

The Zoning Ordinance of
HIGHLAND TOWNSHIP

Chester County, Pennsylvania

Adopted: October 11, 2005

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ARTICLE I

GENERAL PROVISIONS

SECTION 101 SHORT TITLE AND EFFECTIVE DATE

This Ordinance shall be known and may be cited as the "Highland Township Zoning Ordinance of 2004", as amended. This Ordinance shall be effective five (5) days after adoption, except that with respect to any amendment as it may affect a nonconforming use, the effective date of this Ordinance shall be the date upon which the particular amendment becomes effective.

SECTION 102 PURPOSES

This Ordinance is enacted under and pursuant to the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended, 53 P.S. §§ 10101 et seq., to promote, protect and facilitate the public health, safety, and welfare through:

- A. The preservation of prime agricultural soils and farmland, considering the topography, soil type, soil classification and present use.
- B. The promotion and facilitation of one (1) or more of the following:
 - 1. The preservation of natural (forests, wetlands, aquifers, floodplains), scenic and historic resources and agricultural land and related activities;
 - 2. Sound community development;
 - 3. Appropriate population density relative to the Township's infrastructure and agricultural economy;
 - 4. Adequate light and air, open space, police protection, vehicle parking and loading space provisions;
 - 5. Transportation, water, sewage, schools, recreational facilities, public grounds and other public requirements; and
 - 6. Safe, reliable, and adequate water supplies for domestic, agricultural, commercial, and industrial uses.
- C. The prevention of one (1) or more of the following:
 - 1. Overcrowding of land, blight, danger and congestion in travel and transportation; and
 - 2. Loss of health, life, or property from fire, flood or other dangers.
- D. For the provision of residential housing encompassing all basic housing forms within the Township.

This Article is enacted in accordance with a comprehensive plan and with consideration for the character of the Township, its various parts and the suitability of its various parts for particular uses and structures.

SECTION 103 COMMUNITY DEVELOPMENT OBJECTIVES

This Ordinance is also enacted in accordance with the community development objectives in the *Highland Township Comprehensive Plan (2001)* and with other applicable codes ordinances and or studies formulated to implement the purposes set forth in Section 102, above, and particularly according to the following community development objectives:

- A. To foster agriculture as a viable industry and as a desirable open space land use.
- B. To preserve the open, rural character of the Township and maintain the quality of the existing scenic and rural landscape by preserving agricultural lands.
- C. To preserve and manage the valuable natural and cultural resources of the Township, including but not limited to, prime agricultural soils, wetlands, steep slopes, groundwater supplies, forested areas, the headwaters of the Brandywine and Octorara Creeks, the one hundred year floodplain of all creeks and associated riparian buffer areas, the flora and fauna, the Township's scenic roads, vistas and landscapes, and historic buildings, structures and sites.
- D. To ensure that future growth is consistent with the rural character of the Township.

SECTION 104 INTERPRETATION AND SCOPE

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the purposes of this Ordinance. From and after the effective date of the Ordinance, the use, construction and development of all land, structures, buildings, signs or portions thereof, will be subject to the regulations herein. Any existing buildings, land or uses not in conformity with the regulations herein shall be considered nonconforming, but may be continued or changed subject to regulations herein regarding nonconformities except for developments falling within the provisions of Section 508(4) of the Municipalities Planning Code (MPC). In interpreting the language of this Ordinance to determine the extent of the restriction upon the use of the property, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by the Board of Supervisors, in favor of the property owner and against any implied extension of the restriction.

SECTION 105 RELATIONSHIP TO OTHER LAWS AND REGULATIONS

Where this Ordinance imposes greater restriction upon the use of buildings or land, or upon height and bulk of buildings, or prescribes larger open spaces than are required by the provisions of another ordinance, enactment, rule, regulation or permit, then the provisions of this Ordinance shall control. Where the provisions of any statute, other ordinance, or regulation impose greater restrictions than this Ordinance, the provisions of such statute, ordinance, or regulation shall control.

SECTION 106 VALIDITY AND SEVERABILITY

The provisions of this Ordinance are severable. If any court of competent jurisdiction decides any section, sentence, clause, part of provision is illegal, invalid or unconstitutional then such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts of provisions of this Ordinance.

SECTION 107 REPEALER

The Highland Township Zoning Ordinance of 1979, and all amendments thereto are hereby repealed.

ARTICLE II

ESTABLISHMENT OF DISTRICTS

SECTION 201 CLASSES OF DISTRICTS

For the purposes of this Ordinance, Highland Township is hereby divided into four (4) base districts and two (2) overlay districts. These districts are intended to support and implement the recommendations of the *Highland Township Comprehensive Plan* (2001), as amended, and shall be designated as follows:

A. Base Districts

- A Agricultural Preservation District
- RC Rural Conservation District
- RV Rural Village Districts
 - RV-1 Rural Village – Gum Tree Village
 - RV-2 Rural Village – Cochranville and Parkesburg Extension
- IND Industrial District

B. Overlay Districts

- SR Scenic Overlay District
- FH Flood Hazard District

SECTION 202 ZONING MAP

A. Base Districts

The boundaries of all base districts shall be shown on the map made part of this Ordinance; this map shall be known as the "Zoning Map of Highland Township." Said map and all notations, references, and data shown thereon are hereby incorporated by reference into this Ordinance and shall be as much a part hereof as if all were fully described herein. Whenever an amendment of this Ordinance involves a change of district boundaries, said change shall be recorded on the master "Zoning Map of Highland Township" as maintained at the Township offices.

B. Overlay Districts

Overlay districts shall be additional regulations to the otherwise applicable base zoning district. The location and provisions of the overlay districts are set forth in Article IV.

SECTION 203 INTERPRETATION OF DISTRICT BOUNDARIES

A. Base Districts

Boundary lines shall, unless otherwise indicated, follow property lines or the center lines of roads, watercourses, ponds or lakes, or rights-of-way of power lines and other public utilities, or such lines extended, parallel or perpendicular thereto. If uncertainty arises as to the location of any said boundary as shown on the Zoning Map, the following rules shall apply:

Article II Establishment of Districts

1. Where a district boundary is indicated as approximately following the centerline of a road, land, watercourse, pond or lake, or the rights-of-way of a power line, public utility, or other property line, such centerline shall be construed as the boundary.
2. Where a district boundary is indicated as approximately following a lot or other property line, such lot or property line shall be construed to be such boundary.
3. Where a district boundary divides a lot or runs through undivided property, the location of such boundary, unless otherwise specified by dimensions on the Zoning Map, shall be determined by the use of the scale appearing on said map.
4. Where specific dimensions are shown on the Zoning Map between a road or watercourse and a district boundary, they indicate that the district boundary runs parallel to the centerline of the road or watercourse at a distance therefrom equivalent to the number of feet so indicated, unless otherwise specified. Where scaled distances do not agree with such dimensions, the written dimensions shall control.

B. Overlay Districts

In the case of the overlay districts, rules and interpretations of district boundaries shall be as described in Article IV.

SECTION 204 BOUNDARY TOLERANCES

Where a lot held under single and separate ownership is divided by a district boundary line, other than a boundary of the Flood Hazard Overlay District, the uses permitted in the less restrictive district may extend into that portion of said lot in the more restrictive district to either the nearest lot line or a distance of fifty (50) feet in the case of the (RC) Rural Conservation district or twenty-five (25) feet in the case of the (RV) Rural Village and (IND) Industrial districts, whichever is less.

- A. In no case shall a use extend into the more restrictive district unless full use is first made of the less restricted area before extension.
- B. Any extension of a use into the more restrictive district must meet the area and bulk requirements of the more restrictive district.
- C. In no case shall the uses and area and bulk requirements permitted in an abutting district be extended for any distance into the Flood Hazard District.

ARTICLE III
ZONING DISTRICTS

SECTION 301 (A) AGRICULTURAL PRESERVATION DISTRICT

301.1 **Authority.** The (A) Agricultural Preservation District is established in accordance with:

1. Pennsylvania Act No. 247, The Municipalities Planning Code, Sections 603(b)5, 603(c)7, 603(g)1, 603(h), 604(3), and 605(2)(vii);
2. The goals and objectives of the *Highland Township Comprehensive Plan (2001)*; and
3. The Community Development Objectives in Section 103 of this Ordinance.

301.2 **Intended Purpose.** In promoting the policies of the *Highland Township Comprehensive Plan*, the purpose of this district is to:

1. Encourage the continued agricultural use on soils classified by the U.S. Department of Agriculture within agricultural capability Class I, Class II, and Class III, as listed in Appendix 5-2 of this Ordinance;
2. Accommodate the residential needs of those employed in agriculture at a density compatible with agricultural use;
3. Accommodate commercial activities which are carried out on farm properties and involve principally the sale of farm products;
4. Preserve open space and the rural character of the Township;
5. Protect prime agricultural soils and existing farmland and reduce development pressure that negatively impact agriculture;
6. Provide development options so that properties may be subdivided for development as to protect the viability of the remaining land for agricultural production; and
7. Limit the type and amount of non-agricultural uses within the district in order to lessen conflicts between agricultural and non-agricultural uses.

301.3 **Use Provisions**

A. **By-Right Uses.** The following uses are permitted by right in the (A) Agricultural Preservation District:

1. Farm house or detached single family dwellings in accordance with Section 301.4.
2. Agricultural uses in accordance with Section 603.

Article III Zoning Districts

3. Woodland preserve, game farm, wildlife sanctuary, or other conservation purpose.
4. Accessory agricultural dwellings, in accordance with Section 603.C.
5. Highland Township Municipal use such as a Township building, fire station, municipal park, police station, and related public uses and structures.
6. Horticultural uses relating to the raising, propagating and selling of trees, shrubs, flowers, and other vegetative materials.
7. Residential accessory uses, subject to the requirements in Section 602.
8. Minor home occupations, subject to the requirements in Section 613.
9. Forestry, subject to the requirements in Section 611.
10. Co-location or replacement of existing wireless communications facilities, subject to the requirements of Section 627.
11. Attached wireless communications facilities, subject to the requirements of Section 627.

B. Special Exceptions. The following uses are permitted following review and approval as special exceptions by the Zoning Hearing Board, subject to the provisions of Section 1111.

1. Recreational Facility, subject to the requirements in Section 619.
2. Cemetery, subject to the requirements in Section 608.
3. Kennels, subject to the requirements in Section 604.B.
4. Riding academies and stables, subject to the requirements in Section 623.
5. Commercial greenhouses, subject to the requirements in Section 612.
6. Mushroom houses, subject to the requirements of Section 603.
7. Residential conversions, subject to the requirements in Section 621.
8. Bed and breakfast facilities, subject to the requirements in Section 606.
9. Secondary farm businesses, subject to the requirements in Section 603.B.8.
10. Agricultural utilization of sludge, subject to the requirements in Section 603.G.
11. Major home occupations, subject to the requirements in Section 613.

C. Conditional Uses. The following uses are permitted following review and approval as a conditional use by the Board of Supervisors, subject to the provisions in Section 1005, and subject to the individual design requirements of the applicable use.

1. Intensive agricultural uses, subject to the requirements in Section 603.E.
2. Composting operations, subject to the requirements in Section 603.F.
3. Wireless communications facilities, subject to the requirements in Section 627.

301.4 **Area and Bulk Regulations**

Area, lot width, and coverage requirements of not less nor more than the dimensions shown below shall be provided for each dwelling unit/or nonresidential building or use hereafter erected, established, re-established, or altered for any use permitted in this district.

A. Agricultural Uses

1. Parcels for agricultural uses shall comply with the following standards:

Minimum lot area:	25 acres
Minimum lot width at road line:	300 feet
Minimum setback from road right-of-way:	50 feet
Minimum side yard setback:	25 feet each
Minimum rear yard setback:	25 feet
Maximum impervious surface coverage:	2 percent total*
Maximum building height:	35 feet

* Impervious surface coverage reflects the total coverage for the entire parent tract, inclusive of future subdivided lots for residential purposes.

2. Unless otherwise stated, all lot sizes specified herein are exclusive of public rights-of-way.
3. All agricultural building setbacks are subject to Section 603.
4. Silos and bulk bins are exempt from area and bulk regulations if attached to an existing structure.
5. Barns, silos and bulk bins shall be exempt from the maximum building height limit when located such that the distance from the base of the barn, silo, or bulk bin to both the nearest property line and the nearest street right-of-way is no less than the height of said barn, silo, or bulk bin.

B. Residential Uses

Recognizing that the goal of this district is the preservation of agricultural uses, it is the intent of this Section that residential uses shall be as specified below in order to retain tracts of sufficient size to be efficiently and effectively used for agricultural purposes. Therefore, proposed subdivision for the development of single-family detached dwellings on parcels as recorded on or before the effective date of this Ordinance shall be designed as follows:

1. The maximum number of residential units permitted for subdivision from the parent tract shall be as shown in the table below:

<u>Tract Size in Acres</u>	<u>Permitted Number of Lots/Units</u>
At least 2 but less than 50 acres	one (1)
At least 50 but less than 75 acres	two (2)
At least 75 but less than 100 acres	three (3)
At least 100 but less than 125 acres	four (4)
At least 125 but less than 150 acres	five (5)
At least 150 but less than 175 acres	six (6)
Etc.	

2. Each new lot for a single family detached dwelling shall be as follows:

Minimum net lot area:	1 acre
Maximum net lot area:	2 acres
Minimum lot width at building line:	150 feet
Minimum lot width at road line:	25 feet for 1 lot; 50 feet for 2 or more lots
Minimum setback from road right-of-way:	50 feet
Minimum side yard setback:	25 feet each
Minimum rear yard setback:	25 feet
Maximum impervious surface coverage:	15 percent*
Maximum building height:	35 feet

* Impervious surface coverage for each individual lot is counted in the total impervious coverage of the parent tract, which is 2 percent.

3. Minimum Accessory Building Setback: ten (10) feet from any property boundary.
4. Maximum Number of Accessory Structures: there shall be no more than two (2) such structures on a residential lot.
5. Notwithstanding the "Maximum net lot area" as specified above, no single residential lot created according to the standards of this Section shall occupy more than two (2) acres of Class I and Class II agricultural soils, as defined in Section 502.7.A. Proposed subdivisions shall comply with the Prime Agricultural Soils protection standards in Section 502.7 of this Ordinance.
6. Residential lots shall be so situated to create the least disruption to agricultural operations on the parent tract.

7. Prior to subdivision, the applicant shall identify upon a survey the location of all Class I, Class II, and Class III soils, as defined in Section 502.7.A, upon the parcel to be subdivided. This map shall demonstrate that strict application of the requirements in Section 301.4.B.5 above would result in inefficient, unsafe, or otherwise inappropriate design. The applicant shall use the U.S. Department of Agriculture Soil Survey of Chester County as the basis for this determination, unless the Township specifies the use of a field survey.
8. When less than the maximum number of residential lots is proposed for subdivision from an agricultural parent tract, according to the table in Section 301.4.B.1, above, the applicant for subdivision shall demonstrate through a preliminary subdivision/land development plan that the remaining permitted parcels may be efficiently clustered in a manner compatible with continued agricultural use and using the design standards applied to Residential Cluster Development, as found in Section 622 of this Ordinance.
9. Remaining lands.
 - a. Subdivision of residential lots from an agricultural lot according to the standards of this Section shall result in remaining lands of no less than twenty-five (25) acres so located and configured as to facilitate continued agricultural use.
 - b. Where creation of all the lots permitted by the table in Section 301.4.B.1 would result in remaining lands of less than twenty-five (25) acres, the applicant shall only be permitted to subdivide such lots as will result in at least twenty-five (25) acres as remaining lands.
 - c. Remaining lands shall have frontage on a public road equal to or greater than fifty (50) percent of the frontage of the tract prior to subdivision.
 - d. When the maximum number of residential lots has been created, as determined by Sections 301.4.B.1 and the above subsections, the remaining lands, regardless of use, shall be deed restricted from further subdivision, except for purposes of leasing for agricultural uses as defined by this Ordinance.

301.5 Non-Agricultural Dwelling or Use Notice

The primary purpose of this district is to facilitate commercial agricultural production. Owners, residents, and other users of property in this district may experience noise, odors, dust, the operation of machinery of all kinds during any time, the storage and application of manure, fertilizers, herbicides, etc., and the heavy or slow vehicle use of roads, all common characteristics of agricultural operations. These activities are normal, ordinary, routine and unavoidable characteristics of an agricultural area; furthermore, owners, residents, and users of this property shall be assumed to have accepted these characteristics by willingly choosing to reside in the (A) Agricultural Preservation District. Furthermore, Section 4 of Pennsylvania Act 133 of 1992 "The Right to Farm Law," 3 P.S. §§ 951 et seq. (1992), may bar owners, residents, and users of property from obtaining any judgement against such normal agricultural operations.

All new subdivided lots within this district shall include a notice attached to the newly created deed quoting the notice provided in this Section.

301.6 **Additional Standards**

Refer to Article IV, Overlay District Provisions; Article V, Natural Resource Protection Standards; Article VI, Supplemental Land Use Provisions; Article VII, General Design Regulations; and Article IX, Sign Regulations, for additional regulations applicable to this District.

SECTION 302 (RC) RURAL CONSERVATION DISTRICT

302.1 **Intended Purpose**

The (RC) Rural Conservation District provides for a limited density of development where scenic landscapes, farmland and open space are predominant in order to encourage agricultural uses while allowing low density residential development. Design flexibility is achieved by the allowance of residential cluster development. Such uses are consistent with existing development, with the recommended land use policies of the *Highland Township Comprehensive Plan* (2001), and with the Township's effort to:

- A. Encourage agricultural uses.
- B. Allow residential uses that minimize visual impact and reinforce the rural character of the Township.
- C. Limit public facilities, particularly community sewer and water facilities, so as to maintain the existing rural character of the Township.

302.2 **Use Provisions**

- A. By-Right Uses. The following uses shall be permitted by right in the (RC) Rural Conservation District:
 - 1. Agricultural uses, subject to the requirements in Section 603.
 - 2. Horticultural uses relating to the raising, propagating and selling of trees, shrubs, flowers, and other vegetative materials.
 - 3. Forestry, subject to the requirements in Section 611.
 - 4. Single family detached dwellings.
 - 5. Residential accessory uses, subject to the requirements in Section 602.
 - 6. Highland Township Municipal uses, such as a Township building, fire station, municipal park, police station and other related public structures.
 - 7. Minor home occupation, subject to the requirements of Section 613.
 - 8. Group home.
 - 9. Recreational facilities, excluding high intensity uses, subject to the requirements of Section 619.
 - 10. Attached wireless communications facilities, subject to the requirements of Section 627.

- B. Special Exceptions. The following uses are permitted following review and approval as a special exception by the Zoning Hearing Board, subject to the provisions of Section 1111.
1. Cemetery, subject to the requirements in Section 608.
 2. Commercial greenhouse, subject to the requirements in Section 612.
 3. Major home occupation, subject to the requirements in Section 613.
 4. High intensity recreational facilities, subject to the requirements of Section 619.
- C. Conditional Uses. The following uses are permitted following review and approval as a conditional use by the Board of Supervisors, subject to the provisions in Section 1005, and subject to the individual design requirements of the applicable use.
1. Residential cluster development, subject to the requirements in Section 620.
 2. Places of worship, subject to the requirements in Section 618.

302.3 Area and Bulk Regulations

Area, lot width, and coverage requirements of not less than the dimensions shown below shall be provided for each non-farm dwelling unit/or nonresidential building or use hereafter erected, established, re-established, or altered for any use permitted in this district.

- A. Minimum lot size: five (5) acres, except in a residential cluster development as provided in Section 620.
- B. Maximum impervious surface coverage: five (5) percent or as the Board of Supervisors in a conditional use approval application determines to be reasonable based on topography and the individual characteristics of the lot;
- C. Minimum lot width: three hundred (300) feet or as the Board of Supervisors in a conditional use approval application determines to be reasonable based on topography and the individual characteristics of the lot;
- D. Minimum Front Yard Setback: fifty (50) feet or in a residential cluster development as the Board of Supervisors in a conditional use approval application determines to be reasonable based on topography and the individual characteristics of the lot.
- E. Minimum Rear and Side Yard Setbacks: twenty-five (25) feet or in a residential cluster as the Board of Supervisors in a conditional use approval application determines to be reasonable based on topography and the individual characteristics of the lot;
- F. Minimum Accessory Building Setback: ten (10) feet from any road right-of-way or property line and twenty-five (25) feet from a collector or arterial highway right-of-way.
- G. Maximum Height: thirty-five (35) feet

302.4 **Additional Standards**

Refer to Article IV, Overlay District Provisions; Article V, Natural Resource Protection Standards; Article VI, Supplemental Land Use Provisions; Article VII, General Design Regulations; and Article IX, Sign Regulations, for additional regulations applicable to this District.

SECTION 303 (RV) RURAL VILLAGE DISTRICTS

303.1 Intended Purpose

Based on the policies of the *Highland Township Comprehensive Plan* (2001), there are three (3) locations of Rural Village districts, with two differing sets of purposes.

- A. The (RV-1) Rural Village District – Gum Tree provides for infill development by allowing limited new development consistent with the historic character of the existing Village.
- B. The (RV-2) Rural Village District – Cochranville and Parkesburg provides for the logical growth of population from the existing population centers in Parkesburg and Cochranville by concentrating development and a more intensive mix of development types and activities.

Such new development may require the provision of public or community sewer and water facilities. When so required, such facilities shall be provided by the developer.

In the (RV) Rural Village Districts, the following shall apply as well as the applicable supplemental land use provisions and general design regulations in Articles VI and VII, respectively. In the (RV-2) Rural Village District, the Transfer of Development Rights Option, Article VIII, for Receiving Areas, shall also apply.

303.2 (RV-1) Rural Village District – Gum Tree

The Village of Gum Tree is not only the historic and cultural center of Highland Township, but the location of the Township's existing municipal facilities and recreational areas.

A. Use Provisions

- 1. By-Right Uses. The following uses shall be permitted by right in the (RV-1) Rural Village District:
 - a. Single-family detached dwellings.
 - b. Two-family detached (Duplex) and single-family semi-detached (Twin) dwellings.
 - c. Horticultural uses related to the raising, propagating and selling of trees, shrubs, flowers, and other vegetative materials.
 - d. Highland Township Municipal uses such as Township building, fire station, Township park, police station or other similar use.
 - e. Minor home occupation, subject to the requirements in Section 613.
 - f. Places of worship, excluding church related office building, publishing or manufacturing enterprises or other similar activities, in accordance with the provisions of Section 618.

- g. Medical clinics, subject to the requirements in Section 614.
 - h. Animal hospitals and veterinary clinics, limited to small animal care, and subject to the requirements in Section 604.
 - i. Agricultural uses, except for livestock, horses or poultry, in accordance with the provisions of Section 603.
 - j. Forestry, subject to the requirements in Section 611.
 - k. Recreational facilities, excluding high intensity uses, subject to the requirements of Section 619.
 - l. Attached wireless communications facilities, subject to the requirements of Section 627.
 - m. Accessory uses to permitted by-right uses, subject to the requirements of Section 602.
2. Special Exceptions. The following uses are permitted following review and approval as special exceptions by the Zoning Hearing Board, subject to the provisions of Section 1111.
- a. Agricultural uses involving the keeping or raising of livestock, horses, or poultry, subject to the requirements in Section 603.
 - b. Residential conversion in accordance with the provisions of Section 621.
 - c. Major home occupations, subject to the requirements in Section 613.
3. Conditional Uses. The following uses are permitted following review and approval as conditional uses by the Board of Supervisors, subject to the conditions as specified in Article VI and the procedures as specified in Section 1005 of this Ordinance.
- a. Personal service establishments, as individual uses or in combination with retail uses as specified in Section 303.2.A.1 above, subject to a maximum limit of two thousand (2,000) square feet of gross leasable floor area:
 - b. Individual professional, administrative, or consumer-oriented offices not to exceed two thousand (2,000) square feet of gross leasable floor area.
 - c. Bed and breakfast facilities in accordance with the provisions of Section 606.
 - d. Commercial day care center in accordance with the provisions of Section 609.
 - e. A combination of two (2) or more permitted uses on a single lot or a single building involving at least one residential use or unit.

B. Area, Bulk, Density, and Intensity Regulations

Unless otherwise specified in Article VI, Supplemental Land Use Provisions, or elsewhere in this Ordinance, the following area, bulk, density and intensity regulations shall be applied to all buildings or uses hereafter erected, established, reestablished, or altered for any use permitted in this district.

1. Lot Area
 - a. By-Right Uses – Minimum Lot Area: One (1) acre, unless otherwise specified by Article VI, Supplemental Land Use Provisions.
 - b. Special Exception or Conditional Uses – Minimum Lot Area: Two (2) acres, unless otherwise specified by Article VI, Supplemental Land Use Provisions.
2. Minimum Lot Width at Building Line:
 - a. One Acre Minimum Lot Area: Seventy-five (75) feet
 - b. Two Acre Minimum Lot Area: One hundred twenty-five (125) feet
3. Minimum Lot Width at Road Line:
 - a. One Acre Minimum Lot Area: Seventy-five (75) feet
 - b. Two Acre Minimum Lot Area: One hundred (100) feet
4. Maximum Building Coverage: 10% for residential uses
25% for non-residential uses
5. Maximum Impervious Lot Coverage: 20% for residential uses
45% for non-residential uses
6. Minimum Yard Dimensions: Unless permitted by this Ordinance, the following minimum yard dimensions shall apply:
 - a. Minimum Front Yard or Build-To Line:
 - 1) The minimum front yard setback may be determined by averaging the setbacks of the adjacent existing buildings provided adjacent buildings are a minimum of ten (10) from the right of way line.
 - 2) In no case shall the front yard setback be more than fifty-five (55) feet from the centerline of the adjacent street.
 - b. Minimum Side Yard: ten (10) feet on each side.
 - c. Minimum Rear Yard: twenty-five (25) feet for the primary structure/building.

- d. For lots or parcels with more than one (1) road frontage, no rear yard requirement exists.
 - e. Minimum side and rear yards for accessory structures (including garages, pools, greenhouses, and sheds) shall be ten (10) feet from the property line.
 - f. No accessory structure are permitted in the front yard of any property.
7. Maximum Building Height: thirty-five (35) feet

303.3 **(RV-2) Rural Village District – Cochranville and Parkesburg Extension**

These Districts are most appropriate for the extension of village-scale development from the Village of Cochranville and the Borough of Parkesburg.

New development in these Districts will require public or community sewer and water facilities to be provided by the developer.

In these Districts, in addition to the applicable supplemental land use provisions and general design regulations in Articles VI and VII, respectively, as well as the Transfer of Development Rights Option, Article VIII, for Receiving Areas, the following shall apply.

A. Use Provisions

- 1. By-Right Uses. The following uses shall be permitted by right in the (RV-2) Rural Village District:
 - a. Single-family detached dwellings.
 - b. Two-family detached (Duplex) and single family semi-detached (Twin) dwellings.
 - c. Single-family attached (Townhouse) dwellings, two family attached dwellings, and multi-family residential dwellings at a density no greater than that prescribed in Section 303.3.B, below, and in accordance with Section 626.
 - d. Horticultural uses involving the raising, propagating and selling of trees, shrubs, flowers, and other vegetative materials.
 - e. Highland Township Municipal uses such as Township building, fire station, Township park, police station or other similar use.
 - f. Minor home occupations, subject to the requirements in Section 613.
 - g. Places of worship, subject to the requirements of Section 618.
 - h. Public or private schools providing a classroom education in a customary curricula, subject to the requirements in Section 624.

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- i. Medical clinics, subject to the requirements in Section 614.
 - j. Animal hospitals and veterinary clinics, subject to the requirements in Section 604.
 - k. Agricultural uses, except for livestock, horses or poultry, subject to the requirements in Section 603.
 - l. Forestry, subject to the requirements in Section 611.
 - m. Recreational facilities, excluding high intensity uses, subject to the requirements in Section 619.
 - n. Attached wireless communications facilities, subject to the requirements in Section 627.
 - o. Accessory uses to permitted by-right uses, subject to the requirements of Section 602.
2. Special Exceptions. The following uses are permitted following review and approval as special exceptions by the Zoning Hearing Board, subject to the provisions of Section 1111.
- a. Agricultural uses involving the keeping or raising of livestock, horses, or poultry, subject to the requirements in Section 603.
 - b. Commercial greenhouses, subject to the requirements in Section 612.
 - c. Mobile Home Parks, subject to the requirements in the Township Mobile Home Park Ordinance (see Highland Township Ordinance #61-1, as amended by Ordinance #77-2).
 - d. Residential conversion, subject to the requirements in Section 621.
 - e. Major home occupations, subject to the requirements in Section 613.
 - f. High intensity recreational facilities, subject to the requirements in Section 619.
3. Conditional Uses. The following uses are permitted following review and approval as conditional uses by the Board of Supervisors, subject to the conditions specified in Article VI and the procedures specified in Section 1005.
- a. Retail uses, arranged as one (1) store with a maximum of two thousand (2,000) square feet of gross leasable floor area, or a group of stores (Shopping Center) with a maximum of twelve thousand (12,000) square feet of gross leasable floor area, dealing in the following retail items:
 - 1) paint, glass or wallpaper;
 - 2) hardware;

- 3) nursery and garden supplies;
- 4) general merchandise;
- 5) foods and groceries, including fresh fruits and vegetables, bakery or confectionery goods;
- 6) apparel and apparel accessories;
- 7) home furnishings, household appliances, radios, televisions and electronics equipment and supplies;
- 8) drugstores and pharmacies;
- 9) miscellaneous shopping goods such as sporting goods and bicycles, books, stationary, jewelry, toys and games, cameras and luggage.

Such uses shall also be subject to the requirements in Section 622.

- b. Personal service establishments, as individual uses or in combination with retail uses as specified in Section 303.3.A.3.a. above, subject to a maximum limit of two thousand (2,000) square feet of gross leasable floor area, such as the following:
 - 1) laundries or dry cleaner establishments;
 - 2) photographic studios;
 - 3) beauty salons or barbershops;
 - 4) shoe repair shops;
 - 5) funeral parlors and crematories;
 - 6) electrical repair shops;
 - 7) watch, jewelry and furniture repair shops;
 - 8) dance studios;
- c. Professional, administrative, or consumer-oriented offices not to exceed two thousand (2,000) square feet of gross leasable floor area.
- d. Bed and breakfast establishments, subject to the requirements in Section 606.
- e. Commercial day care center, subject to the requirements in Section 609.
- f. Two (2) or more permitted uses on a single lot or a single building involving at least one residential use or unit.

Article III Zoning Districts

- g. Nursing homes, life care facilities, or retirement communities, subject to the requirements in Section 617.
- h. Wireless communications facilities, subject to the requirements in Section 627.
- i. Transfer of Development Rights option, as provided in Article VIII.

B. Area, Bulk, Density, and Intensity Regulations

Unless otherwise specified in Article VI, Supplemental Land Use Provisions, or elsewhere in this Ordinance, the following area, bulk, density and intensity regulations shall be applied to all buildings or uses hereafter erected, established, reestablished, or altered for any use permitted in this district.

- 1. Lot Area
 - a. With public or community sewer and water :
 - Minimum Lot Area: Twenty thousand (20,000) square feet, unless otherwise specified by Article VI, Supplemental Land Use Provisions.
 - Maximum Lot Area: Forty thousand (40,000) square feet, except as specified by Article VI, Supplemental Land Use Provisions.
 - b. Without public or community sewer and water:
 - Minimum Lot Area: One (1) acre, unless otherwise specified by Article VI, Supplemental Land Use Provisions.
- 2. Minimum Lot Width at Building Line: Seventy-five (75) feet
- 3. Minimum Lot Width at Road Line: Seventy-five (75) feet
- 4. Maximum Building Coverage
 - a. With public or community sewer and water: 20% for residential uses
45% for non-residential uses
 - b. Without public or community sewer and water: 10% for residential uses
35% for non-residential uses

5. Maximum Impervious Lot Coverage:
 - a. With public or community sewer and water: 30% for residential uses
70% for non-residential uses
 - b. Without public or community sewer and water: 20% for residential uses
60% for non-residential uses

6. Minimum Setbacks. Unless otherwise permitted by this Ordinance, the following minimum setbacks shall apply:
 - a. Front Yard or Build-To Line:
 - 1) The minimum front yard setback may be determined by averaging the setbacks of the adjacent existing buildings provided adjacent buildings are a minimum of ten (10) from the right of way line.
 - 2) In no case shall the front yard setback be more than fifty-five (55) feet from the centerline of the adjacent road.
 - b. Side Yard: ten (10) feet on each side.
 - c. Rear Yard: twenty-five (25) feet for the primary structure/building.
 - d. For lots or parcels with more than one (1) road frontage, no rear yard requirement exists.
 - e. Structure separations for multiple dwellings on the same parcel (including but not limited to multi-family structures or two-family dwellings) shall be a minimum of twenty (20) feet.
 - f. Minimum side and rear yards for accessory structures (including garages, pools, greenhouses, and sheds) no less than ten (10) feet from the property line.
 - g. No accessory structure shall be permitted in the front yard of any property.

7. Maximum Building Height: thirty-five (35) feet

303.4 **Rural Village District Special Design Standards**

All new development proposed within any (RV) Rural Village District, as well as the rehabilitation, alteration or modification of existing structures or changes in uses of any structures, shall comply with the following design standards in addition to the Supplemental Land Use Provisions and General Design Regulations as provided in Articles VI and VII, respectively.

- A. New development shall be designed to complement the existing character of the Village surrounding the property (in the case of the Village of Gum Tree) or to supplement the historic character of the adjacent community (in the case of the Village of Cochranville or the Borough of Parkesburg), through building placement, style, dimensions, and construction materials, and overall site design.
- B. The removal of mature trees and site vegetation shall be limited to the individual building site and access to the site and shall comply with the standards in Section 502.6.
- C. Every effort shall be made to locate new structures in such a manner as to minimize changes to the existing contours and original topography of the site.
- D. A traditional grid street pattern is required for new roads within the (RV) Rural Village Districts. Curvilinear streets and the use of cul-de-sac streets is prohibited.
- E. Sidewalks or walking paths shall be provided where practical and appropriate to enhance pedestrian activity.
- F. Parking
 - 1. Parking for non-residential uses shall be located to the side or rear of buildings and shall be accessed where practical and appropriate by secondary access streets or alleys.
 - 2. Parking for residential uses shall be located to the rear of the main dwelling, shall be accessed where practical and appropriate from an alley or private driveway, and shall be in a garage.
- G. All commercial or business activities shall be conducted within enclosed buildings. Outdoor storage of merchandise, equipment or similar items or materials is prohibited.
- H. Mechanical systems, trash receptacles, and dumpsters shall be located in a rear or side yard and shall be screened from view in compliance with Section 704.

303.5 **Rural Village District Historic Preservation**

The rehabilitation, alteration, or modification of buildings and structures that contribute to the historic character of the Village are encouraged to comply with the United States Secretary of the Interior's Standards for Rehabilitation as described below:

- 1. Every reasonable effort should be made to so use a property that minimal alteration of the building, structure, or site and its environment will be necessary, or to use a property for its originally intended purpose.
- 2. Neither the distinguishing original qualities or character of a building, structure or site and its environment should be destroyed nor should any historic material or distinctive architectural features be removed or altered.
- 3. All buildings, structures and sites are products of their own time so alterations which have no historical basis or which seek to create an earlier appearance are discouraged.

4. Changes over the course of time are evidence of the history and development of a building, structure, or site and its environment and may have acquired significance in their own right and this significance should be recognized and respected.
 5. Distinctive architectural features or examples of skilled craftsmanship which characterize a building, structure, or site should be treated with sensitivity.
 6. Deteriorated architectural features should be repaired rather than replaced wherever possible.
 7. The surface cleaning of structures should be undertaken with the gentlest means possible.
 8. Every reasonable effort should be made to protect and preserve archeological resources affected by, or adjacent to, any acquisition, stabilization, preservation, rehabilitation, restoration, or reconstruction project.
 9. Contemporary design of alterations and additions to existing properties should not be discouraged when such alterations and additions do not destroy significant historic architectural or cultural materials and such design is compatible with the size, scale, color, materials, and character of the property, neighborhood, or environment.
 10. Whenever possible, new additions or alterations to structures should be done in such a manner that if they were to be removed in the future, the essential form and integrity of the structure would be unimpaired.
- J. For additional requirements and design standards, refer to Article IV, Overlay District Provisions; Article V, Natural Resource Protection Standards; Article VI, Supplemental Land Use Provisions; Article VII, General Design Regulations; Article VIII, Transfer of Development Rights Option; and Article IX, Sign Regulations.

SECTION 304 (IND) INDUSTRIAL DISTRICT

304.1 Intended Purpose

The (IND) Industrial District provides for manufacturing, assembly, distribution, office professional, or other large scale commercial business operations at a location that can accommodate traffic and consistent with the rural character of the Township.

304.2 Use Provisions

- A. By-Right Uses. (None of the following uses in the (IND) Industrial District shall be objectionable as defined in Section 710.)
1. Assembly of small office equipment and electrical appliances and supplies (such as lighting fixtures, typewriters, fans and toasters); light metal processes (such as stamping or extrusion of small metal or plastic products and metal finishing); and similar processes not involving heavy equipment or machinery.
 2. Manufacture of light industrial products from already prepared materials (such as cloth, leather, paper, plastic, and glass); manufacture of professional scientific and electronic instruments; dairy products; jewelry; watches; and similar products.
 3. Processing, packaging and treatment or compounding of such products as cosmetics, drugs, and pharmaceuticals.
 4. Printing or publishing establishment.
 5. Research laboratory or similar experimental, testing or scientific establishment, excluding those using radioactive or nuclear materials.
 6. Offices.
 7. Self-storage facilities or mini-warehouses, subject to the requirements in Section 625.
 8. Laundry or dry-cleaning establishments.
 9. Single-family detached dwelling and farming as permitted in the (A) Agricultural Preservation District.
 10. Highland Township municipal use.
 11. Attached wireless communications facilities, subject to the requirements in Section 627.
 12. Co-location or replacement of an existing wireless communications facility, subject to the requirements in Section 627.

- B. Special Exceptions. The following uses are permitted following review and approval as special exceptions by the Zoning Hearing Board, subject to the provisions of Section 1111.
1. Manufacture of heavy industrial products from already prepared materials, including leather, rubber, ceramics and wood; the manufacture of food products and textiles; the assembly of metal or steel products and textiles; the assembly of metal or steel products or metal processes other than as permitted in this Section above, except for those involving the basic processing of iron or steel.
 2. Wholesale or distribution establishments; bottling or packing establishments, or similar uses other than as permitted in this Section above.
 3. Accessory uses to permitted or approved industrial uses, subject to the requirements in Section 602.
 4. Trucking terminal.
 5. Storage and warehousing, including mini-warehouses
 6. Automotive, truck or farm equipment sales subject to the requirements in Section 605.
 7. Outdoor storage yard or area for man-made materials, provided that (1) the area devoted to storage is located so as not to be visible from the public road or is suitably screened by a fence, planting or other barrier, and (2) no flammable fuels or petroleum products shall be stored above ground.
 8. Commercial recreational facility, either indoor or outdoor, including movie theaters and miniature golf, but excluding golf courses;
 9. Contractor establishment such as plumbing, heating, carpentry, welding or similar shop.
 10. Motel or hotel;
 11. Nurseries and garden supply centers, subject to the requirements in Section 616.
 12. Club or lodge, including temporary overnight accommodation for transient or temporary residents.
 13. Car wash, subject to the requirements in Section 607.
 14. Accessory uses to permitted or approved commercial uses, subject to the requirements in Section 602.
 15. Any use similar to the above permitted uses, provided that in no case shall the following uses or any use substantially similar thereto be permitted: slaughter house; the dumping, incineration or reduction of solid waste (except that as authorized by the Township through an approved solid waste management plan); leather processing; the manufacture of cement, obnoxious or hazardous

chemicals, explosives, fertilizer, glues and adhesives, illuminating gas, iron and steel, linoleum, paint or soap; petroleum refining; or the storage of flammable liquid fuels or petroleum products above ground.

- C. Conditional Uses. The following uses are permitted following review and approval as conditional uses by the Board of Supervisors, subject to the provisions of Section 1005.
1. Eating establishments and restaurants, subject to the requirements in Section 610.
 2. Places of worship, subject to the requirements of Section 618.
 3. Hospitals, subject to the requirements in Section 614.
 4. Nursing homes and life care facilities, subject to the requirements in Section 617.
 5. Wireless communications facilities, subject to the requirements in Section 627.
 6. Any other use which is of the same general character as the above and not otherwise provided for under this Ordinance and any other lawful use not otherwise provided for in this Ordinance as long as it is not detrimental to the health, safety, and welfare of the Township and the general standards of this Ordinance.

304.3 Site Regulations

- A. Minimum lot size for industrial uses: twenty-five (25) acres.
- B. Minimum lot size for other permitted uses: two (2) acres, unless as specified in Article VI.
- C. Minimum Lot Width: two hundred (200) feet.
- D. Maximum Building Coverage per Lot: thirty (30) percent.
- E. Minimum Front Yard Setback: seventy (70) feet, unless as specified in Article VI.
- F. Minimum Rear and Side Yard Setback: fifty (50) feet. Along any (RV) or (A) District or Township boundary, a buffer area of not less than one hundred (100) feet in width shall be provided on which shall be placed landscaping sufficient to constitute an effective screen between any manufacturing activity and adjoining residences.
- G. Maximum Building Height: forty (40) feet, unless a special exception is granted by the Zoning Hearing Board.

304.4 Additional Standards

Refer to Article IV, Overlay District Provisions; Article V, Natural Resource Protection Standards; Article VI, Supplemental Land Use Provisions; Article VII, General Design Regulations; and Article IX, Sign Regulations, for additional regulations applicable to this District.

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ARTICLE IV
OVERLAY DISTRICTS

SECTION 401 SCENIC OVERLAY DISTRICT

401.1 General Provisions

- A. The intent of this Section is to:
 - 1. Preserve the Township's scenic vistas, scenic roads, and rural character in accordance with the *Highland Township Comprehensive Plan* (2001).
 - 2. Promote, protect and facilitate the preservation of the natural, scenic and historic values in the environment in accordance with Section 604(1) and Section 605(2)(vii) of the Municipalities Planning Code (MPC), as amended, (53 P.S. §§ 10101 et seq.).
 - 3. Establish a clear process by which proposed land use changes affecting scenic resources are reviewed.
 - 4. Mitigate the negative effects of changes affecting scenic resources.
 - 5. Encourage the preservation of scenic corridors, vistas and landscapes.
- B. Boundaries. The Scenic Overlay District includes all areas within two hundred fifty (250) feet of any Scenic Road identified on the Scenic Resources Map in the *Highland Township Comprehensive Plan* (2001).
- C. Applicability. The Scenic Overlay District shall overlay the existing underlying districts as shown on the Highland Township Zoning Map and the provisions of the Scenic Overlay District shall be imposed in addition to the requirements of the underlying zoning district(s). In the event of conflict between the overlay and underlying districts, the more restrictive provisions shall apply.
- D. Expansion of Existing Uses and Buildings. The expansion of existing uses, structures, and buildings shall be governed by the provisions of Article XIII, Nonconforming Uses, Buildings, Structures, Lots and Signs.

401.2 Protection Standards

- A. Process. On properties with frontage on designated scenic roads identified in the Scenic Resources Map in the *Highland Township Comprehensive Plan* (2001) or by resolution, the following standards shall apply:
 - 1. The applicant shall perform a Scenic Inventory which shall:
 - a. Identify the viewshed as seen from a public road adjacent to the site up to a distance of one thousand, three hundred (1,300) feet.

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- b. Identify the location of scenic resources that development of the site will visually impact. Resources may be on the site itself or visible past the site from the roadway.
 - c. Identify view sight lines from the roadway to the scenic resources identified above that would be impacted by development of the site.
 - d. Identify existing screening that when preserved or intensified could conceal new development (such as tree rows, woodlots, mature landscaping plant masses, walls and fences, and existing buildings or structures).
 - e. Identify characteristics of the local vicinity that are desirable to replicate, such as building architecture, construction materials and color, and native vegetation.
2. From the inventory information above, the applicant shall demonstrate that:
 - a. Areas best suited for development are located in order to preserve designated viewsheds.
 - b. Areas within the viewshed will remain open as scenic resources so as to be seen from the public road adjacent to the site.
 - c. Areas within the viewshed where development is placed (if areas outside the viewshed are inadequate) are situated to the side of the viewshed or behind existing or proposed screening so as to maintain at least partial sight distance within the viewshed.
 3. Improvements such as buildings, structures, parking areas and loading areas shall be located to minimize the impact on scenic views, minimize the disturbance of desirable natural vegetation, and maintain open views. The applicant shall attempt to absorb development into the Scenic Overlay District through alternative building materials and design elements, as provided in subsection B., below.
- B. The following design guidelines shall be followed when developing a site located within the Scenic Overlay District:
1. Building design and siting shall lessen the contrast with the landscape by all means reasonable and practical, including siting buildings in the lower elevations of the site.
 2. Natural screening shall be used or extended to screen buildings and other improvements when possible. Improvements shall be located either behind existing woodlots or tree rows or new woodlots or tree rows. Existing desirable vegetation shall be protected during construction.
 3. New plantings used in screenings shall be native species and be arranged in a density and grouping that occurs naturally within the Scenic Overlay District.

4. Parking and loading areas shall be located behind buildings or otherwise be screened from view by plantings or berms.
5. If berms are used to screen improvements, the slope of the mounding shall simulate natural slope in the vicinity of the berm.
6. New buildings shall use architecture, construction materials and colors which are consistent with the characteristics of existing buildings on the site.
7. The height of a building or structure shall not exceed two (2) stories. Farm buildings or structures, not including farm houses and residences, shall comply with the requirements of the A Agricultural Preservation District.
8. The minimum building setback line from scenic roads shall be fifteen (15) feet greater than established in the applicable zoning district regulations, in which case the minimum rear yard may be decreased by up to fifteen (15) feet.

SECTION 402 FLOOD HAZARD DISTRICT

402.1 General Provisions

A. Intent

The intent of this Section is to:

1. Promote the general health, safety and welfare of the community.
2. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage.
3. Minimize danger to public health by protecting water supply and natural drainage.
4. Reduce financial burdens imposed on the community, its governmental units and its residents by restricting or prohibiting certain uses, activities, or development in areas subject to flooding.
5. Regulate uses, activities, and development which will, alone or in combination with other existing and/or future uses, activities, and development, cause unacceptable increases in flood heights, velocities and frequencies.
6. Comply with federal and state flood plain management requirements, specifically the National Flood Insurance Program and the Pennsylvania Flood Plain Management Act (32 P.S. §§679.101-679.601).
7. Require all uses, activities, and developments in flood prone areas to be protected and/or flood proofed.

B. Applicability

1. The Flood Hazard District shall be an overlay to the existing underlying districts as shown on the Highland Township Zoning Map and, as such, the provisions of the Flood Hazard District shall be imposed in addition to the requirements of the underlying zoning district(s). In the event that a conflict exists between the overlay and underlying districts, the more restrictive provisions shall apply.
2. No development shall be undertaken, no structure shall be constructed and no existing structure shall be enlarged, converted, relocated or structurally altered, and no area shall be developed, graded, filled, or excavated, in any Flood Hazard District, except in full compliance with the terms and provisions of this Article.
3. A building permit shall not be required for minor repairs to existing buildings or structures.
4. The requirements of Article V, Natural Resource Protection Standards, shall also apply.

C. Warning and Disclaimer of Liability

1. The degree of flood protection sought by this Article is reasonable for regulatory purposes and is based on acceptable engineering methods. Large 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 Article does not imply that areas outside the Flood Hazard District or those land uses permitted within such areas will be free from flooding or flood damages.
2. This Article shall not create liability in Highland Township or any officer, employee or agent thereof for any flood damage that may result from reliance on this Article or any administrative decisions lawfully made thereunder.

402.2 Identification of Floodplain Areas

A. Identification

The Flood Hazard District, and 500 year flood level where available, includes those areas in Highland Township subject to the one hundred (100) year flood, as identified in the Federal Insurance Study (FIS) dated November 20, 1996 and identified as Area of Special Flood Hazard on the most recent Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA), or as otherwise defined in subsection B. below, which collectively are declared to be a part of this Ordinance and which shall be kept on file with the Highland Township Secretary.

B. Description of Floodplain Area

The Flood Hazard District shall consist of the following specific areas:

1. FW (Floodway Area) – The areas identified as “Floodway” in the AE Zone in the Flood Insurance Study prepared by the FEMA and also those 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.

2. 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 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.

3. FA (General Floodplain Area) includes:
 - a. 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, Highland Township 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 through technical review by Highland Township.

- b. In addition to the sources listed in subsection a. above, the following data may be used to identify the General Floodplain Area:
 1. U.S. Army Corps of Engineers – Flood Plain Information Reports.
 2. U.S. Geological Survey – Flood-prone Quadrangles.
 3. USDA Soil Survey for Chester County – Alluvial soils types.
 4. PaDEP flood control investigations.

402.3 **Changes in the Delineation of the Flood Hazard District**

The delineation of the Flood Hazard District may be revised or modified by the Board of Supervisors, after assessment by the Township Engineer, where natural or man-made changes have occurred or more detailed studies have been conducted or undertaken by the U.S. Army Corp of Engineers, Philadelphia District, the Federal Flood Insurance Administration or FEMA or other qualified agencies which document the need for such revision.. However, prior to any such change, approval must be obtained from the Federal Flood Insurance Administrator of the National Flood Insurance Program and/or FEMA.

402.4 **Boundary Disputes**

Initial interpretations of the boundaries of the Flood Hazard District shall be made by the Highland Township Zoning Officer. Should a dispute arise concerning the boundaries of this district, the Zoning Hearing Board is hereby authorized to make the necessary determination. The person requesting or contesting the location of a district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence which can include detailed engineering studies delineating the Flood Hazard District. All other applicable provisions of the Highland Township Zoning Ordinance shall be enforced during any such appeal to the Zoning Hearing Board and the burden of proof shall be on the person requesting or contesting the location of the district boundary.

402.5 **Technical Provisions**

A. **General**

1. No encroachment, alternation, 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, and until all required permits or approvals have been first obtained from the Pennsylvania Department of Environmental Protection, Southeast Regional Office. In addition, the Federal Emergency Management Agency and the Pennsylvania Department of Environmental Protection shall be notified prior to any alteration or relocation of any watercourse.
2. Where permitted within the Flood Hazard District any new construction or development, or uses and activities shall be undertaken only in strict compliance with the terms and conditions of this Ordinance and all other applicable codes, ordinances, restrictions, regulations and requirements whether local, state or federal.
3. Where permitted within the Flood Hazard District no new construction or development shall be located within the area measured fifty (50) feet landward from the top of the bank of any watercourse.
4. Any new construction, development, uses or activity or encroachment that would cause any increase in the elevation of the one hundred (100) year flood shall be prohibited.

B. **Elevation and Floodproofing Requirements**

Where permitted by Section 402.8, Nonconforming Uses and Existing Structures, the following standards shall apply:

1. Residential Structures.

Within the Flood Hazard District, any new construction or substantial improvement of a residential structure shall have the lowest floor (including the basement) elevated to the Regulatory Flood Elevation, one and one-half (1 ½) feet, or more, above the one hundred (100) year flood elevation. For manufactured homes or manufactured home parks, see Section 402.7.O. Accessory structures shall be prohibited.

2. Nonresidential Structures.

- a. Within the Flood Hazard District, any new construction or substantial improvement of a nonresidential structure shall have the lowest floor (including the basement) elevated to the Regulatory Flood Elevation, one and one-half (1 ½) feet, or more, above the one hundred (100) year flood elevation, or be designed and constructed so that the space enclosed by such structures shall remain either completely or essentially dry during any flood up to that height. Accessory structures shall be prohibited.
- b. Any non-residential structure, or part thereof, having a lowest floor which is not elevated to at least one and one-half (1 ½) feet above 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 Pennsylvania registered professional engineer or architect who states that the proposed design and methods of construction are in conformance with the above referenced standards.

3. Space Below the Lowest Floor.

- a. Fully enclosed space below the lowest floor (including basement) is prohibited.
- b. Partially enclosed space below the lowest floor (including basement) which shall be used solely for the parking of a vehicle, building access or incidental storage in the area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of floodwaters 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 criteria:
 - 1. A minimum of two (2) openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 - 2. The bottom of all openings shall be no higher than one (1) foot above grade.
 - 3. Openings may be equipped with screens, louvers, etc., or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

402.6 Use Regulations

A. By Right Uses. In the Flood Hazard District, in the FW (Floodway Area) or FF (Flood Fringe), the following uses and activities are permitted, provided they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials and equipment and/or any other development causing an increase in the 100 year flood heights:

1. Agricultural uses such as general farming, pasture grazing, outdoor plant nurseries, horticultural, truck farming, forestry, and wild crop harvesting.
2. Public and private recreational uses and activities such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking and horseback riding trails, wild-life and natural preserves, fish hatcheries, and fishing areas.
3. Accessory residential uses such as yard areas, garden, play areas, and pervious parking areas.
4. Accessory industrial and commercial uses such as yard areas, pervious parking and loading areas, airport landing strips.
5. Highland Township municipal use.

B. Special Exception Uses. The following uses and activities may be permitted by special exception, in either the FW (Floodway Area), or FF (Flood Fringe) when authorized by the Zoning Hearing Board, subject to the requirements of this Article and Article XI, Zoning Hearing Board, provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance. Conditions for granting of special exceptions shall include the extent to which the requested uses will increase the elevation of flood stages, including the possibility that the use will cause an increase in the flood levels during the occurrence of the one hundred (100) year flood, contribute to groundwater pollution or cause erosion during and after construction:

1. Nonstructural accessory uses customarily incidental to permitted uses.
2. Roads, bridges, utility transmission lines, storm sewer outlets, sealed water supply wells, water pipelines, dams, culverts, bridges and impoundment basins approved by the Pennsylvania Department of Environmental Protection, U.S. Army Corps of Engineers, and the United States Department of Agricultural Soil Conservation Service and any other responsible advisory or regulatory agency with appropriate jurisdiction provided they cause no increases in the 100 year flood levels within the 100 year floodplain or FEMA floodway.
3. Water-related uses and activities.
4. Game farms and trap and skeet game ranges.
5. Permeable parking areas and roads to serve other permitted uses in the Flood Hazard District, or where required by the regulation for any contiguous district.

6. Grading or fill, provided that the effect does not alter the cross-sectional profile of the stream basin at the lot line, and is approved by the Pennsylvania Department of Environmental Protection and all other agencies having jurisdiction thereover.
7. Modifications, alterations, reconstruction or improvements to structures, existing as of the date of adoption of this Ordinance, subject to the provisions of Section 402.7, Design and Construction Standards, and Section 402.8, Nonconforming Uses and Existing Structures.

C. Uses and Substances Specifically Prohibited.

1. The commencement of any of the following activities, or the construction, enlargement or expansion of any structure used, or intended to be used, for any of the following activities shall be prohibited within the FW (Floodway Area), or FF (Flood Fringe) of the Flood Hazard District:
 - a. Structures in the floodway (FW), flood fringe (FF) or general flood area (FA).
 - b. Sod farming, removal of topsoil, fenced-in recreation areas.
 - c. The construction, enlargement, or expansion of hospitals (public or private).
 - d. The construction, enlargement, or expansion of nursing homes (public or private).
 - e. The construction, enlargement, or expansion of jails or prisons.
 - f. Junk yards.
 - g. Cemeteries.
 - h. The commencement of, or any construction of, a manufactured home park or manufactured home subdivision.
 - i. The storage of any substance, the discharge of which into the waters of the Commonwealth would constitute pollution under the Clean Streams Act, as amended (35 P.S. §§ 691.1 et seq.) and the regulations promulgated thereunder.
2. In accordance with the Pennsylvania Flood Plain Management Act (32 P.S. §§679.101-679.601) and the regulations adopted by the Pennsylvania Department of Community and Economic Development, as required by the Act, the following uses or substances shall be prohibited within the Flood Hazard District:
 - a. Uses involving the production or storage of any of the dangerous materials or substances listed in subsection d., below;

- b. Uses involving any activity requiring the maintenance of a supply of more than five hundred fifty (550) gallons, or other comparable volume, of any of the dangerous materials or substances on the premises as listed in subsection d., below; or
- c. Uses involving the production, storage or use of any amount of radioactive substance.
- d. The following list of materials and substances are considered dangerous to human life and shall be subject to the provisions of this Article, in addition to all other applicable codes and ordinances:
 - 1. Acetone
 - 2. Ammonia
 - 3. Benzene
 - 4. Calcium Carbide
 - 5. Carbon Disulfide
 - 6. Celluloid
 - 7. Chlorine
 - 8. Hydrochloric Acid
 - 9. Magnesium
 - 10. Nitric Acid and Oxides of Nitrogen
 - 11. Petroleum Products (Gasoline, Fuel Oil, etc.)
 - 12. Phosphorous
 - 13. Potassium
 - 14. Sodium
 - 15. Sulphur and Sulphur Products
 - 16. Pesticides (including Insecticides, Fungicides, and Rodenticides)
 - 17. Radioactive substances, insofar as such substances are not otherwise regulated.

402.7 **Design and Construction Standards**

The FEMA established the following design and construction standards to apply to any modifications, alterations, reconstruction, or improvements of any kind made to any nonconforming use or existing structure (per Section 402.8) or for situations involving the approval of a variance by the Zoning Hearing Board authorizing the construction of a building or structure in the Flood Hazard District (per Section 402.10).

A. **Fill**

If fill is used, it shall:

- 1. Extended laterally at least fifteen (15) feet beyond the building line from all points;
- 2. Consist of soil or small rock materials only. Sanitary land fills shall not be permitted;
- 3. Be compacted to provide necessary permeability and resistance to erosion, scouring, or settling;

4. Be no steeper than one (1) vertical to two (2) horizontal, unless substantiated data, justifying steeper slopes are submitted to and approved by the Township Zoning Officer; and
5. Be used only to the extent that it does not adversely affect adjacent properties.

B. 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 floodwaters.

C. 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 and storage tanks and other similar objects or components located at or below the regulatory flood elevation shall be firmly anchored or affixed to prevent flotation.

D. Floors, Walls and Ceilings

Where located at or below the regulatory flood elevation:

1. Wood flooring 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 shall be of a "marine" or "water-resistant" variety.
3. Walls and ceilings shall be designed and constructed of materials that are water-resistant and will withstand inundation.
4. Windows, doors, and other such components shall be made of metal or other water-resistant material.

E. Electrical Components

1. Electrical distribution panels shall be at least three (3) feet above the level of the One Hundred (100) Year Flood Elevation.
2. Separate electrical circuits shall serve lower levels and shall be dropped from above.

F. Equipment

Electric water heaters, furnaces, air conditioning and ventilating systems and other electrical, mechanical or utility equipment or apparatus shall not be located below the regulatory flood elevation.

G. Water and Sanitary Sewer Facilities and Systems

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 floodwaters.
3. No part of any on-site sewage disposal system shall be located within any Flood Hazard District.

H. Fuel Supply System

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

I. 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.

J. Paints and Adhesives

When used at or below regulatory flood elevation:

1. Paints, other finishes and adhesives shall be of a "marine" or water-resistant quality.
2. All wooden components (doors, trim, cabinets, etc.) shall be finished with a "marine" or "water-resistant" paint or other finishing material.

K. Utilities

All utilities, such as gas, electric, telephone, cable TV, etc., shall be located, elevated (where possible), and constructed to minimize the chance of impairment during a flood.

L. Storage

No materials that are buoyant, flammable, explosive or which in times of flooding could be injurious to human, animal or plant life, and not listed in Section 402.6.C, Prohibited

Uses and Substances, shall be stored at or above the Regulatory Flood Elevation, one and one-half (1 ½) feet above the one hundred (100) year flood elevation, and/or floodproofed to the maximum extent possible to preclude their causing damage to life and property.

M. Accessory structures

Where permitted within the Flood Hazard District, see Section 402.8, Nonconforming Uses and Existing 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, materials, and equipment related to the principal use or activity.
2. floor area shall not exceed six hundred (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 floodwaters.
5. power lines, wiring, and outlets will be elevated to at least the Regulatory Flood Elevation, 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 provided for the entry and exit of floodwaters for the purposes of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a Pennsylvania 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, etc. or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

N. Roads

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

O. Special Requirements for Manufactured Homes

1. Within any FW (Floodway Area), or FF (Flood Fringe), manufactured homes shall be prohibited within the Flood Hazard District, with the exception of existing units, that may be replaced in the Flood Fringe in accordance with the provisions of Section 402.8, Nonconforming Uses and Existing Structures, and the provisions of subsection 2., below.
2. Within any FF (Flood Fringe), all manufactured homes and any improvements thereto shall be:
 - a. Placed on a permanent foundation.
 - b. Elevated so that the lowest floor of the manufactured home meets the Regulatory Flood Elevation of one and one-half (1 ½) feet or more above the elevation of the one hundred (100) year flood.
 - c. Anchored to resist flotation, collapse or lateral movement.
3. No manufactured homes shall be allowed or rebuilt in the Floodway Area (FW).

402.8 **Nonconforming Uses and Existing Structures in the Flood Hazard District**

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- A. No expansion or enlargement of an existing structures or use shall be allowed within any floodway, as determined by FEMA or by the applicant that would cause any increase in flood heights.
- B. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure or use, to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement. Any activity constituting a substantial improvement shall be permitted only by special exception (see Section 402.6.B) subject to FEMA's minimum design and construction standards in Section 402.7 and all other applicable provisions of this Ordinance.
- C. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure or use to an extent or amount of less than fifty (50) percent of its market value shall be elevated and/or floodproofed to the greatest extent possible and shall be subject to FEMA's minimum design and construction standards in Section 402.7 and all other applicable provisions of this Ordinance.

402.9 **Review Standards for Special Exceptions in the Flood Hazard District**

In addition to factors contained in Article XII, Nonconforming Uses, special exception applications affecting land in the Flood Hazard District, as defined in Section 402.2, shall be granted only after compliance with the following conditions:

- A. That the development permitted by the granting of the special exception will create no danger to life or property nor shall the development cause any increase in flood levels during the occurrence of the one hundred (100) year flood event.
- B. That there is no danger that materials may be swept onto other lands or downstream to the injury of others. In no event shall any materials which are capable of floating, toxic (to human, animal, fish or vegetation), or explosive, or any junk materials, be placed within a Flood Hazard District.
- C. That the proposed use is not susceptible to flood damage when the lands within the Flood Hazard District are inundated.
- D. That during inundation of the Flood Hazard District, there is safe and convenient access to the property for ordinary and emergency vehicles.
- E. That the development is in full compliance with all other applicable provisions of this Article.
- F. That the services provided by the proposed use to the community are important.
- G. That the requirements of the use for a waterfront location are evident.
- H. That alternative locations not subject to flooding for the proposed use are unavailable.
- I. That the proposed use is compatible with existing development and the Township's Comprehensive Plan.
- J. That the granting of a special exception will not, or, cumulatively with other relief granted along the same watercourse, impair the eligibility of the Township to participate in the federal flood insurance program, or render the Township or its inhabitants subject to any penalties or loss of federal or state programs by reason of violation of flood insurance or floodplain management regulations, nor violate any valid rules and regulations of the Federal Emergency Management Agency with reference to the National Flood Insurance Program.

402.10 **Variances Within the Flood Hazard District**

If compliance with any of the requirements of this Article would cause exceptional hardship to a prospective builder, developer or landowner, the Township may, upon request, grant relief from the strict application of such requirements. In addition to the standards contained in Section 402.8, variance applications shall be considered in accordance with both Article XII, Nonconforming Uses, Buildings, Structures, Lots and Signs, and the procedures in Article X, Administration and Enforcement, as well as the following:

- A. No variance shall be granted for any construction, development, use or activity within any floodplain or floodway area that would cause any increase in the one hundred (100) year flood elevation.
- B. If granted, a variance shall involve only the least modification necessary to provide relief.
- C. In granting any variance, the Zoning Hearing Board 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.
- D. Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that:
 - 1. The granting of the variance may result in increased premium rates for flood insurance.
 - 2. Such variance may increase the risks to life and property.
- E. In reviewing any request for a variance, the Zoning Hearing Board shall consider, but not be limited to the following:
 - 1. That there is clear 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 would 1) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense; 2) nor create nuisances, cause fraud to, or victimize the public, or conflict with any applicable state or local ordinances and regulations.
 - 4. That the request meets the criteria for the granting of a variance as required by Article XII, Nonconforming Uses of this Ordinance.
- F. A complete record of all variance requests and related actions shall be maintained by the Zoning Hearing Board. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Insurance Administration.
- G. 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 or 500 year flood where applicable.

402.11 **Administration**

Where building is permitted within the Flood Hazard District, applicants shall follow the requirements below:

A. Permits Required

A zoning or building permit, as applicable, shall be required for all activities or development which include, but are not limited to, constructing, demolishing, or moving buildings or other structures, paving, filling, grading, excavation, mining, dredging, or drilling operations, or the storage of materials and equipment, provided, however, that those structures, land uses, and water uses lawfully existing prior to the adoption of this Ordinance, shall not be required to comply with this Article unless expansions or exterior additions are proposed, or compliance is necessary to correct a serious and substantial threat to public health, safety or property.

B. Issuance Of Permits

1. The Zoning Officer shall issue a zoning or building permit only after it has been determined that the proposed use, development or the proposed work will be in conformance with the requirements of Section 402.8, Nonconforming Uses and Existing Structures, and all other applicable codes and ordinances.
2. Prior to the issuance of any zoning or building permit, the Zoning Officer shall review the application for the permit to determine if all other necessary governmental permits required by state and federal laws have been obtained, including those permits required by the Pennsylvania Sewage Facilities Act of 1966, as amended (35 P.S. §§ 750.1 et seq.); the Pennsylvania Dam Safety and Encroachments Act of 1978, as amended (32 P.S. §§ 693.1 et seq.); the Pennsylvania Clean Streams Act of 1937, as amended (35 P.S. §§ 691.1 et seq.) and the U.S. Clean Water Act of 1977, Section 404, as amended (33 U.S.C. §1344). No permit shall be issued until this determination has been made.

C. Application Procedures And Requirements For Building Permits

1. Application for a building permit shall be made, in writing, to the Zoning Officer on forms supplied by the Township. Such application shall contain the following:
 - a. Name and address of applicant.
 - b. Name and address of land owner of property for which construction is proposed.
 - c. Name and address of contractor.
 - d. Site location.
 - e. Listing of other permits required.
 - f. Brief description of proposed work and estimated cost.
 - g. A plan of the site showing the exact size and location of the proposed construction, as well as any existing buildings or structures.

2. If any proposed construction or development is located entirely or partially within any Flood Hazard District, applicants for building permits shall, in addition to all other requirements, provide all the necessary information in sufficient detail and clarity to enable the Zoning 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.
3. Applicants shall file the following minimum information, plus any other pertinent information (e.g., any or all of the technical information required under the Building Code) as may be required by the Zoning Officer to make the above determination.
 - a. A completed building permit application form;
 - b. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 1. North arrow, scale and date;
 2. Topographic contour lines if available;
 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 and proposed building, structures, and other improvements, including the location of any existing or proposed subdivision and land development;
 5. The location of all existing streets, drives, and other accessways; and
 6. The location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway and the flow of water including direction and velocities.
 - c. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale, showing the following:
 1. The proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929;

2. The elevation of the one hundred (100) year flood;
3. If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one hundred (100) year flood; and
4. Detailed information concerning any proposed floodproofing measures.

d. The following data and documentation:

1. A document, certified by a Pennsylvania registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the flood elevations, 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 floodproofing measures which have been incorporated into the design of the structure and/or the development.

2. Detailed information needed to determine compliance with Section 402.7.K, Storage, and Section 402.6.C, Prohibited Uses and Substances, including:
 - a. The amount, location and purpose of any materials or substances referred to in Section 402.7.K, Storage, 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 402.6.C, Prohibited Uses and Substances, during a one hundred (100) year flood.
3. The appropriate component of Pennsylvania Department of Environmental Protection's "Planning Module for Land Development."
4. Where any excavation or grading is proposed, a plan meeting the requirements of the Pennsylvania Department of Environmental Protection, and the Township Subdivision and Land Development Ordinance, to implement and maintain erosion and sedimentation control.

D. Review of Application by County Conservation District

A copy of all applications and plans for any proposed construction or development in the Flood Hazard District to be considered for approval shall be submitted by the Zoning Officer to the Chester County Conservation District for review and comment prior to the

issuance of a building permit. The recommendations of the Conservation District shall be considered by the Zoning Officer for possible incorporation into the proposed plan.

E. Review of Application by Others

A copy of all plans and applications for any proposed construction or development in the Flood Hazard District to be considered for approval shall be submitted by the Zoning Officer to the Planning Commission for its review and comment, or the Township Engineer and any other appropriate agencies and/ or individuals deemed necessary by the Zoning Officer. No building permit shall be issued unless and until the aforementioned plans and applications are reviewed by the Planning Commission which may require additional reasonable conditions and restrictions which it determines to be necessary to control more adequately the use and development of areas within the Flood Hazard District, including but not limited to requiring new structures, subject to Section 402.8, Nonconforming Uses and Existing Structures and Section 402.7.O, Special Requirements for Manufactured Homes, to be elevated or floodproofed up to one and one half (1 ½) feet above the existing one hundred (100) year flood elevation.

F. Changes

After the issuance of a building or zoning permit by the Zoning 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 Zoning Officer. Requests for any such change shall be submitted in writing to the Zoning Officer for consideration.

G. Placards

In addition to the building permit, the Zoning 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 building permit, the date of its issuance and be signed by the Zoning Officer.

H. Start Of Construction

1. 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 building permit or the permit shall expire unless a time extension is granted, in writing, by the Zoning Officer. Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Zoning Officer to approve such a request.
2. 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 pilings under proposed subsurface footings or the installation of sewer, gas and water pipes, or electrical or other services.

I. Inspection And Revocation

1. During the construction period, the Zoning Officer or his designated representative 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 Township, county or state laws and ordinances. He shall make as many inspections during and upon completion of the work as are necessary.
2. In the discharge of his duties, the Zoning Officer shall have the authority to enter any building, structure, premises or development in the Flood Hazard District, upon presentation of proper credentials, at any reasonable hour, to enforce the provisions of this Ordinance.
3. In the event the Zoning 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 Zoning Officer shall revoke the building permit and report such fact to the Board of Supervisors for whatever action is necessary.
4. A record of all such inspections and violations of this Article shall be maintained.

J. Fees

All permit fees under this Article shall be determined by resolution of the Board of Supervisors and a schedule of such shall be make available to the general public.

K. Enforcement

Enforcement of the provisions of this Article shall be as provided for in Article X.

L. Appeals

Appeals from the provisions of this Article shall be as provided in Article X.

402.12 Definitions

For the purposes of this Article, the following words and phrases shall have both the meanings here assigned to them and the meanings assigned to them in Article XIV of this Ordinance:

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.

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. Manufactured homes and trailers to be used for human habitation are included in this definition.

COMPLETELY DRY SPACE: A space which will remain totally dry during flooding and which is designed and constructed to prevent the passage of water and water vapor.

Article IV Overlay Districts

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.

ESSENTIALLY DRY SPACE: A space which will remain dry during flooding, except for the passage of some water vapor or minor seepage and which is substantially impermeable to the passage of water.

FLOOD: A temporary inundation of normally dry land areas.

FLOOD HAZARD DISTRICT: The floodplain area specifically identified in this Article/Ordinance as being inundated by the one hundred (100) year flood, also referred to in this Article/Ordinance as the identified floodplain area.

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.

FLOODPROOFING: Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, and to structures and their contents.

FLOODWAY: the designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Article, the floodway shall be capable of accommodating a flood of the one hundred (100) year magnitude.

HISTORIC STRUCTURE: Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior), or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing in the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program, as determined by the United States Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior.

IDENTIFIED FLOODPLAIN AREA: The floodplain area specifically identified in this Ordinance as being inundated by the one hundred (100) year flood, also referred to in this Ordinance as the Flood Hazard District.

LAND DEVELOPMENT: Any of the following activities:

1. The improvement of one (1) lot, or two (2) or more contiguous lots, tracts or parcels of land for any purpose involving:
 - a. A group of two (2) 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
 - b. The division or allocation of land or space, whether initially or cumulatively, between or among two (2) 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.

LOWEST FLOOR: The lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood-resistant, partially enclosed area used solely for the 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 transportable, single-family dwelling intended for permanent occupancy, office or place of assembly, contained in one (1) or more sections, built on a permanent chassis, which arrives at a site completed and ready for occupancy, except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. The term 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: A parcel of land under single ownership, which has been planned and improved for the placement of two (2) or more manufactured homes for non-transient use.

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 do minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

NEW CONSTRUCTION: Structures for which the start of construction commenced on or after April 8, 1983, and includes any subsequent improvements thereto.

Article IV Overlay Districts

ONE HUNDRED YEAR FLOOD: A flood that, on average, is likely to occur once every one hundred (100) years (i.e. that has a one (1) percent chance of occurring each year, although the flood may occur in any year).

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.

RECREATIONAL VEHICLE: A vehicle which is (1) built on a single chassis; (2) not more than four hundred (400) square feet, measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light-duty truck; (4) not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use; and (5) is defined in the definition of "Manufactured Home" herein.

REGULATORY FLOOD ELEVATION: The one hundred (100) year flood elevation, plus a freeboard safety factor of one and one-half (1 ½) feet.

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.

SUBDIVISION: The division or redivision of a lot, tract or parcel of land by any means into two (2) 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, devisees, transfer of ownership or building for lot development, provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new road or easement of access or any residential dwelling, shall be exempted.

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 of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENTS: 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 the improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the Highland Township code enforcement official and which are the minimum necessary to assure safe living conditions, or;
2. Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure."

ARTICLE V

NATURAL RESOURCE PROTECTION STANDARDS

SECTION 501 PURPOSE AND APPLICABILITY

501.1. **Purpose**

The following natural resource protection standards protect the public health, safety, and welfare by minimizing adverse environmental impacts. These standards are intended to achieve the following purposes.

In accordance with the *Highland Township Comprehensive Plan (2001)*, to protect environmentally sensitive areas from the encroachment of development, to insure the protection of sensitive natural resources and agriculture and to implement the following specific objectives:

- A. To delineate sensitive natural resources and identify the necessary regulatory measures needed to protect them.
- B. To restrict the development of and protect areas sensitive to development including areas with steep slopes, soil limitations, woodlands, wetlands, floodplains, old fields, and wildlife habitat.
- C. To permit only appropriate land uses in floodplains in order to protect the natural state and water quality of streams and water bodies, and particularly the West Branch of the Brandywine Creek and Buck Run.
- D. To restrict the development of slopes of fifteen (15) percent or greater to minimize disturbance and otherwise require mitigation where development is permitted.
- E. To develop the necessary regulatory and other measures to manage the removal of trees and tree replacement mitigation measures.
- F. To preserve wooded areas.
- G. To delineate agricultural preservation zones and a growth management strategy to preserve agricultural land and protect the agribusiness community from encroachment.

501.2. **Natural Resources Defined**

- A. Natural resources specifically protected by this Article include floodplains, steep slopes, wetlands, wetland margins, riparian buffers, woodlands, hedgerows, and specimen vegetation.
- B. These natural resources and related terminology shall be as defined in Article XIV.
- C. Such resources have been delineated, described, and mapped in accordance with the requirements of Section 503 of this Ordinance.

501.3. **Applicability**

- A. It shall be a violation of this Ordinance to regrade, fill, pipe, divert, channel, build upon, or otherwise alter or disturb a natural resource protected by this Article prior to the submission, review, and approval of a required:
 - 1. Application for zoning or building permits;
 - 2. Conditional use or special exception approval;
 - 3. Zoning variance; or
 - 4. Submission of subdivision or land development plans.
- B. Disturbance of a natural resource shall not take place unless such disturbance is consistent with the provisions of this Article and other applicable ordinance provisions.
- C. Restrictions to the disturbance of resources shall apply before, during, and after construction.
- D. Plan information required by this Article shall be verified as correct by the Township Engineer or other qualified professional as determined by the Board of Supervisors.
- E. Where two or more natural resource areas identified in this Article overlap, the resources with the most restrictive standard (the least amount of permitted alteration, regrading, clearing, or building) shall apply to the area of overlap.
- F. In the event that the provisions of this Article and the provisions of any Township ordinance standards conflict, the more restrictive provisions shall apply.
- G. Agricultural activities existing at the time of adoption of this Ordinance are exempt from the application of the standards contained in this Article.

SECTION 502 RESOURCE PROTECTION STANDARDS

502.1 Floodplain

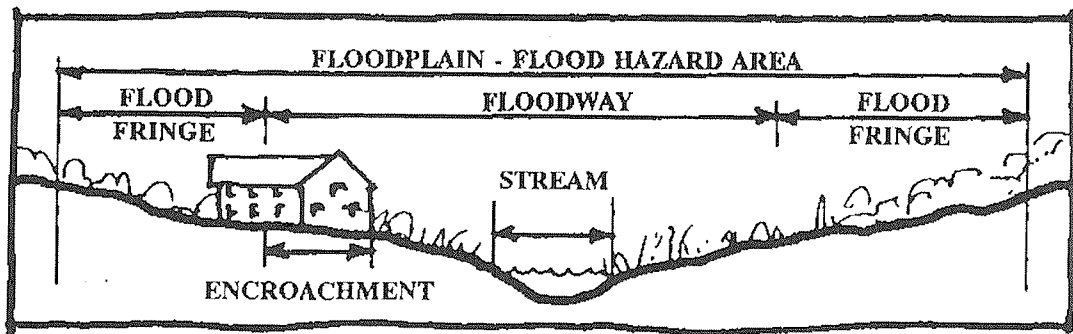
A. Definition

Floodplain - A relatively flat or low land area which is subject to partial or complete inundation from an adjacent or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation or runoff from any source including the floodplain area within the Flood Hazard District as defined in Section 402.B.

B. Resource Protection Standards

Areas within the boundaries of the floodplain shall not be regraded, filled, built upon, channeled, or otherwise altered or disturbed except in conformance with Section 402, Flood Hazard District, of this Ordinance.

Figure 5-1: Floodplain Area Cross-Section



Source: Chester County Planning Commission, 2002.

C. Delineation

The Applicant shall delineate the limits of floodplains on the site in accordance with Section 503.

502.2 Steep Slopes

A. Definitions

1. *Steep Slopes* - Areas where the average slope equals or exceeds fifteen (15) percent. For the purposes of this Ordinance, steep slopes are divided into two categories:
 - a. *Moderately Steep Slopes* are those areas of land where the grade is fifteen (15) percent to twenty-five (25) percent. Small areas of less than fifteen (15) percent slope occurring in the midst of larger areas of steeply sloping ground shall be averaged with the adjoining steeply sloping ground.
 - b. *Very Steep Slopes* are those areas of land where the grade is greater than twenty-five (25) percent.
2. Slopes shall be measured as the change in elevation over the horizontal distance between consecutive contour lines and expressed as a percent. For the purposes of the application of this Article, slope shall be measured over three (3) or more two (2) foot contour intervals (six (6) cumulative vertical feet of slope). All slope measurements shall be determined by a topographic survey signed and sealed by a registered surveyor or engineer licensed to practice in the Commonwealth of Pennsylvania.

B. Resource Protection Standards

1. Steep slope areas, whether natural or man-made, shall be preserved in their existing state whenever possible. Where construction of roads, buildings, driveways, or infrastructure cannot be avoided, disturbance shall be kept to the minimum necessary and, in no case, shall it exceed the following permitted disturbance limits:

- a. Moderately Steep Slopes (15% to 25% grade) - No more than thirty (30) percent of moderately steep slopes shall be regraded, cleared, built upon, or otherwise altered or disturbed.
 - b. Very Steep Slopes (greater than 25% grade) - Areas identified as very steep slopes shall not be regraded, cleared, built upon, or otherwise altered or disturbed except for the following purposes when approved as a conditional use. In no case shall these permitted activities disturb more than fifteen (15) percent of very steep slopes.
 - 1) Timber harvesting involving only selective cutting of tree species, when conducted in compliance with a required logging plan (see Section 502.6.B.2). Clearcutting or grubbing of trees is prohibited on very steep slopes.
 - 2) Grading for the minimum portion of a road or driveway necessary for access to the principal use and sewer, water, and other utility lines when it can be demonstrated that no other routing for access of utility lines is feasible. The installation of septic tanks, seepage beds, or drainfields in areas of very steep slopes shall be prohibited.
2. Areas of land with fifteen (15) percent or greater slope consisting of less than three (3) contour intervals and less than one thousand (1,000) square feet in extent may be excluded from these resource protection standards provided they do not adjoin or abut larger areas of steeply sloping ground as defined herein.
 3. Proposed land disturbance or the construction of buildings or structures shall be conducted in such a manner as to provide the least alteration necessary of the existing grade, vegetation, and natural soils condition and in a manner that will not cause excessive surface water runoff, erosion, and unstable soil conditions.
 4. Agricultural uses which create land disturbances on steep slopes shall comply with the disturbance limitations in subsection B.1, above. Such uses shall be conducted in conformity with conservation and Best Management Practices, including minimum tillage methods, accepted by the Soil Conservation Service and the Chester County Conservation District.
 5. New roads and improvements to existing roads shall be designed within the existing contours of the land to the maximum extent possible and strive for compatibility with the character of rural roads.
 6. Finished slopes of permitted cut and fill shall not exceed twenty-five (25) percent slope unless the Applicant can demonstrate a method by which steeper slopes can be stabilized and maintained adequately.
 7. All stockpiles of earth shall be seeded or otherwise stabilized to the satisfaction of the Township Engineer when stored for more than twenty-one (21) days. Cut and fill resulting in slopes of greater than twenty-five (25) percent shall be protected with an erosion control blanket.

8. Any disturbance of land shall be in compliance with the erosion and sedimentation control standards of the Pennsylvania Department of Environmental Protection (PaDEP) Title 25, Chapter 102 (25 Pa Code §§ 102.1-102.24 or et seq). Stormwater management controls shall comply with the recommendations for Best Management Practices in the *Pennsylvania Handbook of Best Management Practices for Developing Areas* (1998), *Watersheds: An Integrated Water Resources Plan for Chester County, Pennsylvania and Its Watersheds* (Chester County, 2002), and the stormwater management standards in Section 617 of the Township Subdivision and Land Development Ordinance.

C. Delineation

The Applicant shall delineate the two categories of steep slopes (moderately steep, very steep) which are on the site in accordance with Section 503. In addition, as applicable, the following information shall be submitted with a subdivision or land development plan, building permit, zoning permit, conditional use or special exception application:

1. A grading plan shall be provided identifying the existing contours of the site, proposed finished grades, and the proposed location of all buildings and structures.
2. An erosion and sedimentation control plan and soil stabilization plan shall be submitted consistent with the requirements of the PaDEP Title 25, Chapter 102, as referenced above. The plan shall demonstrate how soil will be protected from erosion during construction and how soil will be stabilized upon the completion of construction.
3. The adequacy of access to the site for emergency vehicles shall be subject to review by the fire marshal or his designee. The necessary information shall be submitted by the Applicant to the fire marshal or his designee for his review.
4. Plan, profile, and typical cross-sections of any proposed road, emergency access, or driveway within areas of steep slopes shall be provided, sealed by a registered professional engineer.

502.3 Wetlands

A. Definition

Wetlands - Wetlands are those areas inundated or saturated by surface water or groundwater 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, ponds, lakes, and similar areas. Wetlands include all lands regulated as wetlands by the PaDEP or the U.S. Army Corps of Engineers. In the event there is a conflict between the definitions of these agencies, the more restrictive definition shall apply.

B. Resource Protection Standards

1. Any Applicant proposing a use, activity, or improvement which would entail the regrading or placement of fill in wetlands shall provide the Township with proof

that the PaDEP (Southeast Regional Office) and the U.S. Army Corps of Engineers have been contacted to determine the applicability of state and federal wetland regulations. The Applicant shall concurrently provide to the Township a copy of the application and any other wetlands information submitted to PaDEP and the U.S. Army Corps of Engineers.

2. Wetlands shall not be regraded, filled, piped, diverted, channeled, built upon, or otherwise altered or disturbed unless state or federal permits have been obtained.

C. Delineation

The Applicant shall delineate the limits of the wetlands on the site or within one hundred (100) feet of the site in accordance with Section 503. In addition, the following information shall be provided:

1. A full wetland delineation report conducted by a qualified wetland biologist, soil scientist, or environmental professional of demonstrated qualifications shall be submitted to the Township. If there is a question as to the accuracy of the wetland delineation report, the Township may hire a qualified consultant to review the delineation and recommend revisions at the Applicant's expense.
2. The professional preparing the report shall certify that the methods used correctly reflect the currently accepted technical concepts, including identification and analysis of wetland vegetation, hydric soils, and hydrologic indicators. The methods used in the delineation report shall be acceptable to the Township Engineer or other qualified consultant hired by the Township.
3. The wetland report shall include a determination of whether wetlands are present on the site and a full delineation, area measurement (in square feet), and description of any wetlands determined to be present.

502.4 Wetland Margins

A. Definitions

1. *Wetland Margins* - A wetland margin is the transitional area extending from the outer limit of a wetland. Where hydric soils are present, the wetland margin shall extend to the limit of the hydric soils or to one hundred (100) feet, whichever is less. Regardless of the presence of hydric soils, the wetland margin shall always extend a minimum width of twenty-five (25) feet from the edge of the wetland boundary.
2. *Hydric Soils* - A soil which is formed under saturated conditions including any soil inventoried or described as hydric according to the Soil Survey of Chester and Delaware Counties, Pennsylvania, or other information provided by the U.S. Soil Conservation Service (SCS). For the purpose of this Ordinance, hydric soils shall include, but are not limited to those soils listed in Appendix 2.

Where site conditions indicate that the location of hydric soils differs from locations indicated by the SCS, the burden shall be upon the Applicant to verify such location(s) to the satisfaction of the Board of Supervisors, otherwise the

SCS information shall be presumed to be accurate. Where the Applicant seeks reclassification of hydric soils and their location, such reclassification shall be undertaken by a Certified Soil Scientist or other similarly qualified professional.

B. Resource Protection Standards

1. Except as noted below, no more than twenty (20) percent of a wetland margin shall be regraded, filled, built upon, or otherwise altered or disturbed.
2. The following uses or activities shall be permitted in the wetland margin and shall not be counted towards the twenty (20) percent disturbance allowance:
 - a. Regulated activities permitted by the Commonwealth (e.g., permitted stream or wetland crossing);
 - b. Unpaved trail access;
 - c. Selective removal of hazardous or invasive alien vegetative species;
 - d. Vegetation management in accordance with an approved landscape plan or open space management plan; and
 - e. A soil or water conservation project approved by the Chester County Conservation District.
3. Timber harvesting shall only be permitted within the allowable twenty (20) percent disturbance limitation and shall be restricted to selective cutting. Clearcutting or grubbing of trees is prohibited within the wetlands margin. Permitted timber harvesting shall be undertaken in accordance with the requirements of Section 502.6.B.

C. Delineation

The Applicant shall delineate the limits of the wetland margins on the site in accordance with Section 503.

502.5 Watercourses/Riparian Buffers

A. Definitions

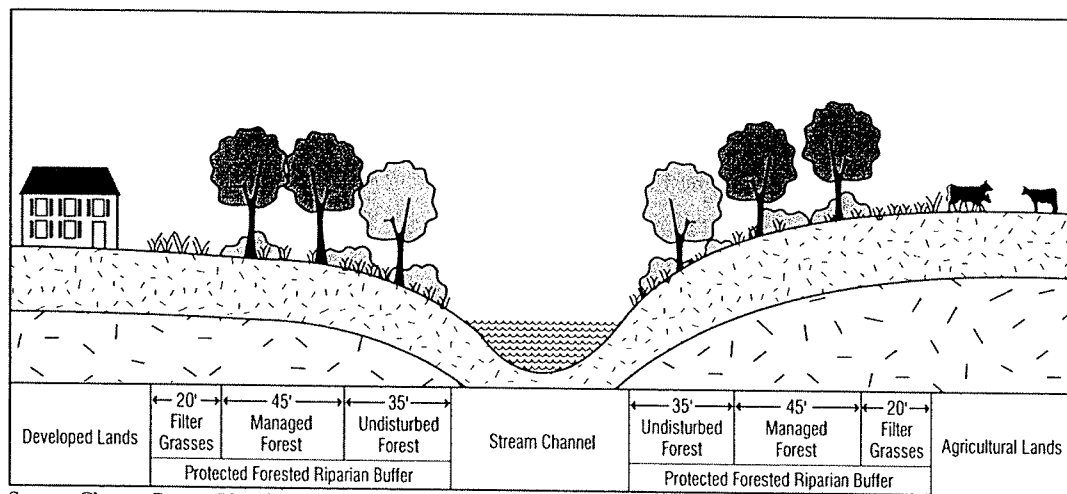
1. *Riparian Buffer* - A riparian buffer is an area of trees and other vegetation adjacent to a watercourse at least one hundred (100) feet in width. The riparian buffer intercepts runoff from upland sources to mitigate the effects of nutrients, sediment, organic matter, pesticides or other pollutants prior to their entry into surface waters. For the purposes of this Ordinance, the riparian buffer shall be divided into three Zones:
 - a. *Zone One* - This zone begins at each edge (i.e. the sloping banks of the stream) of an identified watercourse and occupies a margin of land with a minimum width of thirty-five (35) feet measured horizontally on a line perpendicular to the edge of the water at the top of the defined bank, as

reviewed and approved by the Township Engineer. Where very steep slopes (+25%) are located within thirty-five (35) feet of a watercourse, Zone One shall extend the entire distance of this sloped area.

- b. *Zone Two* – This zone begins at the outer edge of Zone One and occupies a minimum width of forty-five (45) feet in addition to Zone One. In cases where Zone One extends beyond thirty-five (35) feet due to the presence of very steep slopes, the width of Zone Two shall be adjusted so that the total riparian buffer width between Zones One and Two equals a maximum of eighty (80) feet.
- c. *Zone Three* – This zone begins at the outer edge of Zone Two and occupies a minimum width of twenty (20) feet in addition to Zones One and Two. This zone consists of grasses and dispersion features. This zone provides for surface runoff to be dispersed to shallow sheet flow prior to entering the forested zone to enhance infiltration and reduce runoff. This zone allows for limited management through mowing and maintenance of dispersion features.

2. *Watercourse* - A watercourse is a channel or conveyance of surface water having defined bed and banks, whether natural or artificial, with perennial or intermittent flow.

Figure 5-2: Riparian Buffer Zones



Source: Chester County Planning Commission, 2003.

B. Resource Protection Standards

1. Zone One Riparian Buffer

- a. Except as noted below, no woodland disturbance or other land disturbance shall be permitted within the Zone One Riparian Buffer.
- b. The following uses and activities shall be permitted within the Zone One Riparian Buffer:

- 1) Regulated activities permitted by the Commonwealth (i.e. permitted stream or wetland crossing);
- 2) Unpaved trail access;
- 3) Selective removal of hazardous or invasive alien vegetative species;
- 4) Vegetation management in accordance with an approved landscape plan or open space management plan; and
- 5) A soil or water conservation project approved by the Chester County Conservation District.

2. Zone Two Riparian Buffer

- a. Except as noted below, no more than twenty (20) percent of a Zone Two Riparian Buffer shall be regraded, filled, or otherwise altered or disturbed.
- b. Those activities permitted in the Zone One Riparian Buffer shall be permitted in the Zone Two Riparian Buffer and shall not be counted towards the twenty (20) percent disturbance allowance.

3. Zone Three Riparian Buffer

- a. Except as noted below, no more than thirty-five (35) percent of a Zone Three Riparian Buffer shall be regarded, filled, or otherwise altered or disturbed, other than for the construction of diversion structures associated with stormwater management.
 - b. Those activities permitted in the Zone One and Zone Two Riparian Buffers shall be permitted in the Zone Three Riparian Buffer and shall not be counted toward the thirty-five (35) percent disturbance allowance.
4. Timber harvesting shall only be permitted within the allowable disturbance limitation of the Zone Two and Zone Three Riparian Buffers and shall be restricted to selective cutting. Clearcutting or grubbing of trees is prohibited within all riparian buffers. Permitted timber harvesting shall be undertaken in accordance with the requirements of Section 502.6.B.

C. Delineation

The Applicant shall delineate watercourses and Zone One, Zone Two, and Zone Three riparian buffers located on the site, in accordance with Section 503.

502.6 **Woodlands and Specimen Vegetation**

A. Definitions

1. *Clearcutting* - The indiscriminate removal of all trees on a site or portion thereof.
2. *Oldfield* - An area undergoing natural succession characterized by the presence of herbs, shrubs, and small trees (seedlings) whose branches do not form a complete or nearly complete aerial canopy.
3. *Selective Cutting* - The felling of certain, but not all trees, in an area for the purpose of removing dead, diseased, damaged, mature, or marketable timber or for improving the quality of a tree stand. The removal of more than thirty-five (35) percent of trees in an area shall be defined as "selective harvesting" and the requirements for timber harvesting shall apply.
4. *Species of Special Concern Sites* – Sites which have been identified on the Pennsylvania Natural Diversity Inventory (PNDI) or the Chester County Natural Areas Inventory as possessing floral or faunal species of concern or sites in which federally and/or state recognized threatened or endangered species of flora and/or fauna have been documented.
5. *Specimen Tree* – Any tree meeting the definition of specimen vegetation.
6. *Specimen Vegetation* includes:
 - a. Unique, rare or otherwise specifically selected trees or vegetation which most typically represent a whole class or group, specifically in shape, form, or historical importance. An Applicant for subdivision or land development approval or other required approval under Article V may identify a species or type of tree qualifying as "Specimen Vegetation;" the Township Board of Supervisors, based upon consultation with the Planning Commission and/or engineering or other consultants, will determine whether the Applicant's proposed designation of a particular species or type of tree qualifies for treatment as "Specimen Vegetation," under the terms, requirements, and directives of this Ordinance and the Subdivision and Land Development Ordinance.
 - b. For the purposes of this Ordinance, Specimen Vegetation shall also include identified "Species of Special Concern" sites and shall be subject to the same provisions as Specimen Vegetation.
7. *Timber Harvesting* - (also includes the terms Tree Harvesting and Logging) - The process of cutting down trees and removing logs from the forest for the primary purpose of sale or commercial processing of wood products.
8. *Woodland Disturbance* - (1) Any activity which alters the existing structure of a woodland or hedgerow. Alterations include the cutting or removal of canopy trees, subcanopy trees, understory shrubs and vines, and herbaceous woodland floor species; (2) Any activity which constitutes a land disturbance (i.e., exposes

soils, alters topography) within a woodland or hedgerow; (3) Woodland disturbance does not include the selective cutting or removal of invasive alien trees, shrubs, vines, or herbaceous species including, but not limited to: Multiflora Rosa (*Rosa multiflora*), Autumn Olive (*Eleagnus umbrella*), Japanese Honeysuckle (*Lonicera japonica*), Oriental Bittersweet (*Celastrus orbiculatus*), Norway Maple (*Acer platanoides*), and Mile-a-Minute Weed (*Polygonum perfoliatum*).

9. *Woodlands* - Woodlands consist of a tree mass or plant community in which the tree species are dominant or co-dominant and the branches of the trees form a complete, or nearly complete, aerial canopy. For the purposes of this Ordinance, the extent of the woodland plant community shall be measured from the outermost dripline of all trees in the community. Woodlands shall include any area where timber has been harvested within the previous three years which would have met the definition of woodland prior to timbering or disturbance. Woodlands do not include orchards and oldfields.

B. Resource Protection Standards

1. Specimen vegetation shall not be removed from any lot or tract except where the Applicant demonstrates to the satisfaction of the Board of Supervisors that such removal is essential to eliminate a hazardous condition(s); where permitted, removal of specimen vegetation shall be minimized. Specimen trees to be retained shall be credited toward any tree replacement required by Article VII of this Ordinance.
2. Disturbance Allowance for Woodlands
 - a. Unless undertaken as an approved timber harvesting operation conducted in compliance with Section 611 of this Ordinance, no more than thirty-five (35) percent of woodlands shall be regraded, cleared, built upon, or otherwise altered or disturbed for residential uses and no more than fifty (50) percent of woodlands shall be regraded, cleared, built upon or otherwise altered or disturbed for non-residential uses.
 - b. Where disturbance of existing areas of woodlands exceeds the criteria of this Section, woodland replacement shall be required consistent with the standards of Section 704. Determination of the extent of woodland disturbance shall be as described in Section 503.
 - c. When proposed development necessitates woodland disturbance, the criteria of Section 704 and the Township Subdivision and Land Development Ordinance shall be used for guidance in selecting vegetation for retention or clearing.
 - d. Protection of Woodlands to Remain On Site

Woodlands, individual trees, and other vegetation that are to remain on the site shall be identified on the plan and protected in accordance with the provisions of Article VII. In addition: