage Facilities

Storm drainage facilities shall be designed to convey the flow of stormwater 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.

C. Water and Sanitary Sewer Facilities and Systems

1. 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.

2. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into Flood waters.

3. No part of any on site waste disposal system shall be located within any Identified Floodplain Area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a Flood.

4. 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.

D. 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.

E. Streets

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

F. 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 5.04 of this Ordinance, shall be stored at or above the Base Flood Elevation or Floodproofed to the maximum extent possible.

G. 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.

H. Anchoring

1. All Buildings and Structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.

2. All air ducts, large pipes, storage tanks, and other similar objects or components located below the Base Flood Elevation shall be securely anchored or affixed to prevent flotation.

I. Floors, Walls, and Ceilings

1. Wood flooring used at or below the Base 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.

2. Plywood used at or below the Base Flood Elevation shall be of a marine or water resistant variety.

3. Walls and ceilings at or below the Base Flood Elevation shall be designed and constructed of materials that are water resistant and will withstand inundation.

4. Windows, doors, and other components at or below the Base Flood Elevation shall be made of metal or other water resistant material.

J. Paints and Adhesives

1. Paints and other finishes used at or below the Base Flood Elevation shall be of marine or water resistant quality.

2. Adhesives used at or below the Base Flood Elevation shall be of a marine or water resistant variety.

3. All wooden components (doors, trim, cabinets, etc.) used at or below the Base Flood Elevation shall be finished with a marine or water resistant paint or other finishing material.

K. Electrical Components

1. Electrical distribution panels shall be at least three (3)feet above the Base Flood elevation.

2. Separate electrical circuits shall serve lower levels and shall be dropped from above.

L. Equipment

Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Base Flood Elevation.

M. 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.

N. 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 Subsections 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 edition thereof adopted by the State of Pennsylvania: Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G. and International Residential Building Code (IRC) 2009 or the latest edition thereof adopted by the State of Pennsylvania: Secs. R104, R105, R109, R322, Appendix E, and Appendix J.

Section 5.04 - Development Which May Endanger Human Life

A. 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:

1. will be used for the production or storage of any materials or substances that are considered dangerous to human life; or,

2. will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any materials on the premises that are considered dangerous to human life; or,

3. will involve the production, storage, or use of any amount of radioactive substances; shall be subject to the provisions of Section 5.04 of this Ordinance, in addition to all other applicable provisions.

The following 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.

B. Within any Identified Floodplain Area, any new or substantially improved Structure of the kind described in Section 504.A of this Ordinance, shall be prohibited within the area measured fifty (50) feet landward from the top of bank of any watercourse.

C. Within any Floodway Area, any Structure of the kind described in Section 504.A of this Ordinance, shall be prohibited. Where permitted within any Identified Floodplain Area, any new or substantially improved residential Structure of the kind described in Section 5.04.A of this Ordinance, shall be elevated to remain Completely Dry up to at least one and one half (12) feet above Base Flood Elevation and built in accordance with Sections 5.01, 5.02, and 5.03 of this Ordinance.

D. Where permitted within any Identified Floodplain Area, any new or substantially improved nonresidential Structure of the kind described in Section 5.04.A of this Ordinance, shall be built in accordance with Sections 5.01, 5.02, and 5.03 of this Ordinance including:

1. elevated, or designed and constructed to remain Completely Dry up to at least one and one half (12) feet above Base Flood Elevation, and

2. designed to prevent pollution from the Structure or activity during the course of a Base Flood.

Any such Structure, or part thereof, that will be built below the Base Flood Elevation shall be designed and constructed in accordance with the standards for Completely Dry Floodproofing contained in the publication "Flood Proofing Regulations" (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

Section 5.05 - Special Requirements for Subdivisions and Development

All subdivision proposals and Development proposals containing at least fifty (50) lots or at least five (5) 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 Registered 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 associated with any CLOMR/LOMR shall be the responsibility of the Applicant and/or Developer.

Section 5.06 - Special Requirements for Manufactured Homes

A. Within any Floodway Area/District, Manufactured Homes shall be prohibited.

B. Within any Identified Floodplain Area, Manufactured Homes shall be prohibited within the area measured fifty (50) feet landward from the top of bank of any watercourse.

C. Where permitted within any Identified Floodplain Area, all Manufactured Homes, and any improvements thereto, shall be:

1. placed on a permanent foundation;
2. elevated so that the Lowest Floor of the Manufactured Home is at least one and one half (12) feet above Base Flood Elevation; and
3. anchored to resist flotation, collapse, or lateral movement.

D. Installation of Manufactured Homes shall be done in accordance with the manufacturers, installation instructions as provided by the manufacturer. Where the Applicant cannot provide the above information, the requirements of Appendix E of the 2009 International Residential Building Code or the AU.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing 1984 Edition, draft or latest revision thereto and 34 PA Code Chapter 401 405 shall apply.

E. Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC or the latest edition thereto adopted by the State of Pennsylvania, and 34 PA Code, as amended where appropriate and/or applicable to units where the manufacturers, standards for anchoring cannot be provided or were not established for the proposed unit(s) installation.

Section 5.07 - Special Requirements for Recreational Vehicles

Recreational Vehicles in Zones A, A1 30, AH and AE must either:

A. be on the site for fewer than one hundred eighty (180) consecutive days, and

B. be fully licensed and ready for highway use, or

C. meet the permit requirements for Manufactured Homes in Section 5.06 of this Ordinance.

ARTICLE VI - PROHIBITED ACTIVITIES

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:

A. 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:

1. Hospitals
2. Nursing homes
3. Jails or prisons

B. 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.

ARTICLE VII - EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

Section 7.01 - 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 7.02 of this Ordinance shall apply.

Section 7.02 - Improvements

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

A. No expansion or enlargement of an existing Structure shall be allowed within any Floodway Area/District that would cause any increase in the Base Flood Elevation.

B. 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 Base Flood Elevation more than one (1) foot at any point.

C. Any modification, alteration, reconstruction, or improvement of any kind to an existing Structure to an extent or amount of fifty percent (50%) 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.

D. 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 adopted by the State of Pennsylvania.

ARTICLE VIII - VARIANCES

Section 8.01 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 Chapman Township, Clinton County, Pennsylvania may, upon request, grant relief from the strict application of the requirements.

Section 8.02 - Variance Procedures and Conditions

Requests for Variances shall be considered by the Chapman Township, Clinton County, Pennsylvania Zoning Hearing Board, in accordance with the Municipalities Planning Code, and the following:

A. No Variance shall be granted for any construction, Development, use, or activity within any Floodway Area/District that would cause any increase in the Base Flood Elevation.

B. No Variance shall be granted for any construction, Development, use, or activity within any AE Area/District without Floodway that would, together with all other existing and anticipated Development, increase the Base Flood Elevation more than one (1) foot at any point.

C. Except for a possible modification of the Base Flood Elevation requirement involved, no Variance shall be granted for any of the other requirements pertaining specifically to Development regulated by Section 5.04 of this Ordinance.

D. No Variance shall be granted for Prohibited Activities listed in Article VI of this Ordinance.

E. If granted, a Variance shall involve only the least modification necessary to provide relief.

F. In granting any Variance, the Chapman Township, Clinton County, Pennsylvania shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Ordinance.

G. Whenever a Variance is granted, the Chapman Township, Clinton County, Pennsylvania shall notify the Applicant in writing that:

1. The granting of the Variance may result in increased premium rates for flood insurance.
2. Such Variances may increase the risks to life and property.

H. In reviewing any request for a Variance, the Chapman Township, Clinton County, Pennsylvania shall consider, at a minimum, the following:

1. That there is good and sufficient cause.
2. That failure to grant the Variance would result in exceptional hardship to the Applicant.

3. That the granting of the Variance will not:
a. result in an unacceptable or prohibited increase in Flood heights, additional threats to public safety, or extraordinary public expense; and
b. create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.

I. A complete record of all Variance requests and related actions shall be maintained by the Chapman Township, Clinton County, Pennsylvania. In addition, a report of all Variances granted during the year shall be included in the annual report to FEMA.

Notwithstanding any of the above, however, all Structures shall be designed and constructed so as to have the capability of resisting the Base Flood.

ARTICLE IX - DEFINITIONS

Section 9.01 - General

Unless specifically defined below, words and phrases used in this Ordinance shall be interpreted so as to give this Ordinance its most reasonable application.

Section 9.02 - Specific Definitions

Accessory Structure or Use - a Structure or use on the same lot with, and of a nature customarily incidental and subordinate to, the principal Structure or use.

Applicant - A landowner or Developer who undertakes construction or Development within areas of Chapman Township, Clinton County, Pennsylvania that are subject to Flooding.

Base Flood a Flood which has a one percent (1%) chance of being equaled or exceeded in any given year (also called the A100-year Flood@ or one percent (1%) annual chance Flood).

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).

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 one percent (1%) or greater chance of being equaled or exceeded in any given year.

Basement - any area of the Building having its floor below ground level on all sides.

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.

Completely Dry - refers to a space within a Structure that will remain totally dry during Flooding; the Structure is designed and constructed to prevent the passage of water and water vapor.

Developer - an individual, public or private association or corporation, partnership, association, municipality or political subdivision of the Commonwealth of Pennsylvania, public utility, institution, authority, firm, trust, estate, receiver, guardian, personal representative, successor, joint venture, joint stock company, fiduciary; Department, agency or instrumentality of State, Federal or local government, or an agent or employee thereof; or any other legal entity who undertakes construction or Development within areas of Chapman Township, Clinton County, Pennsylvania that are subject to Flooding.

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.

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 Chapman Township, Clinton County, Pennsylvania.

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).

FEMA - Federal Emergency Management Agency.

Flood/Flooding - a temporary inundation of normally dry land areas.

Flood Insurance Rate Map (FIRM) - the official map on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas (SFHAs) and the risk premium zones applicable to Chapman Township, Clinton County, Pennsylvania.

Flood Insurance Study (FIS) - the official report provided by the Federal Emergency Management Agency that includes Flood profiles, the Flood Insurance Rate Map (FIRM), the Flood Boundary and Floodway Map, and the water surface elevation of the Base Flood.

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.

Floodplain Administrator - The administrative officer lawfully charged with the duty of administering and enforcing the provisions of this Ordinance.

Floodplain Development Compliance Certificate - a standard municipal form issued to the Applicant by the Chapman Township, Clinton County, Pennsylvania prior to the commencement of Development and/or construction work in the Identified Floodplain Area.

Floodplain Development Permit Application - A standard municipal form completed by an Applicant prior to undertaking Development and/or construction work in the Identified Floodplain Area.

Floodproof - any work or activity that involves structural and nonstructural additions, changes, or adjustments to Structures that reduce or eliminate Flood damage to real estate or improved real property, water and sanitary facilities, Structures and their contents.

Floodproofing - any combination of structural and nonstructural additions, changes, or adjustments to

Structures that reduce or eliminate Flood damage to real estate or improved real property, water and sanitary facilities, Structures and their contents.

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.

Highest Adjacent Grade - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a Structure.

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; or

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; or

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:

1. By an approved state program as determined by the Secretary of the Interior or
2. Directly by the Secretary of the Interior in states without approved programs.

Identified Floodplain Area - this term is an umbrella term that includes all of the areas within which the Chapman Township, Clinton County, Pennsylvania has selected to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area (SFHA) on the Flood Insurance Rate Maps (FIRMs) and Flood Insurance Study (FIS), but may include additional areas identified by the Chapman Township, Clinton County, Pennsylvania (please refer to Sections 4.01 and 4.02 of this Ordinance for areas that the Chapman Township, Clinton County, Pennsylvania has included in the Identified Floodplain Area).

Land Development- <u>Any of the following activities:</u>

A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:

1. a group of two or more residential or nonresidential Buildings, whether proposed initially or cumulatively, or a single nonresidential Building on a lot or lots regardless of the number of occupants or tenure; or
2. the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

B. A subdivision of land.

C. Development in accordance with Section 503(1.1) of the Municipalities Planning Code.

Letter of Map Amendment (LOMA) - An amendment to the currently effective FEMA map which establishes that a property is not located in a Special Flood Hazard Area (SFHA). A LOMA is issued only by FEMA.

Letter of Map Revision (LOMR) - An official amendment to the currently effective FEMA map. It is issued by FEMA and changes Flood zones, delineations, and elevations.

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.

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 one hundred eighty (180) consecutive days.

Manufactured Home Park or Subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Municipal Engineer - A registered professional engineer appointed by the Chapman Township, Clinton County, Pennsylvania to provide municipal engineering services.

New Construction - Structures for which the Start of Construction commenced on or after the effective start date of this Ordinance and includes any subsequent improvements to such Structures. Any construction started after [the initial Flood Insurance Rate Map (FIRM) issued for the municipality] and before the effective start date of this Ordinance is subject to the ordinance in effect at the time the Floodplain Development Compliance Certificate was issued, provided the Start of Construction was within one hundred eighty (180) days of issuance of the Floodplain Development Compliance Certificate.

National Flood Insurance Program (NFIP) - The program of flood insurance coverage and floodplain management administered under the National Flood Insurance Act of 1968 (and any amendments thereof) and applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations, Subchapter B.

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 the Chapman Township, Clinton County, Pennsylvania.

North American Vertical Datum of 1988 (NAVD88) - The North American Vertical Datum of 1988 is the vertical control datum of orthometric height established for vertical control surveying in the United States of America based upon the General Adjustment of the North American Datum of 1988.

Person - an individual, public or private association or corporation, partnership, association, municipality or political subdivision of the Commonwealth of Pennsylvania, public utility, institution, authority, firm, trust, estate, receiver, guardian, personal representative, successor, joint venture, joint stock company, fiduciary; Department, agency or instrumentality of State, Federal or local government, or an agent or employee thereof; or any other legal entity who undertakes construction or Development

within areas of Chapman Township, Clinton County, Pennsylvania that are subject to Flooding.

Post FIRM Structure - is a Structure for which construction or Substantial Improvement occurred after December 31, 1974 or on or after the Chapman Township, Clinton County, Pennsylvania's initial Flood Insurance Rate Map (FIRM) dated September 26, 2008, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program (NFIP).

Pre FIRM Structure – is a Structure for which construction or Substantial Improvement occurred on or before December 31, 1974 or before the Chapman Township, Clinton County, Pennsylvania's initial Flood Insurance Rate Map (FIRM) dated September 26, 2008, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program (NFIP).

Recreational Vehicle - a vehicle which is:

A. built on a single chassis; and
B. not more than 400 square feet, measured at the largest horizontal projections; and
C. designed to be self-propelled or permanently towable by a light duty truck; and
D. not designed for use as a permanent dwelling but as temporary living quarters for recreation, camping, travel, or seasonal use.

Registered Professional Land Surveyor - An individual currently licensed and registered under the laws of the Commonwealth of Pennsylvania to engage in the practice of land surveying.

Registered Professional Engineer - An individual currently licensed and registered under the laws of the Commonwealth of Pennsylvania to engage in the practice of engineering.

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 (1/2) feet.

Special Flood Hazard Area (SFHA) means an area in the floodplain subject to a one percent (1%) 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.

Start of Construction - includes Substantial Improvement and other proposed new Development and means the date the Floodplain Development Compliance Certificate was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days after the date of the Floodplain Development Compliance Certificate and shall be completed within twelve (12) months after the date of issuance of the Floodplain Development Compliance Certificate 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 Structures, 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.

Structure - a walled and roofed Building, including a gas or liquid storage tank that is principally above ground, as well as a Manufactured Home.

Subdivision - the division or redivision 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.

Substantial Additions to Manufactured Home Parks - Any repair, reconstruction, or improvement of an Existing Manufactured Home Park or Manufactured Home Subdivision, where such repair, reconstruction, or improvement of the streets, utilities, and pads will equal or exceed fifty percent (50%) of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement is started.

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 percent (50%) or more of the market value of the Structure before the damage occurred.

Substantial Improvement - any reconstruction, rehabilitation, addition, or other improvement of a Structure, of which the cost equals or exceeds fifty percent (50%) 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.

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 Chapman Township, Clinton County, Pennsylvania, 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.

Variance - A grant of relief by the Chapman Township, Clinton County, Pennsylvania from the terms of a floodplain management regulation.

Violation - means the failure of a Structure or other Development to be fully compliant with the Chapman Township, Clinton County, Pennsylvania'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.

ARTICLE X - REPEALER

All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed.

ARTICLE XI - ENACTMENT
This Ordinance shall be effective on June 7, 2016 and shall remain in force until modified, amended or rescinded by Chapman Township, Clinton County, Pennsylvania.

DULY ENACTED AND ORDAINED, as an Ordinance of the Chapman Township, Clinton County, Pennsylvania, at a meeting of Chapman Township Board of Supervisors, held on the 7th day of June, 2016.

CHAPMAN TOWNSHIP BOARD OF SUPERVISORS

_____
Tim Horner, Chairman

_____
George R. Machak, Vice-Chairman

_____
Gregory G. Werts, Supervisor

ATTEST:

_____
Elizabeth Whitty, Secretary

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CLINTON COUNTY

SUBDIVISION & LAND DEVELOPMENT ORDINANCE

CLINTON COUNTY, PENNSYLVANIA

Allison Township
Avis Borough
Chapman Township
Colebrook Township
Crawford Township
Gallagher Township
Grugan Township
East Keating Township
West Keating Township
Leidy Township
Logan Township
Loganton Borough
Noyes Township

CLINTON COUNTY BOARD OF COMMISSIONERS

William R. Eisemann, Chairman
Carl W. Kephart
Earl L. Lentz

ENACTED: August 27, 1974
AMENDED: April 26, 1982
AMENDED: March 6, 1991

CLINTON COUNTY SUBDIVISION & LAND DEVELOPMENT ORDINANCE{PRIVATE }

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(Continued)

ARTICLE I{PRIVATE }

PURPOSE & AUTHORITY

SECTION 100 ADOPTION

The following rules and regulations for the subdivision and development of land in Clinton County, Pennsylvania, were adopted by Ordinance No. , dated , 1991, by the Clinton County Board of Commissioners pursuant to Pennsylvania Municipalities Planning Code, Act 170 of 1988, as amended.

SECTION 101 GRANT OF POWER

The governing body of each County may regulate subdivisions and land development within the County by enacting a subdivision and land development ordinance. The ordinance may require that all plats of land lying within the County shall be submitted for approval to the governing body or in lieu thereof to a planning agency designated in the ordinance for this purpose. All powers granted herein to the governing body or the planning agency shall be exercised in accordance with the provisions of the subdivision and land development ordinance. In the case of any development governed by an ordinance adopted pursuant to Article VII of the Pennsylvania Municipalities Planning Code, Act 170; however, the applicable provisions of the subdivision and land development ordinance shall be as modified by such provisions and the procedures which shall be followed in the approval of any plat, and the rights and duties of the parties thereto shall be governed by Article VII of Act 170 and the provisions adopted thereunder. Provisions regulating mobile home parks shall be set forth in separate and distinct articles of any subdivision and land development ordinance adopted pursuant to Article V of Act 170, or any planned residential development provisions adopted pursuant to Article VII of Act 170.

SECTION 102 EFFECTIVE DATE

This Ordinance shall become effective on , 1991, and shall remain in effect until modified or rescinded by the Board of Clinton County Commissioners.

SECTION 103 SHORT TITLE

This Ordinance shall be known and may be cited as "The Clinton County Subdivision and Land Development Ordinance".

SECTION 104 AUTHORITY & JURISDICTION OF THE CLINTON COUNTY PLANNING COMMISSION

The Clinton County Planning Commission shall have the authority to review, approve, or disapprove all land subdivisions and development plans within the County.

SECTION 105 PURPOSE

It is the intent, purpose, and scope of this Ordinance and that of Act 170, to protect and promote safety, health and morals, to accomplish coordinated development; to provide for the general welfare by guiding and protecting amenity, convenience, future governmental, economic, practical, and social and cultural facilities, development and growth, as well as the improvement of governmental processes and functions; to guide uses of land and structures, type and location of streets, public grounds and other facilities; to secure the protection of soil and water resources, drainage ways, and ensure adequate sites for recreation, conservation, scenic, and other open space purposes; to promote the conservation of energy through the use of planning practices and to promote the effective utilization of renewable energy sources; and to permit

municipalities to minimize such problems as may presently exist or which may be foreseen.

SECTION 106 SUBJECT PROPERTIES

No subdivision or land development of any lot, tract or parcel of land shall be affected; no street, sanitary sewer, storm sewer, water main or other facilities in connection therewith shall be laid out, constructed, opened or dedicated for private or public use or travel; or for the common use of occupants of buildings abutting thereon, except in strict accordance with the provisions of this Ordinance.

SECTION 107 SALE AND IMPROVEMENT OF LOTS

No lot in a subdivision may be sold; no permit to erect, alter or modify any building upon land in a subdivision or land development may be issued unless and until the improvements required by this Ordinance have either been constructed or guaranteed as hereinafter provided.

SECTION 108 FEE SCHEDULES

All processing fees shall be paid to the Clinton County Planning Commission where no local ordinance exists. These fees are designed to cover part of the costs of plan review services provided by the Clinton County Planning Commission staff.

SECTION 108.1 PLAN PROCESSING FEE SCHEDULE

The Clinton County Board of Commissioners established by Resolution, dated May 17, 1989, a schedule of fees for review of all subdivision or land development proposals. The following schedule outlines fees for preliminary and final plan submissions.

A. Minor Subdivision or Recreational Subdivision, up to five lots, no new roads or right-of-way - $25.00.

B. Major Subdivision or Recreational Subdivision, more than five lots, new roads or right-of-ways.

   1. Preliminary Plan - $25.00 plus $2.50 per lot over five lots.

   2. Final Plan - $10.00 plus $1.00 per lot over five lots.

C. Building Permits

   1. Renovations/Additions - $10.00 plus $1.50 per $1,000 of construction costs.

   2. New construction, including mobile homes - $25.00 plus $1.50 per $1,000 of construction costs. Mobile home permits are based on purchase price plus set-up costs.

SECTION 108.2 REVIEW & INSPECTION FEE SCHEDULE

If required by the Planning Commission, a fee of 1.5 percent of the cost of the improvements required by this Ordinance shall be paid by the subdivider to the County of Clinton to cover the cost of inspection by a registered professional engineer of installed required improvements. Any unused portion of the fee shall be returned to the subdivider. In the event of a dispute between the subdivider and Planning Commission over the cost of improvements, the cost shall be established by the lowest of not less than two bona fide bids from contractors selected by the subdivider and submitted to the Planning Commission for approval.

The subdivider shall reimburse the County of Clinton for the actual cost of all fees and expenses that the Planning Commission may incur in connection with professional services (reviews, studies and reports) related to the review of the preliminary and/or final plan submissions.

108.3 REVIEW FEE & INSPECTION FEE DISPUTE RESOLUTION PROCESS

In the event the applicant disputes the amount of any such review fees or inspection fees, the applicant shall, within ten days of the date of billing, notify the Commission that such expenses are disputed as unreasonable or unnecessary, in which case the Commission shall not delay or disapprove a subdivision or land development application or any approval or permit related to development due to the applicant's request over disputed expenses.

If, within 20 days from the date of billing, the Planning Commission and the applicant cannot agree on the amount of expenses which are reasonable and necessary, then the applicant and Planning Commission shall jointly, by mutual agreement, appoint another professional engineer licensed as such in the Commonwealth of Pennsylvania to review the said expenses and make a determination as to the amount thereof which is reasonable and necessary.

The professional engineer so appointed shall hear such evidence and review such documentation as the professional engineer in his or her sole opinion deems necessary and render a decision within 50 days of the billing date. The applicant shall be required to pay the entire amount determined in the decision immediately.

In the event that the municipality and the applicant cannot agree upon the professional engineer to be appointed within 20 days of the billing date, then upon application of either party, the President Judge of the Court of Common Pleas of the judicial district in which the Planning Commission is located (or if at the time there be no President Judge, then the senior active Judge sitting) shall appoint such engineer, who, in that case, shall be neither the municipal engineer nor any professional engineer who has been retained by, or performed services for, the Planning Commission or the applicant within the preceding five years.

The fee of the appointed professional engineer for determining the reasonable and necessary expenses shall be paid by the applicant if the amount of payment required in the decision is equal to or greater than the original bill. If the amount of payment required in the decision is less than the original bill by $1,000 or more, the Planning Commission shall pay the fee of the professional engineer, but otherwise the Planning Commission and the applicant shall each pay one-half of the fee of the appointed professional engineer.

SECTION 109 DISCLAIMER OF LIABILITY

The approval of a subdivision or land development plan in which any portion of the subdivision or land development is within a flood plain shall not constitute a representation guarantee or warranty of any kind by the Planning Commission, the County, or by any official or employee thereof, or by any local municipality under the jurisdiction of this Ordinance or representative thereof as to the practicability or safety of the proposed use, and shall create no liability upon the County, its officials, or employees or municipality or municipal officials under this Ordinance.

Neither the Planning Commission, County, or municipality from which subdivision or land development approval has been requested shall be held liable for damages to persons or property arising out of the issuance or denial of a driveway permit issued by the Department of Transportation as required pursuant to Section 420 of the Act of June 1, 1945, (P.L. 1242, No. 428), known as the "State Highway Law".

SECTION 110 CONFLICT WITH OTHER ORDINANCES

Where any provision of this Ordinance is found to be in conflict with the provision of a zoning, building, fire, safety, health or other ordinance or code of a municipality under the jurisdiction of this Ordinance, the provisions which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

ARTICLE II
DEFINITIONS

SECTION 200 INTERPRETATION

For the purpose of this Ordinance, words used in the present tense include the future tense, the terms "shall" and "will" are always mandatory, and the word "may" is permissive. Unless otherwise expressly stated, the following words shall, for the purpose of this Ordinance, have the meaning herein indicated.

ACCESSORY STRUCTURE: A structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal building or use.

AGRICULTURAL PURPOSES: The use of land for row crops, pasture, fruit orchards, active timber harvesting, for the production of pulp, lumber, firewood or Christmas trees, the keeping of livestock or other domestic animals, or as a game farm or preserve recognized by the Pennsylvania Game Commission.

ALLEY: A minor right-of-way providing secondary vehicular access to the side or rear of two or more properties.

APPLICANT: A landowner, developer, or subdivider who has filed an application for subdivision or land development including his heirs, successors, and assigns.

APPLICATION FOR DEVELOPMENT: Every application, whether preliminary, tentative, or final, is required to be filed and approved prior to the start of construction or development including, but not limited to, an application for a building permit, for the approval of a subdivision plat or plan, or for the approval of a development plan.

AVAILABLE ELECTRICAL SERVICE: An electrical service is considered available if it is within 1,000 feet or less from the nearest point of a subdivision.

AVAILABLE SEWER: A municipal sewer is considered available if it is within 1,000 feet or less from the nearest point of a subdivision.

BUILDING: Any structure having a roof supported by columns or enclosed within exterior walls or fire walls, built, erected, and framed of component structural parts.

A. Building, Principal: The main structure on a given lot, designed for the housing, shelter, enclosure, and support of individuals, animals, or property of any kind.

B. Building, Accessory: A detached subordinate building, the use of which is customarily incidental and subordinate to that of the principal

building, and which is located on the same lot as that occupied by the principal building.

BUILDING LINE: The line within the property defining the required minimum distance between any enclosed structure and the adjacent street right-of-way.

CLEAR SIGHT TRIANGLE: A triangular area of unobstructed vision on corner lots formed by a 100 ft. sight line along the edge of the right-of-way for an arterial or collector road, by a 75 ft. sight line along the edge of the right-of-way for a local street and by a line joining these two sight lines at the greatest distance from their intersection.

CLINTON COUNTY: A 6th Class county located centrally in the Commonwealth of Pennsylvania.

COMMISSION or PLANNING COMMISSION: The Clinton County Planning Commission.

COMMISSIONERS: The Clinton County Board of Commissioners.

COVENANT: A valid promise or contract, usually stated in a deed, the violation of which can be restrained by court action.

CUL-DE-SAC: A residential street with one end open to traffic and pedestrian access and permanently terminated by a vehicular turn-around.

DECISION: Final adjudication of any board or other body granted jurisdiction under any land use ordinance or Act 170 of 1988 to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the Court of Common Pleas of the County and judicial district wherein the municipality lies.

DETERMINATION: Final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder, except the following:

A. The Governing Body;

B. The Zoning Hearing Board; or

C. The Planning Commission, only if and to the extent the Planning Commission is charged with final decision on preliminary or final plans under the subdivision and land development or planned residential development ordinances. Determinations shall be appealable only to the Boards designated as having jurisdiction for such appeal.

DEVELOPER: Any landowner, agent of such land owner or tenant with the permission of such land owner, who makes or causes to be made a subdivision of land or a land development.

DEVELOPMENT PLAN: The provisions for development, including a planned residential development, a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space, and public facilities.

DEVELOPMENT LIMITATIONS: Those land characteristics including flood plains, wet lands, mine subsidence, soil resources, carbonate geology and sloping land as more fully defined and described in the Preamble Statement and Article V of this Ordinance or of its subsequent Amendments.

DWELLING: A building designed for human living quarters.

DWELLING UNIT: A dwelling used by one family.

DWELLING TYPES:

A. Single Family - A single dwelling unit occupying the building ground to roof.

B. Two-Family - Two dwelling units, one above the other.

C. Multi-Family - Three or more dwelling units, with the units stacked one above the other.

D. Detached - Each dwelling unit has open space on all sides.

E. Semi-Detached - One side of each dwelling unit is a party wall in common with an adjoining dwelling unit.

F. Attached - Both side walls of all except the dwelling units at the end of the building are party walls.

EASEMENT: Grant by a property owner of the use for a specific purpose or purposes, of a strip of land by the general public, a corporation or a certain person or persons.

ENGINEER: The Clinton County Engineer or other registered professional engineer engaged by the County of Clinton.

FLOOD: A temporary inundation of normally dry land areas.

A. Flood, One Hundred Year: A flood that, on the average, is likely to occur once every 100 years, i.e. that has a one percent chance of being equalled or exceeded in any given year; for the purposes of this Ordinance, the Regulatory Flood.

B. Flood, Regulatory: A flood having a one percent chance of being equalled or exceeded in any given year; the 100 year flood.

FLOOD FRINGE: That portion of the 100 year flood plain outside the floodway.

FLOOD HAZARD AREA: A relatively flat or low land area adjoining a stream, river, or water course which is subject to partial or complete inundation; or, any area subject to the unusual and rapid accumulation or runoff of surface waters from any source. The boundary of this area shall coincide with the boundary of the 100 year flood.

FLOOD PLAIN: For the purposes of this Ordinance, the flood plain shall be defined the same as the Flood Hazard Area.

FLOOD PROOFING: Structural modifications or other changes or adjustments to buildings or their contents, undertaken to reduce or eliminate flood damage to them.

FLOODWAY: The channel of a river or other water course and the adjacent land areas required to carry and discharge a flood of a 100 year frequency without cumulatively increasing the water surface elevation more than one foot at any point.

FRONT YARD: The open space extending across the width of the lot, between the front building line and the street right-of-way or front.

GROUP HOUSING PROJECT: Where two or more residential buildings are constructed on a plot of ground not subdivided into customary lots and streets.

IMPROVED ROADWAY SURFACE: That portion of the street right-of-way surfaced for vehicular use.

IMPROVEMENTS: Those physical changes to the land necessary to produce usable and desirable lots from raw acreage including but not limited to: grading, paving, curb, gutter, storm sewers and drains, improvements to existing water courses, sidewalks, crosswalks, street signs, monuments, water supply facilities, and sewage disposal facilities.

LAND DEVELOPMENT: Any of the following activities:

A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:

   1.a group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single non-residential building on a lot or lots regardless of the number of occupants or tenure; or

2. the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

B. A subdivision of land.

C. Development in accordance with Section 503 (1.1), Article V of Act 170.

LANDOWNER: The legal or beneficial owner or owners of land including the holder of an option or contract to purchase, whether or not such options 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(s) having a proprietary interest in land.

LOT: A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

LOT DEPTH: The horizontal distance between the front lot line and the rear lot line.

MAJOR LAND DEVELOPMENT: Any non-residential development involving a building over 2,000 square feet or two or more non-residential buildings or any development containing four or more residential units or two or more residential structures.

MASTER PLAN: The Comprehensive Plan of Clinton County.

MINOR LAND DEVELOPMENT: A land development involving one non-residential building of less than 2,000 square feet.

MOBILE HOME: A transportable, single family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, 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 without a permanent foundation.

MOBILE HOME LOT: A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobile home.

MOBILE HOME PARK: A parcel, or contiguous parcels of land, which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes.

MUNICIPAL ENGINEER: A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for a municipality, planning agency, or joint planning commission.

OFF-LOT SEWAGE SERVICE: The disposal of sewage by use of a sanitary sewer system served by a central sewage treatment plant approved by all governmental agencies having jurisdiction over such matters.

OFF-LOT WATER SERVICE: A safe, adequate and healthful supply of water to more than one user from a common source approved by all governmental agencies having jurisdiction over such matters.

ON-LOT SEWAGE SYSTEM: The disposal of sewage by use of piping, tank or other facilities serving a single lot and collecting, treating and disposing of domestic sewage into a subsurface absorption area or a retaining tank located on that lot, and approved by all governmental agencies having jurisdiction over

such matters.

ON-LOT WATER SERVICE: A safe, adequate and healthful supply of water to a single user from a private well approved by all governmental agencies having jurisdiction over such matters.

PERSON: Natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

PLAN: Subdivision or land development plan or plat prepared by a registered surveyor or engineer.

PLAN - FINAL: A complete and exact subdivision or land development plan or plat, prepared for official recording as required by status, to define property right and proposed street and other improvements.

PLAN - PRELIMINARY: A tentative subdivision or land development plan or plat, in lesser detail than a final plat, showing approximate street and lot layout as a basis for consideration prior to preparation of a final plan.

PLANNED RESIDENTIAL DEVELOPMENT: An area of land, controlled by a land owner, to be developed as a single entity for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling, or use, density, or intensity, lot coverage, and required open space to the regulations established in any one district created, from time to time, under the provisions of a municipal zoning ordinance.

PLANNING AGENCY: A planning commission, planning department, or a planning committee of the governing body.

PLAT: The map or plan of a subdivision or land development, whether preliminary or final.

PUBLIC GROUNDS: Includes: (1) parks, playgrounds, trails, paths, and other recreational areas and other public areas; (2) sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities; and (3) publicly owned or operated scenic and historic sites.

PUBLIC HEARING: A formal meeting held, pursuant to public notice by the governing body or planning agency, intended to form and obtain public comment prior to taking action in accordance with Act 170.

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 successive weeks in a newspaper of general circulation in the municipality. Such notice shall state 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 30 days and the second publication shall not be less than seven days from the date of the hearing.

REAR YARD: The required open space extending from the rear of the main building and along the rear lot line (not a street line) throughout the whole width of the lot.

RECREATIONAL SUBDIVISION: The subdivision or development of an isolated or remote tract of land into lots which are designed and intended for intermittent recreational use and do not have potential for full-time residential occupancy. A recreational subdivision includes the improvement of land for seasonal or leisure time activities including cottages, cabins, second homes, travel trailers and other forms of camping accommodations intended for recreational

and/or educational purposes, and land intended for various outdoor recreation activities such as hunting and fishing.

REPORT: Any letter, review, memorandum, compilation, or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction.

RESIDENTIAL SUBDIVISION: The subdivision or development of a tract of land into lots which are designed and intended for full-time residential occupancy.

RESUBDIVISION OR REPLATTING: The replatting of a recorded subdivision in whole or in part, by a redesign of lots, by change of size or area, or by street layout.

RIGHT-OF-WAY: Any public highway, street or alley accepted by different levels of government for public use; all must be recorded in the Register & Recorder's Office, Clinton County, Lock Haven, Pennsylvania.

SEWAGE DISPOSAL REPORT: A report on the feasibility of providing sewage disposal, which report shall be prepared pursuant to applicable municipal, county or state regulations in effect at the time of application, including the provisions and regulations adopted pursuant to the Pennsylvania Sewage Facilities Act, Act No. 537, adopted January 24, 1966, P.L. 1535 (35 P.S. 750 et seq.), as amended.

SIDE YARD: The required open space extending from the side of any building along the side lot line throughout the entire depth of the building.

SPECIAL SUBDIVISIONS: Within the context of this Ordinance, the term is used to describe cluster housing developments and recreational subdivisions only.

SOIL EROSION & SEDIMENTATION CONTROL PLAN: A Plan required to be provided in all instances where earth moving activities are proposed, pursuant to the provisions of the regulations of the Department of Environmental Resources (25 Pennsylvania Code 102, et seq., as amended).

SOIL PERCOLATION TEST: A field test conducted to determine the suitability of the soil for individual sanitary sewage disposal facilities by measuring the absorptive capacity of the soil at a given location and depth.

STAFF: The Director of the Clinton County Planning Department or his designee(s).

STORM WATER MANAGEMENT PLAN: A plan for managing storm water runoff, prepared by the subdivider or developer in accordance with the standards of this Ordinance.

STREET: A public or priave thoroughfare used, or intended to be used, for passage or travel by motor vehicles. The word "street" includes the words "road", "highway", "thoroughfare", and "way".

A. Local Street: A street intended to serve and provide access to the properties abutting thereon and not connecting with other streets in such a manner as to discourage through traffic. The local street's sole function is to provide access to immediately adjacent land. They normally represent a fairly large percentage of the total street mileage, but carry a small proportion of the vehicle miles traveled daily.

B. EXISTING STREET: As opposed to "new streets" and as related to the definition of a subdivision contained herein, shall mean a street or easement of access for private or public use, that has at a minimum a 33 ft. right-of-way.

C. Major Thoroughfare: A street with considerable continuity connecting district centers which serve, or will eventually serve, large volumes of traffic.

D. Private Street: A street not offered or not required to be offered for dedication.

E. Expressway: This class of highway facility is devoted entirely to the task of moving large volumes of traffic, and performs little or no land service function. It is generally characterized by some degree of access control. Normally this classification should be reserved for multi-lane, divided roads with few, if any, grade intersections.

F. Primary: Primaries bring traffic to and from the expressway and serve major movements of traffic within or through the areas not served by expressways. They serve primarily to move traffic, but also perform a secondary function of land service. The average length of trip normally exceeds three miles.

G. Secondary - This class of road serves the internal traffic movement within the County and connects developed areas within the primary system. They do not accommodate long, through trips and are not continuous for any appreciable length. The principal difference between secondary and primary roads is the length of trip accommodated. The secondary system is intended to simultaneously supply abutting property with the same degree of land service as a local street and accommodate local internal traffic movements.

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

SUBDIVIDER: The owner, or authorized agent of the owner, of the subdivision.

SUBDIVISION: The division or redivision 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 or ownership of 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.

SUBSTANTIALLY COMPLETED: Where, in the judgment of the planning agency, at least 90% (based on the cost of the required improvements) of those improvements required as a condition for final approval have been completed, in accordance with the approved plan, so that the project will be able to be used, occupied or operated for its intended use.

TOPOGRAPHIC MAP: A map showing ground elevations by contour lines and the location of important natural and other objects.

TRAVEL TRAILER: A vehicular portable structure designed as a temporary dwelling for travel, recreational, and vacation use. The term "travel trailer" also includes collapsible trailer, pickup camper, chassis-mount camper, tent trailer, motor home, and conversion unit.

TRAVEL TRAILER PARK: A land development designed and intended for use for travel trailers.

WAIVER: When the subdivider or land developer can show that a provision of this Ordinance would cause unnecessary hardship if strictly adhered to and where, because of topographical or other conditions peculiar to the site, in the opinion of the Planning Commission staff, a departure may be made without destroying the intent of such provision, the Planning Commission may authorize a waiver. Any waiver thus authorized shall be entered on the minutes of the Planning Commission and the reasoning on which departure was justified.

WATER SURVEY: An inventory of the source, quantity, yield, and use of ground water and surface water resources within a municipality.

WETLANDS SURVEY: An inventory of those areas within a municipality 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.

ARTICLE III

APPLICATION PROCEDURES

SECTION 300 INTRODUCTION

The procedures established in this Article shall apply to all subdivisions and land developments requiring review or approval by the Planning Commission.

SECTION 301 SUBMITTING SUBDIVISION & LAND DEVELOPMENT PLANS IN MUNICIPALITIES HAVING ADOPTED A SUBDIVISION ORDINANCE

A. Plan Submission - The municipality shall, prior to approval of a plan of proposed subdivision or land development, in accordance with state law, forward to the Planning Commission at least six copies of each plat or plan received along with one copy of all supporting documents (such as PA Department of Environmental Resources soils logs).

B. County Review - The Planning Commission staff shall review the forwarded plans and submit a report advising the municipality of its recommendations within 30 days after receipt.

SECTION 302 SUBMITTING SUBDIVISION & LAND DEVELOPMENT PLANS FOR COUNTY PLANNING COMMISSION APPROVAL IN MUNICIPALITIES NOT HAVING ADOPTED A SUBDIVISION ORDINANCE

A. Sketch Plan (Optional) - Subdividers and developers are urged to discuss possible plans with the staff of the Clinton County Planning Commission prior to submission of the preliminary plan. Submission of a sketch plan does not constitute formal filing of a plan with the Planning Commission.

B. Pre-application Procedure - Upon the submission of a preliminary or final plan to the Planning Commission, the staff shall categorize it into one of the following types. Each type shall be processed in compliance with the requirements of this ordinance.

1. Subdivision

The division or redivision 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 or ownership of 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.

2. Recreational Subdivision

Any subdivision or land development which is designed and intended for intermittent recreational use and does not have potential for full-time residential occupancy. In general, lots adjacent or approximate to major collector roads, highways or electrical service shall be considered to have potential for full-time occupancy.

3. Land Development

The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving a group of two or more buildings, whether proposed initially or cumulatively, or a single non-residential building on a lot or lots regardless of the number of occupants or tenure, or the division or allocation of land or space between or among two or more existing or prospective occupants by means

of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
Land developments include multi-unit housing, recreational vehicle parks and campgrounds, commercial and industrial complexes, and other types of land development not specifically listed in this Ordinance. Plans shall be submitted to the Planning Commission for approval or disapproval in accordance with principles of site planning and development.

C. Preliminary Plan Routing - After classification of the plan by the Planning Commission staff, the applicant shall conform to the specific procedures outlined below.

SECTION 303 SUBDIVISION PLAN REVIEW & APPROVAL PROCEDURES

A. Submission of Preliminary Plan

1. The preliminary plan shall be submitted with all information as specified in Article IV, Section 402.

2. The plan and related documents shall be filed and an application fee paid at least six days prior to the next regular meeting of the Planning Commission.

3. The Planning Commission staff may, upon receipt of a preliminary plan of a proposed subdivision, submit one print of the plan to the appropriate officials of the municipality in which the subdivision is located, to the Pennsylvania Department of Transportation, and to other appropriate agencies or governing bodies such as neighboring municipalities, for review by such officials.

B. Waiver of Preliminary Plan Requirements

The Planning Commission may waive the preliminary plan submission in the case of a subdivision plan fronting on an existing street and where proposed streets or other improvements are not involved. The subdivider, in that instance, must follow the Subdivision Final Plan procedures.

C. Review & Approval of Preliminary Plan

1. The Planning Commission shall review the plan submitted covering the requirements of this Ordinance, and may consult with the Engineer and officials of any other department or authority concerned.

2. The Planning Commission shall render a decision not later than 90 days after the date of their next regular meeting following submission or filing of plans. Provided, however, that should the said next regular meeting occur more than 30 days following the filing of the application, the said 90 day period shall be measured from the 30th day following the day the application has been filed. (A preliminary plan shall be considered filed upon receipt by the Planning Commission staff of the appropriate plans or other materials required under this Ordinance, including the processing fee.) The decision shall be in writing and given to the applicant personally or mailed not later than 15 days following the decision. Any action taken by the Planning Commission shall specify what changes or additions, if any, will be required prior to consideration of the proposal as a final plan.

3. Approval of a preliminary plan shall not constitute approval of a final plan, but rather an expression of approval of the layout submitted on the preliminary plan as a guide to the preparation of the final plan. Approval of the preliminary plan does not authorize the sale of lots nor the recording of the preliminary plan.

D. Submission of Final Plan

1. The subdivider, after receiving official notification that the preliminary plan has been approved, has three years in which to submit a final plan. If the subdivider does not do so within a three year period, the approval of the preliminary plan shall become null and void unless an extension of time is requested by the subdivider in writing and approved by the Planning Commission before the expiration date.

2. The final plan shall be submitted with all information as specified in Article IV, Section 403.

3. The final plan may be submitted in sections, each covering a portion of the entire subdivision shown on the preliminary plan.

4. The final plan shall conform in all important respects with the approved preliminary plans. Otherwise the plan submitted shall be considered as a revised preliminary plan.

E. Review & Approval of Final Plan

1. For consideration at the next regular meeting of the Planning Commission, the final plan shall be filed with the staff not less than six calendar days in advance of the meeting date.

2. At a scheduled public meeting, the Planning Commission shall consider the final plan to determine its conformity with the requirements of this Ordinance and the conditions or stipulations of preliminary approval.

3. The Planning Commission shall take action within 90 calendar days from the date of their next regular meeting following submission or filing of plans. The date of submission of the final plan shall be the date upon which all material required under this Ordinance, including the processing fees, have been received by the Planning Commission staff. The Planning Commission staff shall notify the subdivider and appropriate municipalities in writing of the decision made on the plan within 15 days of the meeting at which the plan was reviewed. The applicant may agree in writing to an extension of time or change in the prescribed manner of presentation or method of communication of the decision.

4. Failure of the Planning Commission to render a decision and communicate it to the subdivider within the time and in the manner required herein shall be deemed an approval of the application in terms as submitted.

5. In order to more expeditiously carry out the administration of this Ordinance, the Director of the Clinton County Planning Department or his designee may sign, for final approval, subdivision plans proposing to create not more than five new lots with no new roads or right-of-way(s), as well as plans proposing minor land developments as defined in Article VI, Section 602.1 of this Ordinance. Citations as specified in Article IV, Section 403A, 13-15 of this Ordinance must be shown on the plans.

The Director of the Clinton County Planning Department shall report to the Planning Commission at its next regular meeting, following the staff action, all subdivision and land development final plan approvals provided by his/her office.

F. Improvements

1. No plan shall receive final approval by the Planning Commission unless the subdivider shall have completed all such improvements at the standards required by this Ordinance or shall have filed with the municipality or the Planning Commission a performance bond in favor of the municipality or other assurance acceptable to the municipality or Planning Commission; equal to 110% of the cost of the improvement.

   Where a performance bond or other performance assurance has been made to a municipality and satisfactory evidence of such presentation is furnished to the Planning Commission by the municipality, the Planning Commission will not require duplicate action for compliance with this ordinance.

2. The Planning Commission shall require a performance bond or other performance assurance to guarantee the proper installation and construction of the following improvements.

   a. Streets (Article V, Subdivision Design & Construction Standards) in accordance with the details listed thereunder, where applicable.

   b. Sewers (Article V, Subdivision Design & Construction Standards) in accordance with the details listed thereunder, where applicable, but excluding on-lot private sewage disposal systems.

   c. Water (Article V, Subdivision Design & Construction Standards) in accordance with the details listed thereunder but excluding on-lot individual water supply systems.

   d. Storm Water Management (Article V, Subdivision Design & Construction Standards) in accordance with the details listed thereunder.

3. The Planning Commission may require a professional to prepare and/or review plans, reports or studies and an engineer to inspect the construction of improvements. If the Planning Commission decides that a review or inspection is necessary, then the subdivider shall, prior to the approval of the final plan, agree to pay for any such costs according to the fee schedule listed in Article I, Section 108.2.

4. Upon completion of the improvements in accordance with the specifications of the approved plan and this Ordinance, the subdivider shall take the final steps to dedicate the improvements and have the same accepted by the municipality in which they are situated. Such action shall be taken prior to the Planning Commission granting final approval or before the improvement bond is released.

5. Where the subdivider proposes to dedicate improvements to the municipality, a deed which dedicates the land and such improvements to the municipality shall be recorded with the final plan. A copy of the deed and a letter from the municipality stating their intention to accept ownership and maintenance responsibility for the improvements shall be submitted with the subdivision plan.

6. The Planning Commission may approve a final plan without an offer of dedication of streets or other improvements, provided that such improvements are noted as private on the final plan. The subdivider shall also be required to provide a notice in each deed, lease, or conveyance setting forth an arrangement between the subdivider and buyer or lessee for maintenance.

G. Recording of Final Plan

1. The final plans will be filed with the Clinton County Register & Recorder before the subdivider can proceed with the sale of lots or construction of buildings. A copy of the Planning Commission letter of approval must be attached to the final plan at the time of recording.

2. The approval of the Planning Commission shall not impose any duty upon the County or a municipality concerning maintenance or improvement of any such dedicated streets, parks, areas or portion of same until the proper authorities of the County or a municipality shall have made actual appropriation of the same by Ordinance or resolution, or by entry, use or improvement.

SECTION 304 RECREATIONAL SUBDIVISION PROCEDURES

Review and approval of recreational subdivision plans shall follow those as outlined in the previous sections of this Article.

SECTION 305 LAND DEVELOPMENT PROCEDURES

Where a land development will create a new street, easement, or right-of-way, or require other improvements, the development shall be governed by Section 303 of this Article.

SECTION 306 GENERAL REVIEW STANDARDS

The Planning Commission shall consider the following points in review of all subdivision and land development plans submitted for approval.

A. In assessing the suitability of the plan, the Planning Commission shall consider the County's plan of future land use, thoroughfare plan, sewer and water plan, community facilities plan or any plans of the Planning Commission and officially adopted by the Clinton County Board of Commissioners, including, but not limited to, proposed streets, recreation areas, drainage reservations, shopping centers, school sites, and prime agricultural land.

B. Also to be considered is whether the land is subject to hazards of life, health, and safety. Such land shall not be subdivided until such hazards are removed. These hazards shall be interpreted to mean land subject to flooding, slides due to excessive slope or excavation, land of excessive or improper fill material or land improperly drained.

C. The Planning Commission shall insure compliance with the Pennsylvania Sewage Facilities Act of 1965, P.L. 1535, as amended, Chapters 71 and 73 of the Rules and Regulations of the Department of Environmental Resources.

D. The Planning Commission may require a subdivider to submit a sketch subdivision plan for an entire tract of land. This requirement may be invoked where the subdivider has split three or more lots off the principal tract.

SECTION 307 UNNECESSARY HARDSHIP

By virtue of the Pennsylvania Municipalities Planning Code, Act 170, where, owing to special conditions, a literal enforcement of these provisions would result in unnecessary hardship, the Planning Commission may make such reasonable exception thereto as will not be contrary to the public interest, and may permit the sale of a lot, issuance of a permit, or erection of a building, subject to conditions necessary to assure adequate streets and other public improvements.

ARTICLE IV

PLAN REQUIREMENTS

SECTION 400 GENERAL REQUIREMENTS

All plans shall meet the requirements outlined in the following sections, as applicable.

SECTION 401 SKETCH PLAN

A sketch plan should show the following data, be legibly drawn to scale, but not necessarily showing precise dimensions.

A. Tract boundaries and location.

B. Name of municipality in which the subdivision is located.

C. North arrow, scale, and date.

D. Significant topographic and physical features.

E. Proposed general street and lot layout.

F. Location sketch of the surrounding area extending at least one-half (1/2) mile from the parcel boundary.

SECTION 402 PRELIMINARY PLAN - SUBDIVISION

The subdivider shall supply six copies of the preliminary plan, one copy of other required material and processing fees to the Planning Commission. One copy must be a reproducible intermediate on a mylar base; the balance of the preliminary plan copies can be either black & white or blue & white prints. The sheet size shall be 18" x 24", except where specifically approved by the Planning Commission.

The preliminary plan shall be at a scale not to exceed 200 ft. to the inch.

A. The preliminary plan shall show:

1. Title to include:

    a. Name by which the subdivision will be recorded.
    b. Location by municipality, county, and state.
    c. Names and addresses of the owner or owners.
    d. Name of registered surveyor who surveyed the property and prepared the plan.
    e. North point, date, and graphic scale.

2. Tract boundaries with bearings, distances, and area in acres to the nearest hundredths.

3. Existing easements, their location, width, and distance.

4. Contour lines as per 7.5 minute topographic map or at vertical intervals of five feet where subdivisions are sufficient in scope to involve new street openings and if grading is proposed both before and after contour.

5. Datum to which contour elevations refer.

6. USGS bench marks, where available.

7. Existing physical features to include:

   a. Watercourses, culverts, bridges, and drains.

   b. Buildings, sewers, water mains and fire hydrants.

   c. Streets and alleys on or adjacent to the tract, including name, right-of-way widths, and graded road surface widths.

   d. Flood hazard areas and flood ways.

   e. Wetlands.

8. Proposed improvements including:

   a. Location, name, and width of all proposed streets and alleys and graded road surface widths.

   b. Sidewalks and crosswalks.

   c. All rights-of-way and easements.

   d. Lot lines with bearings and dimensions.

   e. Building lines.

   f. Reservations of grounds for public use.

   g. General drainage plan for storm water to include proposed water directions or flow for storm water in relation to natural channels.

   h. A plan of the proposed water distribution system.

   i. A plan of the proposed sanitary sewerage system, where required, showing the proposed location of on-lot sewage disposal facilities.

   j. Proposed land use of the improvements.

9. Name of abutting property owner(s).

10. Soils information as mapped in the Clinton County Soils Survey.

11. Locations of all soils profile excavations; all percolation tests; and slope at each test area.

12. Under extraordinary conditions, the Planning Commission may waive certain information to be shown on the preliminary plan.

B. Material to be Submitted with Preliminary Plan - The following information, data, and documents shall be submitted with the preliminary plan.

1. Copies of the proposed deed restrictions, if any.

2. Tentative cross-sections and center-line profiles for each proposed street.

3. Preliminary designs of proposed bridges or culverts.

4. Preliminary designs of proposed sewerage systems and water supply systems.

5. Drawing of present and proposed grades and facilities for storm water drainage.

6. If water and/or sewage disposal are to be provided by means other than by private wells and on-lot sewage service owned and maintained by the individual owners of lots within the subdivision, applicants shall present evidence to the Planning Commission that the subdivision is to be supplied by a certified public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority, or utility.

7. Sketch of proposed street layout for the remainder of the affected parcel where the preliminary plan covers only part of the subdivider's holdings.

8. Soil percolation test and soil log data except where public sewers are provided.

9. Estimated costs of required improvements.

10. Such evidence as may be necessary to show that effective soil conservation measures have been planned and are to be implemented in accordance with Section 511, Erosion & Sedimentation Control, of this Ordinance.

11. Storm water management plan(s) as appropriate to comply with the Storm Water Management Act and with Section 512 Storm Water Management of this Ordinance.

12. Private road/right-of-way agreement between the subdivider and Planning Commission as specified by the Planning Commission.

13. Subdivisions which are being designed to connect with a state highway shall provide a copy of the approved Driveway Access Permit.

SECTION 403 FINAL PLAN - SUBDIVISION

The subdivider shall supply six copies of the final plan and one copy of other required materials to the Planning Commission. One copy must be a reproduction intermediate on a mylar base; the balance of the copies of the final plan can be either black and white or blue and white prints. The sheet size shall be 8 1/2" x 14" or 18" x 24".

The plan shall be drawn to a scale of 200 ft. to the inch or larger (though no less) and shall be of sufficient size to clearly show all notations, dimensions, and entries. All dimensions shall be shown in feet and decimals of a foot.

A title block in the lower right corner shall contain the following.

1. Name under which the subdivision is to be recorded.

2. Date of plat, graphic scale, and location of subdivision.

3. Name and addresses of owner or owners.

4. Name and address of the Registered Surveyor preparing the plan.

A. The Final Plan shall show:

1. Primary control points, approved by the Engineer, or description and ties to which all dimensions, angles, bearings, and similar data shall be referred.

2. Acreage of plot plan.

3. Tract boundary lines, right-of-way lines of streets, easements, and

other rights-of-way and property lines of residential lots shown by standard engineering and surveying courses and distances.

4. Name and right-of-way width of each street or right-of-way.

5. Location, dimensions, and purpose of all easements.

6. Number to identify each lot or size.

7. Purpose for which sites other than residential are to be dedicated.

8. Building setback line on all lots and sites.

9. Location and description of survey monuments.

10. Names of record owners of adjoining unplatted land.

11. Certification of Registered Surveyor as to the accuracy of survey and plan showing name, address, registration number, and seal.

12. A statement, duly acknowledged before an Officer authorized to take acknowledgements of deed and signed by the owner or owners of the property, to the effect that the subdivision or land development, as shown on the final plan, is the act and deed of the owner, that he (the applicant) is the owner of the property of the survey and plan, and that he desires the same to be recorded as such.

13. A statement for proper recording as follows: "Recorded in the office of the Recorder of Deeds of Clinton County and the State of Pennsylvania in Plan Book Volume _____, Page _____, this _____ day of _____, 19 , A.D. Witness my hand and seal."

14. A statement as follows indicating County Planning Commission approval: "The foregoing plat of lots, streets, roads, etc., as shown hereon was approved by the Clinton County Planning Commission on _____."

15. A statement as follows to be signed by a Registered Surveyor: "I _____, a registered surveyor of the state of Pennsylvania do hereby certify this correctly represents the lots, land and streets as surveyed and plotted by me for the owner or agents. _____, Surveyor."

16. General location map showing relationship of the proposed subdivision to existing community facilities which serve or influence it and shall include development name, location of any existing facilities, traffic arteries, public or other schools, parks, playgrounds, utilities, churches, shopping centers, airports, hospitals, principal places of employment, title, scale, north arrow, and date.

B. Material to be submitted with Final Plan - The following information, date, and documents shall be submitted with the final plan.

1. Corrected and updated material from the preliminary plan.

2. Final profiles and cross-sections for street improvements; sanitary and storm sewerage and water distribution systems; and surface water drainage systems shall be shown on one or more separate sheets.

3. Design plans for bridges and culverts.

4. Restrictions of all types which will run with the land and become covenants in the deeds of lots shown on the drawing.

5. All covenants running with the land governing the reservation and

maintenance of dedicated or undedicated land or open space.

6. A grading plan, in the case of land developments, showing proposed finished grades on the site, if required by the Planning Commission.

7. Such certificates of approval by proper authorities as may have been required by the Planning Commission, including certificates approving the water supply system and sanitary sewer system of the subdivision or land development.

8. One of the following for guaranteeing improvements.

   a. A certificate from the subdivider or developer, signed by the municipality in which the subdivision or land development is located, that all improvements and installations in the subdivision or land development required by this ordinance have been made or installed in accordance with specifications; or

   b. A certificate from the subdivider or developer, signed by the municipality, that a bond, certified check, or other security satisfactory to the municipality has been filed with the municipality; or

   c. A bond, certified check, or other security satisfactory to the municipality and Planning Commission; or

   d. A certificate from the County Planning Commission engineer that the improvements have been inspected and found to be installed in accordance with specifications.

9. Filing fee and inspection fee.

10. Any information supplied with the preliminary plan shall not be resubmitted with final plan except upon Planning Commission request.

11. If any alteration or relocation of a stream or watercourse is proposed, a permit from the Department of Environmental Resources must be obtained and proof of such submitted to the Planning Commission. Prior to such alteration or relocation, adjacent communities, the Department of Community Affairs, and the Federal Insurance Administration must be notified. Under no circumstances shall any alteration or relocation take place which will lower the flood carrying capacity.

12. Other documentation and certificates of approval from the proper authorities as may be required by the Planning Commission.

SECTION 404 RECREATIONAL SUBDIVISION PLAN

Where a recreational subdivision will create a new street, easement, or right-of-way, or require other improvements, the plan shall be governed by the subdivision plan requirements, Sections 402 & 403 of this Article.

SECTION 405 LAND DEVELOPMENT PLAN

Where a land development will create a new street, easement, or right-of-way or require other improvements, the plan shall be governed by the subdivision plan requirements, Sections 402 & 403 of this Article.

ARTICLE V

SUBDIVISION DESIGN & CONSTRUCTION STANDARDS

SECTION 500 APPLICATION OF STANDARDS

The following subdivision and land development principles, standards and requirements shall be applied by the Planning Commission in evaluating the plans for proposed subdivisions and land developments, and shall be considered minimum requirements.

The construction of improvements in a subdivision or land development is the responsibility of the subdivider or developer since it is his/her property which is being developed. Adequate streets, utilities and other improvements are essential elements in the creation and preservation of stable residential, commercial and industrial areas.

Any or all of the following improvements as may be required by the Planning Commission, pursuant to the authority granted in the Pennsylvania Municipalities Planning Code, Act 170, considering the needs of the area in which the proposed subdivision or land development is located, must have been completed in accordance with the requirements of the responsible public authority affected, public officials or County Engineer for that portion of the Final Plan.

If the improvements are not completed, then arrangements shall be made with the Planning Commission to the satisfaction of all public authorities concerned regarding proper completion of such improvements prior to the consideration of a Final Plan.

SECTION 501 ROADS, STREETS & HIGHWAYS

A. The State Highway System includes all public streets and highways operated and maintained by the Pennsylvania Department of Transportation.

B. The Municipal Street System includes all public streets and roads maintained by local municipalities (cities, townships, and boroughs). Subdividers proposing public dedication of streets within a subdivision shall submit road design and construction plans which meet the minimum specifications of the local municipality as part of the plan submission process. A deed which dedicates the land to be used as a public street to the municipality shall be recorded with the final plan.

C. Private streets include all streets or roads not dedicated, accepted, and maintained for public use. Private streets may be permitted where the following conditions can be met:

    1. A survey of the center line of the private right-of-way shall be shown on the plot plans along with a notation identifying the street and right-of-way as being private.

    2. The subdivider shall provide a Right-of-Way Use & Maintenance Agreement in each deed, lease, or conveyance prescribing a right-of-way width and location and setting forth an arrangement between the subdivider and buyer or lessee for maintenance of the private right-of-way.

    3. Where an existing private right-of-way is proposed to provide access to a new subdivision, the subdivider shall provide a Right-Of-Way Use & Maintenance Agreement signed by all property owners using the right-of-way if such an Agreement has not been previously included in the existing deeds. This Agreement shall be recorded with the final plan and prescribe a right-of-way width and location in accordance with the standards of this Ordinance and and set forth arrangements for

maintenance of the private right-of-way.

D. All lots of subdivisions of five or more lots which propose the use of public water or sewer shall abut by their full frontage on a publicly dedicated street or on a street that has received the legal status as such. For all other subdivisions, the subdivider shall provide a Right-Of-Way Use & Maintenance Agreement as described in Section 501C of this Ordinance. All subdivisions served by private streets approved under this Ordinance shall be subject to the consumation of a Private Road Agreement as stipulated by the Planning Commission before final approval is granted.

SECTION 502 DESIGN STANDARDS

A. Proposed streets shall be in conformance with the County and State road and highway plans which have been prepared and officially adopted.

B. Streets shall be logically related to the topography so as to produce usable lots and reasonable grades.

C. Local streets shall be so laid out as to discourage through traffic, but provisions for street connections into and from adjacent areas will be generally required.

D. Half streets shall be prohibited except to complete an existing half street.

E. Any street or right-of-way already established shall be continued at not less than its existing width. All efforts shall be made to obtain right-of-way and/or improved road surface widths in conformance with this ordinance.

F. Any street or right-of-way that is recorded, though not already established, shall be continued at not less than its width as planned.

G. Maximum allowable grades:

Primary	Five Percent
Secondary	Eight Percent
Local	Twelve Percent

(Grades in excess of 12 percent may be approved by the Planning Commission where it is clear that no traffic or environmental hazards will be created thereby.)

H. Minimum grades on all streets shall not be less than one-half of one percent.

I. Vertical curves shall be installed on all street grade changes exceeding one percent.

J. Alignment:

1. Minimum center line radius for horizontal curves:

Primary	1,000 feet
Secondary	300 feet
Local	200 feet

2. Degree of curvature shall be set to assure proper sight distance.

K. Widths - minimum street right-of-way widths and improved roadway widths shall be as follows.

Type of Street	Type of Subdivision	Improved Roadway Width	Right-of-Way
Local	Single-Family Lots (No on-street parking)	18 feet	50 feet
	(One side on-street parking)24 feet	50 feet	
	(Two-lane on-street parking)30 feet	50 feet	
Secondary	Single-Family Lots	24 feet	60 feet
Primary	All types	As prescribed by the Pennsylvania Department of Transportation	

In cases where a new subdivision is planned to join the street system of an existing subdivision, the above minimum requirements shall apply except where the existing streets and rights-of-way are larger than required. In this event, the Planning Commission may require that the new streets and rights-of-way be as large as the existing ones. Private covenants may apply if their provisions are in excess of this Ordinance.

The Planning Commission may approve, under extraordinary conditions, rights-of-way and improved road width waivers if planning continuity is maintained.

L. Improved roadway requirements to consist of:

1. Subgrade: graded, rolled in such a manner to provide proper drainage and profile.

2. Base Course: 8-12 inches of stabilized material properly graded and rolled. Material to be a commercially approved aggregate, unless a variance can be permitted by the County engineer to use existing or other materials.

3. Surface: (minimum standards)

   a. Binder: 2 inches thick x 18 feet wide (ID-2A binder)
   b. Top surface: 1 inches thick x 18 feet wide (ID-2A wearing surface)

Road surface (minimum standard) 18 feet wide, plus a 4 foot shoulder on each side; except in a curbed area where 18 feet curb-to-curb would be acceptable, or

A roadway surface acceptable as a public road by the municipality in which the subdivision is located.

M. Cul-de-sacs:

Cul-de-sacs are permitted where the length does not exceed 1,000 feet and where a turn-around with right-of-way diameter of 100 feet is provided. Extension of a cul-de-sac will be permitted to connect to a street system of a new or extended subdivision provided that the maximum street lengths for blocks and cul-de-sacs are met.

N. Street Intersections:

1. All curbs at intersections shall be rounded by a minimum radius of:

   Secondary and Primary streets 20 feet; Local streets 15 feet.

2. The subdivider shall cut banks and/or vegetation over two feet in height in conjunction with grading the right-of-way line to provide a sight line of 100 feet along the center line of a major street from the center line intersections and 75 feet at local street intersections. When a major and a local street intersect, each shall retain their respective footage requirements along the center line to form the sight triangle.

3. Where the grade of any street at the approach to an intersection exceeds five percent, a leveling area shall be provided with a transitional grade not to exceed two percent for a distance of 75 feet from the center line of the intersection.

4. Intersection of more than two streets shall be avoided.

5. Minimum street intersection angles shall be 60 degrees.

O. Street offsets - Street offsets of less than 125 feet are to be avoided.

P. Reverse curves - Reverse curves shall have a minimum tangent between them of:

Primary Streets	300 feet
Secondary Streets	150 feet
Local Streets	100 feet

Q. Alleys:

1. Not permitted in residential districts, except where allowed by the Planning Commission.

2. Permitted in commercial and industrial districts subject to approval of the Planning Commission.

3. Alleys shall be paved at least 20 feet in width.

4. Maximum alley grade shall be ten percent.

SECTION 503 BLOCKS

A. Block lengths shall not exceed 1,200 feet nor be less than 500 feet.

B. Blocks shall be at least two lots in depth except for reverse frontage lots.

C. Exceptionally long blocks shall be provided with crosswalks with a minimum right-of-way reservation of 12 feet, and a four foot paved walk.

D. The depth-to-width ratio of usable lot length shall be at a maximum of two and one-half to one.

SECTION 504 EASEMENTS

Where desirable or expedient, adequate easements or dedications for public service utilities shall be provided for sewer, water, electric power and natural gas, fuel oil and similar services; and no structures or obstruction of any kind shall be placed or allowed to be placed where it will interfere in any way with an easement.

A. Utility easements shall have a minimum width of ten feet and be placed at the side or rear of lots whenever possible. When the Engineer determines that conditions are suitable for essential services, an easement reservation will be required.

B. Utility anchor easements shall be approximately four by 30 feet and placed on a lot line.

C. Aerial right-of-way easements shall be a minimum of 18 feet.

SECTION 505 RESERVED AREAS

Reserve strips surrounding the property or areas reserved for any purpose which shall make any area unprofitable for regular or special assessments or which may revert to untended nuisance areas, will not be approved by the Planning Commission.

SECTION 506 STREET NAMES

The subdivider may choose street names subject to the approval of the Planning Commission. No street, other than an extension, may be given the name of an existing street in the municipality in which the subdivision is located.

SECTION 507 ACCESS

In subdividing land, it shall be done in a manner that will not have the effect of debarring adjacent property owners from access to any established streets.

SECTION 508 RECREATIONAL SUBDIVISION ROAD REQUIREMENTS

All new roads in recreational subdivisions shall conform to the design standards set forth in Section 601.2 of this Ordinance.

SECTION 509 MONUMENTS

The preservation of monuments for survey purposes, shall be the responsibility of the land owner. Locate all such monumentation and establish their relationship to the true corner where applicable. Establish new monumentation for unmarked boundary and/or reference points.

A. Concrete monuments shall be a minimum size of 4" x 4" x 30" or 4" diameter x 30" plastic pipe filled with concrete using an iron rod in the center or a brass or copper plate on the top for marking the exact point. Concrete monuments shall be required at such places as the Commission and staff deem necessary to establish permanent control points for the re-establishment of tract boundaries, lot line, and street lines.

B. Iron markers shall be a minimum size of 1/2" diameter pipe or #4 rebar and should have a minimum length of 24". Iron markers shall be set at all points where lot lines intersect curves, at all angles in lot lines and tract boundary lines, at all lot corners, and at the beginning and ending of all curves.

C. It is recommended that witness monuments be set on at least one (preferably both) line which intersects at inaccessible boundary points with linear ties to the inaccessible corner shown along the boundary line(s). It is also recommended that two consecutive monuments have three ties (references).

SECTION 510 WATER SUPPLY

A. The subdivider shall construct a system of water mains and connect with such public water supply system where a public water supply is available at plat boundary or within a reasonable distance thereto (1,000 feet of subdivision).

B. If a public water supply system is not available under the conditions stated above, the subdivider may provide individual or community wells to

serve 25 or more units which shall be approved by the Department of Environmental Resources.

C. Where individual wells provide a water supply in a large subdivision, at least one test well shall be drilled in the proposed area for each 50 lots, or upon the requirements of the Department of Environmental Resources.

D. All public water systems shall be laid wherever possible in the planting strip on the higher side of the street and constructed in accordance with the standards of the authority, utility company, Department of Environmental Resources or municipal department operating such water mains.

E. All phases of construction, including minimum size line, excavation, trench, type pipe, back-fill hydrants, tees and valves shall be in accordance with approved construction drawings, Department of Environmental Resources' Standards and inspected by the County Engineer, his authorized representative or the authority or agency representative of the utility company during the entire construction period.

SECTION 511 SANITARY SEWERS

A. The subdivider shall construct a sanitary sewer system and connect with such sewer main and provide lateral connections for each lot where a public sanitary sewer main is available at plat boundary or within a reasonable distance thereto (1,000 feet of subdivision).

B. If a public sanitary sewer main is not available under the conditions stated above, the subdivision or area may be considered as one where it is necessary to construct a public or community disposal system, or other satisfactory method as approved by the Department of Environmental Resources.

C. If in the opinion of the Department of Environmental Resources and the Planning Commission, factors exist which would create a public health and sanitation problem if a certain area is platted, the Planning Commission will not approve the subdivision and platting of such area until such factors are corrected by an adequate sanitary sewer system.

D. All sanitary sewers shall be constructed and installed according to the standards of the authority or municipal department operating such sewers. Storm water shall not be permitted to enter sanitary sewers.

E. All phases of construction, including excavation, trench, pipe size, grade, back-fill and manholes shall be in accordance with approved construction drawings, Department of Environmental Resources requirements, and inspected by the County Engineer, his authorized representative, authority or health officer during the entire construction period.

F. In areas where a municipal sewer is planned to be available but not yet built, laterals shall be extended to the center of the street or into the right-of-way, and trunk lines provided to the edge of the subdivision closest to the municipal trunk location and capped. Until such time as a municipal sewer becomes available, a project system must be installed. In the case of a project system, a trunk shall be provided to connect into the municipal system.

G. The daily sewage flow for on-lot sewage disposal systems, utilizing subsurface absorption areas for final disposal of sewage effluent into the soils, shall not exceed 10,000 gallons per day. No such system shall accommodate more than 25 lots.

SECTION 512 EROSION & SEDIMENT POLLUTION CONTROL

A. Drainage swales, ponding areas, paved gutters, curbing, construction

drainage-ways and other improvements may be required by the Planning Commission to eliminate or reduce sedimentation shall, as a minimum, meet the standards and specifications of the Pennsylvania Clean Streams Law, P.L. 1987 of 1937 (Purdons 35 PS 691.1 et seq.) as revised, Chapter 102.

B. The Municipality or Department of Environmental Resources shall ensure compliance with the appropriate specifications which are noted in the Erosion & Sediment Pollution Control Program Manual developed by the DER Bureau of Soil & Water Conservation.

C. All erosion and sedimentation control plans shall be reviewed and commented upon by the Conservation District before the final plan is approved by the Planning Commission.

SECTION 513 STORM WATER MANAGEMENT

In accordance with the intent and requirements of PA Storm Water Management Act 167 of 1978, the storm water management provisions contained in this Section are intended to provide protection against uncontrolled storm water runoff, and to insure that downstream property owners and water courses are not adversely affected by increases in storm water runoff resulting from subdivision and land development.

A. The Planning Commission shall require a Storm Water Management Plan to be submitted for evaluation along with subdivision proposals where:

1. streets or other required improvements are proposed which will increase the total impervious area of the tract;

2. slopes of the site or adjacent areas could result in accelerated storm water runoff as the lot(s) within the proposed subdivision are developed; or,

3. areas of poor drainage or existing storm water runoff problems are known to occur within, directly adjacent to, or immediately down gradient from the proposed subdivision.

B. All subdivision and land development proposals shall meet the requirements of Storm Water Management regulations in effect in the concerned municipality, or in the absence of such regulations, shall meet the requirements of this ordinance and those of Article VI, Section 614 of the Clinton County Zoning Ordinance amended May 17, 1989.

C. The Planning Commission may request the Clinton County Conservation District to review and comment on storm water management plans proposed to control runoff within a subdivision or development. All storm water management plans shall meet the minimum standards suggested by the Conservation District.

D. Plan Requirements

The Storm Water Management Plan for the proposed subdivision shall include a brief description of:

1. existing drainage patterns and storm water runoff characteristics of the site, including any existing drainage of storm water runoff problems and facilities;

2. the anticipated impact the future development of the property will have on existing storm water runoff and drainage patterns; and

3. the type of structural and nonstructural improvements planned to control post development storm water runoff.

4. In preparing the Storm Water Management plan, the subdivider shall consider the potential for accelerated soil erosion resulting from the construction of improvements, high density development, or steep slopes. In such instances, the Planning Commission will require the subdivider to incorporate into the Storm Water Management Plan, soil erosion and sedimentation control measures. Such conservation measures shall be designed to protect existing vegetation, and minimize the area and time of soils exposure, and may include structural improvements to the site such as diversion terraces, grassed waterways, and sedimentation basins.

5. The proposed location of both structural and nonstructural improvements shall be shown on the plot plan. The Planning Commission may also require the subdivider to include on the plot plan topographic contours at five foot intervals in order to better evaluate the proposed storm water control techniques.

6. Separate, detailed specifications, including cross-sections, profiles, etc., shall be submitted for all structural storm water control improvements, such as swales, seepage pits, and retention and detention basins.

7. The subdivider shall submit with the Storm Water Management Plan a proposal for ownership and maintenance of all storm water control improvements within the subdivision, in accordance with the following provisions.

   a. Where the subdivider proposes to dedicate such improvements to the municipality, a deed which dedicates the land to be used for storm water control improvements to the municipality shall be recorded with the final plan. A copy of the deed and a letter from the municipality stating their intent to accept ownership and maintenance responsibility for the improvements shall be submitted with the subdivision plan.

   b. Alternatively, an Ownership & Maintenance Agreement, which specifies ownership and assigns maintenance responsibility for the proposed improvements to either the developer or among property owners within the subdivision, shall be recorded with the final plan and referenced in the deeds to each property within the subdivision.

E. Design Standards

1. Storm water management controls shall be designed by a registered engineer so that the rate of runoff from any development or subdivision, during and after construction, shall be no greater than the rate of runoff from the site in its predevelopment condition.

2. Improvements to control drainage and storm water runoff within a subdivision shall be designed to increase the amount of water which infiltrates into the soil, and to control the rate of release of runoff off-site through temporary storage of storm water on-site. Such improvements may include, but are not limited to, deed covenants which restrict the allowable impervious area on each lot, the provision of drainage easements, parabolic swales, seepage pits, and detention and retention basins.

3. Detailed specifications for proposed storm water control improvements shall be evaluated by the Planning Commission, in consultation with the County Conservation District, on a case by case basis. Additionally, where the proposed storm water control improvements are intended for municipal dedication, the municipality shall be requested to review and comment on the proposed design of the improvements as it may affect

future maintenance of the facilities.

4. The municipality shall also be requested to review and comment on the consistency of the proposed Storm Water Management Plan with existing storm water controls and problems in the area of the proposed subdivision or land development. It shall be the responsibility of the subdivider to provide technical data which substantiates the projected capability of the proposed improvements to control runoff from the development.

SECTION 514 SIDEWALKS

A. Sidewalks shall be provided when considered necessary by the Planning Commission for protection of the public or wherever it is determined that the potential volume of pedestrian traffic or safety consideration requires it.

B. Sidewalks shall be provided where streets of a proposed subdivision are extensions of existing streets having sidewalks on one or both sides.

C. Sidewalks will be normally required on both sides of the street except that the Planning Commission may authorize sidewalks on one side only of U-shaped streets, cul-de-sacs or where character of use does not require pedestrian access on both sides of the street.

D. The minimum width for sidewalks shall be four feet, but the Planning Commission may require a greater width in the vicinity of shopping centers, schools and recreation facilities, or where similar intensive urban uses exist.

E. Sidewalks, where provided, shall be within the right-of-way and in residential areas, where conditions permit, two and one-half feet from the edge thereof. Sidewalks should line up with adequate walks in adjoining subdivisions or developments.

F. Sidewalks shall be portland cement concrete, a minimum four inches thick at driveway crossings and a minimum two percent transverse slope from property line to curb to facilitate drainage.

G. Sidewalks shall comply with all applicable federal and/or state land use facilities requirements.

H. All phases of construction, subgrade, concrete, forms, grade and thickness shall be in accordance with the requirements of this Ordinance; the forms shall be inspected prior to pouring and finished walks shall be inspected and certified by the County Engineer.

SECTION 515 EXISTING NATURAL CONDITIONS

In wooded areas or where other natural conditions exist in such a manner that their presence adds to the desirability of a subdivision or land development, the Planning Commission shall require that the subdivider preserve as much of the original trees and natural conditions as is economically feasible and require that a minimum of grading be done other than grading and excavating which is required in the construction of the improvements in accordance with the standards included herein.

ARTICLE VI

SPECIAL SUBDIVISIONS & LAND DEVELOPMENTS

SECTION 600 GENERAL REQUIREMENTS

The standards outlined in this Article shall be applied by the Planning Commission in evaluating plans for specialized types of subdivisions and land development projects. These standards shall be considered minimum standards and the Planning Commission may require more restrictive standards. Plans for specialized subdivisions and land development projects shall comply with the following standards as well as other applicable provisions of this Ordinance not in conflict herewith.

Innovative design which enhances the character of the County is permitted and encouraged. The criteria for review will be the quality of the design of the proposed development.

The specialized types of subdivisions and land developments included in this Article shall meet the Design & Construction Standards for subdivisions outlined in Article V, unless otherwise noted.

SECTION 601 SPECIAL SUBDIVISIONS

601.1 Cluster Housing Developments

A. Purpose

The purpose of the following standards and requirements is to permit the clustering of detached and semi-detached structures on reduced sized lots and grouping of open space. This type of development should be designed to achieve:

1. a characteristic of design and site planning in which houses are grouped together on a tract of land and each cluster of houses serves as a module which is set off from others like it by an intervening space that helps give visual definition to each individual cluster;

2. the preservation and utilization of unusual and important physical features of undeveloped land that is held for the common recreational enjoyment of the adjacent residents of the municipality at large; and,

3. more efficient use of the land of public facilities required to serve new residential and recreational development.

B. Design Standards

1. Plans for proposed cluster housing developments shall include a minimum size tract of land of ten acres. The maximum number of lots permitted shall be determined by multiplying the total acreage of the tract of land by five if single-unit detached dwellings are proposed or by eight if two-unit dwellings are proposed.

2. A minimum of 40 percent of the development tract area shall be allocated to and shall remain common open space. Common open space shall include areas of land and water, but shall not include roads, parking areas, structures, or service lanes. The subdivider shall submit with the subdivision plan a proposal which provides for the maintenance of such space. An agreement which assigns maintenance responsibility for the open space shall be recorded with the final plan and referenced in the deeds to each lot within the development.

3. No dwelling structure shall be located within 15 feet of any other structure or within 25 feet of the right-of-way line of any street.

4. Access to and within cluster housing developments shall be provided in accordance with the Subdivision Design & Construction Standards as outlined in Article V of this Ordinance.

5. A minimum of two off-street parking spaces per each dwelling unit within the development shall be provided within 200 feet of the dwelling unit to be served.

6. Cluster housing developments shall be provided with a sanitary sewer system and water supply facilities in accordance with the standards of the Department of Environmental Resources and Sections 509 & 510 of this Ordinance.

601.2 RECREATIONAL SUBDIVISIONS

A. Purpose

The purpose of the following standards and regulations is to recognize the special character of recreational subdivisions such as isolated or remote cottage or cabin sites or other such development designed for intermittent recreational use.

B. General Requirements

1. The subdivider shall demonstrate to the Planning Commission that the character of the subdivision is exclusively recreational, and does not have potential for full-time residential occupancy. Where the Commission finds that the proposed subdivision may be suitable for full-time residential occupancy, the subdivision shall be required to adhere to the standards for residential subdivisions (Article V, Subdivision Design & Construction Standards).

2. A notice shall be placed on the plot plans and in the deeds to each parcel within the subdivision stating that the subdivision has been designed for intermittent recreational use, that lots within the subdivision are not intended for full-time occupancy, and that the remote and undeveloped character of such subdivision precludes the provision of normally expected public services such as utilities, fire and police protection, ambulance response, road maintenance and improvement, or other such services.

3. Soils testing shall be conducted within all recreational subdivisions proposing on-lot subsurface sewage disposal, including isolated subdivisions proposing the use of privies as the means of sewage disposal. In general, sewage disposal and water supply facilities shall be provided in accordance with the standards of the Department of Environmental Resources.

4. All lot sizes shall conform to any applicable zoning ordinance.

C. Design Standards

Recognizing the intermittent use of recreational properties, less restrictive standards for access to such subdivisions may be permitted. Standards for private roads serving recreational subdivisions are contained in the following Table.

MINIMUM DESIGN & CONSTRUCTION STANDARDS FOR
PRIVATE ROADS SERVING RECREATIONAL SUBDIVISIONS

PRIVATE ROADS	SERVING 1 - 5 LOTS	SERVING MORE THAN 5 LOTS
Right-of-Way Width	33 ft.	50 ft.
Cartway Width	12 ft.	16 ft.
Cartway Construction (a)		
Wearing Surface (b)	4 in.	4 in.
Subbase (c)	6 in.	6 in.
Turnaround of Cul-de-Sac		
Right-of-Way Diameter	----	80 ft.
Cartway Diameter	----	60 ft.
Grade: Maximum	20%	15%

FOOTNOTES:

a. All components of the road structure shall be in accordance with PennDOT specifications, Form 408.

b. Depth of 2RC or equivalent material after compaction by a 10 ton roller or equivalent.

c. Depth of shale or equivalent material after compaction by a 10 ton roller or equivalent.

SECTION 602 LAND DEVELOPMENTS

The purpose of this Section is to outline the standards for varying types of land developments. Land developments are defined as the improvement of one or two or more contiguous lots, tracts or parcels of land for any purpose involving a group of two or more buildings, whether proposed initially or cumulatively, or a single non-residential building on a lot or lots regardless of the number of occupants or tenure, or the division or allocation of land or space between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

602.1 MINOR LAND DEVELOPMENTS

For the purpose of this Ordinance, a minor land development shall be defined as a land development involving one non-residential building of less than 2,000 square feet. In order to more expeditiously carry out the administration of this Ordinance, the Director of the Clinton County Planning Department may sign such land development plans for final approval pursuant to the procedure established in Article III, Section 303, E-5, of this Ordinance.

602.2 MAJOR LAND DEVELOPMENTS

For purposes of this Ordinance, a major land development shall be defined as any non-residential development involving a building over 2,000 square feet or two or more non-residential buildings or any development containing four or more residential units or two or more residential structures. Procedures for review and approval of preliminary and final plans of major land developments are pursuant to those established in Article III, Section 303, of this Ordinance.

602.3 EXEMPTIONS

The following shall be exempt from the definition of Land Development.

1. The conversion of an existing single-family detached dwelling or single family semi-detached dwelling into not more than three residential units, unless such units are intended to be a condominium;

2. The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building or;

3. The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For purposes of this subclause, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until plans for the expanded area have been approved by proper authorities.

602.4 MULTI-UNIT HOUSING DEVELOPMENT

A. General Requirements

1. All multi-unit housing developments shall conform to any applicable zoning ordinance.

2. The developer shall submit with the land development plan a description of the type of multi-unit housing proposed, indicating the total number of dwellings units per structure.

3. The developer shall submit with the land development plan a proposal for the maintenance of all facilities which are shared by residents within the proposed development. If the developer proposes to subdivide and convey individual dwelling units within a single structure, an agreement which assigns maintenance responsibility for commonly used facilities shall be recorded with the development plan and referenced in the deed to each property.

B. Design Standards

1. Access to and within multi-unit housing developments shall be provided in accordance with the Subdivision Design & Construction Standards in Article V of this Ordinance.

2. Multi-unit housing developments shall be provided with sewage disposal and water supply facilities in accordance with Article V, Sections 509 & 510, of this Ordinance.

C. Lots, Building Setbacks, & Open Space

1. All lots shall conform to any applicable zoning ordinance.

2. Where the developer proposes to subdivide and convey individual units within a single structure, the proposed development plan shall include an exact description of the area(s) or dwelling unit(s) to be conveyed. Where land is to be conveyed with the dwelling unit, the minimum lot area shall be 3,000 square feet and minimum lot width 30 feet.

602.5 RECREATIONAL VEHICLE PARKS & CAMPGROUNDS

A. General Requirements

1. A notice shall be placed on the land development plan stating that the recreational vehicle park or campground has been designed for intermittent recreational use, and that recreational vehicles used for full-time residential occupancy shall not be permitted within such developments.

2. A notice shall be placed on the plan stating that it shall be the responsibility of the park or campground owner to maintain all park facilities, including internal roads, sewage disposal facilities, and areas designated as open space.

B. Design Standards

1. An internal park or campground system of private streets or roads shall be provided and constructed according to the standards outlined in Article VI, Section 601.2, of this Ordinance.

2. Recreational vehicle parks and campgrounds shall be provided with sewage disposal and water supply facilities designed and constructed in accordance with the standards of the Department of Environmental Resources and Article V, Sections 509 & 510, of this Ordinance. Developments designed to accommodate travel trailers or recreational vehicles shall be provided with individual sewer hook-ups at each lot or space or an on-site community dump station.

3. The Planning Commission may require the developer to provide a minimum of ten percent of the gross area of the park or campground for recreational/open space.

C. Lot Requirements

1. The maximum number of lots or camping spaces within each park or campground shall be no more than 15 per acre of gross area of the park or campground.

2. The minimum lot or camping space shall be 30 feet wide by 50 feet deep.

3. All lots or camping spaces shall abut and have 30 feet frontage on a street or road of the park or campground internal street system.

4. A minimum of two off-street parking spaces shall be provided for each park lot or campground space within the travel trailer park or campground.

602.6 COMMERCIAL & INDUSTRIAL LAND DEVELOPMENTS

A. General Requirements

1. Commercial land development proposals including, but not limited to, shopping centers, motels, and other similar types of development, and industrial land developments such as industrial parks and multi-tenant buildings, shall comply with the standards and requirements of this Section as well as other applicable provisions of this Ordinance not in conflict herewith.

2. Commercial and industrial developments shall comply with any applicable zoning ordinance.

3. A storm water management plan, prepared in accordance with Article V, Section 512, of this Ordinance, shall be submitted with all commercial and industrial land development proposals.

B. Design Standards

1. Access to public streets shall be limited to well-defined entrance and exit lanes. Exit lanes shall be separated from entrance lanes by dividers or planting islands.

2. Painted lines, arrows, and dividers shall be provided to control parking and internal circulation. Customer parking and circulation shall be separated from delivery service drives and loading areas.

3. Proposed sewage disposal and water supply facilities shall be designed and constructed in accordance with the requirements of Sections 509 & 510 of this Ordinance and Department of Environmental Resources regulations.

4. Screen plantings may be required by the Planning Commission where adjacent land use dictates.

C. Parking & Loading Area Requirements

1. Shopping centers shall be provided with two parking spaces per 100 square feet of sales area. Industrial land developments shall be provided with visitor parking in addition to one parking space for each employee on the maximum shift.

2. Parking and loading areas shall be set back a minimum of 15 feet from street right-of-way lines and residential property boundaries. Such areas shall be designed to eliminate the need to back over or into public rights-of-way.

3. Loading areas shall be provided for all industrial or commercial activities. One space shall be required for each 10,000 square feet of the floor area, or portion thereof. Each space shall be not less than 12 feet in width, 75 feet in length, and have 14 feet of overhead clearance.

4. All parking areas, service drives, loading areas, and exit and entrance lanes shall be graded and paved according to the specifications for paving of local subdivision streets contained in Article V of this Ordinance.

SECTION 603 OTHER LAND DEVELOPMENTS

Plans for other types of land development not specifically listed shall be submitted to the Planning Commission for approval or disapproval in accordance with principles of site planning and development.

ARTICLE VII

MOBILE HOME PARKS

SECTION 700 GENERAL REQUIREMENTS

A notice shall be placed on the land development plan stating that it shall be the responsibility of the mobile home park owner to maintain all park facilities, including streets, sewage disposal facilities, and areas designated as open space.

SECTION 701 DESIGN STANDARDS

A. A mobile home park shall have a gross area of at least five contiguous acres of land suitable for development. The maximum number of mobile home lots shall be not more than six lots per acre.

B. The Planning Commission may require the developer to provide a minimum of 10 percent of the gross area of the mobile home park for recreational/open space.

C. Access to mobile home lots within the development shall be provided via an internal street system designed and constructed in accordance with the standards of Article V, Section 501, of this Ordinance.

D. Mobile home parks shall be provided with water supply and sanitary sewer facilities designed and constructed in accordance with the standards of the Department of Environmental Resources and Article V, Sections 509 & 510, of this Ordinance.

SECTION 702 LOT REQUIREMENTS

A. The minimum width of any mobile home lot shall be not less than 50 feet. The minimum length of any mobile home lot shall be not less than 120 feet or equal to the overall length of any mobile home located on the lot plus 30 feet, whichever length is greater.

B. A mobile home pad, properly graded, placed, and compacted so as to be durable and adequate for support of the maximum anticipated loads during all seasons, shall be provided on each mobile home lot within the development. Each pad shall be provided with an anchoring system designed to resist the flotation, collapse, and lateral movement of mobile homes.

C. An all-weather patio of a minimum area of 200 square feet shall be provided on each mobile home lot.

D. A minimum of two off-street parking spaces per each mobile home lot within the development shall be provided within 200 feet of the lot to be served.

SECTION 703 SETBACKS, BUFFER STRIPS, & SCREENING REQUIREMENTS

A. All mobile homes, auxiliary park buildings and other park structures shall be located at least 40 feet from the mobile home park boundary lines. The minimum buffer strip may be reduced to 25 feet if a suitable perimeter screening of plantings or fencing is provided.

B. Mobile homes shall be located at least 50 feet from any auxiliary park buildings and any repair, maintenance or storage areas of buildings.

ARTICLE VIII

CONDITIONS OF ACCEPTANCE

SECTION 800 GENERAL REQUIREMENTS

A. The Planning Commission shall not approve any subdivision or land development plan except in conformance with the provisions of this Ordinance.

B. The Planning Commission may specify alterations, changes or modifications in any subdivision or land development plan which it deems necessary and may make its approval subject to such alterations, changes or modifications.

C. No road, street, land, way or related improvement shall be accepted as a part of the highway system of the local municipality in which the subdivision or land development is located or for maintenance unless opened, laid out, graded and improved in strict accordance with the standards and regulations of the County or the municipality.

D. Before acting to approve any subdivision or land development plan, the Planning Commission may arrange a public hearing thereon, after giving such notice as may be deemed desirable.

E. Before approving any subdivision or land development plan, the Planning Commission shall require a written agreement that necessary grading, paving and street improvements, sidewalks, monuments, street lights, fire hydrants, water mains and sanitary sewers, as may be required by the County, shall be installed in strict accordance with the standards and specifications by the Subdivider within a specified reasonable time.

The written agreement shall include a bond, deposit of funds or other securities sufficient in amount as shall be determined by the contractor's bona fide bid to cover the cost of such improvements. If the improvements shall not have been installed within the time required or agreed upon and in accordance with the standards and specifications, such deposit shall be forfeited to the County. Upon written certification by ghe County Engineer that such improvements have been satisfactorily completed, the deposit shall be returned to the Subdivider.

The fee for services for the County Engineer's inspection shall be borne by the developer.

SECTION 801 RECORDING

Upon approval of a Final Plan, the Planning Commission or developer shall, within 90 days of such final approval, record such Plan in the office of the Clinton County Recorder of Deeds. Whenever Plan approval is required by the County, the Recorder of Deeds shall not accept any Plan for recording unless it officially notes the approval of the Planning Commission.

A. Streets, parks, and other public improvements shown on a subdivision plan to be recorded may be offered for dedication to the local municipality in which the subdivision or development is located through formal notation of dedication on the Plan. The owner may, at his option, note on such Plan any improvements which have not been offered for dedication.

B. Every street, park or other improvement shown on a subdivision plan shall be deemed to be a private street, park or improvement until such time as the same shall have been offered for dedication to the local municipality in which the subdivision or development is located and accepted by ordinance or resolution, or until it shall have been condemned

for use as a public street, park or other improvement.

ARTICLE IX
ADMINISTRATION & MODIFICATION

SECTION 900 GENERAL REQUIREMENTS

The foregoing regulations shall supersede and replace all other regulations issued by Clinton County previous to the approval date of this Ordinance.

SECTION 901 CHANGES

The County Board of Commissioners may, from time to time, revise, modify and amend this Ordinance by appropriate action taken at a scheduled meeting. This action should be made on the basis of Planning Commission recommendation.

SECTION 902 WAIVERS

A. Where the Planning Commission finds that extraordinary hardships may result from strict compliance with this Ordinance, it may waive the regulations so that substantial justice may be done and the public interest secured, provided that such waiver will not have the effect of nullifying the intent, interest and purpose of the County Master Plan or this Ordinance.

B. An applicant shall submit, in writing, a request for a waiver of regulations to the Planning Commission. The request shall refer to specific regulations and hardships that the applicant may incur should a waiver not be granted.

C. In granting waivers, the Planning Commission may require conditions if consented to in writing by the applicant that are in conformance with the objectives of the standards or requirements so waived. The reason for granting the waiver shall be recorded in the Planning Commission minutes.

SECTION 903 CERTIFICATES, AFFIDAVITS & APPROVAL

Certificates, Owner's Adoption and Affidavits as required by this Ordinance shall be inscribed on the plat and shall be properly signed and attested when the plat is submitted for review.

SECTION 904 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 the remainder of the Ordinance as a whole, or any individual part thereof.

SECTION 905 PREVENTIVE REMEDIES

A. In addition to other remedies, the Clinton County Planning Commission may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of building, structure or premises. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.

B. The Clinton County Planning Commission may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision

of real property in violation of any ordinance adopted pursuant to Article V of the Pennsylvania Municipalities Planning Code, Act 170. This authority to deny such a permit or approval shall apply to any of the following applicants:

1. The owner of record at the time of such violation.

2. The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.

3. The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.

4. The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.

SECTION 906 ENFORCEMENT REMEDIES

Any person, partnership, or corporation who or which has violated the provisions of any subdivision or land development ordinance enacted under the Pennsylvania Municipalities Planning Code, Act 170, or prior enabling laws shall, upon being found liable therefore in a civil enforcement proceeding commenced by Clinton County, pay a judgment of not more than $500 plus all court costs, including reasonable attorney fees incurred by Clinton County as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, Clinton County 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.

The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.

Nothing contained in this section shall be construed or interpreted to grant any person or entity other than the municipality the right to commence any action for enforcement pursuant to this section.

SECTION 907 INJUNCTIONS

The Planning Commission shall have the power to petition a Court of Equity to have the Court enjoin such transfer, sale, or agreement to transfer or sell, to enjoin any type of construction by a subdivider or land owner where this Ordinance has been violated, and to enjoin the Register of Deeds from the recordation of any unapproved subdivision plat or deed of sale made in violation of this Ordinance.

AMENDED this day of , 1991.

CLINTON COUNTY BOARD OF COMMISSIONERS

ATTEST:

William R. Eisemann, Chairman

Linda Bickford
Chief Clerk

Carl W. Kephart

Earl L. Lentz

RECOMMENDATION FOR APPROVAL
BY CLINTON COUNTY PLANNING COMMISSION

Recommended for approval to the Clinton County Board of Commissioners by the Clinton County Planning Commission on the 18 day of December, 1990.

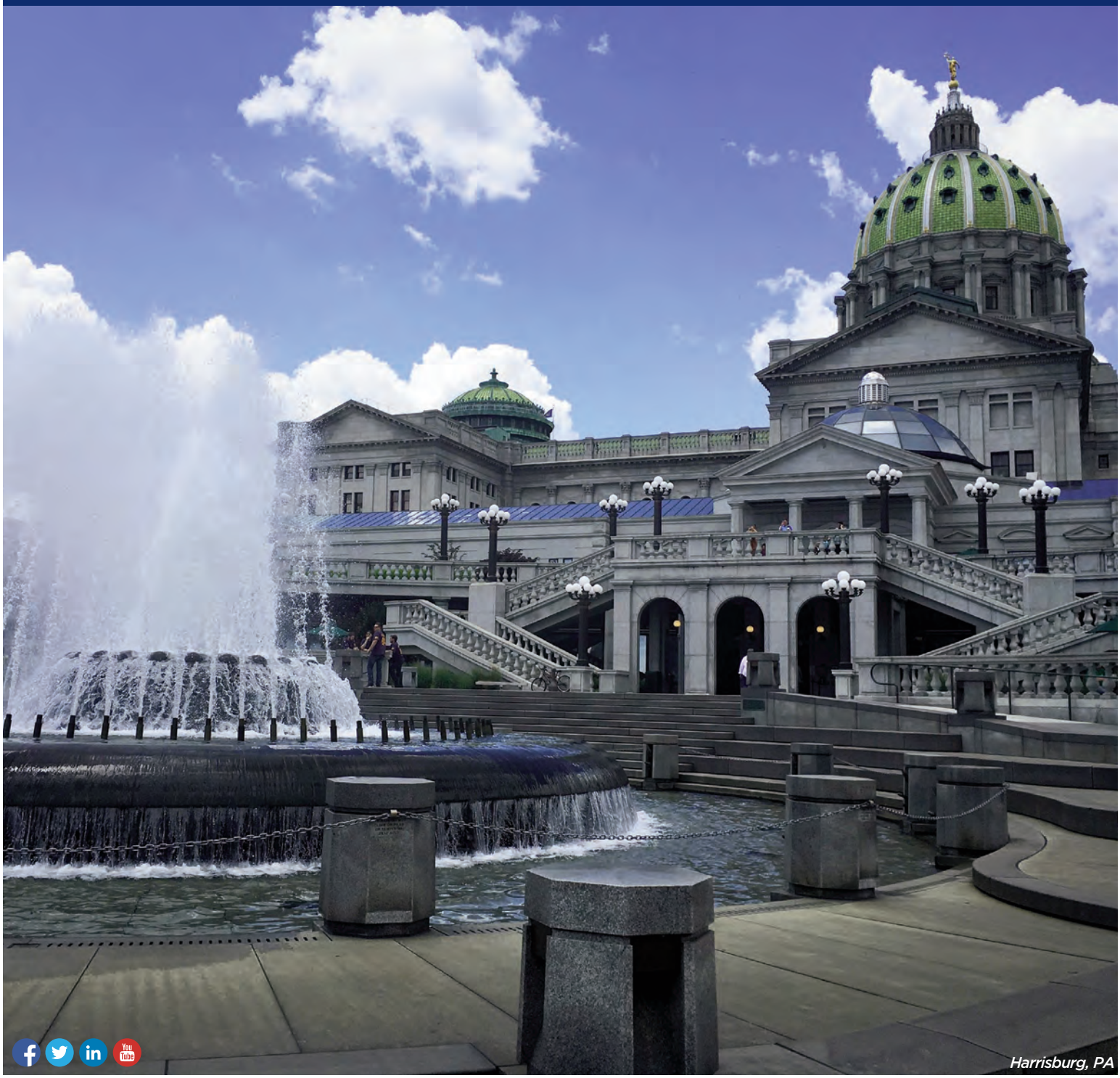
CLINTON COUNTY PLANNING COMMISSION

ATTEST:

pennsylvania
GOVERNOR'S CENTER FOR
LOCAL GOVERNMENT SERVICES

PENNSYLVANIA MUNICIPALITIES PLANNING CODE

Act of 1968, P.L.805, No.247 as reenacted and amended.
Twenty Third Edition | January 2017



Harrisburg, PA

Commonwealth of Pennsylvania
PA Department of Community & Economic Development | dced.pa.gov

Comments or inquiries on the subject matter of this publication should be addressed to:

Governor's Center for Local Government Services
Department of Community and Economic Development
Commonwealth Keystone Building
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Harrisburg, Pennsylvania 17120-0225

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This and other publications are available for viewing or downloading free-of-charge from the Department of Community and Economic Development website. Printed copies may be ordered and purchased through a private vendor as indicated on the website.

Access **dced.pa.gov**

Current Publications relating to planning and land use regulations available from the Center include:

Pennsylvania Municipalities Planning Code (Act 247, as amended)

Planning Series
#1 Local Land Use Controls in Pennsylvania
#2 The Planning Commission
#3 The Comprehensive Plan
#4 Zoning
#5 Technical Information on Floodplain Management
#6 The Zoning Hearing Board
#7 Special Exceptions, Conditional Uses and Variances
#8 Subdivision and Land Development
#9 The Zoning Officer
#10 Reducing Land Use Barriers to Affordable Housing

NOTE: These publications are periodically revised or updated to reflect changes in Pennsylvania planning law.

Preparation of this publication was financed from appropriations of the General Assembly of the Commonwealth of Pennsylvania.

Table of Contents

An Act

To empower cities of the second class A, and third class, boroughs, incorporated towns, townships of the first and second classes including those within a county of the second class and counties of the second class through eighth classes, individually or jointly, to plan their development and to govern the same by zoning, subdivision and land development ordinances, planned residential development and other ordinances, by official maps, by the reservation of certain land for future public purpose and by the acquisition of such land; to promote the conservation of energy through the use of planning practices and to promote the effective utilization of renewable energy sources; providing for the establishment of planning commissions, planning departments, planning committees and zoning hearing boards, authorizing them to charge fees, make inspections and hold public hearings; providing for mediation; providing for transferable development rights; providing for appropriations, appeals to courts and penalties for violations; and repealing acts and parts of acts, adding definitions; providing for intergovernmental cooperative planning and implementation agreements; further providing for repeals; and making an editorial change, further providing for the purpose of the act; adding certain definitions; further providing for various matters relating to the comprehensive plan and for compliance by counties; providing for funding for municipal planning and for neighboring municipalities; further providing certain ordinances; adding provisions relating to projects of regional impact, providing for traditional neighborhood development; further providing for grant of power, for contents of subdivision and land development ordinance, for approval of plats and for recording of plats and deeds; and providing for municipal authorities and water companies and for transferable development rights, further providing for recording plats and deeds, for applicability of ordinance amendments and for validity of ordinance amendments and for validity of ordinance and substantive questions, further providing for planning commission, for zoning ordinance amendment, for procedure for landowner curative amendments, for certain findings, for hearings and for governing body’s functions, further providing for purpose of act; defining “no-impact home-based business” and further providing for ordinance provisions, for procedure for landowner curative amendments, for hearing and for governing body’s functions.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Article 1 - General Provisions

Section 101. Short Title. This act shall be known and may be cited as the "Pennsylvania Municipalities Planning Code."

Section 102. Effective Date. This act shall take effect January 1, 1969.

Section 103. Construction of Act. The provisions of this act shall not affect any act done, contract executed or liability incurred prior to its effective date, or affect any suit or prosecution pending or to be instituted, to enforce any right, rule, regulation, or ordinance or to punish any offense against any such repealed laws or against any ordinance enacted under them. All ordinances, resolutions, regulations and rules made pursuant to any act of Assembly repealed by this act shall continue in effect as if such act had not been repealed, except as the provisions are inconsistent herewith. The provisions of other acts relating to municipalities other than cities of the first and second class and counties of the second class are made a part of this act and this code shall be construed to give effect to all provisions of other acts not specifically repealed.

Section 104. Constitutional Construction. The provisions of this act shall be severable, and if any of its provisions shall be held to be unconstitutional, the validity of any of the remaining provisions of this act shall not be affected. It is hereby declared as the legislative intention that this act would have been adopted had such unconstitutional provision not been included therein.

Section 105. Purpose of Act. It is the intent, purpose and scope of this act to protect and promote safety, health and morals; to accomplish coordinated development; to provide for the general welfare by guiding and protecting amenity, convenience, future governmental, economic, practical, and social and cultural facilities, development and growth, as well as the improvement of governmental processes and functions; to guide uses of land and structures, type and location of streets, public grounds and other facilities; to promote the conservation of energy through the use of planning practices and to promote the effective utilization of renewable energy sources; to promote the preservation of this Commonwealth's natural and historic resources and prime agricultural land; to encourage municipalities to adopt municipal or joint municipal comprehensive plans generally consistent with the county comprehensive plan; to promote small business development and foster a business-friendly environment in this Commonwealth; to ensure that municipalities adopt zoning ordinances which are generally consistent with the municipality's comprehensive plan; to encourage the preservation of prime agricultural land and natural and historic resources through easements, transfer of development rights and rezoning; to ensure that municipalities enact zoning ordinances that facilitate the present and future economic viability of existing agricultural operations in this Commonwealth and do not prevent or impede the owner or operator's need to change or expand their operations in the future in order to remain viable; to encourage the revitalization of established urban centers; and to permit municipalities to minimize such problems as may presently exist or which may be foreseen and wherever the provisions of this act promote, encourage, require or authorize governing bodies to protect, preserve or conserve open land, consisting of natural resources, forests and woodlands, any actions taken to protect, preserve or conserve such land shall not be for the purposes of precluding access for forestry.

Section 106. Appropriations, Grants and Gifts. The governing body of every municipality is hereby authorized and empowered to make such appropriations as it may see fit, to accept gifts, grants or bequests from public and private sources for the purpose of carrying out the powers and duties conferred by this act, and to enter into agreements regarding the acceptance or utilization of such grants, gifts or bequests further providing for recording plats and deeds, for applicability of ordinance amendments and for validity of ordinance and substantive questions.

Section 107. Definitions.

(a) The following words and phrases when used in this act shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Agricultural operation," 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 term includes 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.

"Applicant," a landowner or developer, as hereinafter defined, who has filed an application for development including his heirs, successors and assigns.

"Application for development," every application, whether preliminary, tentative or final, required to be filed and approved prior to start of construction or development including but not limited to an application for a building permit, for the approval of a subdivision plat or plan or for the approval of a development plan.

"Appointing authority," the mayor in cities; the board of commissioners in counties; the council in incorporated towns and boroughs; the board of commissioners in townships of the first class; and the board of supervisors in townships of the second class; or as may be designated in the law providing for the form of government.

"Authority," a body politic and corporate created pursuant to the act of May 2, 1945 (P.L.382, No.164), known as the "Municipality Authorities Act of 1945."

"Center for Local Government Services." The Governor's Center for Local Government Services located within the Department of Community and Economic Development.

"City" or "cities," cities of the second class A and third class.

"Common open space," a parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of a development, not including streets, off-street parking areas, and areas set aside for public facilities.

"Conditional use," a use permitted in a particular zoning district pursuant to the provisions in Article VI.

"Consistency," an agreement or correspondence between matters being compared which denotes a reasonable rational, similar, connection or relationship.

"County," any county of the second class through eighth class.

"County Comprehensive Plan," a land use and growth management plan prepared by the county planning commission and adopted by the county commissioners which establishes broad goals and criteria for municipalities to use in preparation of their comprehensive plan and land use regulation.

"Designated growth area," a region within a county or counties described in a municipal or multimunicipal plan that preferably includes and surrounds a city, borough or village, and within which residential and mixed use development is permitted or planned for at densities of one unit to the acre or more, commercial, industrial and institutional uses are permitted or planned for and public infrastructure services are provided or planned.

"Developer," any landowner, agent of such landowner, or tenant with the permission of such land-owner, who makes or causes to be made a subdivision of land or a land development.

“Development of regional significance and impact,” any land development that, because of its character, magnitude, or location will have substantial effect upon the health, safety, or welfare of citizens in more than one municipality.

“Development plan,” the provisions for development, including a planned residential development, a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities. The phrase “provisions of the development plan” when used in this act shall mean the written and graphic materials referred to in this definition.

“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.

“Forestry,” the management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any land development.

“Future growth area,” an area of a municipal or multimunicipal plan outside of and adjacent to a designated growth area where residential, commercial industrial and institutional uses and development are permitted or planned at varying densities an d public infrastructure services may or may not be provided, but future development at greater densities is planned to accompany the orderly extension an provision of public infrastructure services.

“General consistency, generally consistent,” that which exhibits consistency.

“Governing body,” the council in cities, boroughs and incorporated towns; the board of commissioners in townships of the first class; the board of supervisors in townships of the second class; the board of commissioners in counties of the second class through eighth class or as may be designated in the law providing for the form of government.

“Land development,” any of the following activities:

(1) The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:

   (i) a group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or

   (ii) the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

(2) A subdivision of land.

(3) Development in accordance with section 503(1.1).

“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.

“Lot,” a designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

“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.

“Mediation,” a voluntary negotiating process in which parties in a dispute mutually select a neutral mediator to assist them in jointly exploring and settling their differences, culminating in a written agreement which the parties themselves create and consider acceptable.

“Minerals,” any aggregate or mass of mineral matter, whether or not coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil and natural gas.

“Mobilehome,” a transportable, single family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, 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 without a permanent foundation.

“Mobilehome lot,” a parcel of land in a mobilehome park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobilehome.

“Mobilehome park,” a parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobilehome lots for the placement thereon of mobilehomes.

"Multimunicipal plan," a plan developed and adopted by any number of contiguous municipalities, including a joint municipal plan as authorized by this act, except that all of the municipalities participating in the plan need not be contiguous, if all of them are within the same school district.

“Multimunicipal planning agency,” a planning agency comprised of representatives of more than one municipality and constituted as a joint municipal planning commission in accordance with Article XI, or otherwise by resolution of the participating municipalities, to address, on behalf of the participating municipalities, multimunicipal issues, including, but not limited to, agricultural and open space preservation, natural and historic resources, transportation, housing and economic development.

“Municipal authority,” a body politic and corporate created pursuant to the act of May 2, 1945 (P.L.382, No.164), known as the “Municipality Authorities Act of 1945.”

“Municipal engineer,” a professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for a municipality, planning agency or joint planning commission.

“Municipality,” any city of the second class A or third class, borough, incorporated town, township of the first or second class, county of the second class through eighth class, home rule municipality, or any similar general purpose unit of government which shall hereafter be created by the General Assembly.

“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 or extent of use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application 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 a zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation.

"Official map," a map adopted by ordinance pursuant to Article IV.

"Planned residential development," an area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling, or use, density, or intensity, lot coverage and required open space to the regulations established in any one district created, from time to time, under the provisions of a municipal zoning ordinance.

"Planning agency," a planning commission, planning department, or a planning committee of the governing body.

"Plat," the map or plan of a subdivision or land development, whether preliminary or final.

"Preservation or protection," when used in connection with natural and historic resources, shall include means to conserve and safeguard these resources from wasteful or destructive use, but shall not be interpreted to authorize the unreasonable restriction of forestry, mining or other lawful uses of natural resources.

"Prime agricultural land," land used for agricultural purposes that contains soils of the first, second or third class as defined by the United States Department of Agriculture natural resource and conservation services county soil survey.

"Professional consultants," Persons who provide expert or professional advice, including, but not limited to, architects, attorneys, certified public accountants, engineers, geologists, land surveyors, landscape architects or planners.

"Public grounds," includes:

(1) parks, playgrounds, trails, paths and other recreational areas and other public areas

(2) sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities

(3) publicly owned or operated scenic and historic sites.

"Public hearing," a formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with this act.

"Public infrastructure area," a designated growth area and all or any portion of a future growth area described a county or multimunicipal comprehensive plan where public infrastructure services will be provided and outside of which such public infrastructure services will not be required to be publicly financed.

"Public infrastructure services," services that are provided to areas with densities of one or more units to the acre, which may include sanitary sewers and facilitates for the collection and treatment of sewage, water lines and facilitates for the pumping and treating of water, parks and open space, streets and sidewalks, public transportation and other services that may be appropriated within a growth area, but shall exclude fire protection and emergency medical services and any other service required to protect the health an safety of residents.

"Public meeting," a forum held pursuant to notice under 65 Pa. C.S. CH. 7 (Relating to open meetings).

"Public notice," notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. 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 30 days and the second publication shall not be less than seven days from the date of the hearing.

"Regional planning agency," a planning agency that is comprised of representatives of more than one county. Regional planning responsibilities shall include providing technical assistance to counties and municipalities, mediating conflicts across county lines and reviewing county comprehensive plans for consistency with one another.

"Renewable energy source," any method, process or substance whose supply is rejuvenated through natural processes and, subject to those natural processes, remains relatively constant, including, but not limited to, biomass conversion, geothermal energy, solar and wind energy and hydroelectric energy and excluding those sources of energy used in the fission and fusion processes.

"Rural resource area," an area described in a municipal or multimunicipal plan within which rural resource uses including, but not limited to, agriculture, timbering, mining, quarrying and other extractive industries, forest and game lands and recreation and tourism are encouraged and enhanced, development that is compatible with or supportive of such uses in permitted, and public infrastructure services are not provided except in villages.

"Special exception," a use permitted in a particular zoning district pursuant to the provisions of Articles VI and IX.

"Specific plan," a detailed plan for nonresidential development of an area covered by a municipal or multimunicipal comprehensive plan, which when approved and adopted by the participating municipalities through ordinances and agreements supersedes all other applications.

"State Land Use and Growth Management Report," a comprehensive land use and growth management report to be prepared by the Center for Local Government Services and which shall contain information, data and conclusions regarding growth and development patterns in this Commonwealth and which will offer recommendations to commonwealth agencies for coordination of executive action, regulation and programs.

"Street," includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private.

"Structure," any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

"Subdivision," the division or redivision 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.

"Substantially completed," where, in the judgment of the municipal engineer, at least 90% (based on the cost of the required improvements for which financial security was posted pursuant to section 509) of those improvements required as a condition for final approval have been completed in accordance with the approved plan, so that the project will be able to be used, occupied or operated for its intended use.

"Traditional neighborhood development," an area of land typically developed for a compatible mixture of residential units for various income levels and nonresidential commercial and workplace uses, including some structures that provide for a mix of uses within the same building. Residences, shops, offices, workplaces, public buildings, and parks are interwoven within the neighborhood so that all are within relatively close proximity to each other. Traditional neighborhood development is relatively compact and oriented toward pedestrian activity. It has an identifiable center and a discernible edge. The center of the neighborhood is in the form of a public park, commons, plaza, square or prominent intersection of two or more major streets. Generally, there is a hierarchy of streets laid out with an interconnected network of streets and blocks that provides multiple routes from origins to destinations and are appropriately designed to serve the needs of pedestrians and vehicles equally.

"Transferable development rights," the attaching of development rights to specified lands which are desired by a municipality to be kept undeveloped, but permitting those rights to be transferred from those lands so that the development potential which they represent may occur on other lands where more intensive development is deemed to be appropriate.

"Variance," relief granted pursuant to the provisions of Articles VI and IX.

"Village, an unincorporated settlement that is part of a township where residential and mixed use densities of one unit to the acre or more exist or are permitted and commercial, industrial or institutional uses exist or are permitted.

"Water survey," an inventory of the source, quantity, yield and use of groundwater and surface-water resources within a municipality.

(b) The following words and phrases when used in Articles IX and X-A shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Board," any body granted jurisdiction under a land use ordinance or under this act to render final adjudications.

"Decision," final adjudication of any board or other body granted jurisdiction under any land use ordinance or this act to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the court of common pleas of the county and judicial district wherein the municipality lies.

"Determination," final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder, except the following:

(1) the governing body.

(2) the zoning hearing board.

(3) the planning agency, only if and to the extent the planning agency is charged with final decision on preliminary or final plans under the subdivision and land development ordinance or planned residential development provisions.

Determinations shall be appealable only to the boards designated as having jurisdiction for such appeal.

"Hearing," an administrative proceeding conducted by a board pursuant to section 909.1.

"Land use ordinance," any ordinance or map adopted pursuant to the authority granted in Articles IV, V, VI and VII.

"Report," any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction.

Section 108. Optional Notice of Ordinance or Decision; Procedural Validity Challenges.

(a) It is the intent of this section to allow optional public notice of municipal action in order to provide an opportunity to challenge, in accordance with section 1002-A (b) or section 1002.1-A, the validity of an ordinance or decision on the basis that a defect in procedure resulted in a deprivation of constitutional rights, and to establish a period of limitations for raising such challenges.

(b) Notice that municipal action has been taken to adopt an ordinance or enter a decision, regardless of whether the municipal actions was taken before or after the effective date of this section, may be provided through publication, at any time, once each week for two successive weeks in a newspaper of general circulation in the municipality by the following:

(1) The governing body of the municipality.

(2) In the case of a ordinance, any resident or landowner in the municipality.

(3) In the case of a decision, the applicant requesting the decision or the landowner or successor in interest of the property subject to or affected by the decision.

(c) Each notice shall contain the following:

(1) If the notice relates to an ordinance:

(i) The municipality's ordinance number.

(ii) A brief statement of the general content of the ordinance.

(iii) The address of the municipal building where the full text of the ordinance may be reviewed by members of the public.

(2) If the notice relates to a decision:

(i) The name of the applicant or owner of the subject property.

(ii) The street address or location of the subject property.

(iii) The file number or docket number of the decision.

(iv) A brief description of the nature of the decision.

(v) The date upon which the decision was issued.

(vi) The address of the municipal building where the full text of the decision may be reviewed by members of the public.

(3) In addition to the requirements of paragraphs (1) and (2), the publication of each notice authorized by the section shall contain a statement that the publication is intended to provide notification of an ordinance or decision and that any person claiming a right to challenge the validity of the ordinance or decision must bring legal action within 30 days of the publication of the second notice.

(4) The person providing notice as authorized by this section shall provide proof of publication to the municipality adopting the ordinance or decision for retention with municipal records. Failure to comply with this paragraph shall not invalidate any notice provided in accordance with this section or the applicability of the period of limitation in subsection (d).

(d) Notwithstanding this or any other act, in order to provide certainty of the validity of an ordinance or decision, any appeal or action contesting the validity of an ordinance based on a procedural defect in the process of enactment or the validity of a decision based on a procedural or substantive defect shall be dismissed, with prejudice, as untimely if not filed within the 30th day following the second publication of the notice authorized in this section.

(e) Any appeal or action filed within the 30-day period referred to in subsection (d) shall be taken to court of common pleas and shall be conducted in accordance with and subject to the procedures set forth in 42 Pa.C.S. § 5571.1 (relating to appeals from ordinances, resolutions, maps, etc.) in the case of challenges to ordinances or section 1002.1-A in the case of challenges to decisions.

(f) Where no appeal or action contesting the procedural validity of an ordinance or the procedural or substantive validity of a decision is filed within the period set forth in subsection (d), the ordinance or decision shall be deemed to be reaffirmed and reissued on the date of the second publication of the optional notice permitted under this section.

(g) An appeal shall be exempt from the time limitation in subsection (d) only if the party bringing the appeal establishes that the application of the time limitation in subsection (d) would result in an unconstitutional deprivation of due process.

(h) Nothing in this section shall be construed to abrogate, repeal, extend or otherwise modify the time for appeal as set forth in section 1002-A, where the appellant was a party to proceedings prior to the entry of a decision or otherwise had an adequate opportunity to bring a timely action in accordance with section 1002-A to contest the procedural validity of an ordinance or the proceduarl or substantive validity of a decision. (108 added July 4, 2008, P.L.319, No.39)

Compiler's Note: Section 6 of Act 39 of 2008, which added section 108, provided that section 108 shall apply beginning on the effective date of an amendment of 42 Pa.C.S. that provides for appeals from ordinances, resolutions, maps and similar actions of a political subdivision. Section 5571.1 of Title 42 (relating to appeals from ordinances, resolutions, maps, etc.) was added July 4, 2008, P.L.325, No.40, effective immediately.

Section 109. Notice. In any case in which mailed notice or electronic notice is required by this act, the following shall apply:

(1) 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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 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 to the owner's electronic address.

(6) 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.

(7) 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.

(8) 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.

(9) 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.

(10) 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 this act.

Article II - Planning Agencies

Section 201. Creation of Planning Agencies. The governing body of any municipality shall have the power to create or abolish, by ordinance, a planning commission or planning department, or both. An ordinance which creates both a planning commission and a planning department shall specify which of the powers and duties conferred on planning agencies by this act; each shall exercise and may confer upon each additional powers, duties and advisory functions not inconsistent with this act. In lieu of a planning commission or planning department, the governing body may elect to assign the powers and duties conferred by this act upon a planning committee comprised of members appointed from the governing body. The engineer for the municipality, or an engineer appointed by the governing body, shall serve the planning agency as engineering advisor. The solicitor for the municipality, or an attorney appointed by the governing body, shall serve the planning agency as legal advisor.

Section 202. Planning Commission. If the governing body of any municipality shall elect to create a planning commission, such commission shall have not less than three nor more than nine members. Except for elected or appointed officers or employees of the municipality, members of the commission may receive compensation in an amount fixed by the governing body. Compensation shall not exceed the rate of compensation authorized to be paid to members of the governing body. Without exception, members of the planning commission may be reimbursed for necessary and reasonable expenses. However, elected or appointed officers or employees of the municipality shall not, by reason of membership thereon, forfeit the right to exercise the powers, perform the duties or receive the compensations of the municipal offices held by them during such membership.

Section 203. Appointment, Term and Vacancy.

(a) All members of the commission shall be appointed by the appointing authority of the municipality. All such appointments shall be approved by the governing body, except where the governing body is the appointing authority.

(b) The term of each of the members of the commission shall be for four years, or until his successor is appointed and qualified, except that the terms of the members first appointed pursuant to this act shall be so fixed that on commissions of eight members or less no more than two shall be reappointed or replaced during any future calendar year, and on commissions of nine members no more than three shall be so reappointed or replaced.

(c) The chairman of the planning commission shall promptly notify the appointing authority of the municipality concerning vacancies in the commission, and such vacancy shall be filled for the unexpired term. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by appointment for the unexpired term according to the terms of this article.

(d) Should the governing body of any municipality determine to increase the number of members of an already existing planning commission, the additional members shall be appointed as provided in this article. If the governing body of any municipality shall determine to reduce the number of members on any existing planning commission, such reduction shall be effectuated by allowing the terms to expire and by making no new appointments to fill the vacancy. Any reduction or increase shall be by ordinance.

(e) The governing body may appoint by resolution at least one but no more than three residents of the municipality to serve as alternate members of the planning commission. The term of office of an alternate member shall be four years. When seated pursuant to the provisions of section 207, an alternate shall be entitled to participate in all proceedings and discussions of the commission to the same and full extent as

provided by law for commission 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 act and as otherwise provided by law. Alternates shall not serve as a member of the zoning hearing board or as a zoning officer. Any alternate may participate in any proceeding or discussion of the commission but shall not be entitled to vote as a member of the commission nor be reimbursed pursuant to section 202 unless designated as a voting alternate member pursuant to section 207.

Section 204. Members of Existing Commissions. (204 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 205. Membership. All of the members of the planning commission shall be residents of the municipality. On all planning commissions appointed pursuant to this act, a certain number of the members, designated as citizen members shall not be officers or employees of the municipality. On a commission of three members at least two shall be citizen members. On a commission of four or five members at least three shall be citizen members. On a commission of either six or seven members at least five shall be citizen members, and on commissions of either eight or nine members at least six shall be citizen members.

Section 206. Removal. Any member of a planning commission once qualified and appointed may be removed from office for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the governing body taken after the member has received 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. Any appointment to fill a vacancy created by removal shall be only for the unexpired term.

Section 207. Conduct of Business.

(a) The commission shall elect its own chairman and vice-chairman and create and fill such other offices as it may determine. Officers shall serve annual terms and may succeed themselves. The commission may make and alter by laws and rules and regulations to govern its procedures consistent with the ordinances of the municipality and the laws of the Commonwealth. The commission shall keep a full record of its business and shall annually make a written report by March 1 of each year of its activities to the governing body. Interim reports may be made as often as may be necessary, or as requested by the governing body.

(b) The chairman of the planning commission may designate alternate members of the commission to substitute for any absent member or member who has recused himself or has been disqualified by the governing body, and, if, by reason of absence, recusal or disqualification of a member, a quorum is not reached, the chairman of the commission shall designate as many alternate members of the commission to sit on the commission as may be needed to reach a quorum. Any alternate member of the commission shall continue to serve on the commission in all proceedings involving the matter or case for which the alternate was initially appointed until the commission has made a final decision on 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.

Section 208. Planning Department Director. For the administration of each planning department, the appointing authority may appoint a director of planning who shall be, in the opinion of the appointing authority, qualified for the duties of his position. Each such appointment shall be with the approval of the governing body, except where the governing body is the appointing authority. The director of planning shall be in charge of the administration of the department, and shall exercise the powers and be subject to the duties that are granted or imposed on a planning agency by this act, except that where a municipality creates both a planning commission and a planning department, the director of planning shall exercise only those powers and be subject to only those duties which are specifically conferred upon him by ordinance enacted pursuant to this article.

Section 209.1. Powers and Duties of Planning Agency.

(a) The planning agency shall at the request of the governing body have the power and shall be required to:

(1) Prepare the comprehensive plan for the development of the municipality as set forth in this act, and present it for the consideration of the governing body.

(2) Maintain and keep on file records of its action. All records and files of the planning agency shall be in the possession of the governing body.

(b) The planning agency at the request of the governing body may:

(1) Make recommendations to the governing body concerning the adoption or amendment of an official map.

(2) Prepare and present to the governing body of the municipality a zoning ordinance, and make recommendations to the governing body on proposed amendments to it as set forth in this act.

(3) Prepare, recommend and administer subdivision and land development and planned residential development regulations, as set forth in this act.

(4) Prepare and present to the governing body of the municipality a building code and a housing code and make recommendations concerning proposed amendments thereto.

(5) Do such other acts or make such studies as may be necessary to fulfill the duties and obligations imposed by this act.

(6) Prepare and present to the governing body of the municipality an environmental study.

(7) Submit to the governing body of a municipality a recommended capital improvements program.

(7.1) Prepare and present to the governing body of the municipality a water survey, which shall consistent with the State Water Plan and any applicable water resources plan adopted by a river basin commission. The water survey shall be conducted in consultation with any public water supplier in the area to be surveyed.

(8) Promote public interest in, and understanding of, the comprehensive plan and planning.

(9) Make recommendations to governmental, civic and private agencies and individuals as to the effectiveness of the proposals of such agencies and individuals.

(10) Hold public hearings and meetings.

(10.1) Present testimony before any board.

(11) Require from other departments and agencies of the municipality such available information as relates to the work of the planning agency.

(12) In the performance of its functions, enter upon any land to make examinations and surveys with the consent of the owner.

(13) Prepare and present to the governing body of the municipality a study regarding the feasibility and practicability of using renewable energy sources in specific areas within the municipality.

(14) Review the zoning ordinance, subdivision and land development ordinance, official map, provisions for planned residential development, and such other ordinances and regulations governing the development of land no less frequently than it reviews the comprehensive plan.

Section 210. Administrative and Technical Assistance. The appointing authority may employ administrative and technical services to aid in carrying out the provisions of this act either as consultants on particular matters or as regular employees of the municipality. A county planning agency, with the consent of its governing body may perform planning services for any municipality whose governing body requests such assistance and may enter into agreements or contracts for such work.

Section 211. Assistance. The planning agency may, with the consent of the governing body, accept and utilize any funds, personnel or other assistance made available by the county, the Commonwealth or the Federal government or any of their agencies, or from private sources. The governing body may enter into agreements or contracts regarding the acceptance or utilization of the funds or assistance in accordance with the governmental procedures of the municipality.

Section 212. Intergovernmental Cooperation. For the purposes of this act, the governing body may utilize the authority granted under 53 PA.C.S. §§ 2303(a) (relating to intergovernmental cooperation authorized) and 2315 (Relating to effect of joint cooperation agreements).

Article III - Comprehensive Plan

Section 301. Preparation of Comprehensive Plan.

(a) The municipal, multimunicipal or county comprehensive plan, consisting of maps, charts and textual matter, shall include, but need not be limited to, the following related basic elements:

(1) A statement of objectives of the municipality concerning its future development, including, but not limited to, the location, character and timing of future development, that may also serve as a statement of community development objectives as provided in section 606.

(2) A plan for land use, which may include provisions for the amount, intensity, character and timing of land use proposed for residence, industry, business, agriculture, major traffic and transit facilities, utilities, community facilities, public grounds, parks and recreation, preservation of prime agricultural lands, flood plains and other areas of special hazards and other similar uses.

(2.1) A plan to meet the housing needs of present residents and of those individuals and families anticipated to reside in the municipality, which may include conservation of presently sound housing, rehabilitation of housing in declining neighborhoods and the accommodation of expected new housing in different dwelling types and at appropriate densities for households of all income levels.

(3) A plan for movement of people and goods, which may include expressways, highways, local street systems, parking facilities, pedestrian and bikeway systems, public transit routes, terminals, airfields, port facilities, railroad facilities and other similar facilities or uses.

(4) A plan for community facilities and utilities, which may include public and private education, recreation, municipal buildings, fire and police stations, libraries, hospitals, water supply and distribution, sewerage and waste treatment, solid waste management, storm drainage, and flood plain management, utility corridors and associated facilities, and other similar facilities or uses.

(4.1) A statement of the interrelationships among the various plan components, which may include an estimate of the environmental, energy conservation, fiscal, economic development and social consequences on the municipality.

(4.2) A discussion of short- and long-range plan implementation strategies, which may include implications for capital improvements programming, new or updated development regulations, and identification of public funds potentially available.

(5) A statement indicating that the existing and proposed development of the municipality is compatible with the existing and proposed development and plans in contiguous portions of neighboring municipalities, or a statement indicating measures which have been taken to provide buffers or other transitional devices between disparate uses, and a statement indicating that the existing and proposed development of the municipality is generally consistent with the objectives and plans of the county comprehensive plan.

(6) A plan for the protection of natural and historic resources to the extent not preempted by federal or state law. This clause includes, but is not limited to, wetlands and aquifer recharge zones, woodlands, steep slopes, prime agricultural land, flood plains, unique natural areas and historic sites. The plan shall be consistent with and may not exceed those requirements imposed under the following:

(i) Act of June 22, 1937 (P.L.1987, No.394), known as “The Clean Streams Law”.

(ii) Act of May 31, 1945 (P.L.1198, No.418), known as the “Surface Mining Conservation and Reclamation Act”.

(iii) Act of April 27, 1966 (1st SP.SESS., P.L.31, No.1), known as "The Bituminous Mine Subsidence and Land Conservation Act".

(iv) Act of September 24, 1968 (P.L.1040, No.318), known as the "Coal Refuse Disposal Control Act".

(v) Act of December 19, 1984 (P.L.1140, No.223), known as the "Oil and Gas Act".

(vi) Act of December 19, 1984 (P.L.1093, No.219), known as the "Noncoal Surface Mining Conservation and Reclamation Act".

(vii) Act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law".

(viii) Act of June 10, 1982 (P.L.454, No.133), entitled "An Act Protecting Agricultural Operations from Nuisance Suits and Ordinances Under Certain Circumstances".

(ix) Act of May 20, 1993 (P.L.12, No.6), known as the "Nutrient Management Act," regardless of whether any agricultural operation within the area to be affected by the plan is a concentrated animal operation as defined under the act.

(7) In addition to any other requirements of this act, a county comprehensive plan shall:

(i) Identify land uses as they relate to important natural resources and appropriate utilization of existing minerals.

(ii) Identify current and proposed land uses which have a regional impact and significance, such as large shopping centers, major industrial parks, mines and related activities, office parks, storage facilities, large residential developments, regional entertainment and recreational complexes, hospitals, airports and port facilities.

(iii) Identify a plan for the preservation and enhancement of prime agricultural land and encourage the compatibility of land use regulation with existing agricultural operations.

(iv) Identify a plan for historic preservation.

(b) The comprehensive plan shall include a plan for the reliable supply of water, considering current and future water resources availability, uses and limitations, including provisions adequate to protect water supply sources. Any such plan shall be generally consistent with the State Water Plan and any applicable water resources plan adopted by a river basin commission. It shall also contain a statement recognizing that:

(1) Lawful activities such as extraction of minerals impact water supply sources and such activities are governed by statutes regulating mineral extraction that specify replacement and restoration of water supplies affected by such activities.

(2) Commercial agriculture production impact water supply sources.

(c) The municipal or multimunicipal comprehensive plan shall be reviewed at least every ten years. The municipal or multimunicipal comprehensive plan shall be sent to the governing bodies of contiguous municipalities for review and comment and shall also be sent to the Center for Local Government Services for informational purposes. The municipal or multimunicipal comprehensive plan shall also be sent to the county planning commissions or, upon request of a county planning commission, a regional planning commission when the comprehensive plan is updated or at ten-year intervals, whichever comes first, for review and comment on whether the municipal or multimunicipal comprehensive plan remains generally consistent with the county comprehensive plan and to indicate where the local plan may deviate from the county comprehensive plan.

(d) The municipal, multimunicipal or county comprehensive plan may identify those areas where growth and development will occur so that a full range of public infrastructure services, including sewer, water, highways, police and fire protection, public schools, parks, open space and other services can be adequately planned and provided as needed to accommodate growth.

Section 301.1. Energy Conservation Plan Element. To promote energy conservation and the effective utilization of renewable energy sources, the comprehensive plan may include an energy conservation plan element which systematically analyzes the impact of each other component and element of the comprehensive plan on the present and future use of energy in the municipality, details specific measures contained in the other plan elements designed to reduce energy consumption and proposes other measures that the municipality may take to reduce energy consumption and to promote the effective utilization of renewable energy sources.

Section 301.2. Surveys by Planning Agency. In preparing the comprehensive plan, the planning agency shall make careful surveys, studies and analyses of housing, demographic, and economic characteristics and trends; amount, type and general location and interrelationships of different categories of land use; general location and extent of transportation and community facilities; natural features affecting development; natural, historic and cultural resources; and the prospects for future growth in the municipality.

Section 301.3. Submission of Plan to County Planning Agency. If a county planning agency has been created for the county in which the municipality is located, then at least 45 days prior to the public hearing required in section 302 on the comprehensive plan or amendment thereof, the municipality shall forward a copy of that plan or amendment to the county planning agency for its comments. At the same time, the municipality shall also forward copies of the proposed plan or amendment to all contiguous municipalities and to the local school district for their review and comments.

Section 301.4. Compliance by Counties.

(a) If a county does not have a comprehensive plan, then that county shall, within three years of the effective date of this act, and with the opportunity for the review, comment and participation of the municipalities and school districts within the respective county and contiguous counties school districts and municipalities, prepare and adopt a comprehensive plan in accordance with the requirements of section 301. Municipal comprehensive plans which are adopted shall be generally consistent with the adopted county comprehensive plan.

(b) County planning commissions shall publish advisory guidelines to promote general consistency with the adopted county comprehensive plan. These guidelines shall promote uniformity with respect to local planning and zoning terminology and common types of municipal land use regulations.

Section 301.5 Funding of Municipal Planning. Priority for state grants to develop or revise comprehensive plans shall be given to those municipalities which agree to adopt comprehensive plans generally consistent with the county comprehensive plan and which agree to enact a new zoning ordinance or amendment which would fully implement the municipal comprehensive plan. No more than 25% of the total funds available for these grants shall be disbursed under priority status pursuant to this provision. Municipalities and counties shall comply with these agreements within three years. Failure to comply with the agreements shall be taken into consideration for future state funding.

Section 302. Adoption of Municipal, Multimunicipal and County Comprehensive Plans and Plan Amendments.

(a) The governing body may adopt and amend the comprehensive plan as a whole or in part. Before adopting or amending a comprehensive plan, or any part thereof, the planning agency shall hold at least one public meeting before forwarding the proposed comprehensive plan or amendment thereof to the governing body. In reviewing the proposed comprehensive plan, the governing body shall consider the comments of the county, contiguous municipalities and the school district, as well as the public meeting comments and the recommendations of the municipal planning agency. The comments of the county, contiguous municipalities and the local school district shall be made to the governing body within 45 days of receipt by the governing body, and the proposed plan or amendment thereto shall not be acted upon until such comment is received. If, however, the contiguous municipalities and the local school district fail to respond within 45 days, the governing body may proceed without their comments.

(a.1) The governing body of the county may adopt and amend the county comprehensive plan in whole or in part. Before adopting or amending a comprehensive plan, or any part thereof, the county planning agency shall hold at least one public meeting before forwarding the proposed comprehensive plan or amendment thereof to the governing body. In reviewing the proposed comprehensive plan, the governing body shall consider the comments of municipalities and school districts within the county and contiguous school districts, municipalities and counties as well as the public meeting comments and the recommendations of the county planning agency. The comments of the counties, municipalities and school districts shall be made to the governing body within 45 days of receipt by the governing body, and the proposed comprehensive plan or amendment thereto shall not be acted upon until such comment is received. If, however, the counties, municipalities and school districts fail to respond within 45 days, the governing body may proceed without their comments.

(b) The governing body shall hold at least one public hearing pursuant to public notice. If, after the public hearing held upon the proposed plan or amendment to the plan, the proposed plan or proposed amendment thereto is substantially revised, the governing body shall hold another public hearing, pursuant to public notice, before proceeding to vote on the plan or amendment thereto.

(c) The adoption of the comprehensive plan, or any part thereof, or any amendment thereto, shall be by resolution carried by the affirmative votes of not less than a majority of all the members of the governing body. The resolution shall refer expressly to the maps, charts, textual matter, and other matters intended to form the whole or part of the plan, and the action shall be recorded on the adopted plan or part.

(d) Counties shall in accordance with subsection (a.1) consider amendments to their comprehensive plan proposed by municipalities which are considering adoption or revision of their municipal comprehensive plans so as to achieve general consistency between the respective plans. County comprehensive plans shall be updated at least every ten years. Where two or more contiguous municipalities request amendments to a county comprehensive plan for the purpose of achieving general consistency between the municipal plans or multimunicipal plan and the county comprehensive plan, the county must accept the amendments unless good cause for their refusal is established.

Section 303. Legal Status of Comprehensive Plan Within the Jurisdiction that Adopted the Plan.

(a) Whenever the governing body, pursuant to the procedures provided in section 302, has adopted a comprehensive plan or any part thereof, any subsequent proposed action of the governing body, its departments, agencies and appointed authorities shall be submitted to the planning agency for its recommendations when the proposed action relates to:

(1) the location, opening, vacation, extension, widening, narrowing or enlargement of any street, public ground, pierhead or watercourse;

(2) the location, erection, demolition, removal or sale of any public structure located within the municipality;

(3) the adoption, amendment or repeal of an official map, subdivision and land development ordinance, zoning ordinance or provisions for planned residential development, or capital improvements program: or

(4) the construction, extension or abandonment of any water line, sewer line or sewage treatment facility.

(b) The recommendations of the planning agency including a specific statement as to whether or not the proposed action is in accordance with the objectives of the formally adopted comprehensive plan shall be made in writing to the governing body within 45 days.

(c) Notwithstanding any other provision of this act, no action by the governing body of a municipality shall be invalid nor shall the same be subject to challenge or appeal on the basis that such action is inconsistent with, or fails to comply with, the provision of a comprehensive plan.

(d) Municipal zoning, subdivision and land development regulations and capital improvement programs shall generally implement the municipal and multimunicipal comprehensive plan or, where none exists, the municipal statement of community development objectives.

Section 304. Legal Status of County Comprehensive Plans Within Municipalities.

(a) Following the adoption of a comprehensive plan or any part thereof by a county, pursuant to the procedures in section 302, any proposed action of the governing body of a municipality, its departments, agencies and appointed authorities within the county shall be submitted to the county planning agency for its recommendations if the proposed action relates to:

(1) the location, opening, vacation, extension, widening, narrowing or enlargement of any street, public ground, pierhead or watercourse;

(2) the location, erection, demolition, removal or sale of any public structures located within the municipality;

(3) the adoption, amendment or repeal of any comprehensive plan, official map, subdivision or land ordinance, zoning ordinance or provisions for planned residential development; or

(4) the construction, extension or abandonment of any water line, sewer line or sewage treatment facility.

(b) The recommendation of the planning agency shall be made to the governing body of the municipality within 45 days and the proposed action shall not be taken until such recommendation is made. If, however, the planning agency fails to act within 45 days, the governing body shall proceed without its recommendation.

Section 305. The Legal Status of Comprehensive Plans Within School Districts. Following the adoption of a comprehensive plan or any part thereof by any municipality or county governing body, pursuant to the procedures in section 302, any proposed action of the governing body of any public school district located within the municipality or county relating to the location, demolition, removal, sale or lease of any school district structure or land shall be submitted to the municipal and county planning agencies for their recommendations at least 45 days prior to the execution of such proposed action by the governing body of the school district.

Section 306. Municipal and County Comprehensive Plans.

(a) When a municipality having a comprehensive plan is located in a county which has adopted a comprehensive plan, both the county and the municipality shall each give the plan of the other consideration in order that the objectives of each plan can be protected to the greatest extent possible.

(b) Within 30 days after adoption, the governing body of a municipality, other than a county, shall forward a certified copy of the comprehensive plan, or part thereof or amendment thereto, to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located.

(c) Counties shall consult with municipalities and solicit comment from school districts, municipal authorities, the Center for Local Government Services, for information purposes, and public utilities during the process of preparing or upgrading a county comprehensive plan in order to determine future growth needs.

Section 307. State Land Use and Growth Management Report. The Center for Local Government Services shall issue a land use and growth management report by the year 2005 and shall review and update the report at five-year intervals.

Article IV - Official Map

Section 401. Grant of Power.

(a) The governing body of each municipality shall have the power to make or cause to be made an official map of all or a portion of the municipality which may show appropriate elements or portions of elements of the comprehensive plan adopted pursuant to section 302 with regard to public lands and facilities, and which may include, but need not be limited to:

(1) Existing and proposed public streets, watercourses and public grounds, including widenings, narrowings, extensions, diminutions, openings or closing of same.

(2) Existing and proposed public parks, playgrounds and open space reservations.

(3) Pedestrian ways and easements.

(4) Railroad and transit rights-of-way and easements.

(5) Flood control basins, floodways and flood plains, storm water management areas and drainage easements.

(6) Support facilities, easements and other properties held by public bodies undertaking the elements described in section 301.

(b) For the purposes of taking action under this section, the governing body or its authorized designee may make or cause to be made surveys and maps to identify, for the regulatory purposes of this article, the location of property, trafficway alignment or utility easement by use of property records, aerial photography, photogrammetric mapping or other method sufficient for identification, description and publication of the map components. For acquisition of lands and easements, boundary descriptions by metes and bounds shall be made and sealed by a licensed surveyor.

Section 402. Adoption of the Official Map and Amendments Thereto.

(a) Prior to the adoption of the official map or part thereof, or any amendments to the official map, the governing body shall refer the proposed official map, or part thereof or amendment thereto, with an accompanying ordinance describing the proposed map, to the planning agency for review. The planning agency shall report its recommendations on said proposed official map and accompanying ordinance, part thereof, or amendment thereto within 45 days unless an extension of time shall be agreed to by the governing body. If, however, the planning agency fails to act within 45 days, the governing body may proceed without its recommendations.

(b) The county and adjacent municipalities may offer comments and recommendations during said 45-day review period in accordance with section 408. Local authorities, park boards, environmental boards and similar public bodies may also offer comments and recommendations to the governing body or planning agency if requested by same during said 45-day review period. Before voting on the enactment of the proposed ordinance and official map, or part thereof or amendment thereto, the governing body shall hold a public hearing pursuant to public notice.

(c) Following adoption of the ordinance and official map, or part thereof or amendment thereto, a copy of same, verified by the governing body, shall be submitted to the recorder of deeds of the county in which the

municipality is located and shall be recorded within 60 days of the effective date. The fee for recording and indexing ordinances and amendments shall be paid by the municipality enacting the ordinance or amendment and shall be in the amount prescribed by law for the recording of ordinances by the recorder of deeds.

Section 403. Effect of Approved Plats on Official Map. After adoption of the official map, or part thereof, all streets, watercourses and public grounds and the elements listed in section 401 on final, recorded plats which have been approved as provided by this act shall be deemed amendments to the official map. Notwithstanding any of the other terms of this article, no public hearing need be held or notice given if the amendment of the official map is the result of the addition of a plat which has been approved as provided by this act.

Section 404. Effect of Official Map on Mapped Streets, Watercourses and Public Grounds. The adoption of any street, street lines or other public lands pursuant to this article as part of the official map shall not, in and of itself, constitute or be deemed to constitute the opening or establishment of any street nor the taking or acceptance of any land, nor shall it obligate the municipality to improve or maintain any such street or land. The adoption of proposed watercourses or public grounds as part of the official map shall not, in and of itself, constitute or be deemed to constitute a taking or acceptance of any land by the municipality.

Section 405. Buildings in Mapped Streets, Watercourses or Other Public Grounds. For the purpose of preserving the integrity of the official map of the municipality, no permit shall be issued for any building within the lines of any street, watercourse or public ground shown or laid out on the official map. No person shall recover any damages for the taking for public use of any building or improvements constructed within the lines of any street, watercourse or public ground after the same shall have been included in the official map, and any such building or improvement shall be removed at the expense of the owner. However, when the property of which the reserved location forms a part, cannot yield a reasonable return to the owner unless a permit shall be granted, the owner may apply to the governing body for the grant of a special encroachment permit to build. Before granting any special encroachment permit authorized in this section, the governing body may submit the application for a special encroachment permit to the local planning agency and allow the planning agency 30 days for review and comment and shall give public notice and hold a public hearing at which all parties in interest shall have an opportunity to be heard. A refusal by the governing body to grant the special encroachment permit applied for may be appealed by the applicant to the zoning hearing board in the same manner, and within the same time limitation, as is provided in Article IX.

Section 406. Time Limitations on Reservations for Future Taking. The governing body may fix the time for which streets, watercourses and public grounds on the official map shall be deemed reserved for future taking or acquisition for public use. However, the reservation for public grounds shall lapse and become void one year after an owner of such property has submitted a written notice to the governing body announcing his intentions to build, subdivide or otherwise develop the land covered by the reservation, or has made formal application for an official permit to build a structure for private use, unless the governing body shall have acquired the property or begun condemnation proceedings to acquire such property before the end of the year.

Section 407. Release of Damage Claims or Compensation. The governing body may designate any of its agencies to negotiate with the owner of land under the following circumstances:

(1) whereon reservations are made;

(2) whereon releases of claims for damages or compensation for such reservations are required; or

(3) whereon agreements indemnifying the governing body from claims by others may be required.

Any releases or agreements, when properly executed by the governing body and the owner and recorded, shall be binding upon any successor in title.

Section 408. Notice to Other Municipalities.

(a) When any county has adopted an official map in accordance with the terms of this article, a certified copy of the map and the ordinances adopting it shall be sent to every municipality within said county. All amendments shall be sent to the aforementioned municipalities. The powers of the governing bodies of counties to adopt, amend and repeal official maps shall be limited to land and watercourses in those municipalities wholly or partly within the county which have no official map in effect at the time an official map is introduced before the governing body of the county, and until the municipal official map is in effect. The adoption of an official map by any municipality, other than a county, whose land or watercourses are subject to county official mapping, shall act as a repeal pro tanto of the county official map within the municipality adopting such ordinance. Notwithstanding any of the other terms or conditions of this section the county official map shall govern as to county streets and public grounds, facilities and improvements, even though such streets or public grounds, facilities and improvements are located in a municipality which has adopted an official map.

(b) When a municipality proposes to adopt an official map, or any amendment thereto, a copy of the map and the proposed ordinance adopting it, or any amendment thereto, shall be forwarded for review to the county planning agency, or if no such agency exists to the governing body of the county at the same time it is submitted for review to the municipal planning agency. The comments of the county planning agency shall be made to the governing body of the municipality within 45 days, and the proposed action shall not be taken until such comments are received. If, however, the planning agency fails to act within 45 days, the governing body may proceed without its comments.

(c) Additionally, if any municipality proposes to adopt an official map, or amendment thereto, that shows any street or public lands intended to lead into any adjacent municipality a copy of said official map or amendment shall be forwarded to such adjacent municipality for review and comment by the governing body and planning agency of the adjacent municipality. The comments of the adjacent municipality shall be made to the governing body of the municipality proposing the adoption within 45 days, and the proposed action shall not be taken until such comments are received. If, however, the adjacent municipality fails to act within 45 days, the governing body of the proposing municipality may proceed without its comments. When a municipality adopts an official map, a certified copy of the map, the ordinance adopting it and any later amendments shall be forwarded, within 30 days after adoption, to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located. Additionally, if any municipality adopts an official map, or amendment thereto, that shows any street or public lands intended to lead into any adjacent municipality, a certified copy of said official map or amendment shall be forwarded to such adjacent municipality.

Article V - Subdivision and Land Development

Section 501. Grant of Power. The governing body of each municipality may regulate subdivisions and land development within the municipality by enacting a subdivision and land development ordinance. The ordinance shall require that all subdivision and land development plats of land situated within the municipality shall be submitted for approval to the governing body or, in lieu thereof, to a planning agency designated in the ordinance for this purpose, in which case any planning agency action shall be considered as action of the governing body. All powers granted herein to the governing body or the planning agency shall be exercised in accordance with the provisions of the subdivision and land development ordinance. In the case of any development governed by planned residential development provisions adopted pursuant to Article VII, however, the applicable provisions of the subdivision and land development ordinance shall be as modified by such provisions and the procedures which shall be followed in the approval of any plat, and the rights and duties of the parties thereto shall be governed by Article VII and the provisions adopted thereunder. Provisions regulating mobilehome parks shall be set forth in separate and distinct articles of any subdivision and land development ordinance adopted pursuant to Article V or any planned residential development provisions adopted pursuant to Article VII.

Section 502. Jurisdiction of County Planning Agencies; Adoption by Reference of County Subdivision and Land Development Ordinances.

(a) When any county has adopted a subdivision and land development ordinance in accordance with the terms of this article, a certified copy of the ordinance shall be sent to every municipality within the county. All amendments shall also be sent to the aforementioned municipalities. The powers of governing bodies of counties to enact, amend and repeal subdivision and land development ordinances shall be limited to land in those municipalities wholly or partly within the county which have no subdivision and land development ordinance in effect at the time a subdivision and land development ordinance is introduced before the governing body of the county, and until the municipal subdivision and land development ordinance is in effect and a certified copy of such ordinance is filed with the county planning agency, if one exists.

(b) The enactment of a subdivision and land development ordinance by any municipality, other than a county, whose land is subject to a county subdivision and land development ordinance shall act as a repeal protanto of the county subdivision and land development ordinance within the municipality adopting such ordinance. However, applications for subdivision and land development located within a municipality having adopted a subdivision and land development ordinance as set forth in this article shall be forwarded upon receipt by the municipality to the county planning agency for review and report together with a fee sufficient to cover the costs of the review and report which fee shall be paid by the applicant: Provided, That such municipalities shall not approve such applications until the county report is received or until the expiration of 30 days from the date the application was forwarded to the county.

(c) Further, any municipality other than a county may adopt by reference the subdivision and land development ordinance of the county, and may by separate ordinance designate the county planning agency, with the county planning agency's concurrence, as its official administrative agency for review and approval of plats.

Section 502.1. Contiguous Municipalities.

(a) The county planning commission shall offer a mediation option to any municipality which believes that its citizens will experience harm as the result of an applicant's proposed subdivision or development of land in a contiguous municipality, if the municipalities agree. In exercising such an option, the municipalities shall comply with the procedures set forth in Article IX. The cost of the mediation shall be shared equally by the municipalities unless otherwise agreed. The applicant shall have the right to participate in the mediation.

(b) The governing body of the municipality may appear and comment before the governing body of a contiguous municipality and the various boards and commissions of the contiguous municipality considering a proposed subdivision, change of land use or land development.

Section 503. Contents of Subdivision and Land Development Ordinance. The subdivision and land development ordinance may include, but need not be limited to:

(1) Provisions for the submittal and processing of plats, including the charging of review fees, and specifications for such plats, including certification as to the accuracy of plats and provisions for preliminary and final approval and for processing of final approval by stages or sections of development. Such plats and surveys shall be prepared in accordance with the act of May 23,1945 (P.L.913, No.367), known as the "Engineer, Land Surveyor and Geologist Registration Law," except that this requirement shall not preclude the preparation of a plat in accordance with the act of January 24, 1966 (1965 P.L.1527, No.535), known as the "Landscape Architects' Registration Law," when it is appropriate to prepare the plat using professional services as set forth in the definition of the "practice of landscape architecture" under section 2 of that act. Review fees may include reasonable and necessary charges by the municipality's professional consultants for review and report thereon to the municipality. Such review fees shall be based upon a schedule established by ordinance or resolution. Such review fees shall be reasonable and in accordance with the ordinary and customary charges for similar service in the community, but in no event shall the fees exceed the rate or cost charged by the professional consultant for comparable services to the municipality for services which are not reimbursed or otherwise imposed on applicants. Fees charged to the municipality relating to any appeal of a decision on an application shall not be considered review fees and may not be charged to an applicant.

(i) The governing body shall submit to the applicant an itemized bill showing work performed, identifying the person performing the services and the time and date spent for each task. Nothing in this subparagraph shall prohibit interim itemized billing or municipal escrow or other security requirements. In the event the applicant disputes the amount of any such review fees, the applicant shall, no later than 100 days after the date of transmittal of the bill to the applicant, notify the municipality and the municipality's professional consultant that such fees are disputed, and shall explain the basis of their objections to the fees charged, in which case the municipality shall not delay or disapprove a subdivision or land development application due to the applicant's dispute over fees. Failure of the applicant to dispute a bill within 100 days shall be a waiver of the applicant's right to arbitration of that bill under section 510 (g).

(ii) In the event that the municipality's professional consultant and the applicant cannot agree on the amount of review fees which are reasonable and necessary, then the applicant and the municipality shall follow the procedure for dispute resolution set forth in section 510(g), provided that the arbitrator resolving such dispute shall be of the same profession or discipline as the professional consultant whose fees are being disputed.

(iii) Subsequent to a decision on an application, the governing body shall submit to the applicant an itemized bill for review fees, specifically designated as a final bill. The final bill shall include all review fees incurred at least through the date of the decision on the application. If for any reason additional review is required subsequent to the decision, including inspections and other work to satisfy the conditions of the approval, the review fees shall be charged to the applicant as a supplement to the final bill.

(1.1) Provisions for the exclusion of certain land development from the definition of land development contained in section 107 only when such land development involves:

(i) the conversion of an existing single-family detached dwelling or single family semi-detached dwelling into not more than three residential units, unless such units are intended to be a condominium;

(ii) the addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building; or

(iii) the addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For purposes of this subclause, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by proper authorities.

(2) Provisions for insuring that:

(i) the layout or arrangement of the subdivision or land development shall conform to the comprehensive plan and to any regulations or maps adopted in furtherance thereof;

(ii) streets in and bordering a subdivision or land development shall be coordinated, and be of such widths and grades and in such locations as deemed necessary to accommodate prospective traffic, and facilitate fire protection;

(iii) adequate easements or rights-of-way shall be provided for drainage and utilities;

(iv) reservations if any by the developer of any area designed for use as public grounds shall be suitable size and location for their designated uses; and

(v) land which is subject to flooding, subsidence or underground fires either shall be made safe for the purpose for which such land is proposed to be used, or that such land shall be set aside for uses which shall not endanger life or property or further aggravate or increase the existing menace.

(3) Provisions governing the standards by which streets shall be designed, graded and improved, and walkways, curbs, gutters, street lights, fire hydrants, water and sewage facilities and other improvements shall be installed as a condition precedent to final approval of plats in accordance with the requirements of section 509. The standards shall insure that the streets be improved to such a condition that the streets are passable for vehicles which are intended to use that street: Provided, however, That no municipality shall be required to accept such streets for public dedication until the streets meet such additional standards and specifications as the municipality may require for public dedication.

(4) Provisions which take into account phased land development not intended for the immediate erection of buildings where streets, curbs, gutters, street lights, fire hydrants, water and sewage facilities and other improvements may not be possible to install as a condition precedent to final approval of plats, but will be a condition precedent to the erection of buildings on lands included in the approved plat.

(4.1) Provisions which apply uniformly throughout the municipality regulating minimum setback lines and minimum lot sizes which are based upon the availability of water and sewage, in the event the municipality has not enacted a zoning ordinance.

(5) Provisions for encouraging and promoting flexibility, economy and ingenuity in the layout and design of subdivisions and land developments, including provisions authorizing alterations in site requirements and for encouraging other practices which are in accordance with modern and evolving principles of site planning and development.

(6) Provisions for encouraging the use of renewable energy systems and energy-conserving building design.

(7) Provisions for soliciting reviews and reports from adjacent municipalities and other governmental agencies affected by the plans.

(8) Provisions for administering waivers or modifications to the minimum standards of the ordinance in accordance with section 512.1, when the literal compliance with mandatory provisions is shown to the satisfaction of the governing body or planning agency, where applicable, to be unreasonable, to cause undue hardship, or when an alternative standard can be demonstrated to provide equal or better results.

(9) Provisions for the approval of a plat, whether preliminary or final, subject to conditions acceptable to the applicant and a procedure for the applicant's acceptance or rejection of any conditions which may be imposed, including a provision that approval of a plat shall be rescinded automatically upon the applicant's failure to accept or reject such conditions within such time limit as may be established by the governing ordinance.

(10) Provisions and standards for insuring that new developments incorporate adequate provisions for a reliable, safe and adequate water supply to support intended uses within the capacity of available resources.

(11) Provisions requiring the public dedication of land suitable for the use intended; and, upon agreement with the applicant or developer, the construction of recreational facilities, the payment of fees in lieu thereof, the private reservation of the land, or a combination, for park or recreation purposes as a condition precedent to final plan approval, provided that:

(i) The provisions of this paragraph shall not apply to any plan application, whether preliminary or final, pending at the time of enactment of such provisions.

(ii) The ordinance includes definite standards for determining the proportion of a development to be dedicated and the amount of any fee to be paid in lieu thereof.

(iii) The land or fees, or combination thereof, are to be used only for the purpose of providing, acquiring, operating or maintaining park or recreational facilities reasonably accessible to the development.

(iv) The governing body has a formally adopted recreation plan, and the park and recreational facilities are in accordance with definite principles and standards contained in the subdivision and land development ordinance.

(v) The amount and location of land to be dedicated or the fees to be paid shall bear a reasonable relationship to the use of the park and recreational facilities by future inhabitants of the development or subdivision.

(vi) A fee authorized under this subsection shall, upon its receipt by a municipality, be deposited in an interest-bearing account, clearly identified as reserved for providing, acquiring, operating or maintaining park or recreational facilities. Interest earned on such accounts shall become funds of that account.

(vii) Upon request of any person who paid any fee under this subsection, the municipality shall refund such fee, plus interest accumulated thereon from the date of payment, if the municipality had used the fee paid for a purpose other than the purposes set forth in this section.

(viii) No municipality shall have the power to require the construction of recreational facilities or the dedication of land, or fees in lieu thereof, or private reservation except as may be provided by statute.

Section 503.1. Water Supply. Every ordinance adopted pursuant to this article shall include a provision that, if water is to be provided by means other than by private wells owned and maintained by the individual owners of lots within the subdivision or development, applicants shall present evidence to the governing body or planning agency, as the case may be, that the subdivision or development is to be supplied by a certificated public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable evidence.

Section 504. Enactment of Subdivision and Land Development Ordinance.

(a) Before voting on the enactment of a proposed subdivision and land development ordinance, the governing body shall hold a public hearing thereon pursuant to public notice. A brief summary setting forth the principal provisions of the proposed ordinance and a reference to the place within the municipality where copies of the proposed ordinance may be secured or examined shall be incorporated in the public notice. Unless the proposed subdivision and land development ordinance shall have been prepared by the planning agency, the governing body shall submit the ordinance to the planning agency at least 45 days prior to the hearing on such ordinance to provide the planning agency an opportunity to submit recommendations. If a county planning agency shall have been created for the county in which the municipality adopting the ordinance is located, then, at least 45 days prior to the public hearing on the ordinance, the municipality shall submit the proposed ordinance to said county planning agency for recommendations.

(b) Within 30 days after adoption, the governing body of a municipality, other than a county, shall forward a certified copy of the subdivision and land development ordinance to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located.

Section 505. Enactment of Subdivision and Land Development Ordinance Amendment.

(a) Amendments to the subdivision and land development ordinance shall become effective only after a public hearing held pursuant to public notice in the manner prescribed for enactment of a proposed ordinance by this article. In addition, in case of an amendment other than that prepared by the planning agency, the governing body shall submit each such amendment to the planning agency for recommendations at least 30 days prior to the date fixed for the public hearing on such proposed amendment. If a county planning agency shall have been created for the county in which the municipality proposing the amendment is located, then, at least 30 days prior to the hearing on the amendment, the municipality shall submit the proposed amendment to said county planning agency for recommendations.

(b) Within 30 days after adoption, the governing body of a municipality, other than a county, shall forward a certified copy of any amendment to the subdivision and land development ordinance to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located.

Section 506. Publication, Advertisement and Availability of Ordinance.

(a) Proposed subdivision and land development ordinances and amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this section, and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the municipality where copies of the proposed ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The governing body shall publish the proposed ordinance or amendment once in one newspaper of general circulation in the municipality not more than 60 days nor less than seven days prior to passage. Publication of the proposed ordinance or amendment shall include either the full text thereof or the title and a brief summary, prepared by the municipal solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

(1) A copy thereof shall be supplied to a newspaper of general circulation in the municipality at the time the public notice is published.

(2) 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) In the event substantial amendments are made in the proposed ordinance or amendment, before voting upon enactment, the governing body shall, at least ten days prior to enactment, readvertise, in one newspaper of general circulation in the municipality, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.

(c) Subdivision and land development ordinances and amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

Section 507. Effect of Subdivision and Land Development Ordinance. Where a subdivision and land development ordinance has been enacted by a municipality under the authority of this article no subdivision or land development of any lot, tract or parcel of land shall be made, no street, sanitary sewer, storm sewer, water main or other improvements in connection therewith shall be laid out, constructed, opened or dedicated for public use or travel, or for the common use of occupants of buildings abutting thereon, except in accordance with the provisions of such ordinance.

Section 508. Approval of Plats. All applications for approval of a plat (other than those governed by Article VII), whether preliminary or final, shall be acted upon by the governing body or the planning agency within such time limits as may be fixed in the subdivision and land development ordinance but the governing body or the planning agency shall render its decision and communicate it to the applicant not later than 90 days following the date of the regular meeting of the governing body or the planning agency (whichever first reviews the application) next following the date the application is filed, or after a final order of the court remanding an application, provided that should the said next regular meeting occur more than 30 days following the filing of the application, or the final order of the court, the said 90-day period shall be measured from the 30th day following the day the application has been filed.

(1) The decision of the governing body or the planning agency shall be in writing and shall be communicated to the applicant personally or mailed to him at his last known address not later than 15 days following the decision.

(2) When the application is not approved in terms as filed the decision shall specify the defects found in the application and describe the requirements which have not been met and shall, in each case, cite to the provisions of the statute or ordinance relied upon.

(3) Failure of the governing body or agency to render a decision and communicate it to the applicant within the time and in the manner required herein shall be deemed an approval of the application in terms as presented unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of presentation of communication of the decision, in which case, failure to meet the extended time or change in manner of presentation of communication shall have like effect.

(4) Changes in the ordinance shall affect plats as follows:

(i) From the time an application for approval of a plat, whether preliminary or final, is duly filed as provided in the subdivision and land development ordinance, and while such application is pending approval or disapproval, no change or amendment of the zoning, subdivision or other governing ordinance or plan shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. In addition, when a preliminary application has been duly approved, the applicant shall be entitled to final approval in accordance with the terms of the approved preliminary application as hereinafter provided. However, if an application is properly and finally denied, any subsequent application shall be subject to the intervening change in governing regulations.

(ii) When an application for approval of a plat, whether preliminary or final, has been approved without conditions or approved by the applicant's acceptance of conditions, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied to affect adversely the right of the applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within five years from such approval. The five-year period shall be extended for the duration of any litigation, including appeals, which prevent the commencement or completion of the development, and for the duration of any sewer or utility moratorium or prohibition which was imposed subsequent to the filing of an application for preliminary approval of a plat. In the event of an appeal filed by any party from the approval or disapproval of a plat, the five-year period shall be extended by the total time from the date the appeal was filed until a final order in such matter has been entered and all appeals have been concluded and any period for filing appeals or requests for reconsideration have expired. Provided, however, no extension shall be based upon any water or sewer moratorium which was in effect as of the date of the filing of a preliminary application.

(iii) Where final approval is preceded by preliminary approval, the aforesaid five-year period shall be counted from the date of the preliminary approval. In the case of any doubt as to the terms of a preliminary approval, the terms shall be construed in the light of the provisions of the governing ordinances or plans as they stood at the time when the application for such approval was duly filed.

(iv) Where the landowner has substantially completed the required improvements as depicted upon the final plat within the aforesaid five-year limit, or any extension thereof as may be granted by the governing body, no change of municipal ordinance or plan enacted subsequent to the date of filing of the preliminary plat shall modify or revoke any aspect of the approved final plat pertaining to zoning classification or density, lot, building, street or utility location.

(v) In the case of a preliminary plat calling for the installation of improvements beyond the five-year period, a schedule shall be filed by the landowner with the preliminary plat delineating all proposed sections as well as deadlines within which applications for final plat approval of each section are intended to be filed. Such schedule shall be updated annually by the applicant on or before the anniversary of the preliminary plat approval, until final plat approval of the final section has been granted and any modification in the aforesaid schedule shall be subject to approval of the governing body in its discretion.

(vi) Each section in any residential subdivision or land development, except for the last section, shall contain a minimum of 25% of the total number of dwelling units as depicted on the preliminary plan, unless a lesser percentage is approved by the governing body in its discretion. Provided the landowner has not defaulted with regard to or violated any of the conditions of the preliminary plat approval, including compliance with landowner's aforesaid schedule of submission of final plats for the various sections, then the aforesaid protections afforded by substantially completing the improvements depicted upon the final plat within five years shall apply and for any section or sections, beyond the initial section, in which the required improvements have not been substantially completed within said five-year period the aforesaid protections shall apply for an additional term or terms of three years from the date of final plat approval for each section.

(vii) Failure of landowner to adhere to the aforesaid schedule of submission of final plats for the various sections shall subject any such section to any and all changes in zoning, subdivision and other governing ordinance enacted by the municipality subsequent to the date of the initial preliminary plan submission.

(5) Before acting on any subdivision plat, the governing body or the planning agency, as the case may be, may hold a public hearing thereon after public notice.

(6) No plat which will require access to a highway under the jurisdiction of the Department of Transportation shall be finally approved unless the plat contains a notice that a highway occupancy permit is required pursuant to section 420 of the act of June 1, 1945 (P.L.1242, No.428), known as the "State Highway Law," before driveway access to a State highway is permitted. The department shall, within sixty days of the date of receipt of an application for a highway occupancy permit,

(i) approve the permit, which shall be valid thereafter unless, prior to commencement of construction thereunder, the geographic, physical or other conditions under which the permit is approved change, requiring modification or denial of the permit, in which event the department shall give notice thereof in accordance with regulations,

(ii) deny the permit,

(iii) return the application for additional information or correction to conform with department regulations or,

(iv) determine that no permit is required in which case the department shall notify the municipality and the applicant in writing. If the department shall fail to take any action within the 60-day period, the permit will be deemed to be issued. The plat shall be marked to indicate that access to the State highway shall be only as authorized by a highway occupancy permit. Neither the department nor any municipality to which permit-issuing authority has been delegated under section 420 of the "State Highway Law" shall be liable in damages for any injury to persons or property arising out of the issuance or denial of a driveway permit, or for failure to regulate any driveway. Furthermore, the municipality from which the building permit approval has been requested shall not be held liable for damages to persons or property arising out of the issuance or denial of a driveway permit by the department.

(7) The municipality may offer a mediation option as an aid in completing proceedings authorized by this section. In exercising such an option, the municipality and mediating parties shall meet the stipulations and follow the procedures set forth in Article IX.

Section 508.1. Notice to School District. Each month a municipality shall notify in writing the superintendent of a school district in which a plan for a residential development was finally approved by the municipality during the preceding month. The notice shall include, but not be limited to, the location of the development, the number and types of units to be included in the development and the expected construction schedule of the development.

Section 509. Completion of Improvements or Guarantee Thereof Prerequisite to Final Plat Approval.

(a) No plat shall be finally approved unless the streets shown on such plat have been improved to a mud-free or otherwise permanently passable condition, or improved as may be required by the sub-division and land development ordinance and any walkways, curbs, gutters, street lights, fire hydrants, shade trees, water mains, sanitary sewers, storm sewers and other improvements as may be required by the subdivision and land development ordinance have been installed in accordance with such ordinance. In lieu of the completion of any improvements required as a condition for the final approval of a plat, including improvements or fees required pursuant to section 509(I), the subdivision and land development ordinance shall provide for the deposit with the municipality of financial security in an amount sufficient to cover the costs of such improvements or common amenities including, but not limited to, roads, storm water detention and/or retention basins and other related drainage facilities, recreational facilities, open space improvements, or buffer or screen plantings which may be required. The applicant shall not be required to provide financial security for the costs of any improvements for which financial security is required by and provided to the Department of Transportation in connection with the issuance of a highway occupancy permit pursuant to section 420 of the act of June 1, 1945 (P.L.1242, No.428) known as the "State Highway Law."

(b) When requested by the developer, in order to facilitate financing, the governing body or the planning agency, if designated, shall furnish the developer with a signed copy of a resolution indicating approval of the final plat contingent upon the developer obtaining a satisfactory financial security. The final plat or record plan shall not be signed nor recorded until the financial improvements agreement is executed. The resolution or letter of contingent approval shall expire and be deemed to be revoked if the financial security agreement is not executed within 90 days unless a written extension is granted by the governing body; such extension shall not be unreasonably withheld and shall be placed in writing at the request of the developer.

(c) Without limitation as to other types of financial security which the municipality may approve, which approval shall not be unreasonably withheld, Federal or Commonwealth chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions shall be deemed acceptable financial security for the purposes of this section.

(d) Such financial security shall be posted with a bonding company or Federal or Commonwealth chartered lending institution chosen by the party posting the financial security, provided said bonding company or lending institution is authorized to conduct such business within the Commonwealth.

(e) Such bond, or other security shall provide for, and secure to the public, the completion of any improvements which may be required on or before the date fixed in the formal action of approval or accompanying agreement for completion of the improvements.

(f) The amount of financial security to be posted for the completion of the required improvements shall be equal to 110% of the cost of completion estimated as of 90 days following the date scheduled for completion by the developer. Annually, the municipality may adjust the amount of the financial security by comparing the actual cost of the improvements which have been completed and the estimated cost for the completion of the remaining improvements as of the expiration of the 90th day after either the original date scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, the municipality may require the developer to post additional security in order to assure that the financial security equals said 110%. Any additional security shall be posted by the developer in accordance with this subsection.

(g) The amount of financial security required shall be based upon an estimate of the cost of completion of the required improvements, submitted by an applicant or developer and prepared by a professional engineer licensed as such in this Commonwealth and certified by such engineer to be a fair and reasonable estimate of such cost. The municipality, upon the recommendation of the municipal engineer, may refuse to accept such estimate for good cause shown. If the applicant or developer and the municipality are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in this Commonwealth and chosen mutually by the municipality and the applicant or developer. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the municipality and the applicant or developer.

(h) If the party posting the financial security requires more than one year from the date of posting of the financial security to complete the required improvements, the amount of financial security may be increased by an additional 10% for each one-year period beyond the first anniversary date from posting of financial security or to an amount not exceeding 110% of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one-year period by using the above bidding procedure.

(i) In the case where development is projected over a period of years, the governing body or the planning agency may authorize submission of final plats by section or stages of development subject to such requirements or guarantees as to improvements in future sections or stages of development as it finds essential for the protection of any finally approved section of the development.

(j) As the work of installing the required improvements proceeds, the party posting the financial security may request the governing body to release or authorize the release, from time to time, such portions of the financial security necessary for payment to the contractor or contractors performing the work. Any such requests shall be in writing addressed to the governing body, and the governing body shall have 45 days from receipt of such request within which to allow the municipal engineer to certify, in writing, to the governing body that such portion of the work upon the improvements has been competed in accordance with the approved plat. Upon such certification the governing body shall authorize release by the bonding company or lending institution of an amount as estimated by the municipal engineer fairly representing the value of the improvements completed or, if the governing body fails to act within said 45-day period, the governing body shall be deemed to have approved the release of funds as requested. The governing body may, prior to final release at the time of completion and certification by its engineer, retain of 10% of the original amount of the posted financial security for of the aforesaid improvements.

(k) Where the governing body accepts dedication of all or some of the required improvements following completion, the governing body may require the posting of financial security to secure structural integrity of said dedicated improvements as well as the functioning of said dedicated improvements in accordance with the design and specifications as depicted on the final plat for a term not to exceed 18 months from the date of acceptance of dedication. Said financial security shall be of the same type as otherwise required in this section with regard to installation of such improvements, and the amount of the financial security shall not exceed 15% of the actual cost of installation of said dedicated improvements.

(l) If water mains or sanitary sewer lines, or both, along with apparatus or facilities related thereto, are to be installed under the jurisdiction and pursuant to the rules and regulations of a public utility or municipal authority separate and distinct from the municipality, financial security to assure proper completion and maintenance thereof shall be posted in accordance with the regulations of the controlling public utility or municipal authority and shall not be included within the financial security as otherwise required by this section.

(m) If financial security has been provided in lieu of the completion of improvements required as a condition for the final approval of a plat as set forth in this section, the municipality shall not condition the issuance of building, grading or other permits relating to the erection or placement of improvements, including buildings, upon the lots or land as depicted upon the final plat upon actual completion of the improvements depicted upon the approved final plat. Moreover, if said financial security has been provided, occupancy permits for any building or buildings to be erected shall not be withheld following: the improvement of the streets providing access to and from existing public roads to such building or buildings to a mud-free or otherwise permanently passable condition, as well as the completion of all other improvements as depicted upon the approved plat, either upon the lot or lots or beyond the lot or lots in question if such improvements are necessary for the reasonable use of or occupancy of the building or buildings. Any ordinance or statute inconsistent herewith is hereby expressly repealed.

Section 510. Release from Improvement Bond.

(a) When the developer has completed all of the necessary and appropriate improvements, the developer shall notify the municipal governing body, in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the municipal engineer. The municipal governing body shall, within ten days after receipt of such notice, direct and authorize the municipal engineer to inspect all of the aforesaid improvements. The municipal engineer shall, thereupon, file a report, in writing, with the municipal governing body, and shall promptly mail a copy of the same to the developer by certified or registered mail. The report shall be made and mailed within 30 days after receipt by the municipal engineer of the aforesaid authorization from the governing body; said report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part, and if said improvements, or any portion thereof, shall not be approved or shall be rejected by the municipal engineer, said report shall contain a statement of reasons for such nonapproval or rejection.

(b) The municipal governing body shall notify the developer, within 15 days of receipt of the engineer's report, in writing by certified or registered mail of the action of said municipal governing body with relation thereto.

(c) If the municipal governing body or the municipal engineer fails to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved and the developer shall be released from all liability, pursuant to its performance guaranty bond or other security agreement.

(d) If any portion of the said improvements shall not be approved or shall be rejected by the municipal governing body, the developer shall proceed to complete the same and, upon completion, the same procedure of notification, as outlined herein, shall be followed.

(e) Nothing herein, however, shall be construed in limitation of the developer's right to contest or question by legal proceedings or otherwise, any determination of the municipal governing body or the municipal engineer.

(f) Where herein reference is made to the municipal engineer, he shall be a duly registered professional engineer employed by the municipality or engaged as a consultant thereto.

(g) The municipality may prescribe that the applicant shall reimburse the municipality for the reasonable and necessary expense incurred in connection with the inspection of improvements. The applicant shall not be required to reimburse the governing body for any inspection which is duplicative of inspections conducted by other governmental agencies or public utilities. The burden of proving that any inspection is duplicative shall be upon the objecting applicant. Such reimbursement shall be based upon a schedule established by ordinance or resolution. Such expense shall be reasonable and in accordance with the ordinary and customary fees charged by the municipality's professional consultant for work performed for similar services in the community, but in no event shall the fees exceed the rate or cost charged by the professional consultant to the municipality for comparable services when fees are not reimbursed or otherwise imposed on applicants.

(1) The governing body shall submit to the applicant an itemized bill showing the work performed in connection with the inspection of improvements performed, identifying the person performing the services and the time and date spent for each task. In the event the applicant disputes the amount of any such expense in connection with the inspection of improvements, the applicant shall, no later than 100 days after the date of transmittal of a bill for inspection services, notify the municipality and the municipality's professional consultant that such inspection expenses are disputed as unreasonable or unnecessary and shall explain the basis of their objections to the fees charged, in which case the municipality shall not delay or disapprove a request for release of financial security, a subdivision or land development application or any approval or permit related to development due to the applicant's dispute of inspection expenses. Failure of the applicant to dispute a bill within 100 days shall be a waiver of the applicant's right t arbitration of that bill under this section.

(1.1) Subsequent to the final release of financial security for completion of improvements for a subdivision or land development or any phase thereof, the professional consultant shall submit to the governing body a bill for inspection services, specifically designated as a final bill, which the governing body shall submit to the applicant. The final bill shall include inspection fees incurred through the release of financial security.

(2) If, the professional consultant and the applicant cannot agree on the amount of expenses which are reasonable and necessary, then the applicant shall have the right, within 100 days of the transmittal of the final bill or supplement to the final bill to the applicant, to request the appointment of another professional consultant to serve as an arbitrator. The applicant and professional consultant whose fees are being challenged shall by mutual agreement, appoint another professional consultant to review any bills the applicant has disputed and which remain unresolved and make a determination as to the amount thereof which is reasonable and necessary. The arbitrator shall be of the same profession as the professional consultant whose fees are being challenged.

(3) The arbitrator so appointed shall hear such evidence and review such documentation as the arbitrator in his or her sole opinion deems necessary and shall render a decision no later than 50 days after the date of appointment. Based on the decision of the arbitrator, the applicant or the professional consultant whose fees were challenged shall be required to pay any amounts necessary to implement the decision within 60 days. In the event the municipality has paid the professional consultant an amount in excess of the amount determined to be reasonable and necessary, the professional consultant shall within 60 days reimburse the excess payment

(4) In the event that the municipality's professional consultant and applicant cannot agree upon the arbitrator to be appointed within 20 days of the request for appointment of an arbitrator, then, upon application of either party, the President Judge of the Court of Common Pleas of the judicial district in which the municipality is located (or if at the time there be no President Judge, then the senior active judge then sitting) shall appoint such arbitrator, who, in that case, shall be neither the municipality's professional consultant nor any professional consultant who has been retained by, or performed services for, the municipality or the applicant within the preceding five years.

(5) The fee of the arbitrator shall be paid by the applicant if the disputed fee is upheld by the arbitrator. The fee of the arbitrator shall be paid by the charging party if the disputed fee is $2,500 or greater than the payment decided by the arbitrator. The fee of the arbitrator shall be paid in an equal amount by the applicant and the charging party if the disputed fee is less than $2,500 of the payment decided by the arbitrator.

(6) In the event that the disputed fees have been paid and the arbitrator finds that the disputed fees are unreasonable or excessive by more than $10,000, the arbitrator shall:

(i) award the amount of the fees found to be unreasonable or excessive to the party that paid the disputed fee; and

(ii) impose a surcharge of 4% of the amount found as unreasonable or excessive to be paid to the party that paid the disputed fee.

(7) A municipality or an applicant shall have 100 days after paying a fee to dispute any fee charged as being unreasonable or excessive.

Section 511. Remedies to Effect Completion of Improvements. In the event that any improvements which may be required have not been installed as provided in the subdivision and land development ordinance or in accord with the approved final plat the governing body of the municipality is hereby granted the power to enforce any corporate bond, or other security by appropriate legal and equitable remedies. If proceeds of such bond, or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security, the governing body of the municipality may, at its option, install part of such improvements in all or part of the subdivision or land development and may institute appropriate legal or equitable action to recover the moneys necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the developer, or both, shall be used solely for the installation of the improvements covered by such security, and not for any other municipal purpose.

Section 512.1. Modifications.

(a) The governing body or the planning agency, if authorized to approve applications within the subdivision and land development ordinance, may grant a modification of the requirements of one or more provisions if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of the ordinance is observed.

(b) All requests for a modification shall be in writing and shall accompany and be a part of the application for development. The request shall state in full the grounds and facts of unreasonableness or hardship on which the request is based, the provision or provisions of the ordinance involved and the minimum modification necessary.

(c) If approval power is reserved by the governing body, the request for modification may be referred to the planning agency for advisory comments.

(d) The governing body or the planning agency, as the case may be, shall keep a written record of all action on all requests for modifications.

Section 513. Recording Plats and Deeds.

(a) Upon the approval of a final plat, the developer shall within 90 days of such final approval or 90 days after the date of delivery of an approved plat signed by the governing body, following completion of conditions imposed for such approval, whichever is later, record such plat in the office of the recorder of deeds of the county in which the municipality is located. Whenever such plat approval is required by a municipality, the recorder of deeds of the county shall not accept any plat for recording, unless such plat officially notes the approval of the governing body and review by the county planning agency, if one exists.

(b) The recording of the plat shall not constitute grounds for assessment increases until such time as lots are sold or improvements are installed on the land included within the subject plat.

Section 514. Effect of Plat Approval on Official Map. After a plat has been approved and recorded as provided in this article, all streets and public grounds on such plat shall be, and become a part of the official map of the municipality without public hearing.

Section 515. Penalties. (515 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 515.1. Preventive Remedies.

(a) In addition to other remedies, the municipality may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.

(b) A municipality may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of any ordinance adopted pursuant to this article. This authority to deny such a permit or approval shall apply to any of the following applicants:

(1) The owner of record at the time of such violation.

(2) The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.

(3) The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.

(4) The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation. As an additional condition for issuance of a permit or the granting of an approval to any such owner, current owner, vendee or lessee for the development of any such real property, the municipality may require compliance with the conditions that would have been applicable to the property at the time the applicant acquired an interest in such real property.

Section 515.2. Jurisdiction. District justices shall have initial jurisdiction in proceedings brought under section 515.3.

Section 515.3. Enforcement Remedies.

(a) Any person, partnership or corporation who or which has violated the provisions of any subdivision or land development ordinance enacted under this act or prior enabling laws shall, upon being found liable therefor in a civil enforcement proceeding commenced by a municipality, pay a judgment of not more than $500 plus all court costs, including reasonable attorney fees incurred by the municipality as a result thereof. No judgment shall commence or be imposed, levied or 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 municipality 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.

(b) The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.

(c) Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the municipality the right to commence any action for enforcement pursuant to this section.

Article V-A - Municipal Capital Improvement

** Compiler's Note: (a)(9) of Act 1996-58, which created the Department of Community and Economic Development and abolished the Department of Community Affairs, provided that housing, community assistance and other functions under Article V-A are transferred from the Department of Community Affairs to the Department of Community and Economic Development.*

(Art. added Dec. 19, 1990, P.L.1343, No.209)

Section 501-A. Purposes. To further the purposes of this act in an era of increasing development and of a corresponding demand for municipal capital improvements, to insure that the cost of needed capital improvements be applied to new developments in a manner that will allocate equitably the cost of those improvements among property owners and to respond to the increasing difficulty which municipalities are experiencing in developing revenue sources to fund new capital infrastructure from the public sector, the following powers are granted to all municipalities, other than counties, which municipalities have adopted either a municipal or county comprehensive plan, subdivision and land development ordinance and zoning ordinance.

Section 502-A. Definitions. The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Adjusted for family size," adjusted in a manner which results in an income eligibility level which is lower for households with fewer than four people, or higher for households with more than four people, than the base income eligibility level determined as provided in the definition of low- to moderate-income persons based upon a formula as established by the rule of the agency.

“Adjusted gross income,” all wages, assets, regular cash or noncash contributions or gifts from persons outside the household, and such other resources and benefits as may be determined to be income by rule of the department, adjusted for family size, less deductions under section 62 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. 62 et seq.).

“Affordable,” with respect to the housing unit to be occupied by low- to moderate-income persons, monthly rents or monthly mortgage payments, including property taxes and insurance, that do not exceed 30% of that amount which represents 100% of the adjusted gross annual income for households within the metropolitan statistical area (MSA) or, if not within the MSA, within the county in which the housing unit is located, divided by 12.

“Agency,” the Pennsylvania Housing Finance Agency as created pursuant to the act of December 3, 1959 (P.L.1688, No.621), known as the “Housing Finance Agency Law.”

* “Department,” the Department of Community and Economic Development of the Commonwealth.

“Existing deficiencies,” existing highways, roads or streets operating at a level of service below the preferred level of service designated by the municipality, as adopted in the transportation capital improvement plan.

“Highways, roads or streets,” any highways, roads or streets identified on the legally adopted municipal street or highway plan or the official map which carry vehicular traffic, together with all necessary appurtenances, including bridges, rights-of-way and traffic control improvements. The term shall not include the interstate highway system.

“Impact fee,” a charge or fee imposed by a municipality against new development in order to generate revenue for funding the costs of transportation capital improvements necessitated by and attributable to new development.

“Low- to moderate-income persons,” one or more natural persons or a family, the total annual adjusted gross household income of which is less than 100% of the median annual adjusted gross income for households in this Commonwealth or is less than 100% of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within the MSA, within the county in which the household is located, whichever is greater.

“New development,” any commercial, industrial or residential or other project which involves new construction, enlargement, reconstruction, redevelopment, relocation or structural alteration and which is expected to generate additional vehicular traffic within the transportation service area of the municipality.

“Offsite improvements,” those public capital improvements which are not onsite improvements and that serve the needs of more than one development.

“Onsite improvements,” all improvements constructed on the applicant’s property, or the improvements constructed on the property abutting the applicant’s property necessary for the ingress or egress to the applicant’s property, and required to be constructed by the applicant pursuant to any municipal ordinance, including, but not limited to, the municipal building code, subdivision and land development ordinance, PRD regulations and zoning ordinance.

“Pass-through trip,” a trip which has both an origin and a destination outside the service area.

“Road improvement,” the construction, enlargement, expansion or improvement of public highways, roads or streets. It shall not include bicycle lanes, bus lanes, busways, pedestrian ways, rail lines or tollways.

"Traffic or transportation engineer or planner," any person who is a registered professional engineer in this Commonwealth or is otherwise qualified by education and experience to perform traffic or transportation planning analyses of the type required in this act and who deals with the planning, geometric design and traffic operations of highways, roads and streets, their networks, terminals and abutting lands and relationships with other modes of transportation for the achievement of convenient, efficient and safe movement of goods and persons.

"Transportation capital improvements," those offsite road improvements that have a life expectancy of three or more years, not including costs for maintenance, operation or repair.

"Transportation service area," a geographically defined portion of the municipality not to exceed seven square miles of area which, pursuant to the comprehensive plan and applicable district zoning regulations, has an aggregation of sites with development potential creating the need for transportation improvements within such area to be funded by impact fees. No area may be included in more than one transportation service area.

Section 503-A. Grant of Power.

(a) The governing body of each municipality other than a county, in accordance with the conditions and procedures set forth in this act, may enact, amend and repeal impact fee ordinances and, thereafter, may establish, at the time of municipal approval of any new development or subdivision, the amount of an impact fee for any of the offsite public transportation capital improvements authorized by this act as a condition precedent to final plat approval under the municipality's subdivision and land development ordinance. Every ordinance adopted pursuant to this act shall include, but not be limited to, provisions for the following:

(1) The conditions and standards for the determination and imposition of impact fees consistent with the provisions of this act.

(2) The agency, body or office within the municipality which shall administer the collection, disbursement and accounting of impact fees.

(3) The time, method and procedure for the payment of impact fees.

(4) The procedure for issuance of any credit against or reimbursement of impact fees which an applicant may be entitled to receive consistent with the provisions of this act.

(5) Exemptions or credits which the municipality may choose to adopt. In this regard the municipality shall have the power to:

(i) Provide a credit of up to 100% of the applicable impact fees for all new development and growth which constitutes affordable housing to low- and moderate-income persons.

(ii) Provide a credit of up to 100% of the applicable impact fees for growth which are determined by the municipality to serve an overriding public interest.

(iii) Exempt de minimus applications from impact fee requirements. If such a policy is adopted, the definition of de minimus shall be contained in the ordinance.

(b) No municipality shall have the power to require as a condition for approval of a land development or subdivision application the construction, dedication or payment of any offsite improvements or capital expenditures of any nature whatsoever or impose any contribution in lieu thereof, exaction fee, or any connection, tapping or similar fee except as may be specifically authorized under this act.

(c) No municipality may levy an impact fee prior to the enactment of a municipal impact fee ordinance adopted in accordance with the procedures set forth in this act, except as may be specifically authorized by the provisions of this act. A transportation impact fee shall be imposed by a municipality within a service area or areas only where such fees have been determined and imposed pursuant to the standards, provisions and procedures set forth herein.

(d) Impact fees may be used for those costs incurred for improvements designated in the transportation capital improvement program which are attributable to new development, including the acquisition of land and rights-of-way; engineering, legal and planning costs; and all other costs which are directly related to road improvements within the service area or areas, including debt service. Impact fees shall not be imposed or used for costs associated with any of the following:

(1) Construction, acquisition or expansion of municipal facilities other than capital improvements identified in the transportation capital improvements plan required by this act.

(2) Repair, operation or maintenance of existing or new capital improvements.

(3) Upgrading, updating, expanding or replacing existing capital improvements to serve existing developments in order to meet stricter safety, efficiency, environmental or regulatory standards not attributable to new development.

(4) Upgrading, updating, expanding or replacing existing capital improvements to remedy deficiencies in service to existing development or fund deficiencies in existing municipal capital improvements resulting from a lack of adequate municipal funding over the years for maintenance or capital construction costs.

(5) Preparing and developing the land use assumptions, roadway sufficiency analysis and transportation capital improvement plan, except that impact fees may be used for no more than a proportionate amount of the cost of professional consultants incurred in preparing a roadway sufficiency analysis of infrastructure within a specified transportation service area, such allowable proportion to be calculated by dividing the total costs of all road improvements in the adopted transportation capital improvement program within the transportation service area attributable to projected future development within the service area, as defined in section 504-A(e)(1)(iii), by the total costs of all road improvements in the adopted transportation capital improvement program within the specific transportation service area, as defined in section 504-A.

(e) Nothing in this act shall be deemed to alter or affect a municipality's existing power to require an applicant for municipal approval of any new development or subdivision from paying for the installation of onsite improvements as provided for in a municipality's subdivision and land development ordinance as authorized by this act.

(f) No municipality may delay or deny any application for building permit, certificate-of-occupancy, development or any other approval or permit required for construction, land development, subdivision or occupancy for the reason that any project of an approved capital improvement program has not been completed.

(g) A municipality which has enacted an impact fee ordinance on or before June 1, 1990, may for a period not to exceed one year from the effective date of this article, adopt an impact fee ordinance to conform with the standards and procedures set forth in this article. Where a fee previously imposed pursuant to an ordinance in effect on June 1, 1990, for transportation improvements authorized by this article is greater than the recalculated fee due under the newly adopted ordinance, the individual who paid the fee is entitled to a refund of the difference. If the recalculated fee is greater than the previously paid fee, there shall be no additional charge.

(h) The powers provided by this section may be exercised by two or more municipalities, other than counties, which have adopted a joint municipal comprehensive plan pursuant to Article XI through a joint authority, subject to the conditions and procedures set forth in this article.

Section 504-A. Transportation Capital Improvements Plan.

(a) A transportation capital improvements plan shall be prepared and adopted by the governing body of the municipality prior to the enactment of any impact fee ordinance. The municipality shall provide qualified

professionals to assist the transportation impact fee advisory committee or the planning commission in the preparation of the transportation capital improvements plan and calculation of the impact fees to be imposed to implement the plan in accordance with the procedures, provisions and standards set forth in this act.

(b)(1) An impact fee advisory committee shall be created by resolution of a municipality intending to adopt a transportation impact fee ordinance. The resolution shall describe the geographical area or areas of the municipality for which the advisory committee shall develop the land use assumptions and conduct the roadway sufficiency analysis studies.

(2) The advisory committee shall consist of no fewer than 7 nor more than 15 members, all of whom shall serve without compensation. The governing body of the municipality shall appoint as members of the advisory committee persons who are either residents of the municipality or conduct business within the municipality and are not employees or officials of the municipality. Not less than 40% of the members of the advisory committee shall be representatives of the real estate, commercial and residential development, and building industries. The municipality may also appoint traffic or transportation engineers or planners to serve on the advisory committee provided the appointment is made after consultation with the advisory committee members. The traffic or transportation engineers or planners appointed to the advisory committee may not be employed by the municipality for the development of or consultation on the roadways sufficiency analysis which may lead to the adoption of the transportation capital improvements plan.

(3) (The governing body of the municipality may elect to designate the municipal planning commission appointed pursuant to Article II as the impact fee advisory committee. If the existing planning commission does not include members representative of the real estate, commercial and residential development, and building industries at no less than 40% of the membership, the governing body of the municipality shall appoint the sufficient number of representatives of the aforementioned industries who reside in the municipality or conduct business within the municipality to serve as ad hoc voting members of the planning commission whenever such commission functions as the impact fee advisory committee.

(4) No impact fee ordinance may be invalidated as a result of any legal action challenging the composition of the advisory committee which is not brought within 90 days following the first public meeting of said advisory committee.

(5) The advisory committee shall serve in an advisory capacity and shall have the following duties:

(i) To make recommendations with respect to land use assumptions, the development of comprehensive road improvements and impact fees.

(ii) To make recommendations to approve, disapprove or modify a capital improvement program by preparing a written report containing these recommendations to the municipality.

(iii) To monitor and evaluate the implementation of a capital improvement program and the assessment of impact fees, and report annually to the municipality with respect to the same.

(iv) To advise the municipality of the need to revise or update the land use assumptions, capital improvement program or impact fees.

(c)(1) As a prerequisite to the development of the transportation capital improvements plan, the advisory committee shall develop land use assumptions for the determination of future growth and development within the designated area or areas as described by the municipal resolution and recommend its findings to the governing body. Prior to the issuance and presentation of a written report to the municipality on the recommendations for proposed land use assumptions upon which to base the development of the transportation capital improvements plan, the advisory committee shall conduct a public hearing, following the providing of proper notice in accordance with section 107, for the consideration of the land use assumption proposals.

Following receipt of the advisory committee report, which shall include the findings of the public hearing, the governing body of the municipality shall by resolution approve, disapprove or modify the land use assumptions recommended by the advisory committee.

(2) The land use assumptions report shall:

(i) Describe the existing land uses within the designated area or areas and the highways, roads or streets incorporated therein.

(ii) To the extent possible, reflect projected changes in land uses, densities of residential development, intensities of nonresidential development and population growth rates which may affect the level of traffic within the designated area or areas over a period of at least the next five years. These projections shall be based on an analysis of population growth rates during the prior five-year period, current zoning regulations, approved subdivision and land developments, and the future land use plan contained in the adopted municipal comprehensive plan. It may also refer to all professionally produced studies and reports pertaining to the municipality regarding such items as demographics, parks and recreation, economic development and any other study deemed appropriate by the municipality.

(3) If the municipality is located in a county which has created a county planning agency, the advisory committee shall forward a copy of their proposed land use assumptions to the county planning agency for its comments at least 30 days prior to the public hearing. At the same time, the advisory committee shall also forward copies of the proposed assumptions to all contiguous municipalities and to the local school district for their review and comments.

(d) (1) Upon adoption of the land use assumptions by the municipality, the advisory committee shall prepare, or cause to be prepared, a roadway sufficiency analysis which shall establish the existing level of infrastructure sufficiency and preferred levels of service within any designated area or areas of the municipality as described by the resolution adopted pursuant to the creation of the advisory committee. The roadway sufficiency analysis shall be prepared for any highway, road or street within the designated area or areas on which the need for road improvements attributable to projected future new development is anticipated. The municipality shall commission a traffic or transportation engineer or planner to assist the advisory committee in the preparation of the roadway sufficiency analysis. Municipalities may jointly commission such engineer or planner to assist in the preparation of multiple municipality roadway sufficiency analyses. In preparing the roadway sufficiency analysis report, the engineer may consider and refer to previously produced professional studies and reports relevant to the production of the roadway sufficiency analysis as required by the section. It shall be deemed that the roads, streets and highways not on the roadway sufficiency analysis report are not impacted by future development. The roadway sufficiency analysis shall include the following components:

(i) The establishment of existing volumes of traffic and existing levels of service.

(ii) The identification of a preferred level of service established pursuant to the following:

(A) The level of service shall be one of the categories of road service as defined by the Transportation Research Board of the National Academy of Sciences or the Institute of Transportation Engineers. The municipality may choose to select a level of service on a transportation service area basis as the preferred level of service. The preferred levels of service shall be designated by the governing body of the municipality following determination of the existing level of service as established by the roadway sufficiency analysis. If the preferred level of service is designated as greater than the existing level of service, the municipality shall be required to identify road improvements needed to correct the existing deficiencies.

(B) Following adoption of the preferred level of service, such level of service may be waived for a particular road segment or intersection if the municipality finds that one or more of the following effectively precludes provision of road improvements necessary to meet the level of service: geometric design limitations, topographic limitations or the unavailability of necessary right-of-way.

(iii) The identification of existing deficiencies which need to be remedied to accommodate existing traffic at the preferred level of service.

(iv) The specification of the required road improvements needed to bring the existing level of service to the preferred level of service.

(v) A projection of anticipated traffic volumes, with a separate determination of pass-through trips, for a period of not less than five years from the date of the preparation of the roadway sufficiency analysis based upon the land use assumptions adopted under this section.

(vi) The identification of forecasted deficiencies which will be created by "pass-through" trips.

(2) The advisory committee shall provide the governing body with the findings of the roadway sufficiency analysis. Following receipt of the advisory committee report, the governing body shall by resolution approve, disapprove or modify the roadway sufficiency analysis recommended by the advisory committee.

(e) (1) Utilizing the information provided by the land use assumption and the roadway sufficiency analysis as the basis for determination of the need for road improvements to remedy existing deficiencies and accommodate future projected traffic volumes, the advisory committee shall identify those capital projects which the municipality should consider for adoption in its transportation capital improvements plan and shall recommend the delineation of the transportation service area or areas. The capital improvement plan shall be developed in accordance with generally accepted engineering and planning practices. The capital improvement program shall include projections of all designated road improvements in the capital improvement program. The total cost of the road improvements shall be based upon estimated costs, using standard traffic engineering standards, with a 10% maximum contingency which may be added to said estimate. These costs shall include improvements to correct existing deficiencies with identified anticipated sources of funding and timetables for implementation. The transportation capital improvements plan shall include the following components:

(i) A description of the existing highways, roads and streets within the transportation service area and the road improvements required to update, improve, expand or replace such highways, roads and streets in order to meet the preferred level of service and usage and stricter safety, efficiency, environmental or regulatory standards not attributable to new development.

(ii) A plan specifying the road improvements within the transportation service area attributable to forecasted pass-through traffic so as to maintain the preferred level of service after existing deficiencies identified by the roadway sufficiency analysis have been remedied.

(iii) A plan specifying the road improvements or portions thereof within the transportation service area attributable to the projected future development, consistent with the adopted land use assumptions, in order to maintain the preferred level of service after accommodation for pass-through traffic and after existing deficiencies identified in the roadway sufficiency analysis have been remedied.

(iv) The projected costs of the road improvements to be included in the transportation capital improvements plan, calculating separately for each project by the following categories:

(A) The costs or portion thereof associated with correcting existing deficiencies as specified in subparagraph (I).

(B) The costs or portions thereof attributable to providing road improvements to accommodate forecasted pass-through trips as specified in subparagraph (ii).

(c) The costs of providing necessary road improvements or portions thereof attributable to projected future development as specified in subparagraph (iii); provided that no more than 50% of the cost of the improvements to any highway, road or street which qualifies as a State Highway or portion of the rural State Highway System as provided in section 102 of the act of June 1, 1945 (P.L.1242, No. 428), known as the "State Highway Law" may be included.

(v) A projected timetable and proposed budget for constructing each road improvement contained in the plan.

(vi) The proposed source of funding for each capital improvement included in the road plan. This shall include anticipated revenue from the Federal Government, State government, municipality, impact fees and any other source. The estimated revenue for each capital improvement in the plan which is to be provided by impact fees shall be identified separately for each project.

(2) The source of funding required for projects to remedy existing deficiencies as set forth in paragraph (1)(I) and the road improvements attributable to forecasted pass-through traffic as set forth in paragraph (1)(ii) shall be exclusive of funds generated from the assessment of impact fees.

(3) Upon the completion of the transportation capital improvements plan and prior to its adoption by the governing body of the municipality and the enactment of a municipal impact fee ordinance, the advisory committee shall hold at least one public hearing for consideration of the plan. Notification of the public hearing shall comply with the requirement of section 107. The plan shall be available for public inspection at least ten working days prior to the date of the public hearing. After presentation of the recommendation by the advisory committee or its representatives at a public meeting of the governing body, the governing body may make such changes to the plan prior to its adoption as the governing body deems appropriate following review of the public comments made at the public hearing.

(4) The governing body may periodically, but no more frequently than annually, request the impact fee advisory committee to review the capital improvements plan and impact fee charges and make recommendations for revisions for subsequent consideration and adoption by the governing body based only on the following:

(i) New subsequent development which has occurred in the municipality.

(ii) Capital improvements contained in the capital improvements plan, the construction of which has been completed.

(iii) Unavoidable delays beyond the responsibility or control of the municipality in the construction of capital improvements contained in the plan.

(iv) Significant changes in the land use assumptions.

(v) Changes in the estimated costs of the proposed transportation capital improvements, which may be recalculated by applying the construction cost index as published in the American City/County Magazine or the Engineering News Record.

(vi) Significant changes in the projected revenue from all sources listed needed for the construction of the transportation capital improvements.

(f) Any improvements to Federal-aid or State highways to be funded in part by impact fees shall require the approval of the Department of Transportation and, if necessary, the United States Department of Transportation. Nothing in this act shall be deemed to alter or diminish the powers, duties or jurisdiction of the Department of Transportation with respect to State highways or the rural State highway system.

(g) Two or more municipalities may, upon agreement, appoint a joint impact fee advisory committee which may develop roadway sufficiency analyses and transportation capital improvements plans for the participating municipalities. The members of the advisory committee must be either residents of or conduct business within one of the participating municipalities.

Section 505-A. Establishment and Administration of Impact Fees.

(a) (1) The impact fee for transportation capital improvements shall be based upon the total costs of the road improvements included in the adopted capital improvement plan within a given transportation service area attributable to and necessitated by new development within the service area as calculated pursuant to section 504-A(e)(1)(iv)(c), divided by the number of anticipated peak hour trips generated by all new development consistent with the adopted land use assumptions and calculated in accordance with the Trip Generation Manual published by the Institute of Transportation Engineers, fourth or subsequent edition as adopted by the municipality by ordinance or resolution to equal a per trip cost for transportation improvements within the service area.

(2) The specific impact fee for a specific new development or subdivision within the service area for road improvements shall be determined as of the date of preliminary land development or subdivision approval by multiplying the per trip cost established for the service area as determined in section 503-A(a) by the estimated number of peak-hour trips to be generated by the new development or subdivision using generally accepted traffic engineering standards.

(3) A municipality may authorize or require the preparation of a special transportation study in order to determine traffic generation or circulation for a new nonresidential development to assist in the determination of the amount of the transportation fee for such development or subdivision. The municipality shall set forth by ordinance the circumstances in which such a study should be authorized or required, provided however, that no special transportation study shall be required when there is no deviation from the land use assumptions resulting in increased density, intensity or trip generation by a particular development. A developer or municipality may, however, at any time, voluntarily prepare and submit a traffic study for a proposed development or may have such a study prepared at its expense after the development is completed to include actual trips generated by the development for use in any appeal as provided for under this act. The special transportation study shall be prepared by a qualified traffic or transportation engineer using procedures and methods established by the municipality based on generally accepted transportation planning and engineering standards. The study, where required by the municipality, shall be submitted prior to the imposition of an impact fee and shall be taken into consideration by the municipality in increasing or reducing the amount of the impact fee for the new development for the amount shown on the impact fee schedule adopted by the municipality.

(b) The governing body shall enact an impact ordinance setting forth a description of the boundaries and a fee schedule for each transportation service area. At least ten working days prior to the adoption of the ordinance at a public meeting, the ordinance shall be available for public inspection. The impact fee ordinance shall include, but not be limited to, those provisions set forth in section 503-A(a) and conform with the standards, provisions and procedures set forth in this act.

(c) (1) A municipality may give notice of its intention to adopt an impact fee ordinance by publishing a statement of such intention twice in one newspaper of general circulation in the municipality. The first publication shall not occur before the adoption of the resolution by which the municipality establishes its impact fee advisory committee. The second publication shall occur not less than one nor more than three weeks thereafter.

(2) A municipal impact fee ordinance adopted under and pursuant to this act may provide that the provisions of the ordinance may have retroactive application, for a period not to exceed 18 months after the adoption of the resolution creating an impact fee advisory committee pursuant to section 504-A (b)(1), to preliminary or tentative applications for land development, subdivision or PRD. with the municipality on or after the first publication of the municipality's intention to adopt an impact fee ordinance; provided, however, that the impact fee imposed on building permits for construction of new development approved pursuant to such applications filed during the period of pendancy shall not

exceed $1,000 per anticipated peak hour trip as calculated in accordance with the generally accepted traffic engineering standards as set forth under the provisions of subsection (a)(1) or the subsequently adopted fee established by the ordinance, whichever is less.

(3) No action upon an application for land development, subdivision or PRD. shall be postponed, delayed or extended by the municipality because adoption of a municipal impact fee ordinance is being considered. Furthermore, the adoption of an impact fee ordinance more than 18 months after adoption of a resolution creating the impact fee advisory committee shall not be retroactive or applicable to plats submitted for preliminary or tentative approval prior to the legal publication of the proposed impact fee ordinance and any fees collected pursuant to this subsection shall be refunded to the payor of such fees; provided the adoption of the impact fee ordinance was not delayed due to the initiation of any litigation challenging the adoption of such ordinance.

(d) Any impact fees collected by a municipality pursuant to a municipal ordinance shall be deposited by the municipality into an interest-bearing fund account designated solely for impact fees, clearly identifying the transportation service area from which the fee was received. Funds collected in one transportation service area must be accounted for and expended within that transportation service area, and such funds shall only be expended for that portion of the transportation capital improvements identified as being funded by impact fees under the transportation capital improvements plan. Notwithstanding any other provisions of this act, municipalities may expend impact fees paid by an applicant on projects not contained in the adopted transportation capital improvement plan, or may provide credit against impact fees for the value of any construction projects not contained in the transportation capital improvement plan which are performed at the applicant's expense, if all of the following criteria are met:

(1) The applicant has provided written consent to use of its collected impact fees, or the provision of such credit against the applicant's impact fees, for specific transportation projects which are not included in the transportation capital improvement plan.

(2) The alternative transportation projects, whether highway or multimodal, have as their purpose the reduction of traffic congestion or the removal of vehicle trips from the roadway network.

(3) The municipality amends its transportation capital improvement plan components required by section 504-A(e)(1)(vi) to provide replacement of the collected impact fees transferred to transportation projects outside the approved transportation capital improvement plan from sources other than impact fees or developer contributions within three years of completion of the alternative projects to which the transferred fees were applied or for which credit was provided. All interest earned on such funds shall become funds of that account. The municipality shall provide that an accounting be made annually for any fund account containing impact fee proceeds and earned interest. Such accounting shall include, but not be limited to, the total funds collected, the source of the funds collected, the total amount of interest accruing on such funds and the amount of funds expended on specific transportation improvements. Notice of the availability of the results of the accounting shall be included and published as part of the annual audit required of municipalities. A copy of the report shall also be provided to the advisory committee.

(e) All transportation impact fees imposed under the terms of this act shall be payable at the time of the issuance of building permits for the applicable new development or subdivision. The municipality may not require the applicant to provide a guarantee of financial security for the payment of any transportation impact fees, except the municipality may provide for the deposit with the municipality of financial security in an amount sufficient to cover the cost of the construction of any road improvement contained in the transportation capital improvement plan which is performed by the applicant.

(f) An applicant shall be entitled to a credit against the impact fee in the amount of the fair market value of any land dedicated by the applicant to the municipality for future right-of-way, realignment or widening of any existing roadways or for the value of any construction of road improvements contained in the transportation capital improvement program which is performed at the applicant's expense. The amount of such credit for any capital improvement constructed shall be the amount allocated in the capital improvement program, including contingency factors, for such work. The fair market value of any and dedicated by the applicant shall be determined as of the date of the submission of the land development or subdivision application to the municipality.

(g) Impact fees previously collected by a municipality shall be refunded, together with earned accrued interest thereon, to the payor of such fees from the date of payment under any of the following circumstances:

(1) In the event that a municipality terminates or completes an adopted capital improvements plan for a transportation service area and there remains at the time of termination or completion undispersed funds in the accounts established for that purpose, the municipality shall provide written notice by certified mail to those persons who previously paid the fees which remain undispersed of the availability of said funds for refund of the person's proportionate share of the fund balance. The allocation of the refund shall be determined by generally accepted accounting practices. In the event that any of the funds remain unclaimed following one year after the notice, which notice shall be provided to the last known address provided by the payor of the fees to the municipality, the municipality shall be authorized to transfer any funds so remaining to any other fund in the municipality without any further obligation to refund said funds.

(2) If the municipality fails to commence construction of any transportation service area road improvements within three years of the scheduled construction date set forth in the transportation capital improvements plan, any person who paid any impact fees pursuant to that transportation capital improvements plan shall, upon written request to the municipality, receive a refund of that portion of the fee attributable to the contribution for the uncommenced road improvement, plus the interest accumulated thereon from the date of payment.

(3) If, upon completion of any road improvements project, the actual expenditures of the capital project are less than 95% of the costs properly allocable to the fee paid within the transportation service area in which the completed road improvement was adopted, the municipality shall refund the pro rata difference between the budgeted costs and the actual expenditures, including interest accumulated thereon from the date of payment, to the person or persons who paid the impact fees for such improvements.

(4) If the new development for which transportation impact fees were paid is not commenced prior to the expiration of building permits issued for the new development within the time limits established by applicable building codes within the municipality or if the building permit as issued for the new development is altered and the alteration results in a decrease in the amount of the impact fee due in accordance with the calculations set forth in subsection (a)(1).

(h) Where an impact fee ordinance has been adopted pursuant to the other provisions of this act, the ordinance may impose an additional impact fee upon new developments which generate 1,000 or more new peak-hour trips, net of pass-by trips as defined by the current edition of the institute of transportation engineers trip generation manual, during the peak-hour period designated in the ordinance. In such case, the impact fee ordinance adopted under this act may require the applicant for such a development to perform a traffic analysis of development traffic impact on highways, roads or streets outside the transportation service area in which the development site is located but within the boundaries of the municipality or municipalities adopting a joint municipal impact fee ordinance or municipalities which are participating in a joint municipal authority authorized to impose impact fees by this article. Any such highways, roads or streets or parts thereof outside the transportation service area which will accommodate 10% or more of development traffic and 100 or more new peak-hour trips may be required to be studied, and the ordinance may require the applicant to mitigate the traffic impacts of the development on such highways, roads and streets to maintain the predevelopment conditions after completion of the development.

Section 506-A. Appeals.

(a) Any person required to pay an impact fee shall have the right to contest the land use assumptions, the development and implementation of the transportation capital improvement program, the imposition of impact fees, the periodic updating of the transportation capital improvement program, the refund of impact fees and all other matters relating to impact fees, including the constitutionality or validity of the impact fee ordinance by filing an appeal with the court of common pleas.

(b) A master may be appointed by the court to hear testimony on the issues and return the record and a transcript of the testimony, together with a report and recommendations, or the court may appoint a master to hold a nonrecord hearing and to make recommendations and return the same to the court, in which case either party may demand a hearing de novo before the court.

(c) Any cost incurred by parties in such an appeal shall be the separate responsibility of the parties.

Section 507-A. Prerequisites for Assessing Sewer and Water Tap-in Fees.

(a) No municipality may charge any tap-in connection or other similar fee as a condition of connection to a municipally owned sewer or water system unless such fee is calculated as provided in the applicable provisions of the act of May 2, 1945, (P.L.382, No.164), known as the "Municipality Authorities Act of 1945."

(b) Where a municipally owned water or sewer system is to be extended at the expense of the owner or owners of properties or where the municipality otherwise would construct the connection end or customer facilities services (other than water meter installation), the property owner or owners shall have the right to construct such extension or make such connection and install such customer facilities himself or themselves or through a subcontractor in accordance with the "Municipality Authorities Act of 1945."

(c) Where a property owner or owners construct or cause to be constructed any addition, expansion or extension to or of a sewer or water system of a municipality whereby such addition, expansion or extension provides future excess capacity to accommodate future development upon the lands of others, the municipality shall provide for the reimbursement to the property owner or owners in accordance with the provisions of the "Municipality Authorities Act of 1945."

Section 508-A. Joint Municipal Impact Fee Ordinance.

(a) For the purpose of permitting municipalities which cooperatively plan for their future to also provide for transportation capital improvements in a cooperative manner, the governing bodies of each municipality which has adopted a joint municipal comprehensive plan pursuant to Article XI, in accordance with the conditions and procedures set forth in this article, may cooperate with one or more municipalities to enact, amend and repeal joint transportation impact fee ordinances to accomplish the purposes of this act in accordance with this article.

(b) The procedures set forth in this article shall be applicable to the enactment of a joint municipal impact fee ordinance.

(c) Each municipality party to a joint municipal impact fee ordinance shall approve the advisory committee and shall adopt the land use assumptions, roadway sufficiency analysis, capital improvement plan, and ordinances and amendments thereto in accordance with the procedures in this article, and no such ordinance shall become effective until it has been properly adopted by all the participating municipalities.

Article VI - Zoning

Section 601. General Powers. The governing body of each municipality, in accordance with the conditions and procedures set forth in this act, may enact, amend and repeal zoning ordinances to implement comprehensive plans and to accomplish any of the purposes of this act.

Section 602. County Powers. The powers of the governing bodies of counties to enact, amend and repeal zoning ordinances shall be limited to land in those municipalities, wholly or partly within the county, which have no zoning ordinance in effect at the time a zoning ordinance is introduced before the governing body of the county and until the municipality's zoning ordinance is in effect. The enactment of a zoning ordinance by any municipality, other than the county, whose land is subject to county zoning shall act as a repeal protanto of the county zoning ordinance within the municipality adopting such ordinance.

Section 602.1. County Review; Dispute Resolution. The county planning commission shall offer a mediation option to any municipality which believes that its citizens will experience harm as the result of the adoption of a zoning ordinance or an amendment to an existing zoning ordinance in contiguous municipalities, if the contiguous municipalities agree. In exercising such an option, the municipalities shall comply with the procedures set forth in Article IX. The cost of the mediation shall be shared equally by the parties, unless otherwise agreed.

Section 603. Ordinance Provisions.

(a) Zoning ordinances should reflect the policy goals of the statement of community development objectives required in section 606, and give consideration to the character of the municipality, the needs of the citizens and the suitabilities and special nature of particular parts of the municipality.

(b) Zoning ordinances, except to the extent that those regulations of mineral extraction by local ordinances and enactments have heretofore been superseded and preempted by the act of May 31, 1945 (P.L.1198, No.418), known as the "Surface Mining Conservation and Reclamation Act," the act of December 19, 1984 (P.L.1093, No.219), known as the "Noncoal Surface Mining Conservation and Reclamation Act," and the act of December 19, 1984 (P.L.1140, No.223), known as the "Oil and Gas Act," and to the extent that the subsidence impacts of coal extraction are regulated by the act of April 27, 1966 (1ST Sp.Sess,. P.L.31, No.1), known as "The Bituminous Mine Subsidence and Land Conservation Act," and that regulation of activities related to commercial agricultural production would exceed the requirements imposed under the act of May 20, 1993 (P.L.12, No.6), known as the "Nutrient Management Act," regardless of whether any agricultural operation within the area to be affected by the ordinance would be a concentrated animal operation as defined by the "Nutrient Management Act," the act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law," or the act of June 10, 1982 (P.L.454, No.133), entitled "An Act Protecting Agricultural Operations from Nuisance Suits and Ordinances Under Certain Circumstances," or that regulation of other activities are preempted by other federal or state laws may permit, prohibit, regulate, restrict and determine:

(1) Uses of land, watercourses and other bodies of water.

(2) Size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal and use of structures.

(3) Areas and dimensions of land and bodies of water to be occupied by uses and structures, as well as areas, courts, yards, and other open spaces and distances to be left unoccupied by uses and structures.

(4) Density of population and intensity of use.

(5) Protection and preservation of natural and historic resources and prime agricultural land and activities.

(c) Zoning ordinances may contain:

(1) provisions for special exceptions and variances administered by the zoning hearing board, which provisions shall be in accordance with this act;

(2) provisions for conditional uses to be allowed or denied by the governing body after recommendations by the planning agency and hearing, pursuant to express standards and criteria set forth in the zoning ordinance. Notice of hearings on conditional uses shall be provided in accordance with section 908(1), and notice of the decision shall be provided in accordance with section 908(10). In allowing a conditional use, the governing body may attach such reasonable conditions and safeguards, other than those related to off-site transportation or road improvements, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of this act and the zoning ordinance;

(2.1) ((2.1) deleted by amendment June 22, 2000, P.L.495, No. 68)

(2.2) provisions for regulating transferable development rights, on a voluntary basis, including provisions for the protection of persons acquiring the same, in accordance with express standards and criteria set forth in the ordinance and section 619.1;

(3) provisions for the administration and enforcement of such ordinances;

(4) such other provisions as may be necessary to implement the purposes of this act;

(5) provisions to encourage innovation and to promote flexibility, economy and ingenuity in development, including subdivisions and land developments as defined in this act;

(6) provisions authorizing increases in the permissible density of population or intensity of a particular use based upon expressed standards and criteria set forth in the zoning ordinance; and

(7) provisions to promote and preserve prime agricultural land, environmentally sensitive areas and areas of historic significance.

(c) amended July 4, 2008, P.L.319, No.39)

(d) Zoning ordinances may include provisions regulating the siting, density and design of residential, commercial, industrial and other developments in order to assure the availability of reliable, safe and adequate water supplies to support the intended land uses within the capacity of available water resources.

(e) Zoning ordinances may not unduly restrict the display of religious symbols on property being used for religious purposes.

(f) Zoning ordinances may not unreasonably restrict forestry activities. To encourage maintenance and management of forested or wooded open space and promote the conduct of forestry as a sound and economically viable use of forested land throughout this commonwealth, forestry activities, including, but not limited to, timber harvesting, shall be a permitted use by right in all zoning districts in every municipality.

(g) (1) zoning ordinances shall protect prime agricultural land and may promote the establishment of agricultural security areas.

(2) zoning ordinances shall provide for protection of natural and historic features and resources.

(h) Zoning ordinances shall encourage the continuity, development and viability of agricultural operations. Zoning ordinances may not restrict agricultural operations or changes to or expansions of agricultural operations in geographic areas where agriculture has traditionally been present, unless the agricultural operation will have a direct adverse effect on the public health and safety. Nothing in this subsection shall

require a municipality to adopt a zoning ordinance that violates or exceeds the provisions of the act of May 20, 1993 (P.L.12, No.6), known as the "Nutrient Management Act," the act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law," or the act of June 10, 1982 (P.L.454, No.133), entitled "An Act Protecting Agricultural Operations from Nuisance Suits and Ordinances Under Certain Circumstances."

(i) Zoning ordinances shall provide for the reasonable development of minerals in each municipality.

(j) Zoning ordinances adopted by municipalities shall be generally consistent with the municipal or multimunicipal comprehensive plan or, where none exists, with the municipal statement of community development objectives and the county comprehensive plan. If a municipality amends its zoning ordinance in a manner not generally consistent with its comprehensive plan, it shall concurrently amend its comprehensive plan in accordance with Article III.

(k) A municipality may amend its comprehensive plan at any time, provided that the comprehensive plan remains generally consistent with the county comprehensive plan and compatible with the comprehensive plans of abutting municipalities.

(l) Zoning ordinances shall permit no-impact home-based businesses in all residential zones of the municipality as a use permitted by right, except that such permission shall not supersede any deed restriction, covenant or agreement restricting the use of land, nor any master deed, bylaw or other document applicable to a common interest ownership community.

Section 603.1. Interpretation of Ordinance Provisions. In interpreting the language of zoning ordinances 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 governing body, in favor of the property owner and against any implied extension of the restriction.

Section 604. Zoning Purposes. The provisions of zoning ordinances shall be designed:

(1) To promote, protect and facilitate any or all of the following: the public health, safety, morals, and the general welfare; coordinated and practical community development and proper density of population; emergency management preparedness and operations, airports, and national defense facilities, the provisions of adequate light and air, access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, recreational facilities, public grounds, the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use, and other public requirements; as well as preservation of the natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains.

(2) To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.

(3) To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.

(4) To provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multifamily dwellings in various arrangements, mobile homes and mobile home parks, provided, however, that no zoning ordinance shall be deemed invalid for the failure to provide for any other specific dwelling type.

(5) To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

Section 605. Classifications. In any municipality, other than a county, which enacts a zoning ordinance, no part of such municipality shall be left unzoned. The provisions of all zoning ordinances may be classified so that different provisions may be applied to different classes of situations, uses and structures and to such various districts of the municipality as shall be described by a map made part of the zoning ordinance. Where zoning districts are created, all provisions shall be uniform for each class of uses or structures, within each district, except that additional classifications may be made within any district:

(1) For the purpose of making transitional provisions at and near the boundaries of districts.

(1.1) For the purpose of regulating nonconforming uses and structures.

(2) For the regulation, restriction or prohibition of uses and structures at, along or near:

(i) major thoroughfares, their intersections and interchanges, transportation arteries and rail or transit terminals;

(ii) natural or artificial bodies of water, boat docks and related facilities;

(iii) places of relatively steep slope or grade, or other areas of hazardous geological or topographic features;

(iv) public buildings and public grounds;

(v) aircraft, helicopter, rocket, and spacecraft facilities;

(vi) places having unique historical, architectural or patriotic interest or value; or

(vii) flood plain areas, agricultural areas, sanitary landfills, and other places having a special character or use affecting and affected by their surroundings.

As among several classes of zoning districts, the provisions for permitted uses may be mutually exclusive, in whole or in part.

(3) For the purpose of encouraging innovation and the promotion of flexibility, economy and ingenuity in development, including subdivisions and land developments as defined in this act, and for the purpose of authorizing increases in the permissible density of population or intensity of a particular use based upon expressed standards and criteria set forth in the zoning ordinance.

(4) For the purpose of regulating transferable development rights on a voluntary basis.

Section 606. Statement of Community Development Objectives. Zoning ordinances enacted after the effective date of this act should reflect the policy goals of the municipality as listed in a statement of community development objectives, recognizing that circumstances can necessitate the adoption and timely pursuit of new goals and the enactment of new zoning ordinances which may neither require nor allow for the completion of a new comprehensive plan and approval of new community development objectives. This statement may be supplied by reference to the community comprehensive plan or such portions of the community comprehensive plan as may exist and be applicable or may be the statement of community development objectives provided in a statement of legislative findings of the governing body of the municipality with respect to land use; density of population; the need for housing, commerce and industry; the location and function of streets and other community facilities and utilities; the need for preserving agricultural land and protecting natural resources; and any other factors that the municipality believes relevant in describing the purposes and intent of the zoning ordinance.

Section 607. Preparation of Proposed Zoning Ordinance.

(a) The text and map of the proposed zoning ordinance, as well as all necessary studies and surveys preliminary thereto, shall be prepared by the planning agency of each municipality upon request by the governing body.

(b) In preparing a proposed zoning ordinance, the planning agency shall hold at least one public meeting pursuant to public notice and may hold additional public meetings upon such notice as it shall determine to be advisable.

(c) Upon the completion of its work, the planning agency shall present to the governing body the proposed zoning ordinance, together with recommendations and explanatory materials.

(d) The procedure set forth in this section shall be a condition precedent to the validity of a zoning ordinance adopted pursuant to this act.

(e) If a county planning agency shall have been created for the county in which the municipality adopting the ordinance is located, then at least 45 days prior to the public hearing by the local governing body as provided in section 608, the municipality shall submit the proposed ordinance to said county planning agency for recommendations.

Section 608. Enactment of Zoning Ordinance. Before voting on the enactment of a zoning ordinance, the governing body shall hold a public hearing thereon, pursuant to public notice, and pursuant to mailed notice and electronic notice to any 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 made a timely request in accordance with section 109. The vote on the enactment by the governing body shall be within 90 days after the last public hearing. Within 30 days after enactment, a copy of the zoning ordinance shall be forwarded to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located.

Section 608.1. Municipal Authorities and Water Companies.

(a) A municipal authority, water company or any other municipality that plans to expand water, sanitary sewer or storm sewer service via a new main extension to a proposed development that has not received any municipal approvals within the municipality shall notify the municipality by certified mail, return receipt requested, of its intention and shall provide the municipality an opportunity to provide written comment on whether the proposed expansion of service within the municipality is generally consistent with the zoning ordinance.

(b) The purpose of the requirement of this section is to provide the municipal authority, water company or any other municipality with information regarding how its decision to expand service may potentially enhance and support or conflict with or negatively impact on the land use planning of municipalities.

(c) Nothing in this section shall be construed as limiting the right of a municipal authority, water company or any other municipality to expand service as otherwise permitted by law.

(d) Except as provided in section 619.2, nothing in this act shall be construed as limiting the authority of the Pennsylvania Public Utility Commission over the implementation, location, construction and maintenance of public utility facilities. The requirement of this section shall not apply to an expansion of service by a municipal authority, water company or other municipality which is ordered by a court or a federal or state agency.

(e) As used in this section:

(1) A "decision to expand service within the municipality" shall mean a decision to expand the number of its individual service connections for distribution or collection within a municipality as a result of a main extension; but, if the number of individual service connections are not being increased, locating or acquiring transmission lines or interceptors, or wells, reservoirs, aquifers, pump stations, water storage tanks or other facilities by a municipal authority or water company in a new area of a municipality shall not be deemed an expansion of service.

(2) A "water company" shall include any person or corporation, including a municipal corporation operating beyond its corporate limits, which furnishes water to or for the public for compensation.

(f) Nothing in this section shall be construed to authorize a municipality to regulate the allocation or withdrawal of water resources by any person, municipal authority or water company that is otherwise regulated by the Pennsylvania Public Utility Commission or other Federal or state agencies or statutes.

Section 609. Enactment of Zoning Ordinance Amendments.

(a) For the preparation of amendments to zoning ordinances, the procedure set forth in section 607 for the preparation of a proposed zoning ordinance shall be optional.

(b)(1) Before voting on the enactment of an amendment, the governing body shall hold a public hearing thereon, pursuant to public notice, and pursuant to mailed notice and electronic notice to 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 made a timely request in accordance with section 109. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the municipality at points deemed sufficient by the municipality along the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.

(2)(i) In addition to the requirement that notice be posted under clause (1), where the proposed amendment involves a zoning map change, notice of the public hearing shall be mailed by the municipality at least thirty days prior to the date of the hearing by first class mail to the addresses to which real estate tax bills are sent for all real property located within the area being rezoned, as evidenced by tax records within the possession of the municipality. The notice shall include the location, date and time of the public hearing. A good faith effort and substantial compliance shall satisfy the requirements of this subsection.

(ii) This clause shall not apply when the rezoning constitutes a comprehensive rezoning.

(c) In the case of an amendment other than that prepared by the planning agency, the governing body shall submit each such amendment to the planning agency at least 30 days prior to the hearing on such proposed amendment to provide the planning agency an opportunity to submit recommendations.

(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 governing body shall hold another public hearing, pursuant to public notice, mailed notice and electronic notice, before proceeding to vote on the amendment.

(e) If a county planning agency shall have been created for the county in which the municipality proposing the amendment is located, then at least 30 days prior to the public hearing on the amendment by the local governing body, the municipality shall submit the proposed amendment to the county planning agency for recommendations.

(f) The municipality may offer a mediation option as an aid in completing proceedings authorized by this section. In exercising such an option, the municipality and mediating parties shall meet the stipulations and follow the procedures set forth in Article IX.

(g) Within 30 days after enactment, a copy of the amendment to the zoning ordinance shall be forwarded to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located.

Section 609.1. Procedure for Landowner Curative Amendments.

(a) A landowner who desires to challenge on substantive grounds the validity of a zoning ordinance or 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 governing body with a written request that his challenge and proposed amendment be heard and decided as provided in section 916.1. The governing body shall commence a hearing thereon within 60 days of the request as provided in section 916.1. The curative amendment and challenge shall be referred to the planning agency or agencies as provided in section 609 and notice of the hearing thereon shall be given as provided in section 610 and in section 916.1.

(b) The hearing shall be conducted in accordance with section 908 and all references therein to the zoning hearing board shall, for purposes of this section be references to the governing body: provided, however, that the provisions of section 908 (1.2) and (9) shall not apply and the provisions of section 916.1 shall control. If a municipality does not accept a landowner's curative amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire zoning ordinance and map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge.

(c) The governing body of a municipality which has determined that a validity challenge has merit may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the challenged defects. The governing body shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:

(1) the impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;

(2) 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;

(3) the suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features;

(4) the impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, 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

(5) the impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

Section 609.2. Procedure for Municipal Curative Amendments. If a municipality determines that its zoning ordinance or any portion thereof is substantially invalid, it shall take the following actions:

(1) A municipality shall declare by formal action, its zoning ordinance or portions thereof substantively invalid and propose to prepare a curative amendment to overcome such invalidity. Within 30 days following such declaration and proposal the governing body of the municipality shall:

  (i) By resolution make specific findings setting forth the declared invalidity of the zoning ordinance which may include:

    (A) references to specific uses which are either not permitted or not permitted in sufficient quantity;

    (B) reference to a class of use or uses which require revision; or

    (C) reference to the entire ordinance which requires revisions.

  (ii) Begin to prepare and consider a curative amendment to the zoning ordinance to correct the declared invalidity.

(2) Within 180 days from the date of the declaration and proposal, the municipality shall enact a curative amendment to validate, or reaffirm the validity of, its zoning ordinance pursuant to the provisions required by section 609 in order to cure the declared invalidity of the zoning ordinance.

(3) Upon the initiation of the procedures, as set forth in clause (1), the governing body shall not be required to entertain or consider any landowner's curative amendment filed under section 609.1 nor shall the zoning hearing board be required to give a report requested under section 909.1 or 916.1 subsequent to the declaration and proposal based upon the grounds identical to or substantially similar to those specified in the resolution required by clause (1)(a). Upon completion of the procedures as set forth in clauses (1) and (2), no rights to a cure pursuant to the provisions of sections 609.1 and 916.1 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 there has been a curative amendment pursuant to this section.

(4) A municipality having utilized the procedures as set forth in clauses (1) and (2) may not again utilize said procedure for a 36-month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of its zoning ordinance, pursuant to clause (2); provided, however, if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the municipality by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, the municipality may utilize the provisions of this section to prepare a curative amendment to its ordinance to fulfill said duty or obligation.

Section 610. Publication, Advertisement and Availability of Ordinances.

(a) Proposed zoning ordinances and amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this section, and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the municipality where copies of the proposed ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The governing body shall publish the proposed ordinance or amendment once in one newspaper of general circulation in the municipality not more than 60 days nor less than 7 days prior to passage. Publication of the proposed ordinance or amendment shall include either the full text thereof or the title and a brief summary, prepared by the municipal solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

(1) A copy thereof shall be supplied to a newspaper of general circulation in the municipality at the time the public notice is published.

(2) 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) In the event substantial amendments are made in the proposed ordinance or amendment, before voting upon enactment, the governing body shall, at least ten days prior to enactment, readvertise, in one newspaper of general circulation in the municipality, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.

(c) Zoning ordinances and amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

Section 611. Publication After Enactment. (611 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 613. Registration of Nonconforming Uses, Structures and Lots. Zoning ordinances may contain provisions requiring the zoning officer to identify and register nonconforming uses, structures and lots, together with the reasons why the zoning officer identified them as nonconformities.

Section 614. Appointment and Powers of Zoning Officer. For the administration of a zoning ordinance, a zoning officer, who shall not hold any elective office in the municipality, shall be appointed. The zoning officer shall meet qualifications established by the municipality and shall be able to demonstrate to the satisfaction of the municipality a working knowledge of municipal zoning. The zoning officer shall administer the zoning ordinance in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to the zoning ordinance. Zoning officers may be authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of their employment.

Section 615. Zoning Appeals. All appeals from decisions of the zoning officer shall be taken in the manner set forth in this act.

Section 616. Enforcement Penalties. (616 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 616.1. Enforcement Notice.

(a) If it appears to the municipality that a violation of any zoning ordinance enacted under this act or prior enabling laws has occurred, the municipality shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.

(b) 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.

(c) An enforcement notice shall state at least the following:

(1) The name of the owner of record and any other person against whom the municipality intends to take action.

(2) The location of the property in violation.

(3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.

(4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

(5) 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.

(6) 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.

(d) In any appeal of an enforcement notice to the zoning hearing board the municipality shall have the responsibility of presenting its evidence first.

(e) Any filing fees paid by a party to appeal an enforcement notice to the zoning hearing board shall be returned to the appealing party by the municipality if the zoning hearing board, or any court in a subsequent appeal, rules in the appealing party's favor.

Section 617. 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 this 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 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 617.1. Jurisdiction. District justices shall have initial jurisdiction over proceedings brought under section 617.2.

Section 617.2. Enforcement Remedies.

(a) Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of any zoning ordinance enacted under this act or prior enabling laws shall, upon being found liable therefor in a civil enforcement proceeding commenced by a municipality, pay a judgment of not more than $500 plus all court costs, including reasonable attorney fees incurred by a municipality as a result thereof. No judgment shall commence or be imposed, levied or 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 municipality 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 zoning ordinances shall be paid over to the municipality whose ordinance has been violated.

(b) The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.

(c) Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the municipality the right to commence any action for enforcement pursuant to this section.

Section 617.3. Finances and Expenditures.

(a) The governing body may appropriate funds to finance the preparation of zoning ordinances and shall appropriate funds for administration, for enforcement and for actions to support or oppose, upon appeal to the courts, decisions of the zoning hearing board.

(b) The governing body shall make provision in its budget and appropriate funds for the operation of the zoning hearing board.

(c) The zoning hearing board may employ or contract for and fix the compensation of legal counsel, as the need arises. The legal counsel shall be an attorney other than the municipal solicitor. The board may also employ or contract for and fix the compensation of experts and other staff and may contract for services as it shall deem necessary. The compensation of legal counsel, experts and staff and the sums expended for services shall not exceed the amount appropriated by the governing body for this use.

(d) For the same purposes, the governing body may accept gifts and grants of money and services from private sources and from the county, State and Federal Governments.

(e) The governing body may prescribe reasonable fees with respect to the administration of a zoning ordinance and with respect to hearings before the zoning hearing board. Fees for these 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.

Section 618. Finances. (618 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 619. Exemptions. This article shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the municipality in which the building or proposed building is located have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of a party to the proceedings.

Section 619.1. Transferable Development Rights.

(a) To and only to the extent a local ordinance enacted in accordance with this article and Article VII so provides, there is hereby created, as a separate estate in land, the development rights therein, and the same are declared to be severable and separately conveyable from the estate in fee simple to which they are applicable.

(b) The development rights shall be conveyed by a deed duly recorded in the office of the recorder of deeds in and for the county in which the municipality whose ordinance authorizes such conveyance is located.

(c) The recorder of deeds shall not accept for recording any such instrument of conveyance unless there is endorsed thereon the approval of the municipal governing body having zoning or planned residential development jurisdiction over the land within which the development rights are to be conveyed, dated not more than 60 days prior to the recording.

(d) No development rights shall be transferable beyond the boundaries of the municipality wherein the lands from which the development rights arise are situated except that, in the case of a joint municipal zoning ordinance, or a written agreement among two or more municipalities, development rights shall be transferable within the boundaries of the municipalities comprising the joint municipal zoning ordinance or where there is a written agreement, the boundaries of the municipalities who are parties to the agreement.

Section 619.2. Effect of Comprehensive Plans and Zoning Ordinances.

(a) When a county adopts a comprehensive plan in accordance with sections 301 and 302 and any municipalities therein have adopted comprehensive plans and zoning ordinances accordance with sections 301, 303(d) and 603(j), Commonwealth agencies shall consider and may rely upon comprehensive plans and zoning ordinances when reviewing applications for the funding or permitting of infrastructure or facilities.

(b) The Center for Local Government Services shall work with municipalities to coordinate Commonwealth agency program resources with municipal planning and zoning activities. Upon request, the center for local government services shall assist municipalities in identifying and assessing the impact of Commonwealth agency decisions and their effect on municipal and multimunicipal planning and zoning. Upon the authorization of the governor, the center for local government services shall have access to information, services, functions and other resources in the possession of executive agencies under the governor's jurisdiction to fulfill its obligations under this section.

(c) When municipalities adopt a joint municipal zoning ordinance:

(1) Commonwealth agencies shall consider, and may rely upon the joint municipal zoning ordinance for the funding or permitting of infrastructure or facilities.

(2) The municipalities may, by agreement, share tax revenues and fees remitted to municipalities located within the joint municipal zone.

Section 621. Prohibiting the Location of Methadone Treatment Facilities in Certain Locations.

(a) (1) Notwithstanding any other provision of law to the contrary and except as provided in subsection (b), a methadone treatment facility shall not be established or operated within 500 feet of an existing school, public playground, public park, residential housing area, child-care facility, church, meetinghouse or other actual place of regularly stated religious worship established prior to the proposed methadone treatment facility.

(2) The provisions of this subsection shall apply whether or not an occupancy permit or certificate of use has been issued to the owner or operator of a methadone treatment facility for a location that is within 500 feet of an existing school, public playground, public park, residential housing area, child-care facility, church, meetinghouse or other actual place of regularly stated religious worship established prior to the proposed methadone treatment facility.

(b) Notwithstanding subsection (a), a methadone treatment facility may be established and operated closer than 500 feet of an existing school, public playground, public park, residential housing area, child-care facility, church, meetinghouse or other actual place of regularly stated religious worship established prior to the proposed methadone treatment facility if, by majority vote, the governing body for the municipality in which the proposed methadone treatment facility is to be located votes in favor of the issuance of an occupancy permit or certificate of use for said facility at such a location. At least 14 days prior to the governing body of a municipality voting on whether to approve the issuance of an occupancy permit or certificate of use for a methadone treatment facility at a location that is closer than 500 feet of an existing school, public playground, public park, residential housing area, child-care facility, church, meetinghouse or other actual place of regularly stated religious worship established prior to the proposed methadone treatment facility, one or more public hearings regarding the proposed methadone treatment facility location shall be held within the municipality following public notice. All owners of real property located within 500 feet of the proposed location shall be provided written notice of said public hearings at least 30 days prior to said public hearings occurring.

(c) This section shall not apply to a methadone treatment facility that is licensed by the Department of Health prior to May 15, 1999.

(d) As used in this section, the term “methadone treatment facility” shall mean a facility licensed by the Department of Health to use the drug methadone in the treatment, maintenance or detoxification of persons.

Article VII - Planned Residential Development

Section 701. Purposes. In order that the purposes of this act be furthered in an era of increasing urbanization and of growing demand for housing of all types and design; to insure that the provisions of Article VI which are concerned in part with the uniform treatment of dwelling type, bulk, density, intensity and open space within each zoning district, shall not be applied to the improvement of land by other than lot by lot development in a manner that would distort the objectives of that Article VI; to encourage innovations in residential and nonresidential development and renewal so that the growing demand for housing and other development may be met by greater variety in type, design and layout of dwellings and other buildings and structures and by the conservation and more efficient use of open space ancillary to said dwellings and uses; so that greater opportunities for better housing and recreation may extend to all citizens and residents of this Commonwealth; and in order to encourage a more efficient use of land and of public services and to reflect changes in the technology of land development so that economies secured may enure to the benefit of those who need homes and for other uses; and, in aid of these purposes, to provide a procedure which can relate the type, design and layout of residential and nonresidential development to the particular site and the particular demand for housing existing at the time of development in a manner consistent with the preservation of the property values within existing residential and nonresidential areas, and to insure that the increased flexibility of regulations over land development authorized herein is carried out under such administrative standards and procedures as shall encourage the disposition of proposals for land development without undue delay, the following powers are granted to all municipalities.

Section 702. Grant of Power. The governing body of each municipality may enact, amend and repeal provisions within a zoning ordinance fixing standards and conditions for planned residential development. The enactment of such provisions shall be in accordance with the procedures required for the enactment of an amendment of a zoning ordinance as provided in Article VI of this act. Pursuant to such provisions the governing body may approve, modify or disapprove any development plan within the municipality adopting such provisions or designate the planning agency as its official agency for such purposes. Such provisions shall:

(1) Specify whether the governing body, or the planning agency shall administer planned residential development provisions pursuant to the provisions of this article;

(2) Set forth the standards, conditions and regulations for a planned residential development consistent with the provisions of this article; and

(3) Set forth the procedures pertaining to the application for, hearing on and tentative and final approval of a planned residential development, which shall be consistent with the provisions of this article for such applications and hearings.

Section 702.1. Transferable Development Rights. Municipalities electing to enact planned residential development provisions may also incorporate therein provisions for transferable development rights, on a voluntary basis, in accordance with express standards and criteria set forth in the ordinance and with the requirements of Article VI.

Section 703. Applicability of Comprehensive Plan and Statement of Community Development Objectives. All provisions and all amendments thereto adopted pursuant to this article shall be based on and interpreted in relation to the statement of community development objectives of the zoning ordinance and may be related to either the comprehensive plan for the development of the municipality prepared under the provisions of this act or a statement of legislative findings in accordance with section 606. Every application for approval of a planned residential development either shall be based on and interpreted in relation to the statement of community development objectives, and may be related to the comprehensive plan, or shall be based on and interpreted in relation to the statement of legislative findings.

Section 704. Jurisdiction of County Planning Agencies.

(a) When any county has adopted planned residential development provisions in accordance with the terms of this article, a certified copy of such provisions shall be sent to every municipality within the county. All amendments shall also be sent to the aforementioned municipalities.

(b) The powers of governing bodies of counties to enact, amend and repeal planned residential development provisions shall not supersede any local planned residential development, zoning or subdivision and land development ordinance which is already in effect or subsequently becomes effective in any municipality within such county, provided that a certified copy of such provision is filed with the county planning agency, if one exists. However, all applications for tentative approval of planned residential development of land located within a municipality having adopted planned residential development provisions as set forth in this article shall nevertheless be referred to the county planning agency, if one exists, for study and recommendation and such county planning agency shall be required to report to such municipality within 30 days or forfeit the right to review.

Section 705. Standards and Conditions for Planned Residential Development.

(a) All provisions adopted pursuant to this article shall set forth all the standards, conditions and regulations by which a proposed planned residential development shall be evaluated, and said standards, conditions and regulations shall be consistent with the following subsections.

(b) The provisions adopted pursuant to this article shall set forth the uses permitted in a planned residential development, which uses may include but shall not be limited to:

(1) Dwelling units of any dwelling type or configuration, or any combination thereof.

(2) Those nonresidential uses deemed to be appropriate for incorporation in the design of the planned residential development.

(c) The provisions may establish regulations setting forth the timing of development among the various types of dwellings and may specify whether some or all nonresidential uses are to be built before, after or at the same time as the residential uses.

(d) The provisions adopted pursuant to this article shall establish standards governing the density, or intensity of land use, in a planned residential development. The standards may vary the density or intensity of land use, otherwise applicable to the land under the provisions of a zoning ordinance of the municipality within the planned residential development in consideration of all of the following:

(1) The amount, location and proposed use of common open space.

(2) The location and physical characteristics of the site of the proposed planned residential development.

(3) The location, design, type and use of structures proposed.

(e) In the case of a planned residential development proposed to be developed over a period of years, standards established in provisions adopted pursuant to this article may, to encourage the flexibility of housing density, design and type intended by this article:

(1) (Permit a variation in each section to be developed from the density, or intensity of use, established for the entire planned residential development.

(2) Allow for a greater concentration of density or intensity of land use, within some section or sections of development, whether it be earlier or later in the development than upon others.

(3) Require that the approval of such greater concentration of density or intensity of land use for any section to be developed be offset by a smaller concentration in any completed prior stage or by an appropriate reservation of common open space on the remaining land by a grant of easement or by covenant in favor of the municipality, provided that such reservation shall, as far as practicable, defer the precise location of such common open space until an application for final approval is filed, so that flexibility of development which is a prime objective of this article, can be maintained.

(f) The standards for a planned residential development established by provisions adopted pursuant to this article may require that the common open space resulting from the application of standards for density, or intensity of land use, shall be set aside for the use and benefit of the residents in such development and may include provisions which shall determine the amount and location of said common open space and secure its improvement and maintenance for common open space use, subject, however, to the following:

(1) The municipality may, at any time and from time to time, accept the dedication of land or any interest therein for public use and maintenance, but the municipality need not require, as a condition of the approval of a planned residential development, that land proposed to be set aside for common open space be dedicated or made available to public use. The provisions may require that the landowner provide for and establish an organization for the ownership and maintenance of the common open space, and that such organization shall not be dissolved nor shall it dispose of the common open space, by sale or otherwise (except to an organization conceived and established to own and maintain the common open space), without first offering to dedicate the same to the public.

(2) In the event that the organization established to own and maintain common open space, or any successor organization, shall at any time after establishment of the planned residential development fail to maintain the common open space in reasonable order and condition in accordance with the development plan, the municipality may serve written notice upon such organization or upon the residents of the planned residential development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be corrected within 30 days thereof, and shall state the date and place of a hearing thereon which shall be held within 14 days of the notice. At such hearing the municipality may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be corrected.

(3) If the deficiencies set forth in the original notice or in the modifications thereof shall not be corrected within said 30 days or any extension thereof, the municipality, in order to preserve the taxable values of the properties within the planned residential development and to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one year. Said maintenance by the municipality shall not constitute a taking of said common open space, nor vest in the public any rights to use the same.

(4) Before the expiration of said year, the municipality shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space, call a public hearing upon notice to such organization, or to the residents of the planned residential development, to be held by the governing body or its designated agency, at which hearing such organization or the residents of the planned residential development shall show cause why such maintenance by the municipality shall not, at the option of the municipality, continue for a succeeding year. If the governing body, or its designated agency, shall determine that such organization is ready and able to maintain said common open space in reasonable condition, the municipality shall cease to maintain said common open space at the end of said year. If the governing body or its designated agency shall determine that such organization is not ready and able to maintain said common open space in a reasonable condition, the municipality may, in its discretion, continue to maintain said common open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter.

(5) The decision of the governing body or its designated agency shall be subject to appeal to court in the same manner, and within the same time limitation, as is provided for zoning appeals by this act.

(6) The cost of such maintenance by the municipality shall be assessed ratably against the properties within the planned residential development that have a right of enjoyment of the common open space, and shall become a lien on said properties. The municipality at the time of entering upon said common open space for the purpose of maintenance shall file a notice of lien in the office of the prothonotary of the county, upon the properties affected by the lien within the planned residential development.

(g) Provisions adopted pursuant to this article may require that a planned residential development contain a minimum number of dwelling units.

(h) The authority granted a municipality by Article V to establish standards for the location, width, course and surfacing of streets, walkways, curbs, gutters, street lights, shade trees, water, sewage and drainage facilities, easements or rights-of-way for drainage and utilities, reservations of public grounds, other improvements, regulations for the height and setback as they relate to renewable energy systems and energy- conserving building design, regulations for the height and location of vegetation with respect to boundary lines, as they relate to renewable energy systems and energy-conserving building design, regulations for the type and location of renewable energy systems or their components and regulations for the design and construction of structures to encourage the use of renewable energy systems, shall be vested in the governing body or the planning agency for the purposes of this article. The standards applicable to a particular planned residential development may be different than or modifications of, the standards and requirements otherwise required of subdivisions authorized under an ordinance adopted pursuant to Article V, provided, however, that provisions adopted pursuant to this article shall set forth the limits and extent of any modifications or changes in such standards and requirements in order that a landowner shall know the limits and extent of permissible modifications from the standards otherwise applicable to subdivisions.

(i) The provisions adopted pursuant to this article shall set forth the standards and criteria by which the design, bulk and location of buildings shall be evaluated, and all such standards and criteria for any feature of a planned residential development shall be set forth in such provisions with sufficient certainty to provide reasonable criteria by which specific proposals for a planned residential development can be evaluated. All standards in such provisions shall not unreasonably restrict the ability of the landowner to relate his development plan to the particular site and to the particular demand for housing existing at the time of development.

(j) Provisions adopted pursuant to this article shall include a requirement that, if water is to be provided by means other than by private wells owned and maintained by the individual owners of lots within the planned residential development, applicants shall present evidence to the governing body or planning agency, as the case may be, that the planned residential development is to be supplied by a certificated public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement, or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable evidence.

Section 706. Enforcement and Modification of Provisions of the Plan. To further the mutual interest of the residents of the planned residential development and of the public in the preservation of the integrity of the development plan, as finally approved, and to insure that modifications, if any, in the development plan shall not impair the reasonable reliance of the said residents upon the provisions of the development plan, nor result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the development plan as finally approved, whether those are recorded by plat, covenant, easement or otherwise shall be subject to the following provisions:

(1) The provisions of the development plan relating to:

(i) the use, bulk and location of buildings and structures;

(ii) the quantity and location of common open space, except as otherwise provided in this article; and

(iii) the intensity of use or the density of residential units;

shall run in favor of the municipality and shall be enforceable in law or in equity by the municipality, without limitation on any powers of regulation otherwise granted the municipality by law.

(2) All provisions of the development plan shall run in favor of the residents of the planned residential development but only to the extent expressly provided in the development plan and in accordance with the terms of the development plan, and to that extent said provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or equity by said residents acting individually, jointly, or through an organization designated in the development plan to act on their behalf; provided, however, that no provisions of the development plan shall be implied to exist in favor of residents of the planned residential development except as to those portions of the development plan which have been finally approved and have been recorded.

(3) All those provisions of the development plan authorized to be enforced by the municipality under this section may be modified, removed, or released by the municipality, except grants or easements relating to the service or equipment of a public utility, subject to the following conditions:

(i) No such modification, removal or release of the provisions of the development plan by the municipality shall affect the rights of the residents of the planned residential development to maintain and enforce those provisions, at law or equity, as provided in this section.

(ii) No modification, removal or release of the provisions of the development plan by the municipality shall be permitted except upon a finding by the governing body or the planning agency, following a public hearing thereon pursuant to public notice called and held in accordance with the provisions of this article, that the same is consistent with the efficient development and preservation of the entire planned residential development, does not adversely affect either the enjoyment of land abutting upon or across the street from the planned residential development or the public interest, and is not granted solely to confer a special benefit upon any person.

(4) Residents of the planned residential development may, to the extent and in the manner expressly authorized by the provisions of the development plan, modify, remove or release their rights to enforce the provisions of the development plan but no such action shall affect the right of the municipality to enforce the provisions of the development plan in accordance with the provisions of this section.

Section 707. Application for Tentative Approval of Planned Residential Development. In order to provide an expeditious method for processing a development plan for a planned residential development under the provisions adopted pursuant to the powers granted herein, and to avoid the delay and uncertainty which would arise if it were necessary to secure approval, by a multiplicity of local procedures, of a plat of subdivision as well as approval of a change in the zoning regulations otherwise applicable to the property, it is hereby declared to be in the public interest that all procedures with respect to the approval or disapproval of a development plan for a planned residential development and the continuing administration thereof shall be consistent with the following provisions:

(1) An application for tentative approval of the development plan for a planned residential development shall be filed by or on behalf of the landowner.

(2) The application for tentative approval shall be filed by the landowner in such form, upon the payment of such a reasonable fee and with such officials of the municipality as shall be designated in the provisions adopted pursuant to this article.

(3) All planning, zoning and subdivision matters relating to the platting, use and development of the planned residential development and subsequent modifications of the regulations relating thereto, to the extent such modification is vested in the municipality, shall be determined and established by the governing body or the planning agency.

(4) The provisions shall require only such information in the application as is reasonably necessary to disclose to the governing body or the planning agency:

(i) the location, size and topography of the site and the nature of the landowner's interest in the land proposed to be developed;

(ii) the density of land use to be allocated to parts of the site to be developed;

(iii) the location and size of the common open space and the form of organization proposed to own and maintain the common open space;

(iv) the use and the approximate height, bulk and location of buildings and other structures;

(v) the feasibility of proposals for water supply and the disposition of sanitary waste and storm water;

(vi) the substance of covenants, grants of easements or other restrictions proposed to be imposed upon the use of the land, buildings and structures including proposed easements or grants for public utilities;

(vii) the provisions for parking of vehicles and the location and width of proposed streets and public ways;

(viii) the required modifications in the municipal land use regulations otherwise applicable to the subject property;

(viii.1) the feasibility of proposals for energy conservation and the effective utilization of renewable energy sources; and

(ix) in the case of development plans which call for development over a period of years, a schedule showing the proposed times within which applications for final approval of all sections of the planned residential development are intended to be filed and this schedule must be updated annually, on the anniversary of its approval, until the development is completed and accepted.

(5) The application for tentative approval of a planned residential development shall include a written statement by the landowner setting forth the reasons why, in his opinion, a planned residential development would be in the public interest and would be consistent with the comprehensive plan for the development of the municipality.

(6) The application for and tentative and final approval of a development plan for a planned residential development prescribed in this article shall be in lieu of all other procedures or approvals, otherwise required pursuant to Articles V and VI of this act.

Section 708. Public Hearings.

(a) Within 60 days after the filing of an application for tentative approval of a planned residential development pursuant to this article, a public hearing pursuant to public notice on said application shall be held by the governing body or the planning agency, if designated, in the manner prescribed in Article IX.

(b) The governing body or the planning agency may continue the hearing from time to time, and where applicable, may refer the matter back to the planning agency for a report, provided, however, that in any event, the public hearing or hearings shall be concluded within 60 days after the date of the first public hearing.

(c) The municipality may offer a mediation option as an aid in completing proceedings authorized by this section and by subsequent sections in this article prior to final approval by the governing body. In exercising such an option, the municipality and mediating parties shall meet the stipulations and follow the procedures set forth in Article IX.

Section 709. The Findings.

(a) The governing body, or the planning agency, within 60 days following the conclusion of the public hearing provided for in this article or within 180 days after the date of filing of the application, whichever occurs first, shall, by official written communication, to the landowner, either:

(1) grant tentative approval of the development plan as submitted;

(2) grant tentative approval subject to specified conditions not included in the development plan as submitted; or

(3) deny tentative approval to the development plan.

Failure to so act within said period shall be deemed to be a grant of tentative approval of the development plan as submitted. In the event, however, that tentative approval is granted subject to conditions, the landowner may, within 30 days after receiving a copy of the official written communication of the governing body notify such governing body of his refusal to accept all said conditions, in which case, the governing body shall be deemed to have denied tentative approval of the development plan. In the event the landowner does not, within said period, notify the governing body of his refusal to accept all said conditions, tentative approval of the development plan, with all said conditions, shall stand as granted.

(b) The grant or denial of tentative approval by official written communication shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth the reasons for the grant, with or without conditions, or for the denial, and said communication shall set forth with particularity in what respects the development plan would or would not be in the public interest, including, but not limited to, findings of fact and conclusions on the following:

(1) in those respects in which the development plan is or is not consistent with the comprehensive plan for the development of the municipality;

(2) the extent to which the development plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest;

(3) the purpose, location and amount of the common open space in the planned residential development, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development;

(4) the physical design of the development plan and the manner in which said design does or does not make adequate provision for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment;

(5) the relationship, beneficial or adverse, of the proposed planned residential development to the neighborhood in which it is proposed to be established; and

(6) in the case of a development plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public and of the residents of the planned residential development in the integrity of the development plan.

(c) In the event a development plan is granted tentative approval, with or without conditions, the governing body may set forth in the official written communication the time within which an application for final approval of the development plan shall be filed or, in the case of a development plan which provides for development over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed. Except upon the consent of the landowner, the time so established between grant of

tentative approval and an application for final approval shall not be less than three months and, in the case of developments over a period of years, the time between applications for final approval of each part of a plan shall be not less than 12 months.

Section 710. Status of Plan After Tentative Approval.

(a) The official written communication provided for in this article shall be certified by the municipal secretary or clerk of the governing body and shall be filed in his office, and a certified copy shall be mailed to the landowner. Where tentative approval has been granted, it shall be deemed an amendment to the zoning map, effective upon final approval, and shall be noted on the zoning map.

(b) Tentative approval of a development plan shall not qualify a plat of the planned residential development for recording nor authorize development or the issuance of any building permits. A development plan which has been given tentative approval as submitted, or which has been given tentative approval with conditions which have been accepted by the landowner (and provided that the landowner has not defaulted nor violated any of the conditions of the tentative approval), shall not be modified or revoked nor otherwise impaired by action of the municipality pending an application or applications for final approval, without the consent of the landowner, provided an application or applications for final approval is filed or, in the case of development over a period of years, provided applications are filed, within the periods of time specified in the official written communication granting tentative approval.

(c) In the event that a development plan is given tentative approval and thereafter, but prior to final approval, the landowner shall elect to abandon said development plan and shall so notify the governing body in writing, or in the event the landowner shall fail to file application or applications for final approval within the required period of time or times, as the case may be, the tentative approval shall be deemed to be revoked and all that portion of the area included in the development plan for which final approval has not been given shall be subject to those local ordinances otherwise applicable thereto as they may be amended from time to time, and the same shall be noted on the zoning map and in the records of the municipal secretary or clerk of the municipality.

Section 711. Application for Final Approval.

(a) An application for final approval may be for all the land included in a development plan or, to the extent set forth in the tentative approval, for a section thereof. Said application shall be made to the official of the municipality designated by the ordinance and within the time or times specified by the official written communication granting tentative approval. The application shall include any drawings, specifications, covenants, easements, performance bond and such other requirements as may be specified by ordinance, as well as any conditions set forth in the official written communication at the time of tentative approval. A public hearing on an application for final approval of the development plan, or part thereof, shall not be required provided the development plan, or the part thereof, submitted for final approval, is in compliance with the development plan theretofore given tentative approval and with any specified conditions attached thereto.

(b) In the event the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, and as required by the ordinance and the official written communication of tentative approval, the municipality shall, within 45 days from the date of the regular meeting of the governing body or the planning agency, whichever first reviews the application, next following the date the application is filed, grant such development plan final approval. Provided, however, that should the next regular meeting occur more than 30 days following the filing of the application, the 45-day period shall be measured from the 30th day following the day the application has been filed.

(c) In the event the development plan as submitted contains variations from the development plan given tentative approval, the approving body may refuse to grant final approval and shall, within 45 days from the

date of the regular meeting of the governing body or the planning agency, whichever first reviews the application, next following the date the application is filed, so advise the landowner in writing of said refusal, setting forth in said notice the reasons why one or more of said variations are not in the public interest. Provided, however, that should the next regular meeting occur more than 30 days following the filing of the application, the 45-day period shall be measured from the 30th day following the day the application has been filed. In the event of such refusal, the landowner may either:

(1) refile his application for final approval without the variations objected; or

(2) file a written request with the approving body that it hold a public hearing on his application for final approval.

If the landowner wishes to take either such alternate action he may do so at any time within which he shall be entitled to apply for final approval, or within 30 additional days if the time for applying for final approval shall have already passed at the time when the landowner was advised that the development plan was not in substantial compliance. In the event the landowner shall fail to take either of these alternate actions within said time, he shall be deemed to have abandoned the development plan. Any such public hearing shall be held pursuant to public notice within 30 days after request for the hearing is made by the landowner, and the hearing shall be conducted in the manner described in this article for public hearings on applications for tentative approval. Within 30 days after the conclusion of the hearing, the approving body shall by official written communication either grant final approval to the development plan or deny final approval. The grant or denial of final approval of the development plan shall, in cases arising under this section, be in the form and contain the findings required for an application for tentative approval set forth in this article. Failure of the governing body or agency to render a decision on an application for final approval and communicate it to the applicant within the time and in the manner required by this section shall be deemed an approval of the application for final approval, as presented, unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of presentation of communication of the decision, in which case, failure to meet the extended time or change in manner or presentation of communication shall have like effect.

(d) A development plan, or any part thereof, which has been given final approval shall be so certified without delay by the approving body and shall be filed of record forthwith in the office of the recorder of deeds before any development shall take place in accordance therewith. Upon the filing of record of the development plan the zoning and subdivision regulations otherwise applicable to the land included in such plan shall cease to apply thereto. Pending completion, in accordance with the time provisions stated in section 508, of said planned residential development or of that part thereof, as the case may be, that has been finally approved, no modification of the provisions of said development plan, or part thereof, as finally approved, shall be made except with the consent of the landowner. Upon approval of a final plat, the developer shall record the plat in accordance with the provisions of section 513(a) and post financial security in accordance with section 509.

(e) In the event that a development plan, or a section thereof, is given final approval and thereafter the landowner shall abandon such plan or the section thereof that has been finally approved, and shall so notify the approving body in writing; or, in the event the landowner shall fail to commence and carry out the planned residential development in accordance with the time provisions stated in section 508 after final approval has been granted, no development or further development shall take place on the property included in the development plan until after the said property is reclassified by enactment of an amendment to the municipal zoning ordinance in the manner prescribed for such amendments in Article VI.

(f) Each month a municipality shall notify in writing the superintendent of a school district in which development plans for a planned residential development were finally approved by the municipality during the preceding month. The notice shall include, but not be limited to, the location of the development, the number and types of units to be included in the development and the expected construction schedule of the development.

Section 712.1. Jurisdiction. District justices shall have initial jurisdiction over proceedings brought under section 712.2.

Section 712.2. Enforcement Remedies.

(a) Any person, partnership or corporation, who or which has violated the planned residential development provisions of any ordinance enacted under this act or prior enabling laws shall, upon being found liable therefor in a civil enforcement proceeding commenced by a municipality, pay a judgment of not more than $500 plus all court costs, including reasonable attorney fees incurred by a municipality as a result thereof. No judgment shall commence or be imposed, levied or 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 municipality may enforce the judgment pursuant to the appropriate 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 planned residential development provisions shall be paid over to the municipality whose ordinance has been violated.

(b) The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.

(c) Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the municipality the right to commence any action for enforcement pursuant to this section.

Section 713. Compliance by Municipalities. Municipalities with planned residential development ordinances shall have five years from the effective date of this amendatory act to comply with the provisions of this article.

Article VII-A - Traditional Neighborhood Development

Section 701-A. Purposes and Objectives.

(a) This article grants powers to municipalities for the following purposes:

(1) to insure that the provisions of Article VI which are concerned in part with the uniform treatment of dwelling type, bulk, density, intensity and open space within each zoning district, shall not be applied to the improvement of land by other than lot by lot development in a manner that would distort the objectives of Article VI;

(2) to encourage innovations in residential and nonresidential development and renewal which makes use of a mixed use form of development so that the growing demand for housing and other development may be met by greater variety in type, design and layout of dwellings and other buildings and structures and by the conservation and more efficient use of open space ancillary to said dwellings and uses;

(3) to extend greater opportunities for better housing, recreation and access to goods, services and employment opportunities to all citizens and residents of this Commonwealth;

(4) to encourage a more efficient use of land and of public services to reflect changes in the technology of land development so that economies secured may benefit those who need homes and for other uses;

(5) to allow for the development of fully integrated, mixed-use pedestrian-oriented neighborhoods;

(6) to minimize traffic congestion, infrastructure costs and environmental degradation;

(7) to promote the implementation of the objectives of the municipal or multimunicipal comprehensive plan for guiding the location for growth;

(8) to provide a procedure, in aid of these purposes, which can relate the type, design and layout of residential and nonresidential development to the particular site and the particular demand for housing existing at the time of development in a manner consistent with the preservation of the property values within existing residential and nonresidential areas; and

(9) to insure that the increased flexibility of regulations over land development authorized herein is carried out under such administrative standards and procedure as shall encourage the disposition of proposals for land development without undue delay.

(b) The objectives of a traditional neighborhood development are:

(1) to establish a community which is pedestrian-oriented with a number of parks, a centrally located public commons, square, plaza, park or prominent intersection of two or more major streets, commercial enterprises and civic and other public buildings and facilities for social activity, recreation and community functions;

(2) to minimize traffic congestion and reduce the need for extensive road construction by reducing the number and length of automobile trips required to access everyday needs;

(3) to make public transit a viable alternative to the automobile by organizing appropriate building densities;

(4) to provide the elderly and the young with independence of movement by locating most daily activities within walking distance;

(5) to foster the ability of citizens to come to know each other and to watch over their mutual security by providing public spaces such as streets, parks and squares and mixed use which maximizes the proximity to neighbors at almost all times of the day;

(6) to foster a sense of place and community by providing a setting that encourages the natural intermingling of everyday uses and activities within a recognizable neighborhood;

(7) to integrate age and income groups and foster the bonds of an authentic community by providing a range of housing types, shops and workplaces; and

(8) to encourage community oriented initiatives and to support the balanced development of society by providing suitable civic and public buildings and facilities.

Section 702-A. Grant of Power The governing body of each municipality may enact, amend and repeal provisions of a zoning ordinance in order to fix standards and conditions for traditional neighborhood development. The provisions for standards and conditions for traditional neighborhood development shall be, except as otherwise provided in this article, consistent with Article VI and shall be included within the zoning ordinance and the enactment of the traditional neighborhood development provisions shall be in accordance with the procedures required for the enactment of an amendment of a zoning ordinance as provided in Article VI. The provisions shall:

(1) Set forth the standards, conditions and regulations for a traditional neighborhood development consistent with this article. A zoning ordinance or amendment may authorize and provide standards, conditions and regulations for traditional neighborhood development that:

(i) designate a part or parts of the municipality as a district or districts which are reserved exclusively for traditional neighborhood development; or

(ii) permit the creation of a traditional neighborhood development in any part of the municipality or in one or more specified zoning districts.

(2) Set forth the procedures pertaining to the application for, hearing on and preliminary and final approval of a traditional neighborhood development, which shall be consistent with this article for those applications and hearings.

Section 703-A. Transfer Development Rights. Municipalities electing to enact traditional neighborhood development provisions may also incorporate provisions for transferable development rights, on a voluntary basis, in accordance with express standards and criteria set forth in the ordinance and with the requirements of Article VI.

Section 704-A. Applicability of Comprehensive Plan and Statement of Community Development Objectives. All provisions and all amendments to the provisions adopted pursuant to this article shall be based on and interpreted in relation to the statement of community development objectives of the zoning ordinance and shall be consistent with either the comprehensive plan of the municipality or the statement of community development objectives in accordance with section 606. Every application for the approval of a traditional neighborhood development shall be based on and interpreted in relation to the statement of community development objectives, and shall be consistent with the comprehensive plan.

Section 705-A. Forms of Traditional Neighborhood Development. A traditional neighborhood development may be developed and applied in any of the following forms.

(1) As a new development.

(2) As an outgrowth or extension of existing development.

(3) As a form of urban infill where existing uses and structures may be incorporated into the development.

(4) In any combination or variation of the above.

Section 706-A. Standards and Conditions for Traditional Neighborhood Development.

(a) All provisions adopted pursuant to this article shall set forth all the standards, conditions and regulations by which a proposed traditional neighborhood development shall be evaluated, and those standards, conditions and regulations shall be consistent with the following subsections.

(b) The provisions adopted pursuant to this article shall set forth the uses permitted in traditional neighborhood development, which uses may include, but shall not be limited to:

(1) Dwelling units of any dwelling type or configuration, or any combination thereof.

(2) Those nonresidential uses deemed to be appropriate for incorporation in the design of the traditional neighborhood development.

(c) The provisions may establish regulations setting forth the timing of development among the various types of dwellings and may specify whether some or all nonresidential uses are to be built before, after or at the same time as the residential uses.

(d) The provisions adopted pursuant to this article shall establish standards governing the density, or intensity of land use, in a traditional neighborhood development. The standards may vary the density or intensity of land use, otherwise applicable to the land under the provisions of a zoning ordinance of the municipality within the traditional neighborhood development. It is recommended that the provisions adopted by the municipality pursuant to this article include, but not be limited to, all of the following:

(1) The amount, location and proposed use of common open space, providing for parks to be distributed throughout the neighborhood as well as the establishment of a centrally located public commons, square, park, plaza or prominent intersection of two or more major streets.

(2) The location and physical characteristics of the site of the proposed traditional neighborhood development, providing for the retaining and enhancing, where practicable, of natural features such as wetlands, ponds, lakes, waterways, trees of high quality, significant tree stands and other significant natural features. These significant natural features should be at least partially fronted by public tracts whenever possible.

(3) The location and physical characteristics of the site of the proposed traditional neighborhood development so that it will develop out of the location of squares, parks and other neighborhood centers and subcenters. Zoning changes in building type should generally occur at mid-block rather than mid-street and buildings should tend to be zoned by compatibility of building type rather than building use. The proposed traditional neighborhood development should be designed to work with the topography of the site to minimize the amount of grading necessary to achieve a street network, and some significant high points of the site should be set aside for public tracts for the location of public buildings or other public facilities.

(4) The location, design, type and use of structures proposed, with most structures being placed close to the street at generally the equivalent of one-quarter the width of the lot or less. The distance between the sidewalk and residential dwellings should, as a general rule, be occupied by a semi-public attachment, such as a porch or, at a minimum, a covered entryway.

(5) The location, design, type and use of streets, alleys, sidewalks and other public rights-of-way with a hierarchy of streets laid out with an interconnected network of streets and blocks that provide multiple routes from origins to destinations and are appropriately designed to serve the needs of pedestrians and vehicles equally. As such, most streets, except alleys, should have sidewalks.

(6) The location for vehicular parking with the street plan providing for on street parking for most streets, with the exception of alleys. All parking lots, except where there is a compelling reason to the contrary, should be located either behind or to the side of buildings and, in most cases, should be located toward the center of blocks such that only their access is visible from adjacent streets. In most cases, structures located on lots smaller than 50 feet in width should be served by a rear alley with all garages fronting on alleys. Garages not served by an alley should be set back from the front of the house or rotated so that the garage doors do not face any adjacent streets.

(7) The minimum and maximum areas and dimensions of the properties and common open space within the proposed traditional neighborhood development and the approximate distance from the center to the edge of the traditional neighborhood development. It is recommended that the distance from the center to the edge of the traditional neighborhood development be approximately one-quarter mile or less and not more than one-half mile. Traditional neighborhood developments in excess of one-half mile distance from center to edge should be divided into two or more developments.

(8) The site plan to provide for either a natural or manmade corridor to serve as the edge of the neighborhood. When standing alone, the traditional neighborhood development should front on open space to serve as its edge. Such open space may include, but is not limited to, parks, a golf course, cemetery, farmland or natural settings such as woodlands or waterways. When adjacent to existing development the traditional neighborhood development should either front on open space, a street or roadway, or any combination hereof.

(9) The greatest density of housing and the preponderance of office and commercial uses should be located to anchor the traditional neighborhood development. If the neighborhood is adjacent to existing development or a major roadway then office, commercial and denser residential uses may be located at

either the edge or the center, or both. Commercial uses located at the edge of the traditional neighborhood development may be located adjacent to similar commercial uses in order to form a greater commercial corridor.

(e) In the case of a traditional neighborhood development proposed to be developed over a period of years, standards established in provisions adopted pursuant to this article may, to encourage the flexibility of housing density, design and type intended by this article:

(1) Permit a variation in each section to be developed from the density, or intensity of use, established for the entire traditional neighborhood development.

(2) Allow for a greater concentration of density or intensity of land use, within some section or sections of development, whether it be earlier or later in the development than upon others.

(3) Require that the approval of such greater concentration of density or intensity of land use for any section to be developed be offset by a smaller concentration in any completed prior stage or by an appropriate reservation of common open space on the remaining land by a grant of easement or by covenant in favor of the municipality, provided that the reservation shall, as far as practicable, defer the precise location of such common open space until an application for final approval is filed so that flexibility of development which is a prime objective of this article can be maintained.

(f) Provisions adopted pursuant to this article may require that a traditional neighborhood development contain a minimum number of dwelling units and a minimum number of nonresidential units.

(g) (1) The authority granted a municipality by Article V to establish standards for the location, width, course and surfacing of streets, walkways, curbs, gutters, street lights, shade trees, water, sewage and drainage facilities, easements or rights-of-way for drainage and utilities, reservations of public grounds, other improvements, regulations for the height and setback as they relate to renewable energy systems and energy-conserving building design, regulations for the height and location of vegetation with respect to boundary lines, as they relate to renewable energy systems and energy-conserving building design, regulations for the type and location of renewable energy systems or their components and regulations for the design and construction of structures to encourage the use of renewable energy systems, shall be vested in the governing body or the planning agency for the purposes of this article.

(2) The standards applicable to a particular traditional neighborhood development may be different than or modifications of the standards and requirements otherwise required of subdivisions or land development authorized under an ordinance adopted pursuant to Article V, provided, however, that provisions adopted pursuant to this article shall set forth the limits and extent of any modifications or changes in such standards and requirements in order that a landowner shall know the limits and extent of permissible modifications from the standards otherwise applicable to subdivisions or land development.

Section 707-A. Sketch Plan Presentation. The municipality may informally meet with a landowner to informally discuss the conceptual aspects of the landowner's development plan prior to the filing of the application for preliminary approval for the development plan. The landowner may present a sketch plan to the municipality for discussion purposes only, and during the discussion the municipality may make suggestions and recommendations on the design of the developmental plan which shall not be binding on the municipality.

Section 708-A. Manual of Written and Graphic Design Guidelines. Where it has adopted provisions for traditional neighborhood development, the governing body of a municipality may also provide, upon review and recommendation of the planning commission, where one exists, a manual of written and graphic design guidelines. The manual may be included in or amended into the subdivision and land development, the zoning ordinance or both.

Section 708.1-A. Subdivision and Land Development Ordinance Provisions Applicable to Traditional Neighborhood Development. The municipality may enact subdivision and land development ordinance provisions applicable to a traditional neighborhood development to address the design standards that are appropriate to a traditional neighborhood development, including, but not limited to, compactness, pedestrian orientation, street geometry or other related design features. The provisions may be included as part of any ordinance pertaining to traditional neighborhood development and may be subject to modification similar to section 512.1.

Section 709-A. Applicability of Article to Agriculture. Zoning ordinances shall encourage the continuity, development and viability of agricultural operations. Zoning ordinances may not restrict agricultural operations or changes to or expansions of agricultural operations in geographic areas where agriculture has traditionally been present, unless the agricultural operation will have a direct adverse effect on the public health and safety. Nothing in this section shall require a municipality to adopt a zoning ordinance that violates or exceeds the provisions of the act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law," the act of June 10, 1982 (P.L.454, No.133), entitled "An Act Protecting Agricultural Operations from Nuisance Suits and Ordinances Under Certain Circumstances," and the act of May 20, 1993 (P.L.12, No.6), known as the "Nutrient Management Act."

Article VIII - Zoning Challenges; General Provisions

(Art. repealed June 1, 1972, P.L.333, No.93)

Article VIII-A - Joint Municipal Zoning

Section 801-A. General Powers.

(a) For the purpose of permitting municipalities which cooperatively plan for their future to also regulate future growth and change in a cooperative manner, the governing body of each municipality, in accordance with the conditions and procedures set forth in this act, may cooperate with one or more municipalities to enact, amend and repeal joint municipal zoning ordinances in order to implement joint municipal comprehensive plans and to accomplish any of the purposes of this act.

(b) A joint municipal zoning ordinance shall be based upon an adopted joint municipal comprehensive plan and shall be prepared by a joint municipal planning commission established under the provisions of this act.

Section 802-A. Relation to County and Municipal Zoning. The enactment by any municipality of a joint municipal zoning ordinance whose land is subject to county or municipal zoning shall constitute an immediate repeal of the county or municipal zoning ordinance within the municipality adopting such ordinance as of the effective date of the joint municipal zoning ordinance.

Section 803-A. Ordinance Provisions. Joint municipal zoning ordinances may permit, prohibit, regulate, restrict and determine and may contain the same elements as authorized for municipal zoning ordinances by section 603.

Section 804-A. Zoning Purposes. The provisions of joint municipal zoning ordinances shall be designed to serve the same purposes for the area of its jurisdiction as is required by section 604 for municipal zoning ordinances.

Section 805-A. Classifications. The authorizations and requirements of section 605 shall be applicable to joint municipal zoning ordinances. No area of a municipality party to a joint municipal zoning ordinance shall be left unzoned.

Section 806-A. Statement of Community Development Objectives.

(a) Every joint municipal zoning ordinance shall contain a statement of community development objectives as defined by section 606.

(b) The statement of community development objectives shall be based upon the joint municipal comprehensive plan and may be supplemented by a statement of legislative findings of the governing bodies party to the joint municipal zoning ordinance as defined by section 606.

(c) The community development objectives for a joint municipal zoning ordinance shall relate to the area within the jurisdiction of the ordinance, shall identify the community development objectives of each municipality party to the joint municipal zoning ordinance and the relationship of these objectives to those of the area and shall, in addition, include the basis for the geographic delineation of the area which the ordinance regulates.

Section 807-A. Preparation of Proposed Zoning Ordinance. The requirements of section 607 as applicable to municipal zoning ordinances shall equally apply to the preparation of a joint municipal zoning ordinance except that:

(1) The joint municipal planning commission shall assume the preparation responsibilities of the planning agency and shall be directed by the governing bodies of the participating municipalities.

(2) At least one public meeting shall be held by the joint municipal planning commission within the area of jurisdiction of the proposed joint municipal zoning ordinance.

Section 808-A. Enactment of Zoning Ordinance.

(a) The procedural requirements of section 608 shall be applicable to the enactment of a joint municipal zoning ordinance.

(b) Each municipality party to a joint municipal zoning ordinance shall enact the ordinance and it shall not become effective until it has been properly enacted by all the participating municipalities.

(c) No municipality may withdraw from or repeal a joint municipal zoning ordinance during the first three years following the date of its enactment. If, at any time after the end of the second year following the enactment of a joint municipal zoning ordinance, a municipality wishes to repeal and withdraw from a joint municipal zoning ordinance, it shall enact an ordinance, which shall be effective no sooner than one year after its enactment, repealing the joint municipal zoning ordinance and shall provide immediately and concurrently one year's advanced written notice of its repeal and withdrawal to the governing bodies of all municipalities party to the joint municipal zoning ordinance. The repeal and withdrawal may become effective within less than one year with the unanimous approval, by ordinance, of the governing bodies of all municipalities party to the joint municipal zoning ordinance.

Section 809-A. Enactment of Zoning Ordinance Amendments.

(a) The procedural requirements for amendments to a joint municipal zoning ordinance shall be as required by section 609, except that all proposed amendments shall also be submitted to the joint municipal planning commission for review at least 30 days prior to the hearing on such proposed amendments.

(b) The governing bodies of the other participating municipalities shall submit their comments, including a specific recommendation to adopt or not to adopt the proposed amendment, to the governing body of the municipality within which the amendment is proposed no later than the date of the public hearing. Failure to provide comments shall be construed as a recommendation to adopt the proposed amendments.

(c) No amendments to the joint municipal zoning ordinance shall be effective unless all of the participating municipalities approve the amendment.

Section 810-A. Procedure for Curative Amendments. Curative amendments shall be filed in accordance with the requirements of section 609.1 with the municipality within which the landowner's property is located: Provided, however, That the governing body before which the curative amendment is brought shall not have the power to adopt any amendment to the joint municipal zoning ordinance without the approval of the other municipalities participating in the joint municipal zoning ordinance. The challenge shall be directed to the validity of the joint municipal zoning ordinance as it applies to the entire area of its jurisdiction.

Section 811-A. Area of Jurisdiction for Challenges. In any challenge to the validity of the joint municipal zoning ordinance, the court shall consider the validity of the ordinance as it applies to the entire area of its jurisdiction as enacted and shall not limit consideration to any single constituent municipality.

Section 812-A. Procedure for Joint Municipal Curative Amendments.

(a) The governing bodies of all the participating municipalities may declare the joint municipal zoning ordinance or portions thereof substantially invalid and prepare a municipal curative amendment pursuant to section 609.2.

(b) The provisions of section 609.2(4) shall apply to all municipalities participating in the joint municipal zoning ordinance.

(c) (1) In the case of a joint municipal curative amendment involving two or three municipalities, the municipalities shall have nine months from the date of declaration of partial or total invalidity to enact a curative amendment.

(2) Subject to the limitation contained in clause (3), where there are more than three municipal parties, the nine-month period shall be extended on additional month for each municipality in excess of three that is a party to the joint municipal zoning ordinance.

(3) Notwithstanding the additional periods provided for in clause (2), a curative amendment shall be enacted by the parties to a joint municipal zoning ordinance not later than one year from the date of declaration of partial or total invalidity.

Section 813-A. Publication, Advertisement and Availability of Ordinances. The content of public notices and the procedures for the advertisement and enactment of joint municipal zoning ordinances and amendments shall be regulated by section 610.

Section 814-A. Registration of Nonconforming Uses. The registration of nonconforming uses shall be as specified by section 613.

Section 815-A. Administration.

(a) The governing bodies of the municipalities adopting the joint municipal zoning ordinance may establish a joint zoning hearing board pursuant to the authority of section 904, except that:

(1) The joint municipal zoning ordinance shall either create a joint zoning hearing board to administer the entire joint municipal zoning ordinance or provide for the retention or creation of individual zoning hearing boards in each of the individual participating municipalities to administer the new joint municipal zoning ordinance as to properties located within each of the individual participating municipalities.

(2) These same procedures shall be followed by a joint zoning hearing board as set forth in Article IX for individual municipal zoning hearing boards.

(b) The joint municipal zoning ordinance shall specify the number of zoning officers to be appointed to administer the ordinance pursuant to section 614. One zoning officer may be appointed by each municipality to administer the ordinance within the municipal boundaries or a single zoning officer may be appointed to administer the ordinance throughout the jurisdiction of the ordinance.

Section 816-A. Zoning Appeals. All rights and procedures provided in Articles IX and X-A shall pertain to joint municipal zoning.

Section 817-A. Enforcement Penalties. Penalties for violation of a joint municipal zoning ordinance shall be as specified in section 617.1.

Section 818-A. Enforcement Remedies.

(a) Enforcement remedies shall be as specified in section 617.

(b) In addition, the provisions of a joint municipal zoning ordinance shall be binding upon the municipalities and may be enforced by appropriate remedy by any one or more of the municipalities against any other municipality party thereto.

Section 819-A. Finances.

(a) The governing body of a municipality may appropriate and receive funds for a joint municipal zoning ordinance in the same manner as authorized for a municipal zoning ordinance by section 617.2.

(b) A joint municipal zoning ordinance shall specify the manner and extent of financing the costs for administration and enforcement, including the financial responsibilities for defending legal challenges to the ordinance.

Section 820-A. Exemptions. The exemptions for a joint municipal zoning ordinance shall be those identified by section 619.

Section 821-A. Existing Bodies. Municipalities which, on or before the effective date of this amendatory act, established joint bodies under former Article XI-A of this act, shall have five years from the effective date of this amendatory act to comply with the provisions of this article.

Article IX - Zoning Hearing Board and other Administrative Proceedings

Section 901. General Provisions. Every municipality which has enacted or enacts a zoning ordinance pursuant to this act or prior enabling laws, shall create a zoning hearing board. As used in this article, unless the context clearly indicates otherwise, the term "board" shall refer to such zoning hearing board.

Section 902. Existing Boards of Adjustment. (902 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 903. Membership of Board.

(a) The membership of the board shall, upon the determination of the governing body, consist of either three or five residents of the municipality appointed by resolution by the governing body. The terms of office of a three member board shall be three years and shall be so fixed that the term of office of one member shall expire each year. The terms of office of a five member board shall be five years and shall be so fixed that the term of office of one member of a five member board shall expire each year. If a three member board is changed to a five member board, the members of the existing three member board shall continue in office until their term of office would expire under prior law. The governing body shall appoint two additional members to the board with terms scheduled to expire in accordance with the provisions of this section. The board shall promptly notify the governing body 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 elected or appointed office in the municipality nor shall any member be an employee of the municipality.

(b) The governing body may appoint by resolution at least one but no more than three residents of the municipality to serve as alternate members of the board. The term of office of an alternate member shall be three years. When seated pursuant to the provisions of section 906, 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 act and as otherwise provided by law. Alternates shall hold no other elected or appointed office in the municipality, including service as a member of the planning commission or as a zoning officer, nor shall any alternate be an employee of the municipality. 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 907 unless designated as a voting alternate member pursuant to section 906.

Section 904. Joint Zoning Hearing Boards.

(a) Two or more municipalities may, by ordinances enacted in each, create a joint zoning hearing board in lieu of a separate board for each municipality. A joint board shall consist of two members appointed from among the residents of each municipality by its governing body.

(b) The term of office of members of joint boards shall be five years, except that of the two members first appointed from each municipality, the term of office of one member shall be three years. When any vacancies occur, the joint board shall promptly notify the governing body which appointed the member whose office has become vacant, and such governing body shall appoint a member for the unexpired portion of the term. Members of the joint board shall hold no other office in the participating municipality.

(c) Where legal counsel is desired, an attorney, other than the solicitors of the participating municipalities, may be appointed to serve as counsel to the joint zoning hearing board.

(d) In all other respects, including the appointment and seating of alternate members, joint zoning hearing boards shall be governed by provisions of this act not inconsistent with the provisions of this section.

Section 905. Removal of Members. Any board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the governing body which appointed the member, taken after the member has received 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.

Section 906. Organization of Board.

(a) 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 the 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 908.

(b) The chairman of the board may designate alternate members of the board to replace any absent or disqualified member and 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 reach 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 decision on 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.

(c) The board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the municipality and laws of the Commonwealth. The board shall keep full public records of its business, which records shall be the property of the municipality, and shall submit a report of its activities to the governing body as requested by the governing body.

Section 907. Expenditures for Services. Within the limits of funds appropriated by the governing body, 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 governing body, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the governing body. Alternate members of the board may receive compensation, as may be fixed by the governing body, for the performance of their duties when designated as alternate members pursuant to section 906, but in no case shall such compensation exceed the rate of compensation authorized to be paid to the members of the governing body.

Section 908. Hearings. The board shall conduct hearings and make decisions in accordance with the following requirements:

(1) Public notice shall be given and written notice shall be given to the applicant, the zoning officer, such other persons as the governing body 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.

(1.1) The governing body 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.

(1.2) The first hearing before the board or hearing officer shall be commenced within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the board or hearing officer shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. And applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

(2) The hearings shall be conducted by the board or the board may appoint any member or an independent attorney 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 municipality, 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.

(3) The parties to the hearing shall be the municipality, 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.

(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.

(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.

(6) Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

(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.

(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.

(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 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 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. 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 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 30 days after the report of the hearing officer. Except for challenges filed under section 916.1 where the board fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in subsection (1.2), 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 days from the last day it could have met to render a decision in the same manner as provided in subsection (1) of this section. 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.

(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 908.1. Mediation Option.

(a) Parties to proceedings authorized in this article and Article X-A may utilize mediation as an aid in completing such proceedings. In proceedings before the zoning hearing board, in no case shall the zoning hearing board initiate mediation or participate as a mediating party. Mediation shall supplement, not replace, those procedures in this article and Article X-A once they have been formally initiated. Nothing in this section shall be interpreted as expanding or limiting municipal police powers or as modifying any principles of substantive law.

(b) Participation in mediation shall be wholly voluntary. The appropriateness of mediation shall be determined by the particulars of each case and the willingness of the parties to negotiate. Any municipality offering the mediation option shall assure that, in each case, the mediating parties, assisted by the mediator as appropriate, develop terms and conditions for:

(1) Funding mediation.

(2) Selecting a mediator who, at a minimum, shall have a working knowledge of municipal zoning and subdivision procedures and demonstrated skills in mediation.

(3) Completing mediation, including time limits for such completion.

(4) Suspending time limits otherwise authorized in this act, provided there is written consent by the mediating parties, and by an applicant or municipal decision making body if either is not a party to the mediation.

(5) Identifying all parties and affording them the opportunity to participate.

(6) Subject to legal restraints, determining whether some or all of the mediation sessions shall be open or closed to the public.

(7) Assuring that mediated solutions are in writing and signed by the parties, and become subject to review and approval by the appropriate decision making body pursuant to the authorized procedures set forth in the other sections of this act.

(c) No offers or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

Section 909. Board's Functions: Appeals from the Zoning Officer. (909 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 909.1. Jurisdiction.

(a) The zoning hearing board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

(1) Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to sections 609.1 and 916.1(a)(2).

(2) Deleted by 2008, July 4, P.L. 319, No. 39, §3, imd. effective.

(3) 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 therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.

(4) Appeals from a determination by a municipal engineer or the zoning officer with reference to the administration of any flood plain or flood hazard ordinance or such provisions within a land use ordinance.

(5) Applications for variances from the terms of the zoning ordinance and flood hazard ordinance or such provisions within a land use ordinance, pursuant to section 910.2.

(6) Applications for special exceptions under the zoning ordinance or flood plain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to section 912.1.

(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.

(8) Appeals from the zoning officer's determination under section 916.2.

(9) Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Article V or VII applications.

(b) The governing body or, except as to clauses (3), (4) and (5), the planning agency, if designated, shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

(1) All applications for approvals of planned residential developments under Article VII pursuant to the provisions of section 702.

(2) All applications pursuant to section 508 for approval of subdivisions or land developments under Article V. Any provision in a subdivision and land development ordinance requiring that final action concerning subdivision and land development applications be taken by a planning agency rather than the governing body shall vest exclusive jurisdiction in the planning agency in lieu of the governing body for purposes of the provisions of this paragraph.

(3) Applications for conditional use under the express provisions of the zoning ordinance pursuant to section 603(c)(2).

(4) Applications for curative amendment to a zoning ordinance pursuant to sections 609.1 and 916.1(a)(2).

(5) All petitions for amendments to land use ordinances, pursuant to the procedures set forth in section 609. Any action on such petitions shall be deemed legislative acts, provided that nothing contained in this clause shall be deemed to enlarge or diminish existing law with reference to appeals to court.

(6) Appeals from the determination of the zoning officer or the municipal engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to application for land development under Articles V and VII. Where such determination relates only to development not involving an Article V or VII application, the appeal from such determination of the zoning officer or the municipal engineer shall be to the zoning hearing board pursuant to subsection (a)(9). Where the applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the planning agency, all appeals from determinations under this paragraph shall be to the planning agency and all appeals from the decision of the planning agency shall be to court.

(7) Applications for a special encroachment permit pursuant to section 405 and applications for a permit pursuant to section 406.

Section 910. Board Functions: Challenge to the Validity of any Ordinance or Map. (910 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 910.1. Applicability of Judicial Remedies. Nothing contained in this article shall be construed to deny the appellant the right to proceed directly to court where appropriate, pursuant to the Pennsylvania Rules of Civil Procedure No. 1091 (relating to action in mandamus).

Section 910.2. Zoning Hearing Board's Functions; Variances.

(a) The board shall hear requests for variances where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. The board may by rule prescribe the form of application and may require preliminary application to the zoning officer. The board may grant a variance, provided that all of 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 the zoning ordinance in the neighborhood or district 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 the zoning ordinance and that the authorization of a variance is therefore necessary to enable the 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 neighborhood or district 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 regulation in issue.

(b) In granting any variance, the board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this act and the zoning ordinance.

Section 912. Board's Functions: Variances. (912 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 912.1. Zoning Hearing Board's Functions; Special Exception. Where the governing body, in the zoning ordinance, has stated special exceptions to be granted or denied by the board pursuant to express standards and criteria, the board shall hear and decide requests for such special exceptions in accordance with

such standards and criteria. In granting a special exception, the board may attach such reasonable conditions and safeguards, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of this act and the zoning ordinance.

Section 913. Board's Functions: Special Exceptions. (913 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 913.1. Unified Appeals. (913.1 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 913.2. Governing Body's Functions; Conditional Uses.

(a) Where the governing body, in the zoning ordinances, has stated conditional uses to be granted or denied by the governing body pursuant to express standards and criteria, the governing body shall hold hearings on and decide requests for such conditional uses in accordance with such standards and criteria. The hearing shall be conducted by the board or the board may appoint any member or an independent attorney 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 municipality, 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. In granting a conditional use, the governing body may attach such reasonable conditions and safeguards, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of this act in the zoning ordinance.

(b) (1) The governing body shall render a written decision or, when no decision is called for, make written findings on the conditional use application within 45 days after the last hearing before the governing body. 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.

(2) Where the governing body fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in section 908 (1.2), 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 governing body to meet or render a decision as hereinabove provided, the governing body shall give public notice of the decision within ten 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 governing body shall fail to provide such notice, the applicant may do so.

(3) 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.

Section 913.3. Parties Appellant Before the Board. Appeals under section 909.1(a)(1), (2), (3), (4), (7), (8) and (9) may be filed with the board in writing by the landowner affected, any officer or agency of the municipality, or any person aggrieved. Requests for a variance under section 910.2 and for special exception under section 912.1 may be filed with the board by any landowner or any tenant with the permission of such landowner.

Section 914. Parties Appellant Before Board. (914 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 914.1. Time Limitations.

(a) No person shall be allowed to file any proceeding with the board later than 30 days after an application for development, preliminary or final, has been approved by an appropriate municipal officer, agency or body 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, 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 on a tentative plan pursuant to section 709 or from an adverse decision by a zoning officer on a challenge to the validity of an ordinance or map pursuant to section 916.2 shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

(b) All appeals from determinations adverse to the landowners shall be filed by the landowner within 30 days after notice of the determination is issued.

Section 915. Time Limitations; Persons Aggrieved. (915 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 915.1. Stay of Proceedings.

(a) Upon filing of any proceeding referred to in section 913.3 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.

(b) 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.

(c) 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.

(d) 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 916. Stay of Proceedings. (916 repealed Dec. 21, 1988, P.L.1329, No.170)

Section 916.1. Validity of Ordinance; Substantive Questions.

(a) A landowner who, on substantive grounds, desires to challenge the validity of an ordinance or map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest shall submit the challenge either:

(1) to the zoning hearing board under section 909.1(a); or

(2) to the governing body under section 909.1(b)(4), together with a request for a curative amendment under section 609.1.

(b) Persons aggrieved by a use or development permitted on the land of another by an ordinance or map, or any provision thereof, who desires to challenge its validity on substantive grounds shall first submit their challenge to the zoning hearing board for a decision thereon under section 909.1(a)(1).

(c) The submissions referred to in subsections (a) and (b) shall be governed by the following:

(1) In challenges before the zoning hearing board, the challenging party shall make a written request to the board that it hold a hearing on its challenge. The request shall contain the reasons for the challenge. Where the landowner desires to challenge the validity of such ordinance and elects to proceed by curative amendment under section 609.1, his application to the governing body shall contain, in addition to the requirements of the written request hereof, the plans and explanatory materials describing the use or development proposed by the landowner in lieu of the use or development permitted by the challenged ordinance or map. Such plans or other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a permit, so long as they provide reasonable notice of the proposed use or development and a sufficient basis for evaluating the challenged ordinance or map in light thereof. Nothing herein contained shall preclude the landowner from first seeking a final approval before submitting his challenge.

(2) If the submission is made by the landowner to the governing body under subsection (a)(2), the request also shall be accompanied by an amendment or amendments to the ordinance proposed by the landowner to cure the alleged defects therein.

(3) If the submission is made to the governing body, the municipal solicitor shall represent and advise it at the hearing or hearings referred to in section 909.1(b)(4).

(4) The governing body may retain an independent attorney to present the defense of the challenged ordinance or map on its behalf and to present their witnesses on its behalf.

(5) Based upon the testimony presented at the hearing or hearings, the governing body or the zoning board, as the case may be, shall determine whether the challenged ordinance or map is defective, as alleged by the landowner. If a challenge heard by a governing body is found to have merit, the governing body shall proceed as provide in section 609.1. 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:

(i) the impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;

(ii) 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;

(iii) the suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features;

(iv) the impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, 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

(v) the impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

(6) The governing body or the zoning hearing board, as the case may be, shall render its decision within 45 days after the conclusion of the last hearing.

(7) If the governing body or the zoning board, as the case may be, fails to act on the landowner's request within the time limits referred to in paragraph (6), a denial of the request is deemed to have occurred on the 46th day after the close of the last hearing.

(d) The zoning hearing board or governing body, as the case may be, shall commence its hearings within 60 days after the request is filed unless the landowner requests or consents to an extension of time.

(e) 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.

(f) The challenge shall be deemed denied when:

(1) the zoning hearing board or governing body, as the case may be, fails to commence the hearing within the time limits set forth in subsection (d);

(2) the governing body notifies the landowner that it will not adopt the curative amendment;

(3) the governing body adopts another curative amendment which is unacceptable to the landowner; or

(4) the zoning hearing board or governing body, as the case may be, fails to act on the request 45 days after the close of the last hearing on the request, unless the time is extended by mutual consent by the landowner and municipality.

(g) Where, after the effective date of this act, a curative amendment proposal is approved by the grant of a curative amendment application by the governing body pursuant to section 909.1(b)(4) or a validity challenge is sustained by the zoning hearing board pursuant to section 909.1(a)(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 pursuant to Article V or VII. 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) shall apply. 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 building 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.

(h) Where municipalities have adopted a multimunicipal comprehensive plan pursuant to Article XI but have not adopted a joint municipal ordinance pursuant to Article VIII-A and all municipalities participating in the multimunicipal comprehensive plan have adopted and are administering zoning ordinances generally consistent with the provisions of the multimunicipal comprehensive plan, and a challenge is brought to the validity of a zoning ordinance of a participating municipality involving a proposed use, then the zoning hearing board or governing body, as the case may be, shall consider the availability of uses under zoning ordinances within the municipalities participating in the multimunicipal comprehensive plan within a reasonable geographic area and shall not limit its consideration to the application of the zoning ordinance on the municipality whose zoning ordinance is being challenged.

(i) A landowner who has challenged on substantive grounds the validity of a zoning ordinance or map either by submission of a curative amendment to the governing body under subsection (a) (2) or to the zoning hearing board under section 909.1 (a) (1) shall not submit any additional substantive challenges involving the same parcel, group of parcels or part thereof until such time as the status of the landowner's original challenge has been finally determined or withdrawn: Provided, however, that if after the date of the landowner's original challenge the municipality adopts a substantially new or different zoning ordinance or zoning map, the landowner may file a second substantive challenge to the new or different zoning ordinance or zoning map under subsection (a).

Section 916.2. Procedure to Obtain Preliminary Opinion. In order not to unreasonably delay the time when a landowner may secure assurance that the ordinance or map under which he proposed to build is free from challenge, and recognizing that the procedure for preliminary approval of his development may be too cumbersome or may be unavailable, the landowner may advance the date from which time for any challenge to the ordinance or map will run under section 914.1 by the following procedure:

(1) The landowner may submit plans and other materials describing his proposed use or development to the zoning officer for a preliminary opinion as to their compliance with the applicable ordinances and maps. Such plans and other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a building permit so long as they provide reasonable notice of the proposed use or development and a sufficient basis for a preliminary opinion as to its compliance.

(2) If the zoning officer's preliminary opinion is that the use or development complies with the ordinance or map, notice thereof shall be published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall include a general description of the proposed use or development and its location, by some readily identifiable directive, and the place and times where the plans and other materials may be examined by the public. The favorable preliminary approval under section 914.1 and the time therein specified for commencing a proceeding with the board shall run from the time when the second notice thereof has been published.

Section 917. Applicability of Ordinance Amendments. When an application for either a special exception or a conditional use has been filed with either the zoning hearing board or governing body, as relevant, and the subject matter of such application would ultimately constitute either a land development as defined in section 107 or a subdivision as defined in section 107, no change or amendment of the zoning, subdivision or other governing ordinance or plans shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. Provided, further, should such an application be approved by either the zoning hearing board or governing body, as relevant, applicant shall be entitled to proceed with the submission of either land development or subdivision plans within a period of six months or longer as may be approved by either the zoning hearing board or the governing body following the date of such approval in accordance with the provisions of the governing ordinances or plans as they stood at the time the

application was duly filed before either the zoning hearing board or governing body, as relevant. If either a land development or subdivision plan is so filed within said period, such plan shall be subject to the provisions of section 508(1) through (4), and specifically to the time limitations of section 508(4) which shall commence as of the date of filing such land development or subdivision plan.

Section 918. Special Applicability Provisions. A municipal zoning ordinance enacted on or before August 21, 2000 shall not be invalidated, superseded or affected by any amendatory provision of the act of June 22, 2000 (P.L. 483 No.67), entitled "An act amending the act of July 31, 1968 (P.L.805, No.247), entitled, as amended, 'An act to empower cities of the second class a, and third class, boroughs, incorporated towns, townships of the first and second classes including those within a county of the second class and counties of the second through eighth classes, individually or jointly, to plan their development and to govern the same by zoning, subdivision and land development ordinances, planned residential development and other ordinances, by official maps, by the reservation of certain land for future public purpose and by the acquisition of such land; to promote the conservation of energy through the use of planning practices and to promote the effective utilization of renewable energy sources; providing for the establishment of planning commissions, planning departments, planning committees and zoning hearing boards, authorizing them to charge fees, make inspections and hold public hearings; providing for mediation; providing for transferable development rights; providing for appropriations, appeals to courts and penalties for violations; and repealing acts and parts of acts,' adding definitions; providing for intergovernmental cooperative planning and implementation agreements; further providing for repeals; and making an editorial change," or the act of June 22, 2000 (P.L.495, No.68), entitled "An act amending the act of July 31, 1968 (P.L.805, No.247), entitled, as amended, 'An act to empower cities of the second class a, and third class, boroughs, incorporated towns, townships of the first and second classes including those within a county of the second class and counties of the second through eighth classes, individually or jointly, to plan their development and to govern the same by zoning, subdivision and land development ordinances, planned residential development and other ordinances, by official maps, by the reservation of certain land for future public purpose and by the acquisition of such land; to promote the conservation of energy through the use of planning practices and to promote the effective utilization of renewable energy sources; providing for the establishment of planning commissions, planning departments, planning committees and zoning hearing boards, authorizing them to charge fees, make inspections and hold public hearings; providing for mediation; providing for transferable development rights; providing for appropriations, appeals to courts and penalties for violations; and repealing acts and parts of acts,' further providing for the purpose of the act; adding certain definitions; further providing for various matters relating to the comprehensive plan and for compliance by counties; providing for funding for municipal planning and for neighboring municipalities; further providing for certain ordinances; adding provisions relating to projects of regional impact; providing for traditional neighborhood development; further providing for grant of power, for contents of subdivision and land development ordinance, for approval of plats and for recording of plats and deeds; and providing for municipal authorities and water companies and for transferable development rights," and such ordinance provisions shall continue in full force and effect until February 21, 2001; provided, however, any such ordinance shall be subject to such amendatory provisions on and after February 22, 2001.

Article X - Appeals

(Art. repealed Dec. 21, 1988, P.L.1329, No.170)

Article X-A - Appeals to Court

Section 1001-A. Land Use Appeals. The procedures set forth in this article shall constitute the exclusive mode for securing review of any decision rendered pursuant to Article IX or deemed to have been made under this act.

Section 1002-A. Jurisdiction and Venue on Appeal; Time for Appeal.--(a) All appeals from all land use decisions rendered pursuant to Article IX shall be taken to the court of common pleas of the judicial district wherein the land is located and shall be filed within 30 days after entry of the decision as provided in 42 Pa.C.S. § 5572 (relating to time of entry of order) or, in the case of a deemed decision, within 30 days after the date upon which notice of said deemed decision is given as set forth in section 908(9) of this act. It is the express intent of the General Assembly that, except in cases in which an unconstitutional deprivation of due process would result from its application, the 30-day limitation in this section should be applied in all appeals from decisions.

(b) Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption shall be raised by appeal taken directly to the court of common pleas of the judicial district in which the municipality adopting the ordinance is located in accordance with 42 Pa.C.S. § 5571.1 (relating to appeals from ordinances, resolutions, maps, etc.)

(1002-A amended July 4, 2008, P.L.319, No.39)

Section 1002.1-A. Time for Appeal; Procedural Defects of Decisions.--(a) This section shall apply to all appeals challenging the validity of a land use decision on the basis of a defect in procedures prescribed by statute or ordinance.

(b) Except as otherwise provided in section 108, all appeals challenging the validity of a decision solely on the basis of a defect in procedure shall be filed within the time period provided in section 1002-A(a) unless a party establishes each of the following:

(1) that the person filing the appeal had insufficient actual or constructive notice of the decision to permit filing an appeal within the time period provided in section 1002-A(a). Notice of a hearing prior to the entry of a decision in accordance with section 908(1), notice of a decision in accordance with section 908(10) or notice of a deemed decision provided in accordance with this act shall establish constructive notice as a matter of law in any appeal under this section.

(2) That because of the insufficient actual or constructive notice of the decision, the application of the time limitation in section 1002-A(a) would result in an impermissible deprivation of constitutional rights.

(c) Appeals under this section shall only be permitted by an aggrieved person who can establish that reliance on the validity of the challenged decision resulted or could result in a use of property that directly affects such person's substantive property rights.

(d) No decision challenged in an appeal pursuant to this section shall be deemed void from inception except as follows:

(1) In the case of an appeal brought within the time period provided in section 1002-A(a), the party alleging the defect must meet the burden of proving that there was a failure to strictly comply with procedure.

(2) In the case of an appeal exempt from the time period provided in section 1002-A(a) or brought pursuant to section 108, the party alleging the defect must meet the burden of proving that because of the alleged defect in procedure alone:

(i) the public was denied notice sufficient to permit participation in the proceedings prior to the entry of the decision to the extent such participation was authorized by statute or ordinance; or

(ii) those whose substantive property rights were or could be directly affected by the entry of the decision were denied an opportunity to participate in proceedings prior to the entry of the decision.

(e) Substantial compliance with notice of a hearing required prior to the entry of a decision in accordance with section 908(1) shall establish notice adequate to permit public participation as a matter of law in any appeal under this section.

(f) An adjudication that a decision is void from inception shall not affect any previously acquired rights of property owners who have exercised good faith reliance on the validity of the decision prior to the determination.

(1002.1-A added July 4, 2008, P.L.319, No.39)

Compiler's Note: Section 6 of Act 39 of 2008, which added section 1002.1-A. provided that section 1002.1-A shall apply beginning on the effective date of an amendment to 42 Pa.C.S. that provided for appeals from ordinances, resolutions, maps and similar actions of a political subdivision. Section 5571.1 of Title 42 (relating to appeals from ordinances, resolutions, maps, etc.) was added July 4, 2008, P.L.325, No.40, effective immediately.

Section 1003-A. Appeals to Court; Commencement; Stay of Proceedings.

(a) Land use appeals shall be entered as of course by the prothonotary or clerk upon the filing of a land use appeal notice which concisely sets forth the grounds on which the appellant relies. The appeal notice need not be verified. The land use appeal notice shall be accompanied by a true copy thereof.

(b) Upon filing of a land use appeal, the prothonotary or clerk shall forthwith, as of course, send to the governing body, board or agency whose decision or action has been appealed, by registered or certified mail, the copy of the land use appeal notice, together with a writ of certiorari commanding said governing body, board or agency, within 20 days after receipt thereof, to certify to the court its entire record in the matter in which the land use appeal has been taken, or a true and complete copy thereof, including any transcript of testimony in existence and available to the governing body, board or agency at the time it received the writ of certiorari.

(c) If the appellant is a person other than the landowner of the land directly involved in the decision or action appealed from, the appellant, within seven days after the land use appeal is filed, shall serve a true copy of the land use appeal notice by mailing said notice to the landowner or his attorney at his last known address. For identification of such landowner, the appellant may rely upon the record of the municipality and, in the event of good faith mistakes as to such identity, may make such service nunc pro tunc by leave of court.

(d) The filing of an appeal in court under this section shall not stay the action appealed from, but the appellants may petition the court having jurisdiction of land use appeals for a stay. If the appellants are persons who are seeking to prevent a use or development of the land of another, whether or not a stay is sought by them, the landowner whose use or development is in question may petition the court to order the appellants to post bond as a condition to proceeding with the appeal. After the petition for posting a bond 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 landowners 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 posting 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 of 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 respondent to the petition for posting a bond to post a bond shall be interlocutory. If an appeal is taken by a respondent to the petition for posting a bond from an order of the court dismissing a land use appeal for refusal to post a bond, such responding party, upon

motion of petitioner and, after hearing in the court having jurisdiction of land use appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by petitioner.

Section 1004-A. Intervention. Within the 30 days first following the filing of a land use appeal, if the appeal is from a board or agency of a municipality, the municipality and any owner or tenant of property directly involved in the action appealed from may intervene as of course by filing a notice of intervention, accompanied by proof of service of the same, upon each appellant or each appellant's counsel of record. All other intervention shall be governed by the Pennsylvania Rules of Civil Procedure.

Section 1005-A. Hearing and Argument of Land Use Appeal. If, upon motion, it is shown that proper consideration of the land use appeal requires the presentation of additional evidence, a judge of the court may hold a hearing to receive additional evidence, may remand the case to the body, agency or officer whose decision or order has been brought up for review, or may refer the case to a referee to receive additional evidence, provided that appeals brought before the court pursuant to section 916.1 shall not be remanded for further hearings before any body, agency or officer of the municipality. If the record below includes findings of fact made by the governing body, board or agency whose decision or action is brought up for review and the court does not take additional evidence or appoint a referee to take additional evidence, the findings of the governing body, board or agency shall not be disturbed by the court if supported by substantial evidence. If the record does not include findings of fact or if additional evidence is taken by the court or by a referee, the court shall make its own findings of fact based on the record below as supplemented by the additional evidence, if any.

Section 1006-A. Judicial Relief.

(a) In a land use appeal, the court shall have power to declare any ordinance or map invalid and set aside or modify any action, decision or order of the governing body, agency or officer of the municipality brought up on appeal.

(b) Where municipalities have adopted a joint municipal comprehensive plan and enacted a zoning ordinance or ordinances consistent with the joint municipal comprehensive plan within a region pursuant to Articles VIII-A and XI, the court, when determining the validity of a challenge to such a municipality's zoning ordinance, shall consider the zoning ordinance or ordinances as they apply to the entire region and shall not limit its consideration to the application of the zoning ordinance within the boundaries of the respective municipalities.

(b.1) Where municipalities have adopted a multimunicipal comprehensive plan pursuant to Article XI but have not adopted a joint municipal ordinance pursuant to Article VIII-A and all municipalities participating in the multimunicipal comprehensive plan have adopted and are administrating zoning ordinances generally consistent with the provisions of the multimunicipal comprehensive plan, and a challenge is brought to the validity of a zoning ordinance of a participating municipality involving a proposed use, then the court shall consider the availability of uses under zoning ordinances within the municipalities participating in the multimunicipal comprehensive plan within a reasonable geographic area and shall not limit its consideration to the application of the zoning ordinance on the municipality whose zoning ordinance is being challenged.

(b.2) Notwithstanding any provisions of this section to the contrary, each municipality shall provide for reasonable coal mining activities in its zoning ordinance.

(c) If the court finds that an ordinance or map, or a decision or order thereunder, which has been brought up for review unlawfully prevents or restricts a development or use which has been described by the landowner through plans and other materials submitted to the governing body, agency or officer of the municipality whose action or failure to act is in question on the appeal, it may order the described development or use approved as to all elements or it may order it approved as to some elements and refer other elements to the governing body,

agency or officer having jurisdiction thereof for further proceedings, including the adoption of alternative restrictions, in accordance with the court's opinion and order.

(d) Upon motion by any of the parties or upon motion by the court, the judge of the court may hold a hearing or hearings to receive additional evidence or employ experts to aid the court to frame an appropriate order. If the court employs an expert, the report or evidence of such expert shall be available to any party and he shall be subject to examination or cross-examination by any party. He shall be paid reasonable compensation for his services which may be assessed against any or all of the parties as determined by the court. The court shall retain jurisdiction of the appeal during the pendency of any such further proceedings and may, upon motion of the landowner, issue such supplementary orders as it deems necessary to protect the rights of the landowner as declared in its opinion and order.

(e) The fact that the plans and other materials are not in a form or are not accompanied by other submissions which are required for final approval of the development or use in question or for the issuance of permits shall not prevent the court from granting the definitive relief authorized. The court may act upon preliminary or sketch plans by framing its decree to take into account the need for further submissions before final approval is granted.

Article XI - Intergovernmental Cooperative Planning and Implementation Agreements

Section 1101. Purposes It is the purpose of this article:

(1) To provide for development that is compatible with surrounding land uses and that will complement existing land development with a balance of commercial, industrial and residential uses.

(2) To protect and maintain the separate identity of Pennsylvania's communities and to prevent the unnecessary conversion of valuable and limited agricultural land.

(3) To encourage cooperation and coordinated planning among adjoining municipalities so that each municipality accommodates its share of the multimunicipal growth burden and does not induce unnecessary or premature development of rural lands.

(4) To minimize disruption of the economy and environment of existing communities.

(5) To complement the economic and transportation needs of the region and this Commonwealth.

(6) To provide for the continuation of historic community patterns.

(7) To provide for coordinated highways, public services and development.

(8) To ensure that new public water and wastewater treatment systems are constructed in areas that will result in the efficient utilization of existing systems, prior to the development and construction of new systems.

(9) To ensure that new or major extension of existing public water and wastewater treatment systems are constructed only in those areas within which anticipated growth and development can adequately be sustained within the financial and environmental resources of the area.

(10) To identify those areas where growth and development will occur so that a full range of public infrastructure services including sewer, water, highways, police and fire protection, public schools, parks, open space and other services can be adequately planned and provided as needed to accommodate the growth that occurs.

(11) To encourage innovations in residential, commercial and industrial development to meet growing population demands by an increased variety in type, design and layout of structures and by the conservation and more efficient use of open space ancillary to such structures.

(12) To facilitate the development of affordable and other types of housing in numbers consistent with the need for such housing as shown by existing and projected population and employment data for the region.

Section 1102. Intergovernmental Cooperation Planning and Implementation Agreements. For the purpose of developing, adopting and implementing a comprehensive plan for the entire county or for any area within the county, the governing bodies of municipalities located within the county or counties may enter into intergovernmental cooperative agreements, as provided by 53 Pa C.S. Ch. 23 Such. A (relating to intergovernmental cooperation), except for any provisions permitting initiative and referendum. Such agreements may also be entered into between and among counties and municipalities for areas that include municipalities in more than one county, and between and among counties, municipalities, authorities and special districts providing water and sewer facilities, transportation planning or other services within the area of a plan and with the opportunity for the active participation of State agencies and school districts. Implementation of the comprehensive plan and subdivision and zoning ordinances shall be accomplished in accordance with articles of this act.

Section 1103. Finances, Staff and Program. County or Multimunicipal Comprehensive Plans.

(a) The comprehensive plan that is the subject of an agreement may be developed by the municipalities or at the request of the municipalities, by the county planning agency, or agencies in the case of a plan covering municipalities in more than one county, in cooperation with municipalities within the area and shall include all the elements required or authorized in section 301 for the region of the plan, including a plan to meet the housing needs of present residents and those individuals and families anticipated to reside in the area of the plan, which may include conservation of presently sound housing, rehabilitation of housing in declining neighborhoods and the accommodations of expected new housing in different dwelling types and of appropriate densities for households of all income levels. The plan may:

(1) Designate growth areas where:

(i) Orderly and efficient development to accommodate the projected growth of the area within the next 20 years is planned for residential and mixed use densities of one unit or more per acre.

(ii) Commercial, industrial and institutional uses to provide for the economic and employment needs of the area and to insure that the area has an adequate tax base are planned for.

(iii) Services to serve such development are provided or planned for.

(2) Designate potential future growth areas where future development is planned for densities to accompany the orderly extension and provision of services.

(3) Designate rural resource areas, if applicable, where:

(i) Rural resource uses are planned for.

(ii) Development at densities that are compatible with rural resource uses are or may be permitted.

(iii) Infrastructure extensions or improvements are not intended to be publicly financed by municipalities except in villages, unless the participating or affected municipalities agree that such service should be provided to an area for health or safety reasons or to accomplish one or more of the purposes set forth in section 1101.

(4) Plan for the accommodation of all categories of uses within the area of the plan, provided, however, that all uses need not be provided in every municipality, but shall be planned and provided for within a reasonable geographic area of the plan.

(5) Plan for developments of area wide significance and impact, particularly those identified in section 301(3) and (4).

(6) Plan for the conservation and enhancement of the natural, scenic, historic and aesthetic resources within the area of the plan,

(b) The county may facilitate a multimunicipal process and may enter into cooperative planning agreements with participating municipalities governing particular planning subjects and responsibilities. The planning process shall include a public participation process to assure that all governing bodies, municipal authorities, school districts and agencies, whether public or private, having jurisdiction or operating within the area of the plan and landowners and citizens affected by the plan have an opportunity to be heard prior to the public hearings required for the adoption of the plan under section 302(a).

(c) Adoption of the plan and plan amendments shall conform to the requirements of section 302, and may be reflected on the official map of each participating municipality pursuant to section 401. Where a county and municipality have developed and adopted a comprehensive county or multimunicipal plan that conforms to the requirements of this article within five years prior to the date of adoption of this article, the plan may be implemented by agreements as provided for in this article.

Section 1104. Implementation Agreements.

(a) In order to implement multimunicipal comprehensive plans, under section 1103 counties and municipalities shall have authority to enter into intergovernmental cooperative agreements.

(b) Cooperative implementation agreements shall:

(1) Establish the process that the participating municipalities will use to achieve general consistency between the county or multimunicipal comprehensive plan and zoning ordinances, subdivision and land development and capital improvement plans within participating municipalities, including adoption of conforming ordinances by participating municipalities within two years and a mechanism for resolving disputes over the interpretation of the multimunicipal comprehensive plan and the consistency of implementing plans and ordinances.

(2) Establish a process for review and approval of developments of regional significance and impact that are proposed within any participating municipality. Subdivision and land development approval powers under this act shall only be exercised by the municipality in which the property where the approval is sought. Under no circumstances shall a subdivision or land development applicant be required to undergo more than one approval process.

(3) Establish the role and responsibilities of participating municipalities with respect to implementation of the plan, including the provision of public infrastructure services within participating municipalities as described in subsection (d), the provision of affordable housing, and purchase of real property, including rights-of-way and easements.

(4) Require a yearly report by participating municipalities to the county planning agency and by the county planning agency to the participating municipalities concerning activities carried out pursuant to the agreement during the previous year. Such reports shall include summaries of public infrastructure needs in growth areas and progress toward meeting those needs through capital improvement plans and implementing actions, and reports on development applications and dispositions for residential, commercial, and industrial development in each participating municipality for the purpose of evaluating the extent of provision for all categories of use and housing for all income levels within the region of the plan.

(5) Describe any other duties and responsibilities as may be agreed upon by the parties.

(c) Cooperative implementation agreements may designate growth areas, future growth areas and rural resource areas within the plan. The agreement shall also provide a process for amending the multimunicipal comprehensive plan and redefining the designated growth area, future growth area and rural resource area within the plan.

(d) The county may facilitate convening representatives of municipalities, municipal authorities, special districts, public utilities, whether public or private, or other agencies that provide or declare an interest in providing a public infrastructure service in a public infrastructure service area or a portion of a public infrastructure service area within a growth area, as established in a county or multimunicipal comprehensive plan, for the purpose of negotiating agreements for the provision of such services. The county may provide or contract with others to provide technical assistance, mediation or dispute resolution services in order to assist the parties in negotiating such agreements.

Section 1105. Legal Effect.

(a) Where municipalities have adopted a county plan or a multimunicipal plan is adopted under this article and the participating municipalities have conformed their local plans and ordinances to the county or multimunicipal plan by implementing cooperative agreements and adopting appropriate resolutions and ordinances, the following shall apply:

(1) Sections 916.1 and 1006-A.

(2) State agencies shall consider and may rely upon comprehensive plans and zoning ordinances when reviewing applications for the funding or permitting of infrastructure or facilities.

(3) State agencies shall consider and may give priority consideration to applications for financial or technical assistance for projects consistent with the county or multimunicipal plan.

(b) Participating municipalities that have entered into implementation agreements to carry out a county or multimunicipal plan as described in this article shall have the following additional powers:

(1) To provide by cooperative agreement for the sharing of tax revenues and fees by municipalities within the region of the plan.

(2) To adopt a transfer of development rights program by adoption of an ordinance applicable to the region of the plan so as to enable development rights to be transferred from rural resource areas in any municipality within the plan to designated growth areas in any municipality within the plan.

(c) Nothing in this article shall be construed to authorize a municipality to regulate the allocation or withdrawal of water resources by a municipal authority or water company that is otherwise regulated by the Pennsylvania Public Utility Commission or other Federal or State agencies or statutes.

(d) Except as provided in section 619.2, nothing in this article shall be construed as limiting the authority of the Pennsylvania Public Utility Commission over the implementation, location, construction and maintenance of public utility facilities and the rendering of public utility services to the public.

Section 1106. Specific Plans.

(a) Participating municipalities shall have authority to adopt a specific plan for the systematic implementation of a county or multimunicipal comprehensive plan for any nonresidential part of the area covered by the plan. Such specific plan shall include a text and a diagram or diagrams and implementing ordinances which specify all of the following in detail:

(1) The distribution, location, extent of area and standards for land uses and facilities, including design of sewage, water, drainage and other essential facilities needed to support the land uses.

(2) The location, classification and design of all transportation facilities, including, but not limited to, streets and roads needed to serve the land uses described in the specific plan.

(3) Standards for population density, land coverage, building intensity and supporting services, including utilities.

(4) Standards for the preservation, conservation, development and use of natural resources, including the protection of significant open spaces, resource lands and agricultural lands within or adjacent to the area covered by the specific plan.

(5) A program of implementation including regulations, financing of the capital improvements and provisions for repealing or amending the specific plan. Regulations may include zoning, storm water, subdivision and land development, highway access and any other provisions for which municipalities are authorized by law to enact. The regulations may be amended into the county or municipal ordinances or adopted as separate ordinances. If enacted as separate ordinances for the area covered by the specific plan, the ordinances shall repeal and replace any county or municipal ordinances in effect within the area covered by the specific plan and ordinances shall conform to the provisions of the specific plan.

(b) (1) No specific plan may be adopted or amended unless the proposed plan or amendment is consistent with an adopted county or multi-municipal comprehensive plan.

(2) No capital project by any municipal authority or municipality shall be approved or undertaken, and no final plan, development plan or plat for any subdivision or development of land shall be approved unless such projects, plans or plats are consistent with the adopted specific plan.

(c) In adopting or amending a specific plan, a county and participating municipalities shall use the same procedures as provided in this article for adopting comprehensive plans and ordinances.

(d) Whenever a specific plan has been adopted, applicants for subdivision or land development approval shall be required to submit only a final plan as provided in Article V, provided that such final plan is consistent with and implements the adopted specific plan.

(e) A county or counties and participating municipalities are prohibited from assessing subdivision and land development applicants for the cost of the specific plan.

Section 1107. Saving Clause.

(a) The passage of this act and the repeal by it of any prior enabling laws relating to regional planning shall not invalidate any regional planning commission created under such other laws. This act, in such respect, shall be deemed a continuation and codification of such prior enabling laws.

(b) The amendment of this article shall not invalidate any joint municipal planning commission established under the former provisions of this article. A joint municipal planning commission shall continue to function under the amended provisions of this article.

Article XI-A - Wastewater Processing Cooperative Planning

Section 1101-A. Definitions. The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Department." The Department of Environmental Protection of the Commonwealth.

"Wastewater system official." Either:

(1) the manager of a wastewater system; or

(2) if a manager is not employed to oversee a wastewater system, the system municipal officials of the municipality in which the wastewater system exists.

Section 1102-A. Notification requirement.

(a) Notice to wastewater systems official.

(1) Except as provided in paragraph (2), notwithstanding any other provision of law, this section applies to a person who files an application for:

(i) development, plat approval, planned residential development or waiver of land development under this act; or

(ii) a construction permit under section 502 of the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act.

(2) This article does not apply to:

(i) an application that involves new construction or alteration or renovation of a one-family or two-family dwelling;

(ii) an application that has an approved sewer module; or

(iii) an application for which the department has issued a determination that sewage planning is not required or has granted an exemption from sewage planning.

(3) A person subject to this subsection shall provide written notification of filing the application to the wastewater system official serving the property identified in the application. A copy of the written notification shall be provided by the person to the municipality.

(b) Failure to notify. No application subject to subsection (a) may be deemed by the municipality to be administratively complete until the municipality receives a copy of the written notification required by subsection (a).

Section 1103-A. Review by wastewater system officials.

(a) Wastewater systems review.

(1) Upon receipt of the notification required under section 1102-A(a), the wastewater system official shall review the notification to determine the impact of the application on the wastewater system. The wastewater system official may request additional information, including a copy of the application, from the applicant.

(2) (i) Except as provided under subparagraph (ii), review by the wastewater system official shall be completed within 30 days of receipt of the notification required under section 1102-A. For good

cause shown, the wastewater system official may request and the municipality shall grant an extension of up to 15 days for completion of the review.

(ii) If another statute establishes an application review period of 30 days or less, the review period and extension provided under subparagraph (I) shall not apply and the wastewater system official shall complete the review within the review period provided by that statute.

(3) If a municipality does not receive any notice from the wastewater system official within the time period provided under paragraph (2), the municipality shall proceed with the application as if the application is in compliance with the requirements of the wastewater system.

(b) Notification of results of review.

(1) Upon completion of the review required under subsection (a), the wastewater system official shall notify the applicant and the municipality in writing of its findings, which shall include a statement regarding the expected impact of the application on the current wastewater system.

(2) If the application will cause the wastewater system to exceed its permitted capacity or will result in necessary upgrades to the wastewater system's infrastructure, the written notice of the wastewater system official shall include the specific reasons that are causing the wastewater system to exceed its permitted capacity or the necessity for upgrades to the wastewater system's infrastructure.

(c) Approval of applications. Except for applications which are exempt from the provisions of this article as provided under section 1102-A(a)(2), a municipality may not:

(1) grant final approval of an application for development, plat approval or planned residential development under this act unless final approval is conditioned upon receipt of a waiver of or an approved exemption from sewage planning or written approval of the application is received from the wastewater system official; or

(2) approve an application for a construction permit under section 502 of the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act, unless the application has been reviewed under this section.

(d) Right of appeal. Any person aggrieved by a decision of a wastewater system official shall be entitled to seek the remedies provided under the act of January 24, 1966 (1965 P.L.1535, No.537), known as the Pennsylvania Sewage Facilities Act.

Section 1104-A. Applicability. This article shall apply as follows:

(1) This article shall apply to applications for development, plat approval, planned residential development, waiver of land development or construction permits if the development or construction utilizes wastewater treatment service provided by a county wastewater treatment authority incorporated in a county of the second class A.

(2) This article shall apply to all municipalities served by the authority under paragraph (1).

Section 1105-A. Adoption of Regional Zoning Ordinances. (1105-A repealed Dec. 21, 1988, P.L.1329, No.170)

Section 1106-A. Amendments to Regional Zoning Ordinance. (1106-A repealed Dec. 21, 1988, P.L.1329, No.170)

Section 1107-A. Regional Hearing Board. (1107-A repealed Dec. 21, 1988, P.L.1329, No.170)

Section 1108-A. Intention to Withdraw. (1108-A repealed Dec. 21, 1988, P.L.1329, No.170)

Article XII - Repeals

Section 1201. Specific Repeals. The following acts and parts of acts and amendments thereof are repealed to the extent hereinafter specified:

(1) Section 12, act of May 16, 1891 (P.L.75, No.59), entitled "An act in relation to the laying out, opening, widening, straightening, extending or vacating streets and alleys, and the construction of bridges in the several municipalities of this Commonwealth, the grading, paving, macadamizing or otherwise improving streets and alleys, providing for ascertaining the damages to private property resulting therefrom, the assessment of the damages, costs and expenses thereof upon the property benefited, and the construction of sewers and payment of the damages, costs and expenses thereof, including damages to private property resulting therefrom," as to cities of the second class A, incorporated towns and townships of the first and second class.

(2) Sections 1151, 1152, 1153, 1154, 1155, 1156, 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1711, 1721, 1722, 2706, 2707, 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 3209 and 3210, act of February 1, 1966 (P.L.1656, No.581), known as "The Borough Code," absolutely.

(3) Sections 2001, 3015, 3016, 3061, 3062, 3063, 3064, 3065, 3066, 3067, 3068, 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3107.1, 3107.2, 3108, 3109, 3110, 3111, 3201, 3202 and 3203, act of June 24, 1931 (P.L.1206, No.331), known as "The First Class Township Code," reenacted and amended May 27, 1949 (P.L.1955, No.569), absolutely.

(4) Sections 2901, 2902, 2903, 2904, 2905, 2906, 3701, 3702, 4001, 4002, 4003, 4004, 4005, 4006, 4101, 4102, 4103, 4104, 4105, 4106, 4107, 4110, 4111, 4112, 4113, 4114, 4120, 4121, 4122, 4123, 4124, 4125, 4126, 4127, 4128 and 4129, act of June 23, 1931 (P.L.932, No.317), known as "The Third Class City Code," reenacted and amended June 28, 1951 (P.L.662, No.164), absolutely.

(5) Sections 1201-A, 1202-A, 1203-A, 1204-A, 1205-A, 1206-A, 1207-A, 1208-A, 1907.1, 1907.2, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2051, 2052, 2053, 2054, 2055, 2056 and 2057, act of May 1, 1933 (P.L.103, No.69), known as "The Second Class Township Code," reenacted and amended July 10, 1947 (P.L.1481, No.567), absolutely.

(6) The act of April 18, 1945 (P.L.258, No.117), entitled "An act requiring cities, boroughs, towns and townships to notify adjacent political subdivisions of proposed streets, roads and highways leading into them," as to cities of the second class A and third class, boroughs, incorporated towns and townships of the first and second class.

(7) Sections 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038 and 2039, act of August 9, 1955 (P.L.323, No.130), known as "The County Code," absolutely.

(8) Sections 2201 through 2211 and 2220 through 2239, act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code," in so far as they relate to counties of the second class A.

Section 1202. General Repeal. All other acts and parts of acts are repealed in so far as they are inconsistent herewith, but this act shall not repeal or modify any of the provisions of 66 Pa.C.S. Pt. I (relating to public utility code) 68 Pa.C.S. Pt. II Subpt. B (relating to condominiums), or any laws administered by the Department of Transportation of the Commonwealth of Pennsylvania.

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