

The Zoning Ordinance of  
**HIGHLAND TOWNSHIP**

Chester County, Pennsylvania

**As amended to 2022**

# Highland Township

## Board of Supervisors

**Thomas G. Scott, Chair**  
**Barbara Davis, Secretary**

**William F. Beers, Zoning Officer**

### *Technical and Financial Assistance*

Technical planning assistance was provided by the Chester County Planning Commission. Financial assistance was provided through the Chester County Vision Partnership Program.

## TABLE OF CONTENTS

### ARTICLE I GENERAL PROVISIONS

SECTION 101.	SHORT TITLE AND EFFECTIVE DATE	Page 1-1
SECTION 102.	PURPOSES	Page 1-1
SECTION 103.	COMMUNITY DEVELOPMENT OBJECTIVES	Page 1-2
SECTION 104.	INTERPRETATION AND SCOPE	Page 1-2
SECTION 105.	RELATIONSHIP TO OTHER LAWS AND REGULATIONS	Page 1-2
SECTION 106.	VALIDITY/SEVERABILITY	Page 1-2
SECTION 107.	REPEALER	Page 1-2

### ARTICLE II ESTABLISHMENT OF DISTRICTS

SECTION 201.	CLASSES OF DISTRICTS	Page 2-1
SECTION 202.	ZONING MAP	Page 2-1
SECTION 203.	INTERPRETATION OF DISTRICT BOUNDARIES	Page 2-1
SECTION 204.	BOUNDARY TOLERANCES	Page 2-2

### ARTICLE III ZONING DISTRICTS

SECTION 301.	(A) AGRICULTURAL PRESERVATION DISTRICT	Page 3-1
SECTION 302.	(RC) RURAL CONSERVATION DISTRICT	Page 3-7
SECTION 303.	(RV) RURAL VILLAGE DISTRICTS	Page 3-10
SECTION 304.	(IND) INDUSTRIAL DISTRICT	Page 3-20

### ARTICLE IV OVERLAY DISTRICTS

SECTION 401.	SCENIC OVERLAY DISTRICT	Page 4-1
SECTION 402.	FLOOD HAZARD DISTRICT	Page 4-3

### ARTICLE V NATURAL RESOURCE PROTECTION STANDARDS

SECTION 501.	PURPOSE AND APPLICABILITY	Page 5-1
SECTION 502.	RESOURCE PROTECTION STANDARDS	Page 5-2
SECTION 503.	APPLICATION OF NATURAL RESOURCE PROTECTION STANDARDS	Page 5-15

### ARTICLE VI SUPPLEMENTAL LAND USE PROVISIONS

SECTION 601.	APPLICABILITY	Page 6-1
SECTION 602.	ACCESSORY USES, BUILDINGS, OR STRUCTURES	Page 6-2
SECTION 603.	AGRICULTURAL USES	Page 6-6
SECTION 604.	ANIMAL HOSPITALS, VETERINARY CLINICS, AND KENNELS	Page 6-12
SECTION 605.	AUTOMOTIVE, TRUCK, AND/OR FARM EQUIPMENT SALES	Page 6-14
SECTION 606.	BED AND BREAKFAST FACILITIES	Page 6-15
SECTION 607.	CAR WASH, COMMERCIAL	Page 6-16
SECTION 608.	CEMETERIES	Page 6-16
SECTION 609.	DAY CARE CENTERS, COMMERCIAL	Page 6-17
SECTION 610.	EATING ESTABLISHMENTS AND RESTAURANTS	Page 6-18
SECTION 611.	FORESTRY	Page 6-18
SECTION 612.	GREENHOUSES, COMMERCIAL	Page 6-18

---

Table of Contents

---

SECTION 613.	HOME OCCUPATIONS	Page 6-19
SECTION 614.	HOSPITALS AND MEDICAL CLINICS	Page 6-20
SECTION 615.	JUNKYARDS AND SALVAGE OPERATIONS	Page 6-20
SECTION 616.	NURSERIES AND/OR GARDEN SUPPLY CENTERS	Page 6-22
SECTION 617.	NURSING HOMES, LIFE CARE FACILITIES, AND RETIREMENT COMMUNITIES	Page 6-23
SECTION 618.	PLACES OF WORSHIP AND RELATED FACILITIES	Page 6-24
SECTION 619.	RECREATIONAL FACILITIES	Page 6-25
SECTION 620.	RESIDENTIAL CLUSTER DEVELOPMENT	Page 6-27
SECTION 621.	RESIDENTIAL CONVERSIONS	Page 6-34
SECTION 622.	RETAIL USES (INDIVIDUAL OR CLUSTER)	Page 6-34
SECTION 623.	RIDING ACADEMIES AND STABLES	Page 6-36
SECTION 624.	SCHOOLS AND EDUCATIONAL FACILITIES	Page 6-36
SECTION 625.	SELF STORAGE/MINI-WAREHOUSE FACILITIES	Page 6-37
SECTION 626.	TOWNHOUSES AND OTHER MULTI-FAMILY RESIDENTIAL DEVELOPMENT	Page 6-37
SECTION 627.	WIRELESS COMMUNICATIONS FACILITIES	Page 6-38

## **ARTICLE VII GENERAL DESIGN REGULATIONS**

SECTION 701.	APPLICABILITY	Page 7-1
SECTION 702.	GENERAL STANDARDS	Page 7-1
SECTION 703.	OPEN SPACE STANDARDS	Page 7-3
SECTION 704.	LANDSCAPING AND SCREENING	Page 7-8
SECTION 705.	ACCESS AND TRAFFIC CONTROL	Page 7-13
SECTION 706.	INTERNAL CIRCULATION	Page 7-14
SECTION 707.	LIGHTING	Page 7-16
SECTION 708.	LOADING AND UNLOADING	Page 7-22
SECTION 709.	PARKING	Page 7-23
SECTION 710.	PERFORMANCE STANDARDS	Page 7-27

## **ARTICLE VIII TRANSFERABLE DEVELOPMENT RIGHTS (TDR)**

### **OPTION**

SECTION 801.	PURPOSE	Page 8-1
SECTION 802.	AUTHORIZATION AND BASIC CONCEPT	Page 8-1
SECTION 803.	SALE OF TDRs FROM SENDING AREA	Page 8-1
SECTION 804.	TRANSFER OF LESS THAN TOTAL RIGHTS FROM A TAX PARCEL	Page 8-5
SECTION 805.	RECEIVING AREA QUALIFICATIONS AND CALCULATIONS	Page 8-6
SECTION 806.	PLAN SUBMITTAL PROCESS	Page 8-6
SECTION 807.	PUBLIC ACQUISITION	Page 8-7
SECTION 808.	AMENDMENT AND/OR EXTINGUISHMENT	Page 8-7

## **ARTICLE IX SIGN REGULATIONS**

SECTION 901.	APPLICATION	Page 9-1
SECTION 902.	GENERAL SIGN RESTRICTIONS	Page 9-1
SECTION 903.	EXEMPT SIGNS	Page 9-2
SECTION 904.	PROHIBITED SIGNS	Page 9-3
SECTION 905.	TEMPORARY SIGN REGULATIONS	Page 9-4
SECTION 906.	SIGNS IN AGRICULTURAL AND RESIDENTIAL	

	DISTRICTS	Page 9-7
SECTION 907.	SIGNS IN THE (RV) RURAL VILLAGE DISTRICTS	Page 9-9
SECTION 908.	SIGNS IN THE (IND) INDUSTRIAL DISTRICT	Page 9-10
SECTION 909.	REMOVAL OF UNSAFE, UNLAWFUL, OR ABANDONED SIGNS	Page 9-12
SECTION 910	NONCONFORMING SIGNS	Page 9-13

**ARTICLE X ADMINISTRATION AND ENFORCEMENT**

SECTION 1001.	APPLICABILITY, ADMINISTRATION AND ENFORCEMENT	Page 10-1
SECTION 1002.	EXEMPTIONS	Page 10-4
SECTION 1003.	GENERAL PERMIT REQUIREMENTS	Page 10-5
SECTION 1004.	TYPES OF PERMITS	Page 10-7
SECTION 1005.	CONDITIONAL USES	Page 10-9
SECTION 1006.	MUNICIPAL LIABILITY	Page 10-15

**ARTICLE XI ZONING HEARING BOARD**

SECTION 1101.	ESTABLISHMENT AND PURPOSE	Page 11-1
SECTION 1102.	MEMBERSHIP, APPOINTMENT, TERMS AND REMOVAL	Page 11-1
SECTION 1103.	JURISDICTION	Page 11-2
SECTION 1104.	ORGANIZATION OF THE BOARD	Page 11-2
SECTION 1105.	EXPENDITURES FOR SERVICES – FEES	Page 11-3
SECTION 1106.	APPLICATIONS FOR HEARINGS	Page 11-4
SECTION 1107.	NOTICE OF HEARINGS	Page 11-4
SECTION 1108.	HEARINGS	Page 11-5
SECTION 1109.	APPEALS TO THE ZONING HEARING BOARD	Page 11-7
SECTION 1110.	GRANTING OF VARIANCES	Page 11-7
SECTION 1111.	GRANTING OF SPECIAL EXCEPTIONS	Page 11-8
SECTION 1112.	EXPIRATION OF SPECIAL EXCEPTIONS AND VARIANCES	Page 11-10
SECTION 1113.	TIME LIMITATIONS	Page 11-10
SECTION 1114.	STAY OF PROCEEDINGS	Page 11-10
SECTION 1115.	APPEALS TO COURT	Page 11-10

**ARTICLE XII AMENDMENTS**

SECTION 1201.	AMENDMENTS	Page 12-1
SECTION 1202.	PLANNING COMMISSION REFERRAL	Page 12-2
SECTION 1203.	CURATIVE AMENDMENT PROCEDURES	Page 12-2

**ARTICLE XIII NONCONFORMING USES, BUILDINGS, STRUCTURES,  
LOTS AND SIGNS**

SECTION 1301.	APPLICATION OF REGULATIONS	Page 13-1
SECTION 1302.	CONTINUATION	Page 13-1
SECTION 1303.	NONCONFORMING USES	Page 13-1
SECTION 1304.	NONCONFORMING BUILDINGS AND STRUCTURES	Page 13-2
SECTION 1305.	NONCONFORMING LOTS	Page 13-3
SECTION 1306.	NONCONFORMING SIGNS	Page 13-3
SECTION 1307.	NONCONFORMING USES AND STRUCTURES IN THE FLOOD HAZARD DISTRICT	Page 13-4

**ARTICLE XIV DEFINITIONS**

SECTION 1401.	LANGUAGE INTERPRETATION	Page 14-1
SECTION 1402.	DEFINITION OF TERMS	Page 14-1
SECTION 1403.	INTERPRETATION OF REGULATIONS	Page 14-28

**APPENDICES**

APPENDIX 3-1	TABLE OF USES	Page A-1
APPENDIX 5-1	HYDRIC SOILS	Page A-3
APPENDIX 5-2	PRIME AGRICULTURAL SOILS	Page A-4
APPENDIX 7-1	APPROVED PLANT MATERIALS LIST	Page A-5
APPENDIX 8-1	SAMPLE DEED OF TRANSFERABLE DEVELOPMENT RIGHTS (TDR)	Page A-8

**LIST OF FIGURES**

FIGURE 5-1	FLOODPLAIN AREA CROSS-SECTION	Page 5-3
FIGURE 5-2	RIPARIAN BUFFER ZONES	Page 5-8
FIGURE 14-1	LOT DIMENSIONS	Page 14-29
FIGURE 14-2	CLEAR SIGHT TRIANGLE	Page 14-29
FIGURE 14-3	BUILDING HEIGHT	Page 14-30
FIGURE 14-4	DWELLING TYPES	Page 14-30
FIGURE 14-5	SIGN HEIGHT	Page 14-31

**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 an overall program and with consideration for the character of the Township, its various parts and the suitability of the various parts for particular uses and structures.

**SECTION 103 COMMUNITY DEVELOPMENT OBJECTIVES**

This Ordinance is 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 purpose set forth in Section 101, 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, or lines 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:

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 shall indicate that the district boundary runs parallel to the centerline of the street 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.

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:	10 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.
  - 3. Intensive agricultural uses, subject to the requirements in Section 603.E.

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 and for agricultural uses as provided in Section 301.4.A.
- 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. (RESERVED FOR POSSIBLE FUTURE USE)
  - 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. (RESERVED FOR POSSIBLE FUTURE USE)
  - 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.
  - i. Medical clinics, subject to the requirements in Section 614.

- j. Animal hospitals and veterinary clinics, subject to the requirements in Section 604.
  - k. (RESERVED FOR POSSIBLE FUTURE USE)
  - 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. (RESERVED FOR POSSIBLE FUTURE USE)
  - 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.
- 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.



(this page intentionally left blank)

**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.
    - 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 Ordinance is to:

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

#### **B. Applicability**

It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within Highland Township unless a Permit has been obtained from the Floodplain Administrator.

C. Abrogation and Greater Restrictions

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

D. Severability

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

E. Warning and Disclaimer of Liability

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

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

**402.2 ADMINISTRATION**

A. Designation of the Floodplain Administrator

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

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

B. Permits Required

A Permit shall be required before any construction or development is undertaken within any area of Highland Township.

C. Duties and Responsibilities of the Floodplain Administrator

1. The Floodplain Administrator shall issue a Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.

2. Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
3. In the case of existing structures, prior to the issuance of any Development/Permit, the Floodplain Administrator shall review the proposed cost of improvements or repairs and the pre-improvement market value of the structure, so that a substantial improvement/substantial damage determination can be made, in accordance with FEMA's Substantial Improvement/Substantial Damage Desk Reference.
4. In the case of existing structures, prior to the issuance of any Development/Permit, the Floodplain Administrator shall review the history of repairs to the subject building, so that any cumulative substantial damage concerns can be addressed before the permit is issued.
5. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.
6. In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this ordinance.
7. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the Permit and report such fact to the Board of Supervisors of Highland Township for whatever action it considers necessary.
8. The Floodplain Administrator shall maintain in perpetuity, or for the lifetime of the structure, all records associated with the requirements of this ordinance including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.
9. The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning community participation in the National Flood Insurance Program as requested.
10. The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in the floodplain ordinance as the floodplain administrator/manager.
11. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.

D. Application Procedures and Requirements

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

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

- improvements, including the location of any existing or proposed subdivision and development;
4. the location of all existing streets, drives, and other access ways; and
  5. 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 North American Vertical Datum of 1988;
  2. the elevation of the base flood;
  3. supplemental information as may be necessary under 34 PA Code, the 2009 IBC or the 2009 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.
- d. The following data and documentation:
1. detailed information concerning any proposed floodproofing measures and corresponding elevations.
  2. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.
  3. documentation, certified by a registered professional engineer or architect, to show that the effect of any proposed development within a Floodway Area (See section 4.02 A) will not increase the base flood elevation at any point.
  4. documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area/District without floodway (See Section 4.02 B) when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point within the community.
  5. a document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood.  
  
Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.
  6. detailed information needed to determine compliance with Section 5.03 F., Storage, and Section 5.04, Development Which May Endanger Human Life, including:



- i. the amount, location and purpose of any materials or substances referred to in Sections 5.03 F. and 5.04 which are intended to be used, produced, stored or otherwise maintained on site.
    - ii. a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 5.04 during a base flood.
  7. the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
  8. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.
4. Applications for Permits shall be accompanied by a fee, payable to the municipality based upon the estimated cost of the proposed construction as determined by the Floodplain Administrator.

**402.3 Review by County Conservation District**

A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the Floodplain Administrator to the County Conservation District for review and comment prior to the issuance of a Permit. The recommendations of the Conservation District shall be considered by the Floodplain Administrator for possible incorporation into the proposed plan.

**402.4 Review of Application by Others**

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

**402.5 Changes**

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

**402.6 Placards**

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

**402.7 Start of Construction**

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

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

---

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

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

#### **402.8 Enforcement**

##### A. Notices

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

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

##### B. Penalties

Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or who fails or refuses to comply with any notice, order or direction of the Floodplain Administrator or any other authorized employee of the municipality shall be guilty of a summary offense and upon conviction shall pay a fine to Highland Township of not less than Twenty-five Dollars (\$25.00) nor more than Six Hundred Dollars (\$600.00) plus costs of prosecution. In default of such payment, such person shall be imprisoned in the Chester County Prison for a period not to exceed ten (10) days. Each day during which any violation of this ordinance continues shall constitute a separate offense. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with this Ordinance shall not excuse the violation or

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

**402.9 Appeals**

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

**402.10 Identification of Floodplain Areas**

The identified floodplain area shall be:

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

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

**402.11 Description and Special Requirements of Identified Floodplain Areas**

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

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

the appropriate permit is obtained from the Department of Environmental Protection Regional Office.

- B. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.
1. The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a floodway has been delineated.
  2. AE Area without floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined.
    - i. No permit shall be granted within any AE Zone without floodway. No encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed development together with all other existing and anticipated development, would not result in an increase in flood levels of more than one foot within the entire community during the occurrence of the base flood discharge.
    - ii. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- C. The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable sources shall be used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.

In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the municipality. In the absence of any of the above data or documentation, the community may require elevation of the lowest floor to be at least three feet above the highest adjacent grade.

- D. The AO and AH Area/ District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1-percent-annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.

- E. Community Identified Flood Hazard Areas shall be those areas where Highland Township has identified local flood hazard or ponding areas, as delineated and adopted on a “Local Flood Hazard Map” using best available topographic data and locally derived information such as flood of record, historic high water marks, soils or approximate study methodologies.

**402.12 Changes in Identification of Area**

The Identified Floodplain Area may be revised or modified by the Board of Supervisors of Highland Township where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the Special Flood Hazard Area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, the community shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data. See 5.01 (B) for situations where FEMA notification is required.

**402.13 Boundary Disputes**

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by Highland Township and any party aggrieved by this decision or determination may appeal to the Zoning Hearing Board of Highland Township. The burden of proof shall be on the appellant.

**402.14 Jurisdictional Boundary Changes**

Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the community shall review flood hazard data affecting the lands subject to boundary changes. The community shall adopt and enforce floodplain regulations in areas subject to annexation or corporate boundary changes which meet or exceed those in CFR 44 60.3.

**SECTION 403 TECHNICAL PROVISIONS**

General

A. Alteration or Relocation of Watercourse

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

B. When Highland Township proposes to permit the following encroachments:

- any development that causes a rise in the base flood elevations within the floodway; or
- any development occurring in Zones A1-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or

- alteration or relocation of a stream (including but not limited to installing culverts and bridges)

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

1. apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.
  2. Upon receipt of the FEMA Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and / or revised floodway reflecting the post-project condition.
  3. Upon completion of the proposed encroachments, the applicant shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.
- C. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Ordinance and any other applicable codes, ordinances and regulations.

#### **SECTION 404 ELEVATION AND FLOODPROOFING REQUIREMENTS**

Within any Identified Floodplain Area any new construction or substantial improvements shall be prohibited. If a variance is obtained for new construction or substantial improvements in the Identified Floodplain Area in accordance with the criteria in Section 4.12, then the following provisions apply:

##### **A. Residential Structures**

1. In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation.
2. In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation determined in accordance with Section 4.02.11.C of this ordinance.
3. In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.
4. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the latest edition thereof adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

##### **B. Non-residential Structures**

1. In AE, A1-30 and AH Zones, any new construction or substantial improvement of a non-

residential structure shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation, or be designed and constructed so that the space enclosed below the Regulatory Flood Elevation:

- a. is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and,
  - b. has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:
2. In A Zones, where no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the Regulatory Flood Elevation determined in accordance with Section 4.02.11.C of this ordinance.
  3. In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.
  4. Any non-residential structure, or part thereof, made watertight below the Regulatory Flood Elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards. There should be a statement submitted with the permit application and a statement submitted with the as-built Floodproofing Certificate prior to the issuance of the Certificate of Occupancy.
  5. Any non-residential structure that will be floodproofed must submit the following to the Floodplain Administrator along with the non-residential Floodproofing Certificate and prior to the issuance of the Certificate of Occupancy:
    - a. An Inspection and Maintenance Plan detailing the annual maintenance of floodproofed components ensuring that all components will operate properly under flood conditions. Components that must be inspected include at a minimum:
      1. Mechanical equipment such as sump pumps and generators,
      2. Flood shields and closures,
      3. Walls and wall penetrations, and
      4. Levees and berms (as applicable)
    - b. Flood Emergency Operation Plan detailing the procedures to be followed during a flooding event, and must include information pertaining to how all components will operate properly under all conditions, including power failures. The design professional must produce the plan. An adequate plan must include the following:

1. An established chain of command and responsibility with leadership responsibilities clearly defined for all aspects of the plan.
  2. A procedure for notification of necessary parties when flooding threatens and flood warnings are issued. Personnel required to be at the building should have a planned and safe means of ingress and should have no other emergency response duties during a flood event. Alternates should be assigned in the event that the primary persons responsible are unable to complete their assigned duties under the plan.
  3. A list of specific duties assigned to ensure that all responsibilities are addressed expeditiously. The locations of materials necessary to properly install all floodproofing components must be included in the list.
  4. An evacuation plan for all personnel or occupants; those without duties for the flood emergency as well as those with duties for implementing the plan. All possible ingress and egress routes must be identified.
  5. A periodic training and exercise program to keep personnel and occupants aware of their duties and responsibilities. Training drills should be held at least once a year and should be coordinated with community officials.
6. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the latest revision thereof as adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

C. Space below the lowest floor

1. Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.
2. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
  - a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space installed on two (2) separate walls
  - b. the bottom of all openings shall be no higher than one (1) foot above grade.
  - c. openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

D. Historic Structures

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this ordinance, must comply with all ordinance requirements that do not

---



preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

E. Accessory structures

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

1. the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
2. floor area shall not exceed 200 square feet.
3. the structure will have a low damage potential.
4. the structure will be located on the site so as to cause the least obstruction to the flow of flood waters.
5. power lines, wiring, and outlets will be elevated to the Regulatory 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, collapse, and lateral movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
  - 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 flood waters.
9. For accessory structures that are 200 square feet or larger in area (footprint) and that are below the base flood elevation, a variance is required as set forth in Section 4.12. If a variance is granted, a signed Declaration of Land Restriction (Nonconversion Agreement) shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.
10. Prohibit the storage of Hazardous Materials in accessory structures.

**SECTION 405 DESIGN AND CONSTRUCTION STANDARDS**

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

A. Fill

Within any Identified Floodplain Area the use of fill shall be prohibited. If a variance is obtained in accordance with the criteria in Section 4.12, then the following provisions apply:

If fill is used, it shall:

- a. extend laterally at least fifteen (15) feet beyond the building line from all points;
- b. consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
- c. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
- d. be no steeper than one (1) vertical to two (2) horizontal feet unless substantiated data justifying steeper slopes are submitted to, and approved by the Floodplain Administrator; and
- e. be used to the extent to which it does not adversely affect adjacent properties.

B. Drainage Facilities

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

C. Water and Sanitary Sewer Facilities and Systems

- 1. All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
- 2. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
- 3. No part of any on-site waste disposal system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
- 4. The design and construction provisions of the UCC and FEMA #348, "Protecting Building Utilities From Flood Damages" and "The International Private Sewage Disposal Code" shall be utilized.

~~D. Other Utilities~~

---

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

E. Streets

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

F. Storage

All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 5.04, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation or floodproofed to the maximum extent possible.

G. Placement of Buildings and Structures

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

H. Anchoring

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

I. Floors, Walls and Ceilings

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

J. Paints and Adhesives

1. Paints and other finishes used at or below the Regulatory Flood Elevation shall be of "marine" or "water-resistant" quality.
2. Adhesives used at or below the Regulatory Flood Elevation shall be of a "marine" or

"water-resistant" variety.

3. All wooden components (doors, trim, cabinets, etc.) used at or below the Regulatory Flood Elevation shall be finished with a "marine" or "water-resistant" paint or other finishing material.

K. Electrical Components

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

L. Equipment

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

M. Fuel Supply Systems

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

N. Uniform Construction Code Coordination

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

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

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

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

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

**SECTION 406 DEVELOPMENT WHICH MAY ENDANGER HUMAN LIFE**

Within any Identified Floodplain Area, any structure of the kind described in Subsection A., below, shall be prohibited. If a variance is obtained in accordance with the criteria in Section 4.12, then the following provisions apply: (4.06 B, C, & D)

- A. In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:

1. will be used for the production or storage of any of the following dangerous materials or substances; or,
2. will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,
3. will involve the production, storage, or use of any amount of radioactive substances;

shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

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

- B. Within any Identified Floodplain Area, any new or substantially improved structure of the kind described in Subsection A., above, shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- C. Within any Floodway Area, any structure of the kind described in Subsection A., above, shall be prohibited. Where permitted within any Identified Floodplain Area, any new or substantially improved residential structure of the kind described in Section 4.06 (A), above, shall be elevated to remain completely dry up to at least one and one half (1 ½) feet above base flood elevation and built in accordance with Sections 4.03, 4.04 and 4.05.
- D. Where permitted within any Identified Floodplain Area, any new or substantially improved non-residential structure of the kind described in Section 4.06 (A) above shall be built in accordance with Sections 4.03, 4.04 and 4.05, including:
  1. elevated, or designed and constructed to remain completely dry up to at least one and one half (1 ½) feet above base flood elevation, and
  2. designed to prevent pollution from the structure or activity during the course of a base flood.

Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

#### **SECTION 407 SPECIAL REQUIREMENTS FOR SUBDIVISIONS AND DEVELOPMENT**

All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in Identified Floodplain Areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision (CLOMR) and Letter of Map Revision (LOMR). Submittal requirements and processing fees shall be the responsibility of the applicant.

#### **SECTION 408 SPECIAL REQUIREMENTS FOR MANUFACTURED HOMES**

- A. Within any Identified Floodplain Area manufactured homes shall be prohibited. If a variance is obtained in accordance with the criteria in Article VIII, then the following provisions apply:
- B. Where permitted within any Identified Floodplain Area, all manufactured homes, and any improvements thereto, shall be:
  - 1. placed on a permanent foundation;
  - 2. elevated so that the lowest floor of the manufactured home is at least one and one half (1 ½) feet above base flood elevation;
  - 3. and anchored to resist flotation, collapse, or lateral movement.
- C. Equipment requirement:
  - 1. Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation and shall be anchored to resist floatation, collapse, and lateral improvement.
  - 2. Ductwork shall be elevated to or above the Regulatory Flood Elevation or floodproofed to remain water resistant.
- D. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 "International Residential Building Code" or the "U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing," 1984 Edition, draft or latest revision thereto and 34 PA Code Chapter 401-405 shall apply.
- E. Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC or the latest revision thereto as adopted by the Commonwealth of Pennsylvania, and 34 PA Code, as amended where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the proposed unit(s) installation.

**SECTION 409 SPECIAL REQUIREMENTS FOR RECREATIONAL VEHICLES**

Within any Identified Floodplain Area recreational vehicles shall be prohibited. If a variance is obtained in accordance with the criteria in Section 4.12, then the following provisions apply:

- A. Recreational vehicles in Zones A, A1-30, AH and AE must either:
  - 1. be on the site for fewer than 180 consecutive days, and
  - 2. be fully licensed and ready for highway use,  
or
  - 3. meet the permit requirements for manufactured homes in Section 4.08.

**SECTION 410 PROHIBITED ACTIVITIES**

General

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

A. The commencement of any of the following activities or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:

- 1. Hospitals
- 2. Nursing homes
- 3. Jails or prisons

B. The commencement of or any construction of a new manufactured home park or manufactured home subdivision or substantial improvement to an existing manufactured home park or manufactured home subdivision.

**SECTION 411 EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS**

**411.1 Existing Structures**

The provisions of this Ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section 4.11.2 shall apply.

**411.2 Improvements**

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

A.No expansion or enlargement of an existing structure shall be allowed within any Floodway Area/District that would cause any increase in BFE.

~~B.No expansion or enlargement of an existing structure shall be allowed within AE Area/District~~

without floodway that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.

- C. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.
- D. The above activity shall also address the requirements of the 34 PA Code, as amended and the 2009 IBC and the 2009 IRC or most recent revision thereof as adopted by the Commonwealth of Pennsylvania.
- E. Within any Floodway Area/District (See Section 4.02.11.A), no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office
- F. Within any AE Area/District without Floodway (See Section 4.02.11.B), no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- G. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, 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.
- H. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of “cumulative substantial damage” shall be undertaken only in full compliance with the provisions of this ordinance.

## **SECTION 4.12 VARIANCES**

### **412.1 General**

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

### **412.2 Variance Procedures and Conditions**

Requests for variances shall be considered by the Highland Township Zoning Hearing Board in accordance with the procedures contained in Section 4.02.9 and the following:

- A. No variances shall be granted for a proposed accessory structure that exceeds 400 square feet in size. A signed Non-Conversion Agreement is required as a condition of receiving the variance.
- B. Except for a possible modification of the Regulatory Flood Elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Special Permit (Section 4.10) or to Development Which May Endanger Human Life (Section 4.06).
- C. If granted, a variance shall involve only the least modification necessary to provide relief.



- D. In granting any variance, the Highland Township 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.
- E. Whenever a variance is granted, the Highland Township 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 variances may increase the risks to life and property.
- F. In reviewing any request for a variance, the Highland Township Zoning Hearing Board shall consider, at a minimum, the following:
  - 1. That there is good and sufficient cause.
  - 2. That failure to grant the variance would result in exceptional hardship to the applicant.
  - 3. That the granting of the variance will
    - a. neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,
    - b. nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- G. A complete record of all variance requests and related actions shall be maintained by the Highland Township Zoning Hearing Board. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-percent (1%) annual chance flood.

## **SECTION 413 DEFINITIONS**

### **413.1 General**

Unless specifically defined below, words and phrases used in this Ordinance shall be interpreted so as to give this Ordinance its' most reasonable application.

### **413.2 Specific Definitions**

- 1. Accessory use or structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
- 2. Base flood - a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood" or one-percent (1%) annual chance flood).

3. Base flood discharge - the volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).
4. Base flood elevation (BFE) - the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.
5. Basement - any area of the building having its floor below ground level on all sides.
6. Building - a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.
7. Cumulative substantial damage – flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.
8. Declaration of Land Restriction (Non-Conversion Agreement) - A form signed by the property owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these regulations, certain enclosures below the lowest floor of elevated buildings and certain accessory structures. The form requires the owner to record it on the property deed to inform future owners of the restrictions.
9. 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.
10. Existing manufactured home park or subdivision – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
11. Expansion to an existing manufactured home park or subdivision – the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
12. Flood - a temporary inundation of normally dry land areas.
13. Flood Insurance Rate Map (FIRM) - the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
14. Flood Insurance Study (FIS) - the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.
15. 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.

16. Floodproofing - any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
17. Floodway - the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
18. Highest Adjacent Grade - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
19. Historic structures – any structure that is:
  - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - c. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
  - d. Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:
    - i. By an approved state program as determined by the Secretary of the Interior or
    - ii. Directly by the Secretary of the Interior in states without approved programs.
20. Identified Floodplain Area- this term is an umbrella term that includes all of the areas within which the community has selected to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and Flood Insurance Study, but may include additional areas identified by the community. See Sections 4.02.10 and 4.02.11 for the specifics on what areas the community has included in the Identified Floodplain Area.
21. Lowest floor - the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this ordinance.
22. Manufactured home - a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

23. Manufactured home park or subdivision – a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
24. New construction - structures for which the start of construction commenced on or after the effective start date of this floodplain management ordinance and includes any subsequent improvements to such structures. Any construction started after April 8, 1983 and before the effective start date of this floodplain management ordinance is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.
25. New manufactured home park or subdivision – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
26. 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.
27. Post-FIRM Structure - is a structure for which construction or substantial improvement occurred after December 31, 1974 or on or after the community's initial Flood Insurance Rate Map (FIRM) dated April 8, 1983, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.
28. Pre-FIRM Structure - is a structure for which construction or substantial improvement occurred on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map (FIRM) dated April 8, 1983, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.
29. Recreational vehicle - a vehicle which is:
  - a. built on a single chassis;
  - b. not more than 400 square feet, measured at the largest horizontal projections;
  - c. designed to be self-propelled or permanently towable by a light-duty truck,
  - d. not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
30. Regulatory Flood Elevation - the base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of one and one-half (1 ½) feet. The freeboard safety factor also applies to utilities and ductwork.
31. Special permit - a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks/ subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.
32. Special flood hazard area (SFHA) - means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99,

or, AH.

33. Start of construction - includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within twelve (12) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
34. Structure – a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
35. Subdivision - the division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.
36. Substantial damage - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent or more of the market value of the structure before the damage occurred.
37. Substantial improvement - any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" or "cumulative substantial damage" regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
38. Uniform Construction Code (UCC) – The statewide building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.
39. Variance- A grant of relief by a community from the terms of a floodplain management regulation.

40. Violation - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

(As amended May 9, 2017)

**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, along with other required information of this Article, shall be 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**

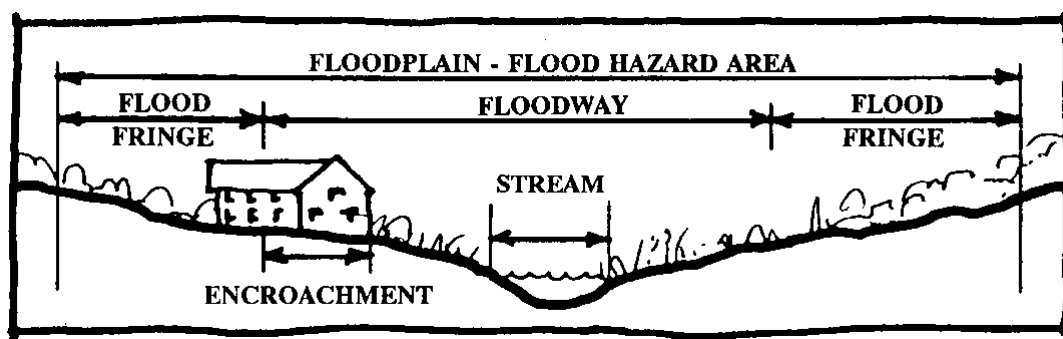
*Floodplain* - A relatively flat or low land area which is subject to partial or complete inundation from an adjacent or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation or runoff from any source including the floodplain area within the Flood Hazard District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

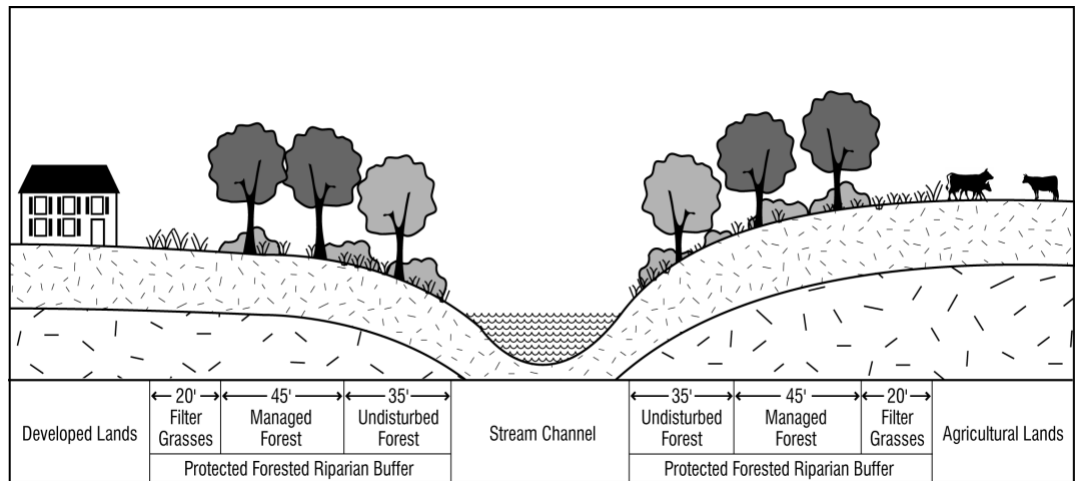
1. *Riparian Buffer* - A riparian buffer is an area of trees and other vegetation adjacent to a watercourse at least one hundred (100) feet in width. The riparian buffer intercepts runoff from upland sources to mitigate the effects of nutrients, sediment, organic matter, pesticides or other pollutants 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:

- 1) Preserved woodlands may be used to provide the vegetative screens and buffers required by Article VII. Where necessary to meet the intent and minimum standards of Article VII, additional planting may be required to supplement existing vegetation.
- 2) Provisions for the long term management of woodland areas not subject to woodland disturbance shall be consistent with the woodland management requirements of Section 704.

C. Delineation

The Applicant shall delineate or identify the limits of woodlands or specimen vegetation on the site in accordance with Section 503. Where vegetation on the site is to be preserved, it shall be clearly delineated on the plan as areas to be protected.

502.7 **Prime Agricultural Soils**

A. Definition

*Prime Agricultural Soils* – Soils which, due to their suitability for cultivation and agricultural use, have been classified by the U.S. Department of Agriculture as being in capability units I, II, or III. For the purpose of this Ordinance, prime agricultural soils shall include, but are not limited to, those soils listed in Appendix 3.

B. Resource Protection Standards

Where the following soils are located within the Agricultural Preservation area as designated on the Future Land Use Map of the *Highland Township Comprehensive Plan* (2001), within the (A) Agricultural Preservation District, or the (RC) Rural Conservation District of this Ordinance, the following standards shall apply:

1. Class I Agricultural Soils - No more than ten (10) percent of these soils shall be developed or built upon nor shall they be disturbed except for agricultural purposes.
2. Class II Agricultural Soils - No more than fifteen (15) percent of these soils shall be developed or built upon nor shall they be disturbed except for agricultural purposes.
3. Class III Agricultural Soils - No more than twenty (20) percent of these soils shall be developed or built upon nor shall they be disturbed except for agricultural purposes.

C. Delineation

The Applicant shall delineate or identify the limits of prime agricultural soils on the site in accordance with Section 503.

502.8 **Groundwater Protection**

A. **Water Survey Requirement**

When required by the Board of Supervisors, the applicant shall provide a Water Survey consistent with the requirements of a hydrogeologic survey for well yields as indicated in subsection B., below.

B. **Well Yield Requirements and Approvals**

A potable water supply well intended to serve as an individual water supply shall provide a minimum well yield of two (2) gallons per minute and shall comply with well requirements of the Chester County Health Department's Rules and Regulations. Proof of approval of the proposed water supply by the Chester County Health Department shall be provided by the Applicant. In cases where review by the Delaware River Basin Commission, the Susquehanna River Basin Commission, and/or the Commonwealth of Pennsylvania is required, proof of such review shall also be submitted.

C. **Groundwater Quantity Protection Strategies**

The following shall apply to any land use involving two thousand five hundred (2,500) square feet or more of land disturbance.

1. Developments and their stormwater management systems shall be designed so that post-development conditions achieve at least "meadow condition" hydrologic characteristics by infiltrating the net increase in volume (from "meadow condition" to post-development condition) of the runoff of the two-year storm.
  - a. Where it is demonstrated to the satisfaction of the Township Engineer that site conditions preclude meeting this criteria, then as an alternative the net increase in volume of the runoff of the one-inch storm shall be infiltrated.
  - b. Areas of existing commercial or industrial development that are undergoing redevelopment shall satisfy either the two-year or one inch standard or provide equivalent mitigation measures.
2. Impervious cover shall be kept to a minimum required and shall in no case exceed the permitted impervious coverage allowances of this Ordinance. Strategies such as the use of porous paving, grassed swales in place of curbs, planted islands in cul-de-sac turnarounds, reduction of driveway lengths by adhering to minimum building setbacks and other similar techniques shall be used wherever possible.
3. The use of pervious areas for on-site rainfall infiltration shall be maximized and stormwater Best Management Practices (BMPs) that first manage stormwater by dispersing runoff as sheetflow over pervious areas or into infiltration BMPs (i.e., routing runoff as sheetflow through forested riparian buffers, into wetlands, rain gardens, level spreaders, etc.) shall be incorporated into proposed developments wherever applicable. The "disconnection" or interspersed of large impervious

surfaces with pervious breaks shall be implemented wherever possible to maximize infiltration of stormwater runoff.

4. Conservation design practices and infiltration BMPs to increase infiltration and eliminate the need for, or reduce the size of, stormwater basins for flood peak attenuation shall be incorporated into plans. Wet retention ponds shall be considered first, extended retention basins shall be a second choice, and dry detention basins shall be the least preferred method, to provide additional infiltration and pollutant removal of stormwater prior to its release into streams.
5. Proposed development shall be consistent with the principles and practices set forth in the most current edition of the *Pennsylvania Handbook of Best Management Practices for Developing Areas* for erosion control and the management of stormwater runoff or this Ordinance, whichever is more restrictive.
6. Land application of treated wastewater shall be the preferred method of sewage disposal over stream discharge wherever feasible and shall return the treated wastewater to the watershed that is the source of the water.

D. Groundwater Quality Protection Strategies

Groundwater quality shall be protected where applicable and feasible, as follows:

1. Wells shall be constructed and unused wells promptly plugged and sealed in accordance with the Chester County Health Departments Rules and Regulations.
2. Water quality BMPs shall be employed to remove pollutants from the runoff of the first one-inch of rainfall prior to release of stormwater to surface water bodies.
3. Water quality stormwater BMPs shall be employed to remove pollutants from stormwater discharges originating from land uses with potential for very high pollutant loadings (“hotspots”) prior to infiltration to the groundwater.
4. Where groundwater contamination exists, development shall be coordinated to avoid the further expansion of the contaminant plume that may be caused by pumping of wells for the new development. The determination of the need for such coordination shall be made during the Water Survey in cooperation with the Chester County Department of Health and the regulatory agency (i.e., PaDEP or U.S. Environmental Protection Agency) with jurisdiction over the remediation work.
5. Where soils or subsurface contamination exists, infiltration of stormwater recharge shall be avoided to prevent adverse effects upon groundwater quality. Where such contamination exists, other design techniques or BMPs shall be incorporated to reduce as much as possible the total volume of stormwater released to streams in which case equivalent mitigation of the loss of infiltration shall be provided.

6. Community water supply wells shall be protected with a land use restricted buffer (i.e., no development activities or storage of chemicals or materials that could potentially contaminate the well) within a minimum radius of two hundred (200) feet around the wellhead. A community water supply well is defined as a water system that provides water for human consumption to at least fifteen (15) service connections or serves an average of at least twenty-five (25) people for at least sixty (60) days each year.
7. Nutrient and pesticide management plans shall be required for landscaped areas of five (5) acres or more requiring regular maintenance and management. Such management plans shall be developed in accordance with guidelines for turf management recommended by the Pennsylvania State University, College of Agricultural Sciences. Examples of such uses include, but are not limited to, golf courses, athletic fields, hospital or school grounds, and extensive open space areas maintained as mown lawns. Single-family residential dwellings on individual lots shall be exempt from this requirement.

## **SECTION 503 APPLICATION OF NATURAL RESOURCE PROTECTION STANDARDS**

### **503.1 Plan Information and Delineation of Protection Resources**

To ensure compliance with the natural resource protection standards of this Article, the following information shall be submitted by the Applicant when applying for a zoning or building permit, conditional use, special exception approval or zoning variance, or subdivision and land development approval where land disturbance is contemplated. In those cases where only a limited amount of the site will be disturbed (i.e., 1,000 square feet or less), the Zoning Officer may determine the area of land required to be shown on the plan that will adequately demonstrate compliance with the natural resource protection standards of this Section. Where less than the entire site is shown on the plan, the application shall be accompanied by a written explanation as to why it is not necessary to include the entire site on the required site plan. Required information includes:

- A. A site plan which identifies the limits of all natural resources on the site, including areas of woodlands or other vegetation to be preserved, and the proposed use of the site including any existing or proposed structures.
- B. The limits of all encroachments and disturbances necessary for the proposed use, including a grading plan showing existing and proposed contours.
- C. The minimum buildable area(s) and areas reserved for on-lot sewage systems, as described in Section 503.2 below.
- D. Calculations indicating the area of the site with natural resources and the area of natural resources that would be disturbed or encroached upon. The calculations as indicated in the following Table shall be shown on the plan.
- E. The figures in Column D (Proposed Disturbance) shall be less than or equal to the figures in Column C (Maximum Amount of Permitted Disturbance).

**Site Disturbance Calculations**

<b>Protected Resource</b>	<b>A Amount of Land in Protected Resource* (sq.ft.)</b>	<b>B Maximum Disturbance Allowance** (percent)</b>	<b>C Maximum Amount of Permitted Disturbance (sq.ft.)</b>	<b>D Proposed Disturbance of Resource (sq.ft.)</b>
Floodplain		0%		
Steep Slopes				
Moderately Steep		30%		
Very Steep		0%***		
Wetlands		0%		
Wetland Margins		20%		
Riparian Buffers				
Zone 1 Buffer		0%		
Zone 2 Buffer		20%		
Zone 3 Buffer		35%		
Woodlands				
residential uses		35%		
non-residential uses		50%		
Prime Ag. Soils****				
Class I		10%		
Class II		15%		
Class III		20%		
<b>Total</b>				

\* Where a resources overlap, the overlapping area should be included under the more restrictive resource category (e.g., where woodlands overlap with wetlands, include the area of overlap in the wetlands category).

\*\* Disturbance allowances may be modified where federal or state permits have been provided to the Township.

\*\*\* Up to 15% disturbance may be permitted by conditional use for access or utilities as specified in Section 502.2.A.1.b.

\*\*\*\* Applies only to soils located within the (A) Agricultural Preservation District.

**503.2 Minimum Buildable Area**

**A. Purpose**

The identification of a minimum buildable area ensures that sufficient area will exist for the general location of the building, driveway, patio, on-lot sewage facilities (where applicable) and other necessary improvements and site alterations while the natural resource protection standards and minimum setback requirements of this Ordinance are met.

**B. Building Area Delineation**

The Applicant shall delineate on the plan a contiguous buildable area, free of protected resources, large enough to accommodate proposed site improvements and required separation distances and which does not exceed the maximum disturbance requirements of this Article and other applicable codes and ordinances.

C. On-Lot Sewage Facilities Delineation

For uses with individual on-lot sewage systems, a two-thousand (2,000) square foot or larger area, in addition to the minimum buildable area specified in subsection B. above, shall be delineated. Where applicable, a two-thousand (2,000) square foot reserve or replacement area shall also be shown. These area(s) shall not include the portion of those environmentally sensitive areas that may not be developed or intruded upon as specified in Section 502; they shall also be capable of meeting the required separation distances for such facilities as specified by the Chester County Health Department.

503.3 **Continued Protection of Identified Natural Resource**

To ensure the protection of natural resources, the following requirements shall apply:

A. Protected Resource Areas On Individual Lots

1. For resource protected areas on individual lots, restrictions meeting Township specifications shall be placed on the approved final plan.
2. Deeds shall reference the title description of the approved final plan.
3. Other mechanisms, such as conservation easements, for ensuring the continued protection of identified resources may also be considered and used if approved by the Township.

B. Protected Resource Areas Held In Common

1. For resource protected areas held in common, the provisions of Section 620 (Required Open Space Management Plan and Common Open Space and Facilities) shall apply.
2. In addition to the provisions indicated in subsection 1., above, restrictions meeting Township specifications shall be placed on the natural area to be held in common.
3. The party or organization responsible for the maintenance of the natural area shall be clearly identified in the deed. The restrictions shall provide for the continuance of the resource protected areas in accordance with the provisions of this Ordinance.

C. Changes to Approved Plans

All applicable plans shall include the following wording: “Structures, infrastructure, utilities, sewage disposal systems, or other proposed land disturbance indicated on the approved final plan shall only occur at the locations shown on the plan. Changes to such locations shall be subject to additional review and re-approval in accordance with the provisions of Article V of the Highland Township Zoning Ordinance.”

(this page intentionally left blank)



**ARTICLE VI**

**SUPPLEMENTAL LAND USE PROVISIONS**

---

**SECTION 601 APPLICABILITY**

This Article establishes supplemental controls for uses, buildings or structures having special design considerations needed to ensure compatibility with other uses permitted within a zoning district. The following regulations shall apply to all zoning districts in which the particular use being regulated is permitted. The provisions of this Article shall be in addition to the standards established by the applicable zoning district and any applicable section of this or any other code or ordinance.

Uses specifically regulated in this Article include the following:

- 602 Accessory Uses, Buildings, or Structures
- 603 Agricultural Uses
- 604 Animal Hospitals, Veterinary Clinics, and Kennels
- 605 Automotive, Truck, and Farm Equipment Sales
- 606 Bed and Breakfast Facilities
- 607 Car Wash, Commercial
- 608 Cemeteries
- 609 Day Care Centers, Commercial
- 610 Eating Establishments and Restaurants
- 611 Forestry
- 612 Greenhouses, Commercial
- 613 Home Occupations
- 614 Hospitals and Medical Clinics
- 615 Junkyards and Salvage Operations
- 616 Nurseries and Garden Supply Centers
- 617 Nursing Homes, Life Care Facilities, and Retirement Communities
- 618 Places of Worship and Related Facilities
- 619 Recreational Facilities
- 620 Residential Cluster Development
- 621 Residential Conversion
- 622 Retail Uses (Individual or Cluster)
- 623 Riding Academies and Stables
- 624 Schools and Educational Facilities
- 625 Self-Storage Facilities/Mini-Warehouses
- 626 Townhouses and Other Multi-Family Residential Development
- 627 Wireless Communications Facilities

**SECTION 602      ACCESSORY USES, BUILDINGS, OR STRUCTURES**

The following provisions shall apply to accessory uses, buildings, and structures for residential, commercial, industrial and institutional uses.

A.     **Residential Accessory Uses, Buildings, or Structures**. All accessory uses and accessory structures shall comply with the minimum setback requirements of the district where such use or structure is located. In no instance shall such use be conducted or structure be erected within ten (10) feet of any road, right-of-way or property line, or within a front yard of any property in a residential district. (Where more stringent setback regulations are specified in the (RC) Rural Conservation District, those regulations shall apply.) The following uses shall be permitted only when incidental and subordinate to a residential use, located on the same tract or lot as the principle use, the accessory use is not commercial, and it is only for the use of residents of the dwelling:

1.     Garage or parking area for the parking of passenger automobiles including trucks and vans.
2.     Customary farm buildings used for the storage, keeping or repair of equipment in conjunction with a farm or similar purpose.
3.     Greenhouse.
4.     Accessory Agricultural Dwelling Unit, a maximum of two (2) per farm, based on criteria found in Section 603.B.
5.     Tennis court.
6.     Structures such as shelter for household pets, storage sheds, bathhouses, gazebos, decks, patios, tennis courts, and noncommercial greenhouses.
7.     Non-commercial swimming pool subject to the following:
  - a.     Non-commercial swimming pool, including both above-ground or in-ground pools, designed with a depth of two (2) feet or more shall be for use of residents and their guests and shall not be operated commercially;
  - b.     A permit shall be required to locate and construct a noncommercial swimming pool;
  - c.     Swimming pools and buildings related to the pool may be located in the rear or side yard of the lot. Any paved areas or decks related to the pool shall be no closer than five (5) feet to a lot line;
  - d.     Outdoor lighting shall be shielded and/or reflected away from adjacent properties;
  - e.     Swimming pools shall be completely enclosed by a permanent fence of durable material at least four (4) feet in height which shall be maintained in a good, safe condition. The fence shall be erected prior to the filling of the swimming pool and shall have self-closing and self-latching access gates that shall open away

from the pool with the release mechanism on the pool side of the gate. The fence and access gates shall be constructed so as not to have any opening exceed four (4) square inches in any direction. This fencing provision shall not apply to a swimming pool four (4) feet or more above grade when equipped with removable steps or ladders, provided that said steps or ladders shall be removed when the pool is not in use;

- f. The pool shall contain a filtration system and drainage of the pool shall be adequate and will not interfere with the water supply system, with existing sewage facilities, with public streets, and shall not drain into the neighboring property; and
  - g. Freestanding independent hot tubs and those associated with a swimming pool shall be covered and latched when not in use.
8. Garage or yard sales, subject to the following conditions:
- a. Garage or yard sales shall last no more than three (3) consecutive days, and shall be limited to not more than two (2) times within one (1) calendar year. There shall be at least thirty (30) days between each sale.
  - b. Signs advertising garage or yard sales shall be limited to four (4) square feet in size and shall be posted no more than two (2) days prior to the sale and be removed by the day after the final day of the sale. No more than four (4) off-premise signs shall be placed and the location of off-premises signs shall be approved by the property owners of the properties on which they are placed.
  - c. No more than one (1) vehicle for sale or show shall be displayed on a residential lot.
9. Radio and television antenna or dish antenna in accordance with the provisions of Section 627.
10. Fences or walls in accordance with the provisions of Section 702.I.
11. Signs associated with the occupants of the dwelling in accordance with the provisions of Article IX.
12. Uses designed to serve the residents of a residential development, including areas for washing machines and dryers, lockers or storage areas, recreational facilities and lounges.
13. Trailers or recreational vehicles designed for use as vacation travel trailers placed, stored or parked on an occupants' or owners' lot shall not be used at any time during such placement for sleeping or living quarters or for any accessory use in conjunction with the principal use of the lot, except by approval as a temporary use for a maximum of seven (7) days.
14. Parking and storage of commercial vehicles having more than two (2) axles or weighing more than ten thousand (10,000) pounds shall be prohibited on any residential lot or residential district. Nightly outdoor parking or storage of commercial vehicles of lesser size shall be limited to one (1) vehicle per lot within the lot boundaries and one (1)

additional commercial vehicle shall be permitted if parked inside in an enclosed structure or in a parking space screened from view of adjacent residential uses. In no case shall the engine or an auxiliary engine (e.g., compressor, generator, etc.) of a commercial vehicle parked outside be permitted to operate between the hours of 9:00 pm and 7:00 am adjacent to a residential use or district. These restrictions do not apply to residential lots in the (A) Agricultural Preservation District.

15. Minor home occupations, subject to the requirements in Section 613.
16. Major home occupations, subject to the requirements in Section 613.
17. Supplemental Dwelling Unit is a smaller secondary dwelling unit within an existing single-family detached dwelling.
  - a. The area and bulk regulations of the zoning district shall apply to the lot on which the supplemental dwelling unit is located.
  - b. Adequate on-site sewer and water must be provided.
  - c. No more than one (1) supplemental dwelling unit shall be allowed on each lot.
  - d. The supplemental dwelling unit shall be permitted only in one (1) of the following configurations:
    - 1) As a conversion of an existing part of the building, such as an attached garage or upper story of the dwelling, and to the greatest extent possible, the appearance of the principal dwelling remains that of a single-family detached dwelling. Entrances to the supplemental dwelling unit shall be located to the rear or side of the building.
    - 2) As an addition to an existing dwelling, no greater than fifteen (15) percent of the gross floor area of the existing dwelling, to facilitate more logical design or layout or as may be needed for enclosed stairwells or to meet Township and state safety codes.
  - e. Either the principal single-family dwelling or the supplemental dwelling unit shall be occupied by the owner of the property.
  - f. The supplemental dwelling unit shall occupy no more than thirty (30) percent of the principal dwelling's total floor area and shall have a minimum floor area of six hundred (600) square feet.
  - g. Two (2) off street parking spaces shall be provided for the supplemental dwelling unit in addition to the parking requirements for the principal use in accordance with Section 709.

- B. **Commercial, Industrial and Institutional Accessory Uses, Buildings, or Structures.** The following uses shall be permitted when incidental and subordinate to a permitted or approved commercial, industrial or institutional use on the same tract or lot subject to the following:

1. No such accessory use shall be conducted or accessory structure be erected within thirty-five (35) feet of any road right-of-way or property line or in the front yard of any property in the (IND) Industrial District. The setback standards for the (RV) Rural Village district, as provided in Section 303, shall apply.
2. Recreational facilities for employees shall be permitted but shall not be located less than fifty (50) feet from any road right-of-way.
3. Parking facilities shall comply with the provisions of Section 709.
4. Signage shall comply with the provisions of Article IX.
5. Outdoor Storage or Display of materials in accordance with the provisions of Section 702.G.
6. Fences or walls in accordance with the provisions of Section 702.I.
7. Radio, television or dish antennae in accordance with the provisions of Section 627.

C. **Temporary Structure, Building, or Use.** Temporary Structures, Buildings, or Uses shall be subject to the following:

1. A temporary permit may be issued for structures or uses necessary during construction or other special circumstances of a nonrecurring nature.
2. A temporary structure or use could include, but is not limited to, offices for contractors, temporary residential uses, political campaign headquarters, business operations displaced from the principal building due to damage or other similar uses.
3. Any temporary structure, building or use must comply with the Township building code's water and sewage regulations.
4. The duration of the initial permit for any temporary structure, building, or use shall be six (6) months, and may be renewed for three (3) months if the applicant can demonstrate reasonable progress towards the completion of the project necessitating the temporary structure, building, or use. A temporary use and occupancy permit shall not be required unless for uses in the same location for less than two (2) consecutive days.
5. Temporary structures, buildings, or uses shall be removed completely within fourteen (14) days of the expiration of the permit therefor.

D. **Temporary Community Event.** A temporary activity includes, but is not limited to, special events, flea markets, public exhibitions, municipal activities, non-profit events, street fairs, festivals, fund raisers, and similar organizational activities, subject to the following:

1. Such temporary activities shall be limited to not more than seven (7) consecutive days per event and to not more than four (4) events in a calendar year for each organization with a thirty (30) day period between each event.
2. Signs advertising a temporary community event shall comply with the provisions of Article IX. Additionally, such signs shall be limited to sixteen (16) square feet in size and

shall be posted no more than fourteen (14) days prior to the first day of the event and shall be removed by the day after the final day of the event. No more than four (4) off-premise signs shall be allowed.

3. The applicant for the use shall provide the Township with plans showing adequate parking, emergency access, road access, sanitary facilities and water in accordance with the Township building code, refuse collection, noise control, and clean-up after the event.

### **SECTION 603 AGRICULTURAL USES**

A. **Agricultural Accessory Uses, Buildings or Structures.** The minimum setback for all accessory uses, buildings, or structures shall be ten (10) feet from all lot lines.

B. **General Regulations.**

1. The minimum size of an agricultural operation shall be ten (10) acres.
  - a. No farmhouse, farm building or any other outbuilding shall be constructed closer than fifty (50) feet to any street right-of-way.
  - b. Notwithstanding Subsection a. above, no building used for the keeping or raising of livestock or poultry shall be located less than seventy-five (75) feet from any road right-of-way or property line.
  - c. Horses for personal use are permitted on lots subject to the following criteria:
    - 1) Minimum lot area for first horse: 2.5 acres
    - 2) Minimum lot area each additional horse: 1.0 acre.
  - d. No slaughter area or manure storage shall be closer than one hundred (100) feet to any side or rear property line.
2. **Sale of Agricultural Products:** The display and sale of agricultural products shall be permitted, provided that:
  - a. A minimum of fifty (50) percent of such products shall have been produced on the property on which they are offered for sale.
  - b. Such sales may only be conducted from a portable stand that is removed at the end of the growing season or from a permanent building located at least one hundred (100) feet from the road right-of-way line.
  - c. Any building, stand, sales, or display facility shall be at least twenty-five (25) feet from any road right-of-way line and shall be at least fifty (50) feet from a side or rear yard lot line abutting a residential use or district and shall be no more than one thousand five hundred (1,500) square feet in size;
  - d. A minimum of three (3) parking spaces or one (1) space for each three hundred (300) square feet of building floor area, whichever shall be greater, shall be provided behind the street right-of-way line; and

- e. Signs associated with the sale of farm products shall be in accordance with Article IX.
- 3. Structures used for the shelter or housing of livestock or poultry shall be located not less than seventy-five (75) feet from any lot line. Except for dwellings or for riding rings, no other farm building or structure shall be constructed closer than fifty (50) feet to any abutting property or public right-of-way. Where setbacks in the applicable district differ from fifty (50) feet, the greater dimension shall apply.
- 4. Farm structures (barns, silos, bulk bins, and other outbuildings) shall be exempt from maximum building height limits when located such that the distance from the base of the barn, silo, bulk bin, or outbuilding to both the nearest property line and the nearest street right-of-way line is not less than the height of said barn, silo, bulk bin or other outbuilding.
- 5. The storage or stock-piling of manure or other odor or dust producing substance shall not be permitted within two hundred (200) feet of an abutting property or public right-of-way nor closer than one hundred (100) feet to any wells, springs, sinkholes, on slopes adjacent to any ponds and streams, or within any swale or drainageway.
- 6. Lots shall be graded so that animal wastes are confined, stored, or disposed of within the lot on which they originate.
- 7. All grazing and pasture areas where animals are kept shall be fenced.
- 8. Secondary Farm Business. This use shall require a special exception approval subject to the requirements of Section 1111, and shall be in accordance with the following:
  - a. A maximum of five (5) employees shall be permitted for a secondary farm business in addition to family members or farm laborers employed in the primary farm business.
  - b. Secondary farm family businesses may include, but are not limited to the following:
    - 1) Veterinary offices that primarily serve farm animals, stables, and supplies.
    - 2) Manufacturing and sale of crafts.
    - 3) Manufacturing of household articles, such as chairs, cabinets, clocks, and similar carpentry type articles for use in the home.
    - 4) Sales of seeds, chemicals, and fertilizers.
    - 5) Facilities for the sales, repair, and service of agriculturally related equipment and supplies.
    - 6) Custom work.
    - 7) Cattle and grain hauling.

- 8) Grain mills or portable grinding mills.
- 9) Blacksmith shop.
- 10) Other similar uses to those listed above.

- c. Secondary Farm Businesses shall not use more than maximum of four thousand (4,000) square feet of building area.
- d. Secondary Farm Businesses shall comply with the environmental standards of Section 710.

C. **Accessory Agricultural Dwelling Units.** Additional agricultural dwelling units shall be permitted by right in all districts in accordance with the requirements of this Section.

1. The farm tract at the time of application for accessory dwelling units shall have a minimum area of thirty (30) contiguous acres and shall be owned or occupied by a resident farmer.

2. A maximum of two (2) accessory agricultural dwellings shall be permitted on a qualifying farm tract in accordance with the following:

30 – 50 acre farm tract	one (1) additional agricultural accessory dwelling unit
50+ acre farm tract	two (2) additional agricultural accessory dwelling units

3. Accessory agricultural dwellings must be occupied by full-time employees of the agricultural operation upon whose property they are located.

4. Accessory agricultural dwellings shall be adequately served by sewer and water facilities and have adequate isolation distances as approved by the Chester County Health Department.

5. Safe and efficient access shall be provided to each dwelling from an existing public road for emergency services equipment.

6. Accessory agricultural dwellings shall either be attached to the principal dwelling or shall be separated by the required setbacks.

D. **(RESERVED FOR POSSIBLE FUTURE USE)**

E. **Intensive Agricultural Uses.** Intensive agricultural uses and customary buildings associated with intensive agricultural uses upon conditional use approval shall comply with the following standards:

1. Minimum lot area: ten (10) acres.

2. Adjacent residential uses: agricultural buildings or structures housing mushrooms, poultry, hogs, or other livestock; accessory mushroom composting; feed lots, or other odor or dust producing activities, shall be located a minimum of one hundred (100) feet from any adjacent residential use.



3. Siting of intensive agricultural uses shall be in accordance with the siting requirements for the applicable CAO or CAFO compliant buildings under the Nutrient and Odor Management Act and its associated regulations which is to be established by the filing with the township of state agency approved nutrient and odor management plans and otherwise required DEP permits and plans.
4. Runoff from intensive agricultural uses shall be addressed in accordance with the BMPs requirements of the applicable CAO or CAFO compliant operations under the Nutrient and Odor Management Act and its associated regulations which is to be established by the filing with the township of state agency approved nutrient and odor management plans and otherwise required DEP Erosion and Sedimentation Control permits and plans.

F. **Composting Operations.** Composting operations and all customary buildings associated with composting operations shall require a conditional use approval and be in accordance with the following standards:

1. **Applicability.** This Section shall apply to the preparation, pasteurization, storage, use and disposal of compost which shall include organic (animal and/or plant) and inorganic materials when prepared for agricultural use.
2. **Standards.** The preparation and storage of compost shall only be permitted where it is incidental to and in support of other agricultural activities. Commercial composting operations where the compost is not intended primarily for use on the premises where it is being prepared are prohibited.
3. **Disposal.** Disposal of used compost shall be by one (1) of the following methods:
  - a. Surface application on fields, provided the slope of any such tract used does not exceed fifteen (15) percent, and is no closer than two hundred (200) feet to any flood hazard district, stream, or wetland.
  - b. Transported to a facility for processing into another form.

G. **Agricultural Utilization of Sludge.** The agricultural application of sewage sludge shall comply with the following standards:

1. **Filing an Application.** An applicant proposing to utilize sludge shall require a special exception approval pursuant to the provisions of Section 1111 of this Ordinance for each site proposed for land application. Each special exception application shall include the following information:
  - a. A description of the proposed application program including the source(s) of the sludge and how it is to be transported to the site, a timetable for application, a description of any storage operations, the proposed utilization rate and the total acreage involved and the feasibility of the site for the application of sludge.
  - b. A copy of the application for a sewage sludge transporting and disposal permit submitted to the Pennsylvania Department of Environmental Protection.

- c. A survey of the property prepared by a professional surveyor at a scale no greater than one (1) inch to two hundred (200) feet indicating:
  - 1) Topographic features of the tract using two (2) foot contour lines;
  - 2) Soil types and their boundaries;
  - 3) Identification of adjacent property owners; and
  - 4) Location of all public and private water supplies within one quarter (1/4) of a mile of the site boundaries, including wells, springs and other water bodies.
  
- d. A soils and geologic report indicating the physical characteristics of the site with respect to its suitability for application of sludge. The report shall be based on available soil survey and geologic data and be accompanied by field test analysis. Field tests shall include:
  - 1) Soil borings by a soil scientist to confirm that actual soil profile characteristics are consistent with published soil survey data; and
  - 2) Groundwater monitoring well data reflecting water quality prior to, during, and after the application program. Groundwater composition shall be included in the application. Subsequent quarterly monitoring during the application program may be required. The location of the monitoring well shall be approved by the Township prior to drilling. In the event that groundwater is found to flow in several directions, a monitor well for each direction may be required.
  
- e. A chemical analysis of the sludge from each proposed source done by an independent laboratory approved by the Township. A minimum of three (3) samples is required. The analysis shall include the following items:
  - 1) Total moisture content;
  - 2) Percent total nitrogen (dry weight);
  - 3) Percent ammonia (dry weight);
  - 4) Percent heavy metals (dry weight);
  - 5) Biological oxygen demand content; and
  - 6) pH rating.
  
- f. The Township may require additional laboratory analysis during the application program to insure sludge content remains within the limits established by the PaDEP and shall include a minimum of four (4) samples a year as part of a monitoring program.

- g. Costs incurred in the monitoring or testing required by this Section shall be borne by the applicant.
  - h. A notarized statement from the owner of the tract indicating awareness of the proposed sludge project.
3. Standards. The following standards have been established for all proposed sludge programs, based on the guidelines for sewage sludge use by the PaDEP and the Pennsylvania State University:
- a. Area. No site shall be approved for land application of sludge which is less than ten (10) contiguous acres.
  - b. Isolation Distances. Application of sludge requires minimum setback distances of:
    - 1) Three hundred (300) feet from any dwelling, well or other water supply.
    - 2) One hundred (100) feet from any stream or floodplain limit.
    - 3) One hundred (100) feet from any property line.
    - 4) Twenty-five (25) feet from any rock outcropping.
  - c. Slope Considerations. Application on slopes exceeding fifteen (15) percent is prohibited.
  - d. Application Rates. Application exceeding five thousand (5,000) gallons per acre per day is prohibited. The total annual application rate shall not exceed thirty thousand (30,000) gallons per acre per year. Application rates shall be adjusted in accordance with the following vegetative considerations.

MAXIMUM APPLICATION	
<u>VEGETATION TYPE</u>	<u>RATE (GAL/AC/YR)</u>
Corn	30,000
Sudan Grass	30,000
Mixed Grass/Hay	20,000
Wheat	4,000
Barley	4,000
Oats	4,000

- e. Permitting. Requests for sludge application shall be in compliance with the requirements of the PaDEP; a permit from the PaDEP prior to commencing the program is required. Evidence of the permit shall be filed with the Township for each site.

- f. Access. Sites to be considered for sludge application shall have direct access to a collector road with an improved, mud-free driveway. In the event access to a site is along a local road, as defined in the Comprehensive Plan, the Township may require the applicant to bear the cost of upgrading the road to collector road standards. In no case shall the access road be less than twenty-four (24) feet in width.
- g. Records. Records on each application shall be maintained and submitted to the Township upon request.
- h. Method of Application. Sludge shall be applied using subsurface injection apparatus. Surface application shall be prohibited.

H. **Storage of Sludge**.

- 1. Sludge Lagoons. No open sludge lagoons shall be permitted.
- 2. Storage Facilities shall:
  - a. hold no more than enough sludge for one (1) day's usage; and
  - b. shall be lined and covered with an impervious material to prevent leakage or runoff.
- 3. Minimum Site Requirements.
  - a. Ten (10) contiguous acres.
  - b. Five hundred (500) foot setback from any property line.
  - c. Two hundred (200) foot setback from any existing floodplain, wetland, or stream.
- 4. Fencing: a minimum height of six (6) feet.

**SECTION 604 ANIMAL HOSPITALS, VETERINARY CLINICS, AND KENNELS**

- A. Animal Hospitals and Veterinary Clinics shall be permitted upon approval as a special exception in accordance with the following regulations:
  - 1. Minimum lot size: one hundred thousand (100,000) square feet with a minimum lot width of three hundred (300) feet.
  - 2. Minimum yard dimensions:
    - a. Front Yard Setback: fifty (50) feet
    - b. Each Side Yard Setback: thirty (30) feet

- c. Rear Yard Setback: one hundred (100) feet.
3. Maximum coverage and height:
    - a. Maximum Building Coverage: ten (10) percent
    - b. Maximum Height: thirty-five (35) feet.
  4. Outdoor exercise yards shall be entirely fenced to prevent animals from leaving the property. Exercise yards shall be set back a minimum of one hundred (100) feet from front, side, and rear lot lines. All accessory buildings and structures shall be set back a minimum of twenty-five (25) feet from rear and side property lines.
  5. There shall be one (1) parking space per employee plus one (1) space per waiting room seat.
  6. There shall be no outdoor storage of materials unless screened from adjoining properties in accordance with the provisions of Section 702.G.
  7. Lighting shall be in accordance with the provisions of Section 707.
  8. Screening when abutting a residential use or district shall be in accordance with the provisions of Section 704.
  9. Animal hospitals and veterinary clinics shall comply with all applicable State regulations regarding animal care requirements.
  10. A waste disposal plan approved by the Township shall comply with all applicable standards for disposal of medical waste.
  11. Licensing of animal hospitals and veterinary clinics shall be required prior to issuance of an occupancy permit.
- B. Kennels shall be permitted upon approval as a special exception in accordance with the following regulations.
1. Minimum lot size: five (5) acres with a minimum lot width of five hundred (500) feet.
  2. Minimum yard dimensions:
    - a. Front Yard Setback: one hundred (100) feet
    - b. Each Side Yard Setback: fifty (50) feet
    - c. Rear Yard Setback: two hundred (200) feet.
  3. Maximum coverage and height:
    - a. Maximum Building Coverage: ten (10) percent

- b. Maximum Height: thirty-five (35) feet
- 4. Outdoor exercise yards shall be entirely fenced to prevent animals from leaving the property. Exercise yards shall be set back a minimum of two hundred (200) feet from front, side, and rear lot lines. All accessory buildings and structures shall be set back a minimum of fifty (50) feet from rear and side property lines.
- 5. All buildings and structures associated with the kennel shall be sound insulated.
- 6. There shall be one (1) off-street parking space per employee plus one (1) space per waiting room seat.
- 7. The sale of related products shall be permitted as an accessory use to the kennel and shall occupy no more than twenty-five (25) percent of the floor area of the principal building.
- 8. There shall be no outdoor storage of materials unless screened from adjoining properties in accordance with the provisions of Section 702.G.
- 9. Lighting shall be in accordance with the provisions of Section 707.
- 10. Screening when abutting a residential use or district shall be in accordance with the provisions of Section 704.
- 11. All licensing requirements under State regulations shall be evidenced in writing in the application for a special exception.

**SECTION 605 AUTOMOTIVE, TRUCK, AND/OR FARM EQUIPMENT SALES**

The following provisions shall apply to automotive, truck, and farm equipment sales facilities:

- A. The minimum lot size for automobile and/or truck sales is two (2) acres.
- B. Building and permanent structures must be setback a minimum of seventy-five (75) feet from all property lines. Parking and display areas for automobiles and trucks and service and loading areas shall be a minimum of fifty (50) feet from all residential uses and districts.
- C. A minimum of twenty (20) percent of the lot shall remain in pervious surface landscaped to provide buffering and screening from adjacent properties, as provided in Section 703.B. of this Ordinance.
- D. Primary access shall be from an arterial roadway, as defined in the *Highland Township Comprehensive Plan* (2001).
- E. A maximum of sixty thousand (60,000) square feet of total floor area, either in a single building or structure or a combination of buildings or structures, is permitted. For the purposes of this Section, an individual building shall be considered as a space or contiguous spaces under one roof, fully separated from any abutting building by permanent walls and with no direct access to any abutting building.

- F. Except where buildings directly abut one another, no building shall be closer to any other building than the height of the taller of such adjacent buildings.
- G. Parking lot design, landscaping, buffering, lighting, signs, and access shall be in accordance with the applicable sections of this Ordinance.

**SECTION 606 BED AND BREAKFAST FACILITIES**

The following provisions shall apply to bed and breakfast facilities:

- A. A bed and breakfast facility is permitted only in single-family detached, owner-occupied dwellings where the exterior of the residence or accessory structure has the appearance of a single-family detached residence.
- B. The principal use of the property shall remain that of a single-family residential dwelling.
- C. Exterior and interior alterations shall be limited to those customarily associated with residential uses or those required either by the Pennsylvania Department of Labor and Industry or for safety reasons by any other local, state, or federal regulations. Fire escapes, external stairways, or additional external doors shall be located either to the side or rear of the residence.
- D. No more than four (4) guest rooms may be offered on any individual residential property.
- E. One (1) full bathroom (one toilet, wash basin, bath/shower) shall be provided for each two (2) guest rooms.
- F. No guest shall be permitted to stay for more than seven (7) uninterrupted days.
- G. Compliance with all federal, state, and local requirements for the preparation, handling and serving of food is required and no separate cooking facilities in any guestroom are permitted.
- H. Any amenities (swimming pool, tennis court, etc.) shall be solely for the use of the resident owner and bed and breakfast guests. When located within one hundred (100) feet of a residential use, the use of outdoor active recreation amenities, such as a swimming pool or tennis court, shall be limited to between the hours of 9:00 a.m. and 10:00 p.m.
- I. The owner shall maintain a current guest registration.
- J. Area and bulk standards shall be those for single-family detached dwellings within the applicable zoning district.
- K. One (1) on-site parking space shall be provided per guest room and shall not be located in any required yard area.
- L. One (1) sign shall be permitted in accordance with the provisions of Article IX.
- M. A minimum of one (1) smoke detector and one (1) fire extinguisher per floor plus in each bedroom one (1) smoke detector shall be required. Guests shall be provided with floor plans of the dwelling for emergency exits.

- N. On-lot wastewater treatment systems shall be pumped every two (2) years and written documentation indicating compliance with this requirement shall be submitted to the Township within thirty (30) days of each such pumping.

**SECTION 607 CAR WASH, COMMERCIAL**

The following provisions shall apply to commercial car wash facilities:

- A. Public sewer and water facilities are required.
- B. Water supply systems shall incorporate the recycling of used wash water within the operation of the car wash.
- C. Each washing bay must have a minimum on-site stacking lane of sixty (60) feet.
- D. All structures housing washing equipment must be set back one hundred (100) feet from any street right-of-way line, fifty (50) feet from any rear property line and twenty-five (25) feet from any side lot line.
- E. Trash receptacles provided on-site must be enclosed by a barrier or fence.
- F. Primary access shall be from an arterial or collector road, as identified in *Highland Township Comprehensive Plan (2001)*.

**SECTION 608 CEMETERIES**

The following provisions shall apply to any cemetery:

- A. All cemeteries except those on the same lot as a church shall be no less than ten (10) acres in size.
- B. Landscaping and ground cover shall be required and properly maintained at all times.
- C. No buildings other than those directly associated with the cemetery, such as maintenance sheds, a caretaker's house, chapel, and mausoleums shall be permitted. Such buildings shall be no closer than two hundred (200) feet to any lot line or public street.
- D. Markers and burial plots shall be setback at least fifty (50) feet from any lot line or public street right-of-way.
- E. Cemeteries shall not be located in any floodplain, wetlands, or on hydric soils and shall comply with the standards provided in Article V and Section 402 of this Ordinance.
- F. An application for cemetery use shall include the following:
  - 1. A master plan identifying the overall layout of plots, internal road network, buildings and other improvements and exhibiting perpetual care arrangements for landscaping and ground covers.
  - 2. A valid permit from the Pennsylvania Department of Health.
  - 3. A narrative of how the cemetery will be developed and maintained, including a detailed financial plan for the long-term maintenance of the cemetery.



- G. A crematorium shall not be permitted in a cemetery.

**SECTION 609 DAY CARE CENTERS, COMMERCIAL**

The following provisions shall apply to commercial day care centers:

- A. Minimum lot area: thirty thousand (30,000) square feet.
- B. Minimum lot area for each child and adult: one thousand (1,000) square feet per child or adult.
- C. Recreation areas shall include the following:
1. Indoor recreation area: fifty (50) square feet per child and adult.
  2. Outdoor recreation area: seventy-five (75) square feet per child or adult.
  3. Outdoor recreation areas for children shall be fenced on all sides and shall not include driveways, parking areas or land unsuited for a child's active play area. Fencing shall be a minimum height of four (4) feet.
  4. Outdoor recreation areas for adults shall be free of obstructions and provide for ease of access, including those adults with physical limitations or disabilities.
  5. Outdoor recreation areas shall be verified as safe and free of contaminants. Written proof that soil and water are safe and free of contaminants shall be submitted with the application.
  6. Outdoor recreation areas adjacent to a residential use or district shall be set back a minimum of one hundred (100) feet from side and rear property lines and shall be sufficiently screened to minimize disturbance of residential properties. Outdoor recreation areas adjacent to non-residential uses or districts shall be set back a minimum of fifty (50) feet from side a rear property lines.
  7. Lighting of outdoor recreation areas shall comply with the requirements for recreation lighting in Section 707 of this Ordinance.
- C. A minimum of two (2) parking spaces per ten (10) children or per three (3) adults shall be provided. An area for the discharge and pick-up of children or adults shall be provided which is separated from both the parking and ingress/egress for the site.
- D. Prior to the issuance of a use and occupancy permit, the applicant shall have all pertinent approvals and licenses from the Pennsylvania Department of Public Welfare – Office of Children, Youth, and Families, as a condition of permit approval and continuation.
- E. Operation of the facility shall be limited to the hours between 6:00 am and 9:00 pm.

**SECTION 610 EATING ESTABLISHMENTS AND RESTAURANTS**

The following provisions shall apply to eating establishments or restaurants:

- A. No drive-through facilities or walk-up windows shall be permitted.
- B. All retail sales and service shall be internal to the premises.
- C. Food shall not be consumed on any portion of the premises except the interior of a building or packaged for off-site consumption without the approval of the Board of Supervisors.
- D. Primary access shall be from either a collector or arterial road as defined in the *Highland Township Comprehensive Plan* (2001).
- E. When this use is adjacent to or on the same lot with other commercial facilities, common access with the other establishments rather than a separate access from the road shall be required.
- F. A trash storage area shall be provided screened from the road and adjacent properties to prevent trash from blowing and to permit safe and easy trash removal. In addition, outside trash receptacles shall be provided for patron use, but not near any adjacent residential properties.
- G. Lot, yard and coverage requirements shall be in accordance with Section 304.
- H. All applicable design standards as provided in Article VII.
- I. A plan demonstrating adequate fire and police protection shall be submitted to the Township.

**SECTION 611 FORESTRY**

Forestry and commercial timber harvesting operations shall comply with all applicable provisions of Article V, Natural Resource Protection Standards, stormwater management and erosion control standards of the Township Subdivision and Land Development Ordinance, and any other applicable township or state regulations.

If thirty (30) percent or more of a wooded lot is harvested or clear-cut prior to submittal or approval of a subdivision or land development application, such lot shall not be approved for subdivision or land development for a period of five (5) years.

**SECTION 612 GREENHOUSES, COMMERCIAL**

The following provisions shall apply to all commercial greenhouses:

- A. The minimum lot size shall be five (5) acres.
- B. Storage of bedding and plant materials shall not be located less than fifty (50) feet from property lines or road rights-of-way.
- C. For the purpose of calculating required parking facilities, only the floor area devoted to sales need to be included.
- D. All greenhouse structures shall be included in the lot and building coverage calculations.
- E. Pesticides and other chemicals shall be physically contained so as not to exit a site through water runoff.
- F. On-site traffic control and parking shall comply with Sections 705 and 709 of this Ordinance.

**SECTION 613 HOME OCCUPATIONS**

The following provisions shall apply to home occupations:

- A. **Minor Home Occupations.** Minor home occupations, limited as defined in Section 1402 of this Ordinance, are by-right uses in residential districts.
  
- B. **Major Home Occupations.** Major home occupations are larger home-based businesses permitted by a special exception in accordance with Section 1111 of this Ordinance.
  - 1. Major home occupations shall be limited to the following:
    - a. Professional office or studio of a doctor, dentist, teacher, artist, architect, musician, lawyer, engineer, accountant, consultant, manufacturer's agent or sales representative, magistrate, or practitioner of a similar character.
    - b. Handicrafts.
    - c. Beauty parlors limited to no more than two (2) salon chairs.
    - d. Printing operations.
    - e. Home day care operations.
    - f. Teaching not more than four (4) pupils at one time.
  - 2. The principal person employed in a major home occupation shall be a resident of the dwelling unit and such occupations shall be incidental or secondary to the use of the property as a residence.
  - 3. Three (3) parking spaces in addition to those required of residence units shall be required.
  - 4. No more than two (2) persons shall be employed full-time by the practitioner of the occupation.
  - 5. The area used for the home occupation shall occupy no more than twenty-five (25) percent of the total floor area of the dwelling unit.
  - 6. No manufacturing, repairing or other mechanical work shall be performed in any open area nor shall such activity be conducted in such way that noise, odor, vibration, electromagnetic interference or smoke is noticeable at or beyond the property lines.
  - 7. No storage or display of materials or products shall be permitted in open areas visible to the public.
  - 8. No regular presence of parking or commercial vehicles on the lot shall be permitted.

9. The exterior of the residence or accessory structure shall have the appearance of a residential use.

**SECTION 614 HOSPITALS AND MEDICAL CLINICS**

The following provisions shall apply to hospitals or medical clinics:

- A. Minimum lot area for a hospital: ten (10) acres; and for a medical clinic: the minimum requirements of the respective zoning district.
- B. Primary access shall be from a collector or arterial road as defined by the *Highland Township Comprehensive Plan* (2001).
- C. Minimum setback from property line: one (100) feet; and for medical clinic buildings and structures as specified in the respective zoning district.
- D. The following uses are permitted only as an integral part of and within the hospital:
  1. Medical treatment facility;
  2. Hospital administrative offices;
  3. Pharmacy;
  4. Snack and restaurant facilities; and
  5. Gift shop.
- E. An application for a hospital or medical center shall include a master plan which indicates the location, type and size of all buildings, parking, utilities and landscaping.
- F. A waste disposal plan approved by the Township shall be submitted that complies with all applicable standards for disposal of medical waste.

**SECTION 615 JUNKYARDS AND SALVAGE OPERATIONS**

The following provisions shall apply to junkyard and salvage operations:

- A. Minimum lot area: two (2) contiguous acres undivided by roads, streams, or rights-of-way. No part of the operation shall be located within a Flood Hazard District or where contaminants from the operation can seep or flow into a stream or other body of water.
- B. Minimum setback for a junkyard or salvage operations: at least one hundred (100) feet.
- C. Not on lands with less than a fifteen (15) percent slope and not in any floodplain.
- D. Maximum lot coverage, including storage, buildings and structures: seventy (70) percent.

- E. Outside storage shall be enclosed with a wall or fence at least eight (8) feet in height and constructed so as to be at least ninety (90) percent solid or opaque. A year-round landscaped screen shall be provided consistent with the buffering requirements of Section 704.
- F. Crushing operations shall not operate outside of normal business hours.
- G. Storage piles shall not exceed eight (8) feet in height within fifty (50) feet of the screening or fence line and shall not exceed ten (10) feet in height in the remaining area of the junkyard. No more than two (2) adjoining rows of junked cars shall be stored together.
- H. Minimum accessway: at least fourteen (14) feet wide and shall be kept clear and free at all times for firefighting and other safety or emergency purposes.
- I. Waste generated by the salvage or junk yard operation shall be managed in accordance with all applicable Township Ordinances and federal and state regulations including the Solid Waste Management Act (35 P.S. §§ 6018.101 et seq.), the Clean Streams Law (35 P.S. §§ 691.1 et seq.), and the Air Pollution Control Act (35 P.S. §§ 4001 [4106] or et seq.) of the Commonwealth of Pennsylvania.
  - 1. Automotive fluids (including gasoline, oil, antifreeze, brake, transmission fluids, and similar fluids), freon, and other flammable or toxic substances shall be removed from any junk or other items stored on the premises and shall be properly containerized and stored. Such materials shall not be released into the air or deposited on or into the ground or watercourses and shall be transported and disposed of or recycled in accordance with applicable state and federal regulations.
  - 2. Automotive batteries shall be removed from junked vehicles and properly stored until they are disposed of or recycled.
  - 3. Removal of fluids, batteries and other hazardous materials shall only take place on impervious surfaces where they can be properly contained without danger of spilling or being transported into the ground.
- J. No material shall be burned on the premises. Each junkyard shall have available and in proper working condition equipment that will control, contain and suppress fires or other hazard.
- K. Tire storage piles shall not exceed two hundred (200) tires. In addition, when whole or processed tires are stored outdoors, each waste tire pile shall meet the following requirements:
  - 1. Piles shall not cover a surface area of greater than one thousand (1,000) square feet.
  - 2. Corridors at least thirty-five (35) feet wide shall be maintained as firebreaks on all sides of tire piles. No point in the pile shall be more than twenty-five (25) feet from a firebreak. Firebreaks shall be kept free from obstructions that could limit access in the event of an emergency and vegetation shall be maintained below six (6) inches.
- L. No garbage or other organic waste shall be kept on the premises.
- M. All junk, including tires, shall be stored to prevent the accumulation of water and to control mosquito propagation. Controls may include indoor storage screens and spraying.

- N. Prior to issuance of a Township license, the applicant shall provide sufficient information that all applicable federal, state, county, and Township requirements and regulations have been met and that all applicable conditions set by the Board of Supervisors during the conditional use approval process have been met.
- O. A stormwater management plan and erosion and sedimentation control plan shall be submitted as part of the land development application for a junk yard in accordance with the Township Subdivision and Land Development Ordinance.
- P. The permittee shall allow inspection of the business premises by the Township or its appointed representative at any reasonable time.

**SECTION 616 NURSERIES AND/OR GARDEN SUPPLY CENTERS**

The following provisions shall apply to nurseries and garden supply centers:

- A. Primary access shall be from an arterial or collector road, as defined by the *Highland Township Comprehensive Plan (2001)*.
- B. When located adjacent to a residentially zoned district or existing residential use, buildings, parking, loading, and service areas shall be located at least seventy-five (75) feet from adjacent property lines.
- C. Parking lot circulation and design, landscaping, buffering, lighting, loading, and access shall be in accordance with the applicable requirements of Article VII hereof.
- D. Establishments with outdoor storage of shopping carts shall provide clearly marked areas for such carts for their storage and containment.
- E. Trash receptacles shall be provided outside any establishment with take-out service or convenience shopping.
- F. All uses, excepting parking lots, shall be completely enclosed within a building. No merchandise, goods, articles, or equipment shall be stored, displayed, or offered for sale outside any building except seasonal articles which are too large or otherwise infeasible to be stored indoors. Such articles shall be stored adjacent to the building and shall be enclosed by either walls or opaque fencing at least six (6) feet in height that are compatible in design with the building. Any such outdoor display area shall be considered sales floor area for purposes of computing building coverage and parking requirements.

**SECTION 617 NURSING HOMES, LIFE CARE FACILITIES, AND RETIREMENT COMMUNITIES**

The following provisions shall apply to nursing homes, life care facilities, and retirement communities:

- A. A nursing home, life care facility, or retirement community is a form of residential use for mature adults, which meets the definition of “housing for older persons” as set forth in the Fair Housing Act Amendments Act of 1988, as amended (42 U.S.C. §§ 3601 et seq.) and may include any combination of nursing home, life care facility, or retirement community as follows:
  - 1. A Life Care Facility is a form of residential use for older adults, fifty-five (55) years of age or older, including a combination of a senior center, independent living, personal care, and/or acute care.
  - 2. A Retirement Community may contain individual dwelling units in any combination of single-family, two-family, townhouse or multi-family buildings and may include a community center consisting of one (1) or more buildings in which accessory uses are permitted, but no nursing facility.
  - 3. A Nursing Home is a facility providing bed care and skilled care (requiring state licensing) for persons who, by reasons of illness, physical infirmity or age, are unable to properly care for themselves.
- B. A nursing home, life care facility, or retirement community shall be permitted when in accordance with the following standards:
  - 1. The land shall be owned by and operated under single or common management.
  - 2. Minimum tract area: ten (10) acres.
  - 3. Maximum building coverage: forty (40) percent and maximum lot coverage: fifty (50) percent.
  - 4. Wheelchair access in accordance with the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.) shall be provided in the design of all structures, pedestrian walkways and parking lots. Where practical and desirable, buildings shall be interconnected by covered or enclosed walkways.
  - 5. Location, design and layout of buildings or dwelling units shall be so designed to ensure open space and privacy.
  - 6. Minimum building setback along all property lines: twenty-five (25) feet.
  - 7. Maximum building height: three (3) stories or thirty-five (35) feet.
  - 8. The following accessory support uses shall be permitted for this use:
    - a. Indoor and outdoor recreational facilities including auditoriums, activity rooms, craft rooms, libraries, lounges, and similar recreational facilities for members of the retirement community.

- b. Dining facilities.
  - c. Office and retail service facilities designed and adequate to serve only the members of the retirement community including but not limited to: pharmacy, gift shop, coffee shop, bank, beauty shop and barber shop.
  - d. Medical offices, nursing and convalescent facilities to serve only the members of the retirement community for temporary care and not operating as the principal office of any medical practice serving the general public.
  - e. Day care center, in accordance with Section 609.
- 9. Outdoor lighting and landscaping shall be consistent with the requirements of Sections 707 and 704, respectively.
  - 10. Nursing homes shall have a minimum of not less than one thousand (1,000) square feet of lot area per bed.
  - 11. A retirement community shall have a maximum gross density of three (3) units per acre and shall comply with Section 626, in addition to the requirements of this Section. The requirements of Section 626 shall prevail in the event of a conflict between the requirements of these sections.
  - 12. A life care facility shall have a maximum density of ten (10) units per acre. Nursing home care beds within this facility shall not exceed two (2) beds per dwelling unit.
  - 13. Each facility shall provide an outdoor sitting area which shall be landscaped and shall not be located adjacent to parking lots, detention basins, or collector or arterial roads unless adequate screening is provided. Sitting areas shall not be located on slopes of over five (5) percent grade.
  - 14. A minimum of ten (10) percent of the tract shall be reserved for recreational use and be maintained by common management.
  - 15. Parking requirements shall be in accordance with Section 709.
  - 16. Compliance with the requirements of Section 402 of this Ordinance is required.
  - 17. Each nursing home, life care facility, or retirement community shall obtain all applicable state and federal permits, licenses, and certificate of need, as applicable to the proposed use, as well as conditional use approval, from the Township.

**SECTION 618 PLACES OF WORSHIP AND RELATED FACILITIES**

The following provisions shall apply to places of worship:

- A. Minimum lot area: two (2) acres.
- B. Uses permitted in association with Places of Worship may include:
  - 1. Church, synagogue, or other places of worship.



2. Religious Schools.
3. Accessory Uses, including the following:
  - a. Institutional classrooms.
  - b. Kitchen.
  - c. Gymnasium.
  - d. Ball field in accordance with Section 619.
  - e. Day care center in accordance with Section 609.
  - f. Rectory or other lodging for clergy.
  - g. Cemetery in accordance with Section 608.
- C. Minimum side yards: fifty (50) feet for either side yard and one hundred and twenty-five feet in aggregate.
- D. Other requirements shall be in accordance with the requirements of the relevant Zoning District.
- E. Compliance with all standards provided in Article VII of this Ordinance is required.

**SECTION 619 RECREATIONAL FACILITIES**

The following provisions shall apply to recreation facilities as specified:

- A. Municipal parks and playgrounds shall be subject to the following regulations:
  1. Flower gardens, picnic areas, playing fields, tennis courts, tot lots, community buildings, refreshment stands and passive recreation areas shall be permitted.
  2. Uses not related to such uses are not permitted.
  3. No facility (swing, ball diamond, picnic ground, etc.) shall be closer than fifty (50) feet to a road nor thirty (30) feet from any other property lines.
  4. Lighting shall be in accordance with Section 707.
  5. Noise shall be limited in accordance with the standards of Section 710.
  6. Parking shall be in accordance with Section 709.
  7. Landscaping and screening shall be in accordance with Section 704.
  8. Signs shall be in accordance with Article IX.

B. Recreational uses (whether commercial or non-commercial, indoor or outdoor) shall be subject to the following regulations:

1. Permitted Uses.

a. Low Intensity Uses, including but not limited to parks, playing fields, playgrounds, arboretums, conservation areas, wildlife sanctuaries, winter sports, swimming pools, boating, horseback riding, fishing, foot, bicycle and bridle paths, picnic areas, tennis and other racquet game courts or any similar uses characteristically identified with open space areas, when permitted by the Zoning Hearing Board as a special exception as provided in Article XI and in accordance with the following development standards:

- 1) Impervious cover for such use shall not exceed fifteen (15) percent of the lot area, including pedestrian or bicycle paths.
- 2) Any improvements, such as a building or structure (excluding impervious cover, foot or bicycle paths and unnecessary accessways), shall be no closer than one hundred (100) feet to any lot boundary.

b. High Intensity Uses, including but not limited to golf courses, racquet clubs or other similar recreational club, campground or recreational vehicle park (excluding mobile home) and any auxiliary uses customarily incidental to the operation of such uses, including a restaurant, locker room, laundry, management headquarters, residence, nursery and day care center, when permitted as a conditional use as provided in Section 1005 and in accordance with the following development standards:

- 1) Minimum lot area: five (5) acres.
- 2) Any structure, building, parking, storage, loading or paved areas, excluding foot and bicycle paths and other than necessary accessways to a public street, shall not be located closer than one hundred (100) feet to any lot line and shall be screened from dwellings in accordance with the provisions of Section 704 if located within or abutting a residential district.
- 3) If practical, vehicular access shall not be from any local road in a residential district or residential development.
- 4) Auxiliary uses shall be restricted to employees, patrons, members and guests of the principal use. Such establishments shall present no visible evidence from any public road of their commercial character.
- 5) Restrictions on the hours of operation for outdoor recreational uses may be imposed.
- 6) In no case shall moto-cross parks be permitted .

- 7) Lighting shall be in accordance with Section 707.
- 8) Noise shall be limited in accordance with the standards of Section 710.
- 9) Parking shall be in accordance with Section 709.
- 10) Landscaping and screening shall be in accordance with Section 704.
- 11) Signs shall be in accordance with Article IX.

**SECTION 620 RESIDENTIAL CLUSTER DEVELOPMENT**

The following provisions shall apply to the development of a residential cluster subdivision:

- A. **Purpose:** to create a residential development pattern that will:
1. Foster the protection of critical natural resources, such as streams, floodplains, wet soils, designated wetlands, steep slopes, woodlands and wildlife habitat areas;
  2. Require less impervious surface than necessary with conventional development by concentrating development in smaller areas, thus necessitating less road area and resulting in less storm water runoff;
  3. Reduce environmental impacts associated with the disturbance of constrained areas and impervious coverage, such as erosion, sedimentation, pollutants in surface water runoff, and decreased groundwater recharge;
  4. Encourage energy conservation;
  5. Preserve open space and agricultural land by locating new residential units in close proximity to one another on a smaller portion of a parcel than would be the case with conventional development; and
  6. Preserve scenic vistas from public roads by concentrating development on the least visually prominent portions of parcels.
- B. **Qualifying Conditions.** Minimum requirements for development of a site under this Section shall include the following:
1. The site shall consist of either:
    - a. A single parcel of land, or
    - b. Multiple contiguous parcels undivided by roadways, railroad rights-of-way, or other significant obstructions that effectively divide the site. In the case of multiple contiguous parcels, all applicable parcels shall be developed according to a single plan and with common authority and common responsibility.
  2. The site shall be a minimum of ten (10) acres based on the gross acreage of the tract.

- C. **Permitted Uses.** Where permitted by the Board of Supervisors as a conditional use, an applicant may utilize the residential cluster development option for any of the following:
1. Single family detached dwellings.
  2. Single family attached dwellings.
  3. Duplexes or two-family dwellings.
  4. Open space uses, as set forth in Subsection G., below, and in Section 703 of this Ordinance.
- D. **Maximum Permitted Density:** one (1) dwelling unit per two (2) acres.
- E. **Minimum Common Open Space:** seventy (70) percent designed as indicated in subsection G., below.
- F. **Design Standards.**
1. Site Design Principles. The following standards shall apply during the siting process:
    - a. Areas designated as common open space shall be configured so as to:
      - 1) Protect the natural vistas and form of the existing tract;
      - 2) Maximize conservation of site features having particular conservation value, historical significance, or recreational value, including mature trees, woodlands, hedgerows, fence lines, historic sites or structures, historic roads or other transport traces, paths and trails, and other noted landscape features;
      - 3) Serve as buffer areas between grouped dwellings and between grouped dwellings and adjacent tracts;
      - 4) Contain, to the greatest extent possible, natural resources protected under Article V, Natural Resources Protection Standards, and in compliance with Section 703, and
      - 5) Create open space networks through coordinated site planning with adjacent developments and in conformity with the *Highland Township Comprehensive Plan* (2001).
    - b. Dwellings and accessory buildings shall be configured so as to:
      - 1) Be situated below ridgeline elevations to preserve existing vistas. Where an applicant claims that dwellings or accessory buildings cannot be situated below any ridgeline, the applicant shall demonstrate why not and how the proposed design creates the minimum possible disturbance of views of the ridgeline per the requirements of Section 620.F.2.b.;

- 2) Be located outside of environmentally sensitive resources, including natural drainage swales;
  - 3) Be located outside of broad, open vistas; and
  - 4) Provide maximum views of and access to open space by residents of proposed dwellings.
2. Dimensional Standards. Standards provided in this section supercede the base zoning requirements of the (RC) Rural Conservation district.
- a. All structures shall be setback a minimum of seventy-five (75) feet from the nearest tract property line except where existing natural features, including but not limited to woodlands areas, changes in topography, hedgerows, or other site characteristics results in the dwelling unit being completely visually screened from the adjacent property and guarantees are provided that such features will remain undisturbed, in which case this setback may be reduced by the Board of Supervisors through the conditional use process.
  - b. Building height shall not exceed thirty-five (35) feet. To the extent that any portion of a structure must be located above a ridgeline elevation, such siting shall be contingent upon the approval by the Board of Supervisors of a plan for the mitigation of such ridgeline impact. Such plans shall identify the locations and dimensions of the proposed structure(s), the architectural style proposed and shall demonstrate how the structure(s) will be effectively screened from the adjacent tracts through screening and/or be designed to minimize disruption of the ridgeline view.
  - c. Required distances between buildings:
    - 1) Between single-family detached dwellings: fifteen (15) feet
    - 2) Between single-family attached dwellings: thirty (30) feet
    - 3) Between duplexes and two-family dwellings: thirty (30) feet
    - 4) Between unlike dwelling types: twenty-five (25) feet
  - d. All structures shall be set back at least twenty (20) feet from the right-of-way of internal access roads.
  - e. All structures shall be set back at least fifteen (15) feet from the edge of any shared parking area except in the case of contiguous, adjacent driveways that lead to a garage or carport, for which no setback shall be required.
  - f. Where common open space is designated as separate, noncontiguous parcels, no single parcel shall consist of less than one (1) acre in area. No single area or portion of an area designated as common open space shall be counted toward the minimum required open space wherever such area or portion of area is less than one hundred fifty (150) feet in width, except in the case of a trail corridor or other linkage between two larger, noncontiguous, open space areas, which shall

be a minimum of one hundred (100) feet in width, and shall be subject to approval by the Board of Supervisors.

- g. Any parcel within a residential cluster development, including any common open space parcel, that could qualify for further subdivision and shall be deed restricted from further subdivision or land development in a form acceptable to the Township and duly recorded in the office of the Recorder of Deeds of Chester County, Pennsylvania and shall be noted on the face of the subdivision plan. Any such restriction shall be structured in a manner that would require the agreement of both the Township and Homeowners Association in order to abolish it.
3. Residential cluster developments shall also comply with Article VII of this Ordinance, and all other applicable requirements of Township, State, and federal regulations.

**G. Common Open Space.**

1. Uses Allowed Within Common Open Space Areas

- a. Natural area, including but not limited to, steep slopes areas, woodland, meadow, wetlands, stream, game preserve, etc.;
- b. Lawn, a grass area with or without trees which may be used by the residents for a variety of purposes and which shall be mowed regularly to insure a neat and tidy appearance. Lawn shall only be allowed within those portions of the common open space that do not contain any protected areas, as defined in Section 1402;
- c. Passive outdoor recreation area;
- d. Sewage treatment facility involving land application and groundwater recharge facilities that can be integrated into the natural environment. Buildings and other above ground structures associated with such facilities shall be excluded from the common open space;
- e. Stormwater management facilities or portions thereof that can be integrated into the natural environment, such as swales, retention facilities, etc. Stormwater detention basins shall not be counted towards the minimum required common open space; and
- f. Agriculture, subject to any ownership mechanism, procedures and limitations between the parties concerned.

2. Common Open Space Ownership and Maintenance Standards

a. Land Development Plan.

The land development plan submission shall include documents creating and governing a property owner's organization and containing the declaration of covenant, restrictions, easements, charges and liens deemed necessary to win and maintain the common open space area(s), local open space area(s) and any recreation areas within the open space development.

b. Ownership Options.

Common open space shall be secured under any one or more of the following ownership forms upon the approval of the Board of Supervisors:

- 1) Homeowners' Association. The applicant may provide for the establishment of an organization for the ownership and maintenance of the common property and improvements consisting of property owners within the open space development, each receiving an equal vote and responsibility.
  - 2) Condominium Agreement. Such agreements shall be in conformance with the Uniform Condominium Act of 1980, as amended, in which case all open space and improvements shall be held as a "Common Element."
  - 3) Dedication of Easements. The Township may accept easements for the public use of any portion of the common open space to thereby be accessible to the residents of the Township. In the event of such a dedication, the Township shall enter into a maintenance agreement with the owners of the common open space. However, the Township is not obligated to accept any such easement.
  - 4) Transfer of Easements to Private Conservation Organization. Easements on common open space may be granted to a private, nonprofit organization involved in the conservation of natural resources upon approval by the Township. The conveyance of such an easement shall contain appropriate provisions for reversion to the Township at any time the property is not used pursuant to the terms of the easement. Prior to the transfer of an easement a maintenance agreement shall be entered into between the Township, the organization holding ownership and the proposed conservation organization.
  - 5) Fee Simple Dedication. Nothing herein shall prevent the dedication of all or part of the common open space to the Township for the use and maintenance by the Township for common open space. However, the Township is not obligated to accept any such dedication of property.
  - 6) Lease Option. To encourage the retention of agricultural lands, the Township, homeowners association, private conservation organizations, or the condominium agreement may permit all or portions of the open space lands to be leased to a farmer. Approval of any lease shall be conditioned on appropriate agreements between the title holder and the farmer concerning permitted farming practices and the future use of such land in the event farming practices cease.
3. Homeowner Association Regulations. The formation of a homeowners' association shall comply with the Uniform Planned Communities Act of 1996, as amended, and shall be governed according to the following regulations:

- a. The applicant shall provide a description of the organization including a copy of its by-laws and methods of maintaining common open space and improvements.
  - b. The organization is established, operated, and financially subsidized by the applicant prior to the sale of any lots within the development.
  - c. Membership in the organization is mandatory for all purchasers of homes in the development and their successors.
  - d. Controlling interest in such an organization shall not be conveyed from the applicant to the homeowners association prior to completion and sale of at least seventy-five (75) percent of the total number of units in the development.
  - e. The organization shall be responsible for paying insurance and tax obligations on the common open space and improvements.
  - f. Rights and duties of the members of the association in the event of a breach of the covenants and restrictions shall be defined.
  - g. The by-laws shall include a statement which grants to the Township such power, but not the duty, to maintain the common open space and common facilities and to assess the cost of the same as provided in the Pennsylvania Municipalities Planning Code.
4. Required Open Space Management Plan
- a. Any application for approval under this Section shall contain a conceptual plan for the long-term management of the restricted open space to be created as part of the development. Such a plan shall include a narrative discussion of,
    - 1) The manner in which the restricted open space will be owned and by whom it will be managed and maintained;
    - 2) The conservation, land management and agricultural techniques and practices which will be used to conserve and perpetually protect the restricted open space, including conservation plan(s) approved by the Chester County Conservation District, where applicable;
    - 3) The professional and personnel resources that will be necessary in order to maintain and manage the property;
    - 4) The nature of public or private access planned for the restricted open space; and
    - 5) The source of money that will be available for such management, preservation and maintenance on a perpetual basis.
  - b. In addition, the Board of Supervisors may require that an escrow fund for open space maintenance be established until sufficient numbers of housing units are sold and the Homeowners Association has collected sufficient funds for maintenance.



- c. The conceptual management plan shall be refined into a more detailed Open Space Management Plan for review and approval with the Final Subdivision and Land Development Plan. This management plan shall be recorded with the Final Subdivision and Land Development Plans in the Office of the Recorder of Deeds of Chester County. In order to allow for changing needs inherent in the perpetual management of land, the management plan shall be capable of revision by written application to the Board of Supervisors. Approval of such application shall not be unreasonably withheld or delayed so long as the proposed change is feasible and consistent with the purposes of preservation of open space set forth in this Article and so long as such change involves no likelihood of the obligation for management and maintenance of the land falling upon the Township without the consent of the Board of Supervisors.

5. Open Space Performance Bond

All landscape improvements, plantings, accessways and recreational facilities within designated open space areas shall be provided by the developer, as applicable. A performance bond or other securities shall be required to cover costs of installation of all proposed improvements in the open space area. The performance bond or other security shall be in the same form and on the same conditions as required for other proposed improvements under Section 412 of the Township Subdivision and Land Development Ordinance.

6. Delinquency of Maintenance

- a. In the event an organization or a condominium organization undertakes the responsibility of maintaining the common open space and improvements and fails to maintain the same in reasonable order and conditions in accordance with the development plan, the Township may serve written notice upon such organization or residents in the development setting forth the manner in which the organization has failed to properly maintain the common areas.
- b. Notice shall demand that the maintenance deficiencies be corrected within thirty (30) days and shall establish the date and place of a hearing to be held on the delinquency. Such hearing should take place within fourteen (14) days of the notice. Should the deficiencies set forth in the original notice or in subsequent modifications fail to be corrected within the establishment thirty (30) days, the Township, in order to preserve the taxable values of the affected properties, may enter the common open space and improvements and maintain them for a period of one (1) year.

Such efforts shall not constitute a taking of the property nor vest in the public any right to use the same. The cost of maintenance by the Township shall be assessed ratably against the properties within the development that have a right of enjoyment. Such assessments shall be perfected by filing in the office of the Prothonotary of Chester County, Pennsylvania.

**SECTION 621 RESIDENTIAL CONVERSIONS**

The following provisions shall apply to the conversion of a single family dwelling to a dwelling containing a greater number of dwelling units:

- A. Site and architectural plans for the conversion of said dwelling shall be submitted to the Zoning Hearing Board together with an application for a special exception. If two (2) or more families are to be housed above the ground floor, such plans shall bear the approval of all required agencies as required by law.
- B. Such plans shall provide for adequate and suitable parking or storage space for at least two (2) automobiles per dwelling unit.
- C. The yard and building area requirements for the district in which the dwelling is located shall continue to apply to each dwelling unit.
- D. There shall be no external alterations of the building except as may be necessary for reason of safety; fire escape and outside stairways shall, where practical, be located to the side or rear of the building.
- E. The Zoning Hearing Board shall specify the maximum number of families permitted to occupy a particular building.
- F. Each resulting dwelling unit shall have a minimum floor area of eight hundred (800) square feet.
- G. The resulting dwelling shall comply with the Township Building Code and with the following:
  - 1. Sewer and water service, as approved by the Chester County Health Department and in accordance with the Township Building Code.
  - 2. Protective fire walls between units along all party walls.
  - 3. Individual entrances.
  - 4. Individual cooking and lavatory facilities.
  - 5. Water and space heating facilities in accordance with the Township Building Code.

**SECTION 622 RETAIL USES (INDIVIDUAL OR CLUSTER)**

The following provisions shall apply to individual retail uses or clusters of retail uses:

- A. The maximum size of any retail use shall be two thousand (2,000) square feet of gross floor area. The maximum size of any retail cluster shall be twelve thousand (12,000) square feet of gross floor area.
- B. Lot, yard and coverage requirements in accordance with Section 303.
- C. Parking shall be in accordance with Section 709.
- D. Landscaping, screening and buffering shall be in accordance with Section 704.
- E. Lighting shall be in accordance with Section 707.

- F. Vehicular access and traffic control shall be in accordance with Section 705.
- G. Interior circulation shall be in accordance with Section 706.
- H. Loading and unloading shall be in accordance with Section 708.
- I. In addition, clusters of retail uses shall be under single ownership or shall occur jointly by the owners of the entire tract and shall be under unified control. In the event that ownership of all or any portion of the tract changes after the approval of the plan the new owners shall agree in writing to be bound by the terms and obligations of the approved plan.
- J. Sewer and Water Facilities. The tract of land shall be served by public water and sanitary sewer facilities satisfactory to the Township. Such facilities shall be designed and constructed in compliance with those sections regulating sewage disposal and water supply of the Township Subdivision and Land Development Ordinance.
- K. Stormwater Management. The control of erosion and sediment during construction, and the ongoing management of stormwater on the tract shall be accomplished in accordance with the applicable sections of the Township Subdivision and Land Development Ordinance.
- L. Covenants and Restrictions. The language, terms and conditions of any proposed covenants or restrictions shall be subject to review and recommendation by the Township Solicitor.
- M. Police and Fire Protection. A plan demonstrating adequate fire and police protection shall be submitted to the Township.
- N. Primary access shall be from an arterial street as defined in the *Highland Township Comprehensive Plan* (2001).
- O. When located adjacent to a residentially zoned district or existing residential use, buildings, parking, loading, and service areas shall be located at least seventy-five (75) feet from the adjacent property lines.
- P. Establishments with outdoor storage of shopping carts shall provide clearly marked areas for such carts designed for their storage and containment.
- Q. Signs, limited to the following:
  - 1. Only one (1) free-standing sign other than directional and traffic control signs shall be erected along each arterial or collector street fronting the property which shall contain a directory of uses on the lot.
  - 2. The total display area of such a free-standing sign shall be in accordance with Article IX.
  - 3. Free-standing business signs may be located no closer than that distance prescribed in Article IX.
  - 4. No free-standing sign shall exceed that height prescribed in Article IX.
  - 5. Wall-mounted signs shall comply with the requirements of Article IX.

**SECTION 623 RIDING ACADEMIES AND STABLES**

The following provisions shall apply to riding academies and stables:

- A. The minimum size of a riding academy shall be five (5) acres for the first horse and one (1) acre for each additional horse maintained, stabled or pastured on the premises.
- B. No facility, including rings, jumping or show areas shall be closer than fifty (50) feet to the road or adjacent residential uses or districts, and thirty (30) feet to other property lines.
- C. The entire periphery of all grazing areas must be enclosed by a well-maintained fence.
- D. Where a bridle path crosses a road, the property owner shall be responsible for posting a sign indicating such use in compliance with standard procedure and regulations for road signs and signage.

**SECTION 624 SCHOOLS AND EDUCATIONAL FACILITIES**

The following provisions shall apply to any school or educational facility, whether public, private, or commercial:

- A. Minimum lot area: two (2) acres.
- B. Minimum lot width
  - 1. Three hundred (300) feet at building setback line.
  - 2. One hundred fifty (150) feet at street line.
- C. Maximum Coverage
  - 1. Twenty-five percent (25%) by all buildings.
  - 2. Thirty-five percent (35%) by total impervious cover.
- D. Maximum building height: three (3) stories or thirty-five (35) feet.
- E. Minimum front yard setback: eighty (80) feet from road right-of-way.
- F. Minimum side yards setbacks: fifty (50) feet for either side yard and one hundred and twenty-five (125) feet in aggregate.
- G. Minimum rear yard setback: seventy-five (75) feet.
- H. Outdoor play or recreational areas adjacent to a residential use or district shall be a minimum of seventy-five (75) feet from side and rear property lines and shall be sufficiently screened to minimize disturbance of residential areas. Outdoor play or recreation areas adjacent to a non-residential use or district shall be a minimum of fifty (50) feet from side and rear property lines.
- I. Parking shall be in accordance with Section 709.

- J. Landscaping, screening and buffering shall be in accordance with Section 704.
- K. Lighting shall be in accordance with Section 707.

**SECTION 625 SELF-STORAGE FACILITIES/MINI-WAREHOUSES**

The following provisions shall apply to self-storage facilities and/or mini-warehouses:

- A. Minimum lot area: two (2) acres. Setback requirements shall be as required in the (IND) Industrial district.
- B. Minimum aisle width between buildings: twenty (20) feet.
- C. Storage of explosive, radioactive, toxic, highly flammable, or other hazardous materials shall be prohibited.
- D. No business activities other than the leasing of storage units shall be conducted on the premises.
- E. Except as noted herein, all storage shall be within closed buildings built on a permanent foundation of durable materials. Trailers or similar impermanent or movable structures shall not be used for storage.
- F. No outdoor storage is permitted.
- G. Lighting shall be in accordance with Section 707.
- H. The storage facilities complex shall be surrounded by a fence at least six (6) feet in height and vegetative screening in compliance with the requirements in Section 704.

**SECTION 626 TOWNHOUSES AND OTHER MULTI-FAMILY RESIDENTIAL DEVELOPMENT**

The following provisions shall apply to two-family, townhouse, and multi-family development:

- A. The area and bulk regulations of the applicable zoning district apply.
- B. The maximum length and width of a multiple family building shall be one hundred (100) feet. For townhouse units, a maximum of four (4) units may be connected in one combined building no longer than one hundred and forty (140) feet.
- C. The minimum size of each dwelling unit shall be eight hundred (800) square feet.
- D. Multiple family buildings shall be located in clusters around common courtyards and open space areas rather than be situated parallel to one another. Where clustering is not feasible due to site conditions, there shall be no more than three (3) buildings parallel to each other within a multiple family development.
- E. Buildings within a multiple family development shall provide individual dwelling units with views and direct access to required open space area to the extent feasible.
- F. The following building separation distances shall be met:

<u>Building Configuration</u>	<u>Minimum Distance</u>	<u>Between Buildings</u>
Facing front or rear walls (long wall)		75 feet
Facing end walls (short wall) containing no dwelling windows		30 feet
Facing end walls (short walls) containing dwelling windows		35 feet
No obstruction of views created by two buildings		30 feet

- G. Walkways shall be provided between dwelling units, entrances, and common areas, including parking and refuse collection areas.
- H. The design, ownership and maintenance responsibilities for required open space shall be in accordance with Section 703.
- I. Dwelling units shall be setback a minimum of twenty-five (25) feet from common parking lots and refuse collection areas.
- J. Staggered setbacks of individual dwelling units and a variation in facade design are encouraged so the buildings offer visual variety and have private yard areas. In townhouse developments, no more than two (2) contiguous units shall have the same facade setback within a building. Changes in unit setback shall be a minimum of four (4) feet.
- K. Setback from the tract boundary: a minimum of fifty (50) feet.
- L. Landscaping, screening and buffering shall be in accordance with Section 704.

**SECTION 627 WIRELESS COMMUNICATIONS FACILITIES**

- A. **Purpose.** The purpose of this section is:
  - 1. To regulate the design, construction, placement, modification, and removal of wireless communications facilities;
  - 2. To allow the providers of wireless communications services to provide for adequate coverage and capacity while minimizing the total number and overall impact of additional towers;
  - 3. To encourage co-location, the use of attached facilities, and appropriate public and semi-public properties;
  - 4. To require designs and parameters compatible with adjacent land uses;
  - 5. To preserve the scenic, historic, aesthetic and environmental characteristics of Highland Township;
  - 6. To promote long-range planning and cooperation;
  - 7. To protect the public health, safety and general welfare, and

8. To ensure that due regard is paid to the policies of *Highland Township Comprehensive Plan* (2001) in evaluating proposals for wireless communications facilities.

**B. Use Provisions**

1. Uses Permitted By-Right.

- a. Co-location: placement of an Antenna Array located on:
  - 1) A legal existing or previously approved Wireless Communications Facility (WCF);
  - 2) A previously constructed broadcast tower; or,
  - 3) An existing communications tower where the specifications of the tower permit and no increase in the height of the tower is required.
- b. Attached WCF: placement of an Antenna Array if integrated with/within another existing structure (i.e. a building facade, church steeple, water tower) and no more than a fifteen (15) foot increase in the height of the existing structure is required.
- c. Replacement of a lawful, existing WCF, Support Structure, or Antenna Array with a similar facility of an equal or smaller size, subject to the application procedures, general requirements and abandonment provisions of this Chapter.

2. Conditional Uses. In addition to the requirements of this Section, conditional use approval subject to the requirements of Section 1005, shall be required for the following:

- a. Placement of a WCF in the (IND) Industrial and (RV-2) Rural Village – Cochranville and Parkesburg Extension Districts, and
- b. Placement of a WCF in the (A) Agricultural Preservation District, provided that the proposed WCF is set back from side and rear property lines a distance equal to the height of the proposed WCF plus an additional fifty (50) feet.

3. Radio or Television Antennae. Radio or television antennae, either freestanding or attached to a building, are devices used for receiving frequency signals. Such devices include ham and citizen band radio antennae used by amateur radio operators. Radio or television antennae are accessory residential or commercial uses subject to the following requirements:

- a. Structures shall comply with
  - 1) Federal Communications Commission (FCC) regulations;
  - 2) The Township Building Code, and
  - 3) All setback requirements of the Zoning District in which it is located, but no portion of the base of a freestanding antenna shall be located closer to

any lot line than the height of the antenna, measured from the base of the antenna to the highest point.

- b. The highest point of an antenna shall not exceed the peak of the roof of the principal building by more than fifteen (15) feet or, if a freestanding antenna, the highest point shall be fifty (50) feet.
  - c. No more than two (2) antennae of any kind, including radio, television or microwave dish antennae, shall be permitted per lot nor shall more than one (1) freestanding radio or television antenna or one (1) microwave dish antenna be permitted per lot.
  - d. Radio and television antennae not meeting these conditions shall require approval by special exception under Section 1111 of this Ordinance.
4. Prohibitions. WCF not expressly permitted under this section are prohibited.
5. Conditions of Approval. The following conditions apply to all permitted and conditional uses:
- a. All WCF and support structures shall be designed and constructed in accordance with the provisions for co-location (as defined in subsection 627.E., below, and in Table 627-1);
  - b. Applicants and/or petitioners shall agree to make a good faith effort on terms consistent with any applicable national agreement or on terms common to the region to accommodate requests for co-location that originate from a provider, from the WCF owner, or from the Planning Commission;
  - c. Property owners shall accept and accommodate the provisions for co-location prescribed by this ordinance and shall agree to the renting of space on a support structure or WCF for co-location at fair market prices and terms without discrimination.
  - d. Upon completion of a support structure or WCF, owners and/or operators thereof shall agree to make a good faith effort to accommodate co-location (placement of additional antenna arrays) in a timely manner, including those WCF or antenna arrays proposed by other service providers.
  - e. No approval for a WCF or support structure shall become valid until authorization (written approval) or a written statement of no objection from all relevant federal, state or local agencies with regulatory authority has been submitted to the Zoning Officer.

**C. General Requirements.**

- 1. For each WCF application, the property owner(s), WCF owner(s), and wireless communications service provider(s) shall be considered co-applicants and shall be jointly and severally subject to the provisions of this ordinance.
- 2. Application. Each permit application for placement of a WCF, WCF support structure or antenna array shall be accompanied by the following:



- a. A completed application form, with original signatures from all applicants including the property owner(s), WCF owner(s), and wireless communications service provider(s).
- b. A written statement with illustrations that describes the proposed wireless communications facility (type of construction, tower height, provisions for co-location).
- c. An inventory of the provider's existing WCF and/or antenna arrays within Highland Township and within three (3) miles of the boundaries of the Township, along with a plan describing any potential future facility locations. The inventory and master plan shall include:
  - 1) Locations of all existing and proposed facilities (by property address, latitude/longitude coordinates, and metes and bounds location);
  - 2) Height and type of each existing and proposed facility (including antenna types, output frequency, number of channels, power output and maximum power output per channel);
  - 3) Information on the practical capacity for accommodating additional co-located antenna arrays for each existing and proposed facility;
  - 4) Delineation of existing and anticipated coverage patterns in Highland Township and surrounding municipalities with brightly colored radial plots showing clear demarcations between signal strengths: for each existing and proposed facility, signal propagation and radio frequency studies and plots shall be clearly identified and signed by a qualified radio frequency engineer (power density calculations shall be in accordance with "worst case" formulas, assuming operation at maximum power and maximum capacity);
  - 5) For each existing or proposed facility, the type(s) of services to be provided (i.e. paging, PCS, etc.).
- d. A site plan, drawn to scale, with the following information:
  - 1) Property lines, with distances and bearings;
  - 2) Existing site improvements, including buildings & structures;
  - 3) Existing/proposed roadways and easements on the property;
  - 4) Engineering analysis and core borings points indicating that local geology is structurally sound for the construction and operation of a WCF.
  - 5) Proposed wireless communications facilities; and
  - 6) Proposed landscaping, including existing vegetation where applicable.

- e. A visual impact analysis that includes:
  - 1) Current photographs of significant man-made or natural features adjacent to the proposed WCF or Support Structure, showing those features that will provide buffering for adjacent properties and rights-of-way;
  - 2) A photographic presentation that depicts current site conditions with a super-imposed image of the proposed facilities to demonstrate the anticipated views of the proposed site and facilities upon completion of all improvements. Four views shall be illustrated, at a minimum, from points directly to the north, south, east, and west of the proposed facility at distances no less than one-half (½) mile and no greater than one (1) mile.
- f. For each WCF or support structure, a maintenance and facility removal agreement signed by the applicants and/or petitioners. This agreement shall bind the applicants and all successors in interest to properly maintain the exterior appearance of all facilities and, ultimately, remove all facilities upon abandonment in compliance with the provisions of this chapter and any conditions of approval. This agreement shall bind the applicants to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse Highland Township for any and all costs incurred to perform any work required by this agreement that the applicants fail to perform. This agreement shall be signed by the applicants and by the Chairman of the Board of Supervisors and recorded in the Office of the Recorder of Deeds of Chester County.
- g. An indemnification agreement from the applicants (owners/operators) and/or wireless communications service providers containing the following:
  - 1) A release of Highland Township from all liability arising out of the construction, operation, removal or repair of the WCF and/or antenna array.
  - 2) An indemnify and hold harmless provision in favor of Highland Township, its elected and appointed officials, agents, servants and employees, from and against all claims, demands, or causes of action whatsoever, and resulting losses, costs, expenses, attorney's fees, liabilities, damages, orders, judgements or decrees, sustained by Highland Township or any third party arising out of, or resulting from, each wireless communications facility's owner's, operator's, agent's, employee's, or servant's negligent acts, errors, or omissions.
  - 3) A covenant and representation relating to the indemnification provision that the same shall survive the term of the agreement and continue in force and effect as to the responsibility of the party obligated to indemnify.
- h. Proof of adequate insurance covering liability, bodily injury and property damage must be obtained and maintained for the entire period the WCF is in existence. The Board of Supervisors shall be named as an additional insured. A certificate

of insurance verifying such insurance shall be submitted at the time of application and annually thereafter.

- i. Copies of inspections or reports that are required by, and have been submitted to, the FAA and/or the FCC.
  - j. A fee as set by the Township.
  - k. Proof of a certificate of funds in an interest-bearing escrow account, for the benefit of Highland Township, in the amount of five thousand dollars (\$5,000) per support structure and one thousand dollars (\$1,000) per antenna array, or in an amount equivalent to the appraised value of the structures to be constructed (the amount applicable to support structures shall not apply to Attached WCF). Upon the authorization of the Board of Supervisors, the Zoning Officer shall draw funds from the account as needed to ensure compliance with the maintenance, indemnification, insurance and abandonment provisions of this Section. The account may be released or closed upon the discontinuation of the subject WCF and upon demonstration of compliance with all requirements of this Section.
3. The requirements of 627.C.2.f., g., h., and k., above, are continuing requirements and are binding on the Applicants, their successors and assigns. In the event of a draw of funds, the Applicant(s) shall be required to restore the escrow account to its original amount. The Applicant(s), their successors and assigns shall submit documented proof of compliance with the foregoing requirements:
- a. Annually;
  - b. When ownership of the facility changes;
  - c. When ownership of the WCF site changes;
  - d. Prior to the expiration or invalidation of a submitted document;
  - e. Upon any other event that would reasonably call the validity or effectiveness of the original document into question.
4. Failure to maintain the insurance coverage or the escrow account as required above shall be a violation of this Ordinance. In addition to all other available remedies, the Board of Supervisors may seek an injunction that mandates the maintenance of the coverage or account and/or that immediately and permanently prohibits the use of the WCF until compliance with this Section is demonstrated.
5. Each application for placement of a WCF or antenna array shall be subject to co-location review, as described in Section 627.E.
6. In the manner described in Section 627.D, below, the Planning Commission may employ, on behalf of the Township and at the applicant's expense, an independent technical expert to review and assess WCF application materials or conclusions.

D. **Independent Consultant**

1. Upon submission of an application for a WCF, the Township shall hire one or more independent qualified professionals with an appropriate combination of training, record of service, and/or certification.
2. The independent consultant(s) shall provide an estimate of the cost of reviewing the application. The applicant shall promptly pay this fee during the review process (separate from the general application fee). No application will be processed and no public hearings (where applicable) will be scheduled until full payment has been made.
3. Copies of the consultant(s)' findings and reports shall be made available to the applicant not less than seven (7) days prior to any scheduled public hearing(s), and the applicant shall be given the opportunity to respond to said reports.

E. **Co-Location Review**

Co-location is required for WCFs or antenna array, unless specifically exempted by the provisions of this section.

1. **Procedures.** The Zoning Officer shall, upon request and/or upon submittal of an application in conformance with Section 627.C., provide applicants with a list of all existing and proposed wireless communications facilities or support structures within one mile of the proposed site and the names of the owners or providers thereof.
2. **Basis for Relief.** Relief from co-location requires independent professional verification of the applicant's data and an evaluation that supports relief. Relief may be justified by the following:
  - a. Existing WCFs or support structures do not fall within location tolerances based upon radio frequency mapping;
  - b. Proposed site(s) do not meet minimum height requirements based upon radio frequency engineering data;
  - c. Existing WCFs or support structures lack the structural integrity needed for the proposed antenna array; or
  - d. Placement of the proposed WCF and/or antenna array would impair, or be impaired by, the emission of radio frequencies.

F. **Performance Standards**

1. **Security.** For all WCF except Attached WCF, a perimeter fence at least eight (8) feet high shall be installed around the WCF and all accessory structures and/or facilities. Razor wire is prohibited.
2. **Lighting.**

- a. Security lighting is not required. However, if security lighting is installed it shall be confined to accessory structures(s) and be directed downward to minimize glare or intrusion into adjoining properties.
  - b. No other illumination is permitted. Hence, no WCF, support structure, or antenna array that requires illumination is permitted.
3. Screening and Buffering.
- a. The following plantings are required for all WCF and/or support structures:
    - 1) A double staggered row of evergreen trees, seven (7) feet in height (measured from grade) planted at no more than fifteen (15) foot intervals along the perimeter of the fence; or
    - 2) A mix of deciduous shade trees (2.5" caliper) and large deciduous shrubs (at least 48") of sufficient density along the perimeter of the fence to adequately screen the facility from adjoining properties.
  - b. Existing vegetation preserved within twenty (20) feet of the security fence may be credited toward these planting requirements.
  - c. The provisions of this section may be waived, in whole or in part, if site conditions would not be adequate to support landscape plantings or architectural camouflage ("stealth" design) will insure compatibility with adjoining land uses and eliminate the need for screening.
  - d. All landscape plantings shall be properly maintained or replaced as necessary to ensure their good health and viability for the life of the WCF and/or support structure.
4. Signage. Identification signage, no more than three square feet in total area is required for each WCF and/or support structure, and/or accessory facility. Identification signage shall include the name(s) of the facility owner(s) or operator(s) and a 24-hour emergency telephone number. Off-premise and other advertising signage is prohibited.
5. Attached WCF. Attached WCF shall be appropriately integrated with, or within, existing structures and shall be designed to minimize visual impact and antenna arrays shall not exceed the height of the existing structure by more than fifteen (15) feet.
6. Noise.
- a. No increase in noise above ambient levels measured at the property line occur. All noise-producing equipment shall be certified NESC, including grounding and bonding of structures.
  - b. Backup Generators shall only be operated during power outages and for testing and maintenance. Routine testing and maintenance shall only be conducted between the hours of 8:00 a.m. and 5:00 p.m. Monday through Saturday.
7. Color and Camouflage.

- a. All WCF, support structures, accessory buildings, poles, antennas and other external facilities shall be painted as necessary with a "flat" paint. Except where dictated by the FAA, paint color shall be designed to minimize visibility & blend with the surrounding environment. To this end, improvements which will be primarily viewed against soils, trees or grasslands shall be painted colors matching these landscapes while elements that rise above the horizon shall be painted a blue or gray that matches the typical sky color at that location.
  - b. Accessory buildings and/or structures shall be architecturally similar and compatible with each other; shall not exceed twelve (12) feet in height and 750 square feet in area; and shall be used only for the housing of equipment needed to service the WCF and/or antenna array(s) located on the premises. Where possible, accessory buildings and/or structures shall be attached or clustered so as to appear as one building. Exterior facades shall incorporate materials, textures and colors that blend with the surroundings.
  - c. Architectural camouflage, or "stealth design", may be required if a proposed site is located as follows:
    - 1) In, or within three hundred (300) feet of, property officially designated as "Historic" by the Commonwealth of Pennsylvania, Highland Township, or is within property listed with the National Register of Historic Places; or
    - 2) In, or within three hundred (300) feet of, a right-of-way classified as a scenic corridor by the *Highland Township Comprehensive Plan (2001)*;
8. Materials. Excepting Attached WCF, all Support Structures shall be constructed of treated steel unless the Board of Supervisors determines that architectural camouflage ("stealth" design) will satisfy the intent of this section.
9. Health and Safety.
- a. All WCF and/or Support Structures shall be constructed, operated, maintained and monitored in compliance with all applicable federal (i.e. FCC and FAA) and state standards and requirements.
  - b. WCF and/or Support Structures that would be classified as a hazard to air navigation, as defined by the Federal Aviation Administration, shall not be permitted.

10. **Other Performance Standards.** The dimensional performance standards in Table 627-1 are the minimums with which WCFs must comply.

**Table 627-1**

Performance Standard	All WCF, Support Structures
Type of Construction (WCF or Support Structure)	Monopole
Provisions for Additional Co-located Antenna Arrays	2 (minimum)
Maximum Permitted Height <sup>1</sup>	199 feet
Front Yard Setback (minimum)	200 feet
Side Yard Setback (minimum)	
adjoining non-residential zone	100 feet
adjoining residential <sup>2</sup> zone	150 feet
conditional uses in (A) zoning district	Height + 50 feet
Rear Yard Setback (minimum)	
adjoining non-residential zone	100 feet
adjoining residential <sup>2</sup> zone	150 feet
conditional uses in (A) zoning district	Height + 50 feet

<sup>1</sup> No WCF, Support Structure, or Antenna Array shall be permitted at a height that would require illumination.

<sup>2</sup> For the purposes of this requirement, residential zones include the following: RC, RV.

**G. Abandonment**

1. Any WCF or support structure that is no longer needed or used shall be considered abandoned; shall be reported immediately by the service provider to the Zoning Officer; shall be completely removed by, and at the expense of, the service provider and/or owner within six (6) months from the date of abandonment and the surface of the site shall be restored to a condition suitable for redevelopment.
  
2. Any discontinued WCF or support structure not completely removed within six (6) months from the date of abandonment may be removed by the Township. Costs associated with such dismantling and removal and site restoration shall be paid by the service provider and/or owner pursuant to the terms of the maintenance and facility removal agreement described in Section 627.C.2.f.
  
3. In the event that costs, as described above, are not covered by the applicant, the Township may withdraw funds, as needed, to cover costs associated with removal of an abandoned WCF from the escrow account as established pursuant to Section 627.C.2.k.

(this page intentionally left blank)



**ARTICLE VII**

**GENERAL DESIGN REGULATIONS**

---

**SECTION 701 APPLICABILITY**

Unless otherwise stated, the provisions of this Article are common to all zoning districts and apply to all uses, whether uses-by-right, conditional uses, or uses by special exception. In the event that the provisions of this Article conflict with other provisions of this Ordinance, the most restrictive provisions shall apply.

**SECTION 702 GENERAL STANDARDS**

- A. Reduction of Lot Area. No lot shall be so reduced that the area of the lot or the dimensions of the required open spaces shall be less than the net lot area herein specified.
- B. Lots in More Than One District. Where a district boundary line divides a lot in single or joint ownership of record at the time such line is established, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district. In any case, if a house is located on the property, the regulations of the district in which the house is located shall apply.
- C. Projections Into Required Yards. All required yard areas shall be unobstructed except as follows.
1. An arbor, open trellis, flagpole, unroofed steps and terraces, and accessory buildings or structures providing such a projection shall be no closer than the required property line setback.
  2. Roofed terraces, patios, canopies, awnings, or other projections from a building, utilizing such building for support but not being enclosed or part of the living area of such structure, may extend into any required yard not more than fifteen (15) feet, provided such a projection shall be no closer than the setback required for accessory structures or buildings in the district in which the lot is located.
  3. Radio towers in accordance with the provisions of Section 627 of this Ordinance. No antennae shall project above any roof a distance greater than the shortest distance from its base to any property line.
  4. Setback requirements shall not apply to overhanging eaves, gutters, or cornices.
- D. Area and Bulk Exceptions.
1. Building height limitations of this Ordinance shall not apply to spires, agricultural buildings, belfries, cupolas, domes, monuments, towers, poles, chimneys or antennas.
  2. Lot coverage limitations of this Ordinance shall not apply to structures used for the storage of animals, to silos or to open porches, patios or swimming pools which are not located within any building.
  3. In the (A) Agricultural Preservation District, a landowner may subdivide out one lot of not less than one acre in any three year period. Said lot shall otherwise comply with all

applicable provisions of this Ordinance and with Section 301 relating to area, bulk requirements and standards. However, no further subdivision pursuant to this Section shall be permitted where such further subdivision would reduce the remaining agricultural tract to less than twenty-five acres.

- E. Stripping of Topsoil, Excavation of Clay, Sand, Gravel or Rock. Such activities shall be permitted only in the (IND) Industrial District under the following conditions.
1. As a part of the construction or alteration of a building or the grading incidental to such building.
  2. In connection with normal lawn preparation and maintenance.
  3. In connection with the construction or alteration of a street.
  4. In farming operations in those zoning districts where such use is permitted, provided sound soil conservation practices are observed.
  5. In no case shall topsoil be removed from within the boundaries of the Township.
  6. In compliance with the Township Soil, Erosion and Sedimentation Ordinance.
- F. Public Utility Installations and Service Structures. Any structure, building or other installation servicing any public utility, except common or contract carriers, may be located within any zoning district, subject to the following regulations.
1. The public utility shall file a plan indicating the location of all existing and proposed structures, buildings or other installations.
  2. Any such building, structure or other installations is subject to the design standards of this Article including screening, storage, landscaping, and lighting.
  3. The Pennsylvania Public Utility Commission after a public hearing, decides that the present or proposed building is reasonably necessary for the convenience or welfare of the public.
- G. Outdoor Storage.
1. Outdoor storage shall be completely screened from view from any public right-of-way and adjacent residential use. Screening shall consist of evergreen plantings, architectural screen or approved safety fence and be consistent with the provisions of Section 704.
  2. No storage is permitted within the front yard of any lot.
  3. Outdoor storage of raw materials and/or finished products is permitted only within the buildable area of the lot behind the front building line of the principal building, and shall not exceed thirty-five (35) feet in height. Storage of raw materials for agricultural operations is exempt from these requirements.
  4. Outdoor storage of fuel, raw materials, and products shall be enclosed with an approved safety fence compatible with the architectural and landscaping style employed on the lot.

In addition, bulk storage tanks (a minimum of 5,000 gallons in size) shall be enclosed by a moat or berm to contain potential spillage.

5. All organic rubbish or garbage shall be contained in airtight, vermin-proof containers. In multi-family, commercial and residential developments, garbage storage shall be centralized and enclosed on three (3) sides by an architectural screen or plantings.
  6. In residential areas, no more than two (2) unlicensed vehicles, machinery, trailers, mobile homes, boats or other similar items shall be stored outside within any required yard area. The storage of tractor-trailers, which supply or service establishments in the district, shall be prohibited. In nonresidential areas, the provisions of the Township Junkyard Ordinance shall prevail.
- H. Structures to have access. All lots shall have direct access to a public road or approved private road with frontage at the road line to be a minimum of one-half the required lot width in the zoning district.
- I. Fences and Walls. With the exception of agricultural uses of at least ten thousand (10,000) square feet, the following regulations shall apply:
1. No fence or wall over six (6) feet in height, shall be erected within any required yards, unless at least fifty (50) percent of the vertical plane of the fence or wall over six (6) feet shall not be solid. Retaining walls are exempt from this regulation.
  2. No fence or wall shall be erected within a street right of way or shall obstruct vision at road intersections or along roads, in accordance with Section 705.I.
  3. Swimming pools shall be completely surrounded by a fence of no less than four (4) feet in height, with a child-proof locking gate.
  4. Fences and walls shall not be located in drainage easements or drainage swales that are part of an approved stormwater management plan under the Township Subdivision and Land Development Ordinance.
- J. Setback and Lot Width on State Highways. In the case of properties abutting a State Highway, the front yard setback shall not be less than fifty (50) feet in depth measured from the road right-of-way line nor less than one hundred (100) feet in depth from the center line of the highway (whichever is greater), and the lot width shall in no case be less than one hundred (100) feet. These regulations shall not apply to lots in the (IND) Industrial District.

### **SECTION 703 OPEN SPACE STANDARDS**

Open space required per the provisions of this Ordinance shall meet the following requirements:

- A. Accessibility. Not less than twenty-five (25) percent of the minimum required open space land shall be usable to and accessible by residents, such as a central green, neighborhood squares or commons, recreational playing fields, walking trails, footpaths, community park, or any combination of the above. In addition, no more than fifty (50) percent of the minimum required open space land may be comprised of active recreation facilities such as playing fields, tennis courts, etc. Open space land shall not be used for residential lots, except as provided below.

- B. Location. Required open space land shall be located and designed to enhance the visual amenities of villages, hamlets, and surrounding areas, by maximizing the visibility of internal open space, such as at terminal vistas at the ends of roads (or along the outside edges of road curves), and by maximizing the visibility of external open space such as perimeter greenbelt land. Greenbelt land shall be designed to provide buffers and to protect scenic views as seen from existing roadways and public parks. The Township may require open space to be designed to continue an existing or proposed trail or to coordinate with other existing or proposed open space areas.
- C. Contiguity. Where adjacent parcels contain existing or proposed open space areas, whether publicly owned or otherwise deed restricted as permanent open space, common open space shall be located contiguously to this adjacent open space whenever possible to create larger open space networks unless that there is no feasible way to so locate said common open space.
- D. Views of House lots. Views of houselots from exterior roads and abutting properties shall be minimized by the use of natural, undisturbed topography, existing vegetation, or additional landscape buffering. This land shall be owned and maintained by a homeowners association, land trust, a conservation organization recognized by the Township, or by a private individual (typically as part of the original farmhouse).
- E. Buffers for Adjacent Public Parkland. Where a proposed development adjoins public parkland, a natural open space buffer at least one hundred and fifty (150) feet deep shall be provided within the development along its common boundary with the parkland, within which no new structures shall be constructed. No clearing of trees or understory growth shall be permitted in such buffer, except as may be necessary for road or trail construction. Where this buffer is unwooded, vegetative screening may be required, or the buffer may be required to be managed to encourage natural forest succession through "no-mow" policies and the periodic removal of invasive species.
- F. No portion of any building lot may be counted toward the minimum required open space land. However, active agricultural land with farm buildings, excluding areas used for residences, may be used to meet the minimum required open space land.
- G. Pedestrian and Maintenance Access. Pedestrian and maintenance access, excluding those lands used for agricultural or horticultural purposes, shall be provided to open space land in accordance with the following requirements:
  - 1. A centrally located access point a minimum of twenty-five (25) feet in width for each fifteen (15) lots; and
  - 2. Access to open space land used for agriculture may be restricted for public safety and to prevent interference with agricultural operations.
- H. Landscaping. Open space land areas that are not wooded or farmed shall either be left in a natural state or landscaped as required by the Board of Supervisors. Open space land areas shall not be left in a stripped and bare condition.
- I. Management Plan. A long-range management plan for the open space land is required which, at a minimum, shall describe how the open space land will be preserved, as proposed in the site's design plan, and how necessary preservation activities will be funded.

J. Uses Permitted on Open Space Lands:

1. Conservation of open land in its natural state (i.e., woodland, fallow field, or managed meadow).
2. Agricultural and horticultural uses, including the raising of crops or livestock, associated buildings, excluding residences, that are specifically needed to support an active, viable agricultural or horticultural operation. Specifically excluded are commercial livestock operations involving offensive odors. All or portions of the open space lands may be leased back to a farmer conditioned on appropriate agreements between the titleholder and the farmer, concerning permitted agricultural practices and use of the land in the event the agricultural activities cease.
3. Forestry in accordance with the provisions of Section 611 and subject to the requirements of Section 502.6 and Section 704.
4. Common neighborhood uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding wheeled vehicles (except for agricultural vehicles), rifle ranges and golf courses.
5. Active non-commercial recreation areas, such as playing fields, playgrounds, courts, provided such areas do not consume more than half of the minimum required open space land or five acres, whichever is less. Playing fields, playgrounds, and courts shall not be located within fifty (50) feet of abutting properties.
6. Individual water supply and sewage disposal systems, and spray irrigation fields, designed and landscaped to replicate natural conditions, and used as an integral part of the open space. Community sewage treatment systems are not permitted.
7. Drainage, access, sewer or water lines, or other public purposes.
8. Underground utility rights-of-way. Neither utility rights-of-way (unless utilities are placed underground) nor road rights-of-way shall count toward the minimum required common open space.
9. Dwelling and accessory structures associated with a farmstead that occupied the existing site on the effective date of this Ordinance, as permitted in subsection K., below.

K. Preservation of Farmstead. The applicant may choose to preserve a farmstead, containing a farmhouse and associated agricultural structures as part of the open space, provided that the resulting farmstead lot shall be deed restricted from further subdivision and no further dwellings shall be permitted on the farmstead.

L. Ownership and Maintenance of Open Space Land and Common Facilities.

1. Restrictions on Open Space Land. No development shall be permitted in open space areas, except as permitted herein.
2. Ownership Options. Ownership of common facilities may be in accordance with subsections a. through f., below; however, open space land shall be initially offered for dedication to the Township. Common facilities shall not be transferred to another entity

except as permitted under this Section, provided that there is no change in the common facilities or in the open space ratio of the overall development:

- a. Fee Simple Dedication to the Township. Highland Township may, but shall not be required to, accept any portion of the common facilities, provided that:
  - 1) There is no cost of acquisition to the Township; and
  - 2) Access to maintain such facilities is afforded to the Township.
- b. Condominium Association: Common facilities may be controlled through the use of condominium agreements in accordance with the Pennsylvania Uniform Condominium Act of 1980, as amended, wherein all open land and common facilities shall be held as "common element."
- c. Homeowners Association: Common facilities may be held in common ownership by a homeowners association compliant with all provisions for homeowners' associations in applicable Pennsylvania regulations. In addition, the following standards shall be satisfied:
  - 1) Receipt by the Board of Supervisors of a description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for common facilities satisfactory to the Township;
  - 2) Financial subsidization of the association by the owner or applicant, if necessary, before the sale of any dwelling units in the development;
  - 3) Automatic and mandatory membership of all lot owners of dwelling units therein and their successors in title, who shall have joint and undivided interests in any common areas;
  - 4) Association responsibility for maintenance and insurance of common facilities;
  - 5) Proof of legal authority for the association to place a lien on the real property of any member who falls delinquent in his or her dues. Such dues shall be paid with all accrued interest to be paid before the lien may be released;
  - 6) Provision for written notice of any proposed transfer of or assumption of maintenance of the common facilities to all members of the association and to the Board of Supervisors not less than thirty (30) days prior to such event;
  - 7) Adequate association staff to administer, maintain, and operate the common facilities; and
  - 8) Approval of the Homeowners Association Document agreement by the Township Solicitor.

- d. Dedication to Private Conservation Organization or to the County. With permission of the Board of Supervisors, transfer of either fee simple title of or easements on the open space to a private non-profit conservation organization or to the County may occur provided that:
  - 1) The conservation organization is a bona fide conservation organization intended to exist indefinitely;
  - 2) The conveyance contains appropriate provisions for reverter or re-transfers in the event that the conservation organization becomes unwilling or unable to continue to manage the open space land;
  - 3) The open space land is permanently restricted from future development through a conservation easement and the Board of Supervisors is empowered to enforce such easement;
  - 4) A maintenance agreement exists between the owner and the conservation organization; and
  - 5) A satisfactory maintenance agreement is reached between the owner and the Board of Supervisors.
  
- e. Dedication of Easements to the Township. The Board of Supervisors may, but shall not be required to, accept easements for public use of any portion of the common land or facilities, subject to the following regulations:
  - 1) There shall be no cost of acquisition to the Board of Supervisors; and
  - 2) Any such easements shall be accessible to the residents of the Township.
  
- f. Private Ownership of Designated Open Space.
  - 1) Designated open space may be retained in ownership by the applicant in order to continue as an active farm operation in accordance with all standards and criteria for designated open space herein.
  - 2) The designated open space shall be restricted from further subdivision or land development by deed restriction, conservation easement, or other agreement or form acceptable to the Township so long as the same is duly recorded in the office of the Recorder of Deeds of Chester County, Pennsylvania and so noted on the subdivision plan of record.
  - 3) All or portions of a designated open space may be included within an individual farm lot where deemed appropriate by the Board of Supervisors. The Board of Supervisors may require that responsibility for maintenance of a privately owned designated open space be borne by the owner(s) of said open space.

M. Maintenance. Unless otherwise agreed to by the Board of Supervisors, the cost and responsibility of maintaining common facilities and open space land shall be borne by the property owner, condominium association, homeowners' association, or conservation organization.

1. The applicant shall, at the time of preliminary plan submission, provide a plan for perpetual maintenance of open space lands and the operation of common facilities in accordance with the following requirements:
  - a. The Plan shall describe what regular and periodic operation and maintenance responsibilities will be necessary and who shall bear such responsibilities for the various kinds of open space (i.e. lawns, playing fields, meadow, pasture, cropland, woodlands, etc.);
  - b. The Plan shall include estimates of staffing needs, insurance requirements, and associated costs, and define how funding of the maintenance of the open space land and operation of any common facilities shall be achieved on an on-going basis. Each such funding plan shall also include a description of the means by which funding long-term capital improvements as well as regular yearly operating and maintenance costs shall be achieved;
  - c. At the Board of Supervisors' discretion, the applicant may be required to escrow sufficient funds to pay the maintenance and operation costs of common public facilities for up to one year; and,
  - d. No changes to the maintenance plan shall be made without the approval of the Board of Supervisors.
2. In the event that the organization responsible for maintaining the open space lands and the common facilities, or any successor organization thereto, fails to maintain all or any portion thereof in reasonable order and condition, the Board of Supervisors may assume responsibility therefore, in which case any escrow funds may be forfeited to the Township and any permits may be revoked or suspended.
3. In any such case, the Board of Supervisors or its authorized representatives may enter the premises and undertake corrective action, including maintenance, and the costs of such corrective action may be charged to the property owner, condominium association, homeowners association, conservation organization, or individual property owners who make up a condominium or homeowners' association. Such costs may include administrative costs and penalties and shall become a lien on said properties. Notice of such lien shall be filed in the Office of the Prothonotary of Chester County.

**SECTION 704 LANDSCAPING AND SCREENING**

- A. A completely planted visual barrier, or landscape screen shall be provided and continually maintained between any use to which this standard is applied under the following circumstances:
  1. Where a proposed commercial or institutional use abuts an existing residential use or residential district;
  2. Where any proposed multi-family residential use abuts an existing single family or two (2) family dwelling; or
  3. Where screening is otherwise required by this Ordinance or as the Township Board of Supervisors may so require.



- B. Screening shall comply with the following requirements:
1. The portion of the tract undergoing development that abuts a use or district to be screened shall be provided with a minimum of thirty (30) foot wide planting strip. The planting strip may be included in the private yard space and shall comply with the following:
    - a. Plant materials should be of a native species indigenous to the area. A variety of plant materials should be installed to promote bio-diversity and to be consistent with the rural character of the area. Vegetative screening shall include a variety of evergreen species (but no more than eighty (80) percent) indigenous to the area so as to provide a year round visual barrier.
    - b. Vegetation shall be from hardy and healthy stock, resistant to insects and disease, and pollution tolerant. Trees and shrubs shall meet minimum standards for size at the time of planting as follows:

Shrubs: 30 inches height from grade  
Trees: 3 inch minimum diameter at breast height (DBH)
    - c. Vegetative screening shall incorporate earthen mounds or berms, wherever necessary, to improve sound as well as visual buffering, and shall be broken at points of vehicular or pedestrian access.
    - d. Plant materials shall create a continuous visual screen in the buffer areas within three (3) years of initial planting.
    - e. No plantings shall be placed with their center closer than five (5) feet from the property line of the tract.
    - f. All existing vegetation within the required planting strip equal to or greater than three (3) inches in diameter at breast height (DBH) and/or eight (8) feet in height shall be preserved, wherever possible, and shall be incorporated into the screening and landscaping plan.
    - g. Screening shall not obstruct sight distances at intersections or driveways.
    - h. Vegetative screens shall be maintained during the period the principal use causing the need for screening is in operation. Any plant material which does not survive shall be replaced within six (6) months.
    - i. Screening design, including the type of plant materials to be used, spacing of plant materials, and the use and location of earthen berms, shall be subject to approval by the Board of Supervisors.
  2. Water towers, storage tanks, processing equipment, fans, skylights, cooling towers, communication towers, cellular telephone towers, vents and any other structures or equipment which rises above the roof line shall be architecturally compatible or effectively shielded from view from any public road by an architecturally sound method approved, in writing, by the Township.

- C. Any portion of a site not used for buildings or other structures, loading and parking spaces and aisles, sidewalks and designated storage areas shall be planted and maintained with landscaping.
- D. Except for single family and two (2) family dwellings, any portion of a site not used for loading and parking spaces, aisles, sidewalks and designated storage areas shall be landscaped according to an overall plan, prepared and approved as part of the development plan or shall be left in its natural state.

1. General Requirements of Landscape Plans.

- a. Landscaping shall be installed and maintained in accordance with a Landscape Plan prepared by a landscape architect or architect and be approved by the Board of Supervisors. The Landscape Plan shall depict all proposed plantings as required within buffer areas and in other landscaped areas which relate to, complement, screen or accentuate buildings, roads, parking areas, sidewalks, walkways, sitting areas, service or maintenance structures, courtyards, and other site features.
- b. The Landscape Plan shall be based on and reflect the following:
  - 1) Respect for and incorporation of existing topographic, landscape and other natural features
  - 2) The functional and aesthetic factors which relate to the tract and to the principal and accessory buildings and other structures.
  - 3) Enhancement of views from and within the tract.
  - 4) Screening and complementing proposed buildings and other structures.
  - 5) Creating visual interest for the users and/or residents of the proposed project.
  - 6) Using plant materials which are hardy and acclimated to the conditions at the tract and within the Township.
- c. The Landscape Plan shall include notes, diagrams, sketches, or other depiction to enhance the consideration and analysis of the following:
  - 1) The existing views to and from the areas which are proposed for development; the existing topography and vegetation conditions; and all other existing, relevant conditions.
  - 2) The proposed planting and other landscaping needs related to screening buildings; parking areas; storage areas; site utilities; and other appropriate types of screening.
  - 3) The locations where plantings and other landscaping are needed to provide visual interest; define outdoor spaces; complement the proposed architectural style; and achieve other functional and aesthetic requirements for buffer areas.

- 4) The protection of trees twelve (12) inches or more in caliper (measured at a height four and one-half (4 1/2) feet above the original grade) shall be a factor in determining the location of buildings, open space, structures, underground utilities, walks and paved areas. Existing trees shall be preserved wherever possible. Areas in which trees are to be preserved shall remain at original grade level and in an undisturbed condition.

2. Design Criteria for Landscape Plans.

- a. Plantings shall be installed and maintained in the buffer areas to form a continuous visual buffer. In addition to groundcovers and evergreen shrubs, buffer planting strips shall be comprised of evergreen trees which are a minimum of eight (8) feet in height at the time of planting and deciduous trees with a minimum diameter of three (3) inches at breast height. Trees shall be spaced in two (2) alternating rows on ten (10) foot centers. In the event such plantings fail to provide a continuous visual buffer, these plantings shall be placed upon a three (3) to five (5) foot high berm to increase their effectiveness.
- b. The perimeter of all parking areas shall be screened through the use of plant materials, fencing or walls, and/or mounding through the use of earthen berms.
- c. Landscaping shall be provided for each principal building in accordance with the following criteria:
  - 1) A combination of evergreen and deciduous trees and shrubs shall be used as "foundation" plantings, i.e., plantings to be installed in reasonably close proximity to the facades.
  - 2) At least one (1), two and one-half (2 1/2) to three (3) inch caliper specimen deciduous tree of ten (10) to twelve (12) feet in height at the time of planting; and one (1) eight (8) to ten (10) foot specimen evergreen tree for every fifty (50) feet of building facade. These specimen trees shall be clustered or grouped to provide a pleasing, natural effect. Existing trees may be utilized to satisfy this requirement.
  - 3) Five (5) evergreen and/or deciduous shrubs shall be planted for every twenty (20) feet of length of building facade.
- d. Other landscaping, including trees, shrubs, and groundcovers, shall be provided along walkways, in courtyards, around sitting areas, at the entrance to the site, and in other highly visible locations, and especially on the outer side of any internal access roads visible from a public road which may adjoin the tract, at the entrance to buildings, and around structures used for service, storage or maintenance purposes.
- e. Shrubs shall not be placed closer than five (5) feet from any property line and trees shall not be closer than ten (10) feet.

3. Minimum Standards for the Quality and Maintenance of Plant Material.
  - a. Existing vegetation, such as wood lots, hedgerows and trees with a caliper of two (2) inches or more at a height of three (3) feet or vegetation listed on the Pennsylvania Natural Diversity Inventory, should be preserved wherever possible and be incorporated into screening and landscaping plans. Such trees may be credited toward screening and landscaping requirements.
  - b. Trees and shrubs shall be typical of their species and variety, have normal growth habits; be well developed; and have densely foliated branches and vigorous, fibrous root systems.
  - c. Trees and shrubs shall be free from defects and injuries and certified by appropriate federal and state authorities to be free from diseases and insect infestations.
  - d. Trees and shrubs shall be freshly dug and nursery grown. They shall have been grown under climatic conditions similar to those in the locality of the project or properly acclimated to the conditions of the locality.
  - e. Plant materials chosen to satisfy screening and landscaping requirements or to supplement existing vegetation should be native to the area. A variety of plant materials should be installed to reflect the diversity of the local ecology. An approved tree list is included in Appendix 4.
- E. All mechanical equipment, not enclosed in a structure, shall be fully and completely screened pursuant to the screening requirements in Section 704.B above.
- F. Landscaping of any parking area with more than ten (10) parking spaces shall be subject to the following provisions:
  1. Off-street parking areas shall be landscaped to reduce wind and air turbulence, heat and noise, and the glare of automobile lights; to reduce the level of carbon dioxide; to provide shade; to improve stormwater drainage disposal; to replenish the groundwater table; and to provide for a more attractive setting.
  2. The interior of each parking lot shall have at least one (1) three (3) inch caliper deciduous shade tree for every five (5) parking spaces. Shrubs and other plant materials shall be used to complement the trees, but shall not be the sole contribution to the landscaping. These interior trees shall be in addition to those required as an effective screen. Trees in parking areas shall be of a species proven to be salt and dust resistant.
  3. Landscaping and planting areas shall be reasonably dispersed throughout the parking lot, except where there are more than twenty (20) spaces in which case the following shall apply:
    - a. Landscaped areas at least ten (10) feet wide shall be provided around the periphery of parking areas for the full length and width thereof, except for necessary accessways, to prevent the encroachment of vehicles into parking areas.

- b. Landscaped islands between every ten (10) parking spaces in each row or at the end of each parking row, whichever is less, shall be provided and shall be the length of the parking spaces in the row and at least ten (10) feet in width.
  - c. There shall be a planting strip for every four (4) rows of parking spaces parallel to the parking rows with a minimum width of ten (10) feet if double loaded or seven (7) feet if single loaded.
4. Existing plant material and trees with a caliper of six (6) inches or more shall be preserved wherever possible during construction and may be credited toward the amount of required plantings.
- G. Approved Plant Materials List. Materials approved for use in landscaping and screening in the Township are found in Appendix 4.

**SECTION 705 ACCESS AND TRAFFIC CONTROL**

- A. Vehicular Access.
- 1. Where the lot width of a residential use is fifty (50) feet at the road line, the vehicular accessway shall be located fifty (50) feet from any intersection of a road, measured from the intersection of the road lines.
  - 2. All other vehicular accessways to any public road shall be located at least one hundred (100) feet from the intersection of any road lines and shall be designed in a manner conducive to safe ingress and egress.
- B. Where a lot exists between two (2) parallel roads, access from both roads shall be prohibited. In such cases, the double frontage lot shall be designed as a reverse frontage lot and access shall be provided from the local road.
- C. No more than four (4) lots shall access on the turnaround area of a cul-de-sac.
- D. No driveway from a residential unit is permitted on arterial highways, as identified in the *Highland Township Comprehensive Plan (2001)*, unless approved by the Board of Supervisors and the Pennsylvania Department of Transportation as being no threat to public safety. If so approved, the developer shall be responsible for the construction of any necessary traffic control devices or additional acceleration lanes as may be required.
- E. Notwithstanding the exception permitted under Subsection D., above, and otherwise excepted for one-acre spin off residential lots created pursuant to Section 301.4.B of this Ordinance, in order to ensure safe, efficient traffic circulation, no residential driveways shall be approved which directly access:

Doe Run Station Road  
Friendship Church Road  
Gum Tree Road  
Highland Road  
PA Route 10  
Stottsville Road

Access to such lots shall be from a public or private residential service road, approval of which shall be contingent upon an acceptable sketch plan of the entire tract from which said lots are to be subdivided.

- F. No more than three (3) residential units shall share a common driveway. A common driveway serving more than three (3) residential units shall be defined as a private road and shall be required to be constructed to standards as specified in the Township Subdivision and Land Development Ordinance.
- G. Provisions shall be made for safe and efficient ingress and egress to and from public roads, without undue congestion or interference with normal traffic flow. The developer shall be responsible for all necessary traffic control devices, including acceleration lanes, and all required traffic studies, as required.
- H. In cases where large volumes of traffic may be generated (such as a shopping center, office building, church or other large scale uses), buildings shall front on a marginal road or parking area and have no more than two (2) accessways to any single road.
- I. Obstructions to Vision. Clear sight distance shall be maintained for all vehicles per the following criteria:
  - 1. No wall, fence or other obstruction shall be erected, allowed, or maintained, and no hedge, tree, shrub, or other vegetation shall be planted or exist which dangerously obscures the view of approaching traffic.
  - 2. On a corner lot, nothing shall be erected, placed or allowed to grow which dangerously obscures the view within a clear sight triangle defined by the following:
    - a. Above the height of two and one-half (2 ½) feet and below the height of twelve (12) feet measured from the centerline grades of the intersecting roads; and
    - b. Within the area bounded by the centerline of intersecting roads and a line joining points on these centerlines seventy-five (75) feet from the intersection of the centerlines of such roads.
  - 3. Entrances onto public roads shall be maintained in accordance with the requirements of the Township Subdivision and Land Development Ordinance.

**SECTION 706 INTERIOR CIRCULATION**

- A. Design of Access Aisles and Drives.
  - 1. Interior drives shall be designed to prevent their blockage by vehicles entering or leaving the site and shall be clearly marked by signs, curbing or lines. Drives may be one-way or two-way. Access aisles shall have a minimum width of twenty-five (25) feet. Areas designed for loading and unloading of delivery trucks or other vehicles and for the servicing of shops by refuse collection, fuel or other vehicles shall be separate and adequate in size (See Section 708) shall be arranged to prevent the blocking or interfering with the use of accessways, automobile parking facilities or pedestrian ways, and shall have adequate turnaround surfaces so egress to the road is in a forward direction.

2. Accessways, parking areas and loading areas shall have clearly defined parking bays and traffic circulation lanes designated by markings, curbs, barriers and/or landscaped islands, so that operators of vehicles intending to patronize such parking areas will not impede traffic as a result of any confusion as to location of entrances and exits and manner of reaching them. In the event said interior drives are not marked as required by this section, the Township may perform said marking and recover therefor from the owner or tenant of the said lot in the manner permitted by law.
3. All interior drives and accessways shall be paved with an approved all-weather surface and shall be graded, properly drained and maintained in good condition. Interior drives shall have a maximum grade of four (4) percent, measured along the centerline, for a distance of not less than twenty-five (25) feet from the road right-of-way line. Beyond that point, interior roads and drives shall have a maximum grade of six (6) percent.
4. Driveways serving a residential use shall have a finished grade not to exceed ten (10) percent and where reasonably possible shall follow contours to avoid significant grading.
5. Common or shared access driveways to parking and loading areas are permitted and encouraged, provided a site plan and agreement indicating the extent of joint use and maintenance responsibilities is furnished to the Township in recordable form.
6. Convenient and logical walkway connections for pedestrians shall be provided between the entrances of a principal building and its required parking spaces. Maximum separation of pedestrian and vehicular routes shall be encouraged for pedestrian safety.

B. Fire Lane Easements.

1. No multi-family residential or institutional building shall be located more than one hundred fifty (150) feet from a duly dedicated, improved and accessible fire lane easement, as defined herein, nor more than six hundred (600) feet from a duly dedicated, accessible and improved public or private road. Fire lane easements shall be located adjacent to all commercial and industrial building(s).
2. Fire lane easements shall have a minimum unobstructed right-of-way width of forty (40) feet and there shall be constructed within this right-of-way an all-weather and well-drained surfaced cartway with a minimum width of twenty (20) feet. The extension of fire lane easements shall begin from one (1) or more existing and improved public roads.
3. Fire lane easements which curve, turn or change direction shall have a minimum radius of fifty-five (55) feet over the paved surface. Fire lane easements containing reverse curves shall have a minimum centerline tangent length of fifty (50) feet between curves.
4. Dead-end fire lane easements shall not exceed four hundred (400) feet in length and shall be terminated with an unobstructed vehicular turnaround or cul-de-sac with a minimum surface radius of thirty-five (35) feet.

**SECTION 707 LIGHTING**

A. Purpose and Applicability.

1. Purpose. The purpose of these lighting regulations is to require and set minimum standards for outdoor lighting to:
  - a. Provide outdoor lighting in a manner consistent with the *Highland Township Comprehensive Plan* (2001) goal of retaining the rural, natural and scenic character of the Township and protecting the health, safety and welfare of current and future residents.
  - b. Protect drivers and pedestrians from the glare of non-vehicular light sources that impair safe travel.
  - c. Protect neighbors and the night sky from the nuisance glare from poorly aimed, placed, applied, maintained, or shielded light sources.
  - d. Provide adequate lighting in outdoor public places where public health, safety and welfare are concerns.

2. Applicability.

- a. Lighting facilities shall be required for loading, ingress and egress and parking areas for multiple-family, commercial, industrial and institutional uses. The Board of Supervisors may also require lighting for other uses or locations, where warranted. All lighting systems must be serviced by underground wiring. Outdoor lighting is required for safety and personal security in areas of public assembly and traverse.
- b. The lighting standards and requirements herein contained apply to commercial, industrial, public recreational, and institutional uses, as well as, but not limited to, sign, architectural, landscaping, and residential lighting.
- c. These requirements also apply to existing lighting fixtures or installations that are to be replaced, modified, or relocated; that have been abandoned; or when there is a change or expansion of use. (See also subsection H., Nonconforming Lighting.)
- d. Lighting regulated by this Ordinance shall be reviewed and approved by the Board of Supervisors or Zoning Officer, as applicable, prior to its installation.

B. Design.

1. Illumination Levels

Lighting required by this Ordinance shall have intensities and uniformity ratios in accordance with the recommended practices of the Illuminating Engineering Society of North America (IESNA) as contained in the most current edition of the IESNA Lighting Handbook, including but not limited to the following:



Use /Task	Maintained Footcandles	Uniformity Average:Minimum
(a) Streets, local residential	0.4 Avg.	6:1
(b) Streets, local commercial	0.9 Avg.	6:1
(c) Parking, residential, multi-family		
- Low vehicular/pedestrian activity	0.2 Min.	4:1
- Medium vehicular/pedestrian activity	0.6 Min.	4:1
(d) Parking, industrial/commercial/institutional/municipal	0.9 Min.	4:1
- High activity, e.g., regional shopping centers/fast food facilities, major athletic/ civic/cultural/ recreational events	0.6 Min.	4:1
- Medium activity, e.g., community shopping centers, office parks, hospitals, commuter lots, cultural/civic/recreational events	0.2 Min.	4:1
- Low activity, e.g., neighborhood shopping, industrial employee parking, schools, church parking.		
(e) Sidewalks, walkways and bikeways	0.5 Avg.	5:1
(f) Building entrances, commercial, industrial, institutional	5.0 Avg.	n/a

**Notes:**

- Illumination levels are maintained horizontal footcandles on the task, e.g., pavement or area surface.
  - Uniformity ratios dictate that average illuminance values shall not exceed minimum values by more than the product of the minimum value and the specified ratio (e.g., for commercial parking, high activity, the average footcandles shall not be in excess of 3.6 [0.9 x 4]).
2. Lighting standards in parking areas shall not be located farther than one hundred (100) feet apart.
  3. Lighting Fixture Design.
    - a. Fixtures shall be of a type and design appropriate to the lighting application.
    - b. For lighting horizontal tasks such as roadways, pathways and parking areas, fixtures shall meet IESNA “full cutoff” criteria (no light output emitted above ninety (90) degrees at any lateral angle around the fixture and no more than ten (10) percent light output above eighty (80) degrees).
    - c. Floodlighting, spotlighting, wall-mounted fixtures, decorative globes and other fixtures not meeting IESNA “full cutoff” criteria shall be permitted only with the approval of the Board of Supervisors, where acceptable glare control and consistency with the character of the surrounding area is shown.
    - d. Fixtures shall be equipped with or be capable of being modified to incorporate light directing, shielding devices, such as visors or hoods to redirect offending light distribution or reduce direct or reflected glare.
    - e. For residential applications, omni-directional fixtures (e.g., post top, wall bracket, wallpack, globe and sphere) shall meet IESNA “full-cutoff” criteria.

- f. NEMA-head fixtures (a.k.a. “barn lights” or “dusk-to-dawn lights”) shall not be permitted where they are visible from other uses, unless fitted with a reflector to render them full cutoff.

4. Control of Glare

- a. All outdoor lighting on private, residential, commercial, industrial, municipal, recreational or institutional property shall be aimed, located, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse the lighted area (i.e., disabling glare) and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property, (i.e., nuisance glare).
- b. Floodlights and spotlights shall be so installed and aimed so that they do not project their output into the windows of neighboring residences, adjacent uses, directly skyward or onto a roadway.
- c. Unless otherwise permitted by the Township (e.g., for safety, security, or all-night operations), lighting shall be controlled by automatic switching devices such as time clocks or combination motion detectors and photocells, to permit extinguishing offending sources between 11 p.m. and dawn to mitigate nuisance glare and sky-lighting consequences.
- d. All non-essential lighting, including display, aesthetic, parking, and sign lighting, shall be turned off or reduced by seventy-five (75) percent after business hours or 11 p.m., whichever is earlier, leaving only the necessary lighting for site security. Lighting proposed to remain on after 11 p.m. for a specific safety purpose shall be approved by the Township.
- e. Vegetation screens shall not serve as the primary means to control glare. Instead, glare control shall be achieved primarily through the use of cutoff fixtures, shields and baffles, and the appropriate application of fixture mounting height, wattage, aiming angle and fixture placement.
- f. The intensity of illumination projected onto a residential use from another property shall not exceed 0.1 vertical footcandle, measured line-of-sight at the property line.
- g. Externally illuminated signs and billboards shall be lighted by fixtures mounted at the top of the sign and aimed downward. Such fixtures shall be automatically extinguished between the hours of 11.p.m. and dawn, except as specifically approved by the Township to illuminate necessary directional information.
- h. Directional fixtures used for architectural lighting (e.g., facade, fountain, feature and landscape lighting), shall be aimed so as not to project their output beyond the objects intended to be illuminated and shall be extinguished between the hours of 11 p.m. and dawn.
- i. Light output for flagpole lighting shall not cumulatively exceed ten-thousand (10,000) lumens.

- j. Service station canopy lighting shall be accomplished using flat-lens full-cutoff downlighting fixtures, shielded in such a manner that the edge of the fixture shield shall be level with or below the light source envelope.
- k. The use of white strobe lighting for tall structures such as smokestacks, chimneys, and communications towers is prohibited, except as otherwise required by Federal Aviation Administration regulations.

5. Installation.

- a. The applicant shall install all lighting fixtures at the expense of the applicant in accordance with a utility plan prepared by the applicant and approved by the Board of Supervisors and the appropriate utility company.
- b. The applicant shall be responsible for all costs involved in the lighting of roads and intersections from the date the first dwelling is occupied until the date the roads are accepted for dedication.
- c. For new installations, electrical feeds for fixtures mounted on poles shall be run underground.
- d. Poles supporting lighting fixtures for the illumination of parking areas shall be placed a minimum of five (5) feet outside the paved area or on concrete pedestals at least thirty (30) inches high above the pavement or be suitably protected from potential vehicular impact by other approved means.
- e. Except as otherwise permitted in subsection C. for recreational lighting, the following height requirements shall apply to proposed lighting fixtures. Fixtures meeting IESNA “full cutoff” criteria shall not be mounted in excess of twenty (20) feet above grade. Fixtures not meeting IESNA “full cutoff” criteria shall not be mounted in excess of sixteen (16) feet above grade except as specifically approved by the Township. Artificial elevation of the grade at the base of the light fixture is prohibited.

6. Maintenance. Lighting fixtures and ancillary equipment shall be maintained so as to continuously meet the requirements of this Ordinance.

C. Standards for Recreational Lighting

- 1. When facilities for such outdoor recreational activities as baseball, softball, soccer, tennis, football, and miniature golf courses are proposed for operation during hours of darkness, they shall be subject to approval as a special exception in accordance with, among more general standards, the following:
  - a. Lighting shall be accomplished only through the use of “cutoff” fixtures unless otherwise approved by the Township.
  - b. Sporting events shall be timed so that all area lighting in the sports facility is extinguished by 10:00 p.m., regardless of such occurrences as extra innings or overtimes, unless otherwise approved by the Township.

- c. Golf driving ranges and golf courses shall not be artificially lit and shall not be permitted to operate during hours of darkness.
- 2. The foregoing outdoor recreational activities shall not be lighted if they are located within one-thousand (1,000) feet of an existing, adjoining residential use.
- 3. Mounting Heights. Maximum mounting heights for outdoor recreational lighting shall be in accordance with the following:

Sport	Maximum Mounting Height
Basketball	20 feet
Football and other field sports	50 feet
Organized baseball and softball*	
200 foot radius	60 feet
300 foot radius	70 feet
Miniature Golf	20 feet
Tennis	30 feet

\*Minimum mounting heights in accordance with league regulations shall prevail.

**D. Standards for Residential Lighting**

Lighting facilities on individual single family and other residential lots to illuminate private walkways, driveways, parking areas, patios, tennis courts, swimming pools or other areas shall be permitted under the following conditions:

- 1. In no case shall the level of illumination be more than 0.5 footcandle.
- 2. No lighting shall be permitted which shines directly into adjacent properties or any public right-of-way.
- 3. Where reasonably possible, indirect lighting and short post lighting along walkways or driveways should be incorporated to reduce glare.

**E. Plan Submission**

- 1. Lighting plans shall be submitted to the Township for review and approval with applications for conditional uses or special exceptions, preliminary or final subdivision or land development plans, or variance applications. In addition, the Zoning Officer may require the submission of a lighting plan with any building permit application for other than a single-family residential use. Lighting plans shall include the following information:
  - a. A site plan containing a layout of the proposed fixtures by location and type. The site plan shall also include, as applicable, structures, parking spaces, building entrances, traffic areas (both vehicular and pedestrian), vegetation that might interfere with lighting, and adjacent uses that might be adversely impacted by the lighting,
  - b. Isofootcandle plots for individual fixture installations and ten by ten (10 x 10) foot illuminance-grid plots for multi-fixture installations which demonstrate compliance with the intensity and uniformity requirements in this Ordinance.

- c. Description of the proposed equipment, including fixture catalog cuts, photometrics, glare reduction devices, lamps, control devices, mounting heights, pole foundation details, and mounting methods proposed. Specific information to be provided shall include the following:
  - 1) Type classification system/manufacturer's specifications.
  - 2) Photometrics as to horizontal isolux and vertical plane through maximum candela.
  - 3) Light wattage and mounting height to be used.
  - 4) Type light fixture and method of distribution to be used.
2. When requested by the Township, the Applicant shall also submit a visual impact plan that demonstrates appropriate steps have been taken to mitigate on-site and off-site glare.
3. Post-approval alterations to lighting plans or intended substitutions for approved lighting equipment shall be submitted to the Township for review and approval.

F. Post Installation Inspection

The Township may conduct a post-installation nighttime inspection to verify compliance with the requirements of this Ordinance and, if appropriate, require remedial action at no expense to the Township.

G. Compliance Monitoring

1. Safety Hazards

- a. If a lighting installation creates a safety or personal-security hazard, the person(s) responsible for the lighting shall be required to take remedial action.
- b. If appropriate corrective action is not taken, the enforcement provisions of Section 1001.3 may be employed to obtain such correction.

2. Nuisance Glare and Inadequate Illumination Levels

When an installation produces unacceptable levels of nuisance glare, skyward light, excessive or insufficient illumination levels or otherwise varies from this Ordinance, the Township may require appropriate remedial action.

H. Nonconforming Lighting

Any lighting fixture or installation lawfully existing on the effective date of this Ordinance that does not conform with the requirements of this Ordinance shall be considered lawfully nonconforming. Unless minor corrective action is deemed by the Township to be an acceptable alternative, a nonconforming lighting fixture or installation shall be made to conform with this Ordinance when:

1. The nonconformity creates a safety hazard;

2. Is replaced, modified, abandoned, or relocated; or
3. Is changed or expanded.

I. Road Lighting Dedication

1. When road lighting is to be dedicated to the Township, the Applicant shall be responsible for all costs involved until the road is accepted for dedication.
2. Prior to dedication, the Township shall require the dedicator to enter into an agreement guaranteeing payment of all such costs.

**SECTION 708      LOADING AND UNLOADING**

For any building or structure, to or from which materials or merchandise will be shipped by trucks or similar vehicles, there shall be off-street loading and unloading berths not less in number than the minimum requirements specified in this Section. These requirements shall not apply to agricultural operations involved in the transportation and storage of raw or finished materials and farm products.

A. Location.

1. All loading and unloading areas shall be located on the same lot as the use to be so served such that no portion of any vehicle in such areas shall project into any traffic lane. No loading area for vehicles of more than two (2) ton capacity shall be located closer than one hundred (100) feet to any existing residential use nor shall any permitted or required loading area be located within fifty (50) feet of a property line.
2. Loading facilities shall not be constructed within any required yard area; shall be located either on the side or rear of the building; and shall be properly screened in accordance with Section 704.
3. Loading areas shall not be located between the building setback line and road nor shall they be visible from the road.
4. Loading and unloading areas shall be provided with proper and safe access and be separated and screened from other vehicular and pedestrian traffic so that loading and unloading operations, including arrivals and departures, shall not interfere with traffic circulation or with required off-street parking.

B. Size. Loading and unloading areas shall be at least fifteen (15) feet wide, sixty (60) feet long and have at least a sixteen (16) foot vertical clearance.

C. Access. Each loading and unloading area shall have access such as will least interfere with traffic be subject to the approval of the Township. Accesses shall have paved surfaces adequate to provide safe and convenient access during all seasons.

D. Surfacing. Loading and unloading areas shall have paved, all-weather, dustless surfaces of sufficient load-bearing properties to be consistent with the intended uses.

- E. Space Allowed. Loading berths shall not be used to satisfy parking requirements nor shall required parking spaces be used for loading and unloading purposes except during hours when business operations are suspended.

**SECTION 709      PARKING**

No building or structure shall hereafter be constructed, enlarged or modified and no use or activity shall be conducted or expanded unless provision is made on the same or an adjacent lot for parking either within a structure or in the open, with proper and safe access from a road.

A.      Location

- 1.      In no case shall any portion of a public or private road be utilized to comply with the parking requirements of this Section.
- 2.      All parking spaces shall be on the same lot as the principal building unless permitted elsewhere by the Zoning Hearing Board. The Zoning Hearing Board may also authorize a reduction in the number and size of parking spaces where the reduction will still provide adequate parking.
- 3.      In the (IND) Industrial District, no parking, loading or service area shall be located less than twenty (20) feet from the road. In the (RV) Rural Village Districts, no parking, loading or service area shall be located within the required front yard areas (i.e. between the road right-of-way and building setback line).
- 4.      For residential dwellings, parking spaces shall be within one hundred (100) feet of the dwelling unit they serve.
- 5.      The maximum number of accessways permitted per road frontage shall be as follows:

<u>Type of Street Frontage</u>	<u>Maximum Number of Accessways</u>
Less than 300 feet in length	1
Equal to or greater than 300 feet	2

- 6.      No accessway shall be located within twenty (20) feet of a property line, or one hundred (100) feet of an intersection.
- 7.      Handicapped parking shall comply with the requirements and standards of the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 et seq.).

B.      Residential Requirements

All dwelling units shall be required to have two (2) off-street parking spaces per unit. Driveways for single family or two-family dwellings may be used to satisfy this requirement.

C.      Commercial, Industrial, Institutional and Recreational Requirements

- 1.      One (1) parking space shall be required per employee in all commercial and industrial districts. In computing the number of employees, only full-time employees working day

shifts shall be counted. Additional parking shall be required as specified in subsection C.3., below. In applying that Section, the following definitions shall be utilized:

- a. Sales Area: Space on the first floor on which goods are displayed and/or business is transacted and such space on other floors on which any sales persons are regularly stationed.
  - b. Floor Area: The sum of the area of the several floors of a building or buildings measured from the face of the exterior walls or from the centerlines of the walls separating two buildings.
2. For uses other than single-family or multi-family residential, parking spaces shall be provided within six hundred (600) feet of the front access of the business establishment along a route customarily used by pedestrian traffic. Where several uses share parking spaces, the aggregate of all available spaces shall be compared to the sum required to serve all uses to determine whether there are sufficient spaces to permit a particular use.
3. One (1) parking space shall be provided for each company vehicle stored on the premises. The number of additional required spaces shall be determined by the application of the following formula to the appropriate contemplated use:

Commercial Uses, Industrial Uses and Service	Minimum Number of Parking Spaces
Manufacturing	3 spaces/1,000 S.F. GFA*, or 4 spaces minimum
Warehouse, distribution facilities, truck terminals	1 space/5,000 S.F. GFA
Laboratory and research facilities	2 spaces/1,000 S.F. GFA
Eating and drinking places	1 space/2 seats
Convenience store (in addition to gas station requirements, where applicable)	5 spaces/1,000 S.F. GFA
Gasoline station (in addition to service station requirements and convenience store requirements, where applicable)	1 space/ pump island plus 2 stacking spaces/pump island
Service station/repair facility/auto body repair	4 spaces/garage bay
Laundromat	1 space/washing machine
Personal service establishment	4 spaces/1,000 S.F. GFA
Wholesale sale or storage	1 space/1,000 S.F. GFA
Hotel or motel	1 space/guest room
Gift and antique shops	1 space/300 S.F. GFA
Department and variety stores	4 spaces/1,000 S.F. GFA
Food stores and pharmacies	5 spaces/1,000 S.F. GFA
Professional, administrative, general offices (non-consumer oriented)	3 spaces/1,000 S.F. GFA
Medical offices and clinics, including veterinary offices and animal hospitals	4 spaces/doctor
Banks and financial institutions	4 spaces/1,000 GFA
Retail store/service/shop not covered elsewhere	4.5 spaces/1,000 GFA



<b>Institutional and Park Uses</b>	<b>Minimum Number of Parking Spaces</b>
Church or theater (not including classrooms or other facilities provided onsite)	1 space/2 seats, 25% may be in reserve lot
Hospitals, nursing homes, and other such institutions	1 space/ 5 patient beds
Elementary school and middle school	1 space/classroom plus 2 spaces/1,000 S.F. devoted to administrative use
High school	1 space/classroom plus 2 spaces/1,000 S.F. devoted to administrative use, plus [0.75 x max. building capacity]
Retirement Community	2 spaces/unit
Assisted Care Living Facility	1 space/3 patient beds
Day care center	3 spaces/1,000 S.F. GFA, plus 10 stacking spaces
<b>Recreation</b>	<b>Minimum Number of Parking Spaces</b>
Driving range	1 space/1 tee
Golf club	4 spaces/1 tee plus 50% of requirements for ancillary uses, if applicable
Private country club, hunt club	1 space/5 members at capacity
All other uses	1 space/250 S.F. GFA

Throughout this Section, “S.F.” shall be interpreted as “square feet” and “GFA” shall be interpreted as “gross floor area,” as defined in Article XIV.

**D. Reserve Parking**

In order to reduce unnecessary impervious surface and excessive stormwater runoff, the number of required paved parking spaces may be reduced when authorized by special exception if the following conditions are met to the satisfaction of the Zoning Hearing Board.

1. Evidence is submitted, based on actual observed rates of parking for the use proposed, that said use required fewer parking spaces than required by this Section.
2. A site development plan is submitted indicating the location and layout of the required parking area. Those parking areas deemed unnecessary at the time of application designated as “reserved parking area”, shall be designed and constructed in accordance with Subsection 6., below.
3. No more than twenty (20) percent of the required parking shall be reserve spaces, and the total number of reserved and paved parking spaces shall equal the number of parking spaces required by this Section.
4. In no event shall the reserve portion of the parking area be counted as open space or as any other pervious surface required by this Ordinance.
5. The reserve parking area shall not be used for storage or structures, whether of a temporary or permanent nature.

6. Reserve parking areas may be precast porous pavement (such as “grasscrete”), or upon recommendation by the Township Engineer, gravel, grass or other approved material, depending upon the degree of anticipated use.

E. Location of Parking

1. Except as provided in subsection 2., below, required parking shall be located on the same lot as the uses or activities for which the parking is required.
2. Required parking spaces may be located other than on the same lot when authorized as a special exception, provided that:
  - a. Some portion of the common parking area lies within two hundred (200) feet of a regularly used entrance to the building served thereby;
  - b. The owners of two (2) or more establishments desiring a common parking area submit, with their application for special exception, a site plan showing the joint use and location of the common parking area; and
  - c. The Zoning Hearing Board may reduce the aggregate number of required parking spaces by up to fifteen (15) percent if greater efficiency can be effected by the joint use of a common parking area.

F. Size and Design of Parking Spaces

1. Parking areas shall have a finished grade of not more than five (5) percent in any direction and provide drainage by a slope of at least one (1) percent. Adequately sized inlets shall be provided to discharge storm water as approved by the Township.
2. Parking spaces shall be ten (10) feet wide by eighteen (18) feet long, exclusive of passageways, driveways or other means of circulation access. Not more than two (2) feet of a parking space may overhang the outer perimeter boundaries of the parking lot so long as such overhang does not intrude into an adjacent right-of-way or pedestrian walkway; for those parking spaces only, the area directly below the overhang need not be paved, although the balance of said space must be paved. All such perimeter parking spaces shall have curbing.
3. All parking spaces shall have an approved all weather dustless surface.
4. Parking areas shall be designed to permit each motor vehicle to proceed to and from each parking space without requiring the moving of any other motor vehicle.
5. In no case shall parking areas be designed to require or encourage vehicles to back into a public road in order to leave the lot.
6. All parking areas shall be adequately marked and maintained. As a minimum, the lines of all-parking stalls and driveways (including directional arrows, etc.) shall be solid white and four (4) inches in width. White paint for these lines shall conform to Federal Specification TT-P-115C, Type 1 for white non-reflective traffic line paint or an equivalent.

G. Traffic Lane and Driveway Dimensions

1. Lanes designed for circulation of motor vehicles within a parking area shall have a minimum width, as required below:

Angle of Parking (degrees)	Lane Width	
	One-Way (feet)	Two-Way (feet)
90	21	24
60	18	22
45	16	20

2. Access drives, unless shared between properties, shall be at least ten (10) feet from any property line.
3. Driveways providing access from the road or to any parking area shall be long enough to accommodate off-street stacking of vehicles waiting to enter the parking area. Each stacking area shall accommodate at least one (1) vehicle plus one (1) additional vehicle for every fifty (50) spaces in the parking area for up to twenty (20) stacked vehicles.
4. Parking areas shall have separate, marked lanes of ingress and egress, but for parking areas with access solely onto a local access road and providing ten (10) or fewer off-street parking spaces, a single lane for both ingress and egress is adequate.
5. The minimum width of entrance and exit drives shall be as follows:
  - a. One-way access – Fourteen (14) feet.
  - b. Two-way access – Twenty-four (24) feet.

**SECTION 710 PERFORMANCE STANDARDS**

The following regulations shall apply to all districts:

- A. Air Quality: Pollution and Airborne Emissions. All uses shall comply with the rules and regulations of the Pennsylvania Department of Environmental Protection (PaDEP) and with the following provisions:

There shall be no emissions of smoke, ash, dust, fumes, vapors, gases or other matter, toxic or noxious or corrosive to the air which violate the Pennsylvania air pollution control laws, including the standards set forth in 25 Pa Code, Article III, Air Resources, particularly Chapter 123 Standards for Contaminants and Chapter 131 Ambient Air Quality Standards.

1. Odors perceptible at the property lines or down wind from the source of any odor other than those produced by agricultural operations shall not be permitted. Dust or other particulate matter not associated with farm operations, construction or demolition activities shall also not be permitted.
2. No person shall operate or maintain any equipment, installation or device which discharges contaminants into the air in excess of the limits specified by Pennsylvania’s air pollution control laws.

- B. Fire and Explosive Hazards. No use or operation shall be permitted which creates a public nuisance or hazard of potential fire or explosion.

All activities and the storage of flammable and explosive material shall be provided with adequate safety devices and fire fighting and fire suppression equipment, specified by the laws of the Commonwealth of Pennsylvania.

- C. Glare and Heat. All uses shall comply with the following provisions:

1. No direct or sky-reflected glare, whether from floodlights or high temperature processes (such as combustion or welding or otherwise) visible at the lot line shall be permitted, except for signs or floodlighting of parking areas otherwise permitted by this Ordinance.
2. No emission or transmission of heat or heated air discernible at the lot line shall be permitted.

- D. Liquid and Solid Waste. No discharge into any public or private sewage system, watercourses or into the ground, of any materials that will contaminate or otherwise cause the emission of hazardous materials shall be permitted.

- E. Noise. No person shall operate any source of continuous sound (one which is static, fluctuating or intermittent with a recurrence greater than one (1) time in any fifteen (15) second interval) that creates a sound level in excess of the limits set forth in the following table when measured at or within the property boundary of the receiving land use.

Receiving Land Use Category	Time	Limit
Residential, public space, open open space, or institutional	1) 7:00 a.m. – 9:00 p.m.	50 dBA
	2) 9:00 p.m. – 7:00 a.m. plus Sundays and legal holidays	40 dBA
Commercial or Business	1) 7:00 a.m.-9:00 p.m.	65 dBA
	2) 9:00 p.m.-7:00 a.m. plus Sundays and legal holidays	50 dBA
Industrial	At all times	70 dBA

1. For any sound source which emits a pure continual tone, the maximum sound level limits set forth in the above table shall be reduced by 10 dBA and for any sound source which emits an impulsive sound (a sound of short duration, with an abrupt onset and rapid delay, and an occurrence of not more than one time in any fifteen (15) second interval) the excursions of sound pressure level shall not exceed 10 dBA over the ambient sound level of the receiving land use, regardless of time of day or night. Sound levels shall be measured at the property lines from which the sound emanates, by a sound level meter which conforms to specifications published by the American Standards Association.
2. The maximum permissible sound levels listed in the previous table shall not apply to any of the following noise sources:
  - a. The emission of sound for the purpose of alerting persons to the existence of an emergency or associated practice drills.

- b. Emergency work to provide electricity, water or other public utilities when public health or safety is involved.
  - c. Domestic power tools.
  - d. Agriculture.
  - e. Public celebrations authorized by the Township.
3. Motor vehicle operations shall not exceed the noise levels established in the State of Pennsylvania Code of Regulations 67 Pa Code §§ 157.1 et seq., for Established Sound Levels.
- F. Odors. No uses, except agricultural operations, shall emit odors in quantities offensive at any point on or beyond the lot lines of the property from which the odor emanates. The standard by which such quantities of offensive odors shall be determined shall be the fifty (50) percent response level of Table I (Odor Thresholds in Air), "Research of Chemical Odors: Part I - Odor Thresholds for 53 Commercial Chemicals", October, 1986, Manufacturing Chemists Association, Inc., Washington, D.C.
- G. Keeping of Animals. In any district on any lot of twenty-five (25) acres or less, dogs, cats, fowl, rabbits, goats, sheep, cows, swine, ponies, horses, and other animals of similar size, character and impact shall be kept only according to the following standards. Household pets (i.e., dogs, cats, and other small animals customarily kept in the home) shall be exempt from the acreage limitations of this Section but shall comply with the following:
1. No animals of any kind shall be kept on a property which will cause unhealthy or unsanitary conditions for humans or animals or cause excessive noise, objectionable odors, or the pollution of groundwater or stormwater runoff to adjacent properties.
  2. No person having in his or her custody livestock or poultry shall permit the same to go at large nor shall such livestock or poultry be permitted upon the public ways of the Township.
  3. All animals shall have appropriate and adequate access to food and water. Permanent shelter shall be provided for all animals including dogs, rabbits, poultry, swine, and other domestic animals. Horses, cattle, sheep, and goats shall have loafing sheds, covered feeding areas, or other appropriate facilities.
  4. A fenced or otherwise enclosed outside area shall be provided which is capable of containing the animals kept and is of sufficient size and located for good sanitation practices. Fencing shall be of sufficient sturdiness and proper design to prevent straying.
  5. The storage or stock-piling of manure or other odor or dust producing substances shall not be permitted within seventy-five (75) feet of any abutting property or public right-of-way, closer than one hundred (100) feet to any wells, springs or sinkholes, on slopes adjacent to any ponds and streams, or within any swale or drainageway.
  6. All grazing and pasture areas where animals are kept shall be fenced and consist of well-maintained grasses so as not to promote erosion.

- H. Radioactivity or Electrical Disturbances. No activities which emit dangerous radioactivity shall be permitted. No radio or electrical disturbances adversely affecting the operation of equipment belonging to someone other than the creator of the disturbance shall be permitted. Any use which incorporates the use of any radioactive material, equipment or supplies shall be in strict conformity with Title 25 Pa Code, Chapters 221, 223, 224, 225 and 227, relating to radiological health, Pennsylvania Department of Environmental Protection, Rules and Regulations.
- I. Vibration. No vibration shall be permitted which is discernible without the aid of instruments at or at any point beyond the lot line.

**ARTICLE VIII**

**TRANSFERABLE DEVELOPMENT RIGHTS (TDR) OPTION**

---

**SECTION 801 PURPOSE**

The primary purpose of the transferable development rights (TDR) option is to permanently preserve prime farmland, sensitive natural areas, and rural community character that would be lost if the land were developed. In addition, this Article is intended to protect the property rights of landowners whose land is intended for preservation.

**SECTION 802 AUTHORIZATION AND BASIC CONCEPT**

- A. The transferable development rights provisions set forth below are specifically authorized by Sections 603(c)(2.2) and 619.1 of the Pennsylvania Municipalities Planning Code, under the terms of which development rights are severable and separately conveyable from a sending area to a receiving area.
- B. The provisions of this Article permit the sale and transfer of development rights by landowners in areas proposed for conservation, called “sending areas,” to landowners in areas proposed for additional development, called “receiving areas.”
- C. When landowners in a “sending area” sell their right to develop all or a portion of their land, they must restrict in perpetuity that portion of land from which development rights are sold, against any future development as provided in this Ordinance. The land so placed under such a restriction may still be used for agricultural purposes, such as farming or forestry. When landowners in a “receiving area” buy such development rights, they receive the right to build more homes on their land than they otherwise would have been allowed.
- D. Deed restrictions imposed in a “sending area” do not prohibit the sale of the land after the development rights have been severed, but such land cannot thereafter be used for development purposes.
- E. The deed restriction of the land from which development rights have been severed shall run in favor of the Township or an approved conservation organization.
- F. The owner of the tract from which the development rights are severed or any subsequent purchaser or purchasers of the development rights may hold the development rights, resell the development rights, or retire the development rights. The Township shall have no obligation to purchase such development rights.

**SECTION 803 SALE OF TDRS FROM SENDING AREA**

Owners of tracts which meet the following requirements may sell their development rights:

- A. **Sending Area Qualifications**
  - 1. The sending area tract of land shall be located within the (A) Agricultural Preservation district.

2. The acreage to be restricted shall be contiguous.
3. The portion of the parcel not restricted shall continued to be usable under the use, area, dimensional, performance and other standards of the Ordinance.

**B. Calculation of Transferable Development Rights**

1. The total number of development rights on a tract shall be determined by multiplying the Adjusted Tract Area, as calculated in subsection C. below, by 0.5.
2. Land previously restricted against development by covenant, easement or deed restriction shall not have transferable development rights hereunder unless and until said covenant, restriction or easement is duly dissolved or rescinded.
3. Any sending tract shall retain at least one development right, unless the tract is joined in a single deed with an adjacent tract or tracts with retained or remaining development right(s).
4. Where the calculations authorized in subsection C., below, result in fractional numbers, a fraction of 0.5 or higher shall be rounded up to the next whole number and a fraction of less than 0.5 shall be rounded down to the next lowest whole number.

**C. Calculation of Adjusted Tract Area**

The maximum number of transferable development rights for a tract is based upon the Adjusted Tract Area of the site. The Adjusted Tract Area of a site shall be determined by excluding the adjusted constrained lands from the gross tract area. The adjusted constrained lands shall be determined by multiplying the acreage classified as being in each category of constrained land, described below, by the percentage deduction for that category of constrained land and then summing all categories as so adjusted.

1. Adjusted Constrained Lands

In calculating the sum of the constrained land where more than one type of constrained land overlaps, the constrained land with the higher percentage deduction shall be used.



**Table 8-1: Adjusted Constrained Lands Calculation**

<b>Constraint</b>	<b>B Percent of Constrained Area to be deducted (multiplier)</b>	<b>C Total Amount of Land Constrained (sq.ft.)</b>
Land within the rights-of-way of existing public roads or highways, or within the rights-of-way for existing or proposed overhead utility lines or underground gas lines	100% (1.00)	
Land under existing private roads	100% (1.00)	
Floodplain/Floodway	100% (1.00)	
Steep Slopes		
Moderately Steep	70% (0.30)	
Very Steep	85% (0.15)	
Wetlands	100% (1.00)	
Wetland Margins	80% (0.20)	
Riparian Buffers		
Zone 1 Buffer	100% (1.00)	
Zone 2 Buffer	80% (0.20)	
<b>Total Adjusted Constrained Lands</b>		

2. Adjusted Tract Area

The Adjusted Tract Area (ATA) shall equal the Gross Tract Area (GTA) minus the Adjusted Constrained Lands as determined above.

*Formula: Adjusted Tract Area = Gross Tract Area - Adjusted Constrained Lands*

D. **Declaration of Transferable Development Rights and Certification by Township**

Any owner of a tract of land in a designated “sending area” may elect to determine the development rights that may be severed from such a tract of land, based on subsection 803.B, above, by requesting a written certification from the Township of the number of rights that may be so severed, which certification shall not be unreasonably withheld.

E. **Severance of Transferable Development Rights**

1. Transferable development rights shall be conveyed by a Deed of Transferable Development Rights duly recorded in the Office of the Chester County Recorder of Deeds. The Deed of Transferable Development Rights shall specify one of the following: the tract of land to which the rights shall be permanently attached or that the rights shall be transferred to the Township, retained by the owner of the sending tract, or another person in gross. See Appendix 5 for a sample Deed.
2. Each Deed of Transferable Development Rights shall explicitly reference conservation easement(s) which shall permanently restrict development of the sending tract as

provided below and which shall be recorded in the Office of the Recorder of Deeds at the same time as or prior to such Deed of Transferable Development Rights.

3. Deeds of Transferable Development Rights and conservation easements shall not be valid unless explicitly endorsed by the Township on the faces of each such deed prior to recording. These endorsement shall not be unreasonably withheld. These legal documents shall be presented along with the following:
  - a. Deeds so submitted to the Township for endorsement shall be accompanied by a title search of the sending area tract(s) and a legal opinion of title affirming that the development right(s) to be transferred by such Deeds have not been previously severed from or prohibited upon the sending area tract.
  - b. All such title reports shall be effective to within ten (10) days prior to submission of such Deeds to the Township and the legal opinion of title must meet the reasonable approval of the Township Solicitor.
4. Severance of development rights from a sending area tract shall not affect the right of the tract owner to develop the tract's existing historic structures.
5. If a sale or transfer of development rights would entail less than an entire parcel, the portion of the parcel from which the development rights are to be transferred shall be clearly identified on a plan of the entire parcel, drawn to scale, the accuracy of which shall be satisfactory to the Township. Such plan shall also include a notation of:
  - a. The number of development rights applicable to the entire parcel,
  - b. The number of development rights applicable to the identified portion of the parcel from which the development rights are to be transferred, and
  - c. The number of development rights which will remain available to the remaining portion of the parcel.
6. If a sale of development rights would entail less than the entire number of development rights already represented by a recorded Deed of Transferable Development Rights, the disposition of the remaining development rights shall be stated in the deed transferring less than all the development rights.

F. **Sending Area Conservation Easement**

Any sending tract from which development rights are to be severed must be permanently restricted from future development by a conservation easement which meets the following requirements:

1. Except where any development rights are retained, the conservation easement shall permanently restrict the land from future development for any purpose other than agricultural uses, public park land, conservation areas or similar uses.
2. The conservation easement shall be approved by the Board of Supervisors.
3. The conservation easement shall designate Highland Township and a bona fide conservation organization acceptable to the Township at its sole discretion, as the

beneficiary/grantees and the following parties as having separate and independent enforcement rights with respect to such conservation easement:

- a. All future owners of any portion of the sending parcel, and
  - b. All future owners of any portion of any parcel to which the transferable development rights shall be permanently attached.
4. The conservation easement on the tract of land, or portion thereof, from which development rights are to be sold (sending tract) shall specify the number of development rights to be severed as well as any to be retained. No portion of the tract area used to calculate the number of development rights to be severed shall be used to satisfy minimum yard setbacks or lot area requirements for any development rights to be retained or for any other development.
  5. Retained development rights may not exceed one (1) dwelling unit per twenty-five (25) acres. Notwithstanding the foregoing, tracts within the (A) – Agricultural Preservation district existing at the time of enactment of this Ordinance which are less than twenty-five (25) acres in gross area may retain no more than one development right.
  6. Parcels with retained development rights may be developed with traditional farm/estate building groupings, including, in addition to one (1) primary residence, customary accessory agricultural structures and one (1) tenant residence having less than fifty (50) percent of the total habitable square footage of the primary residence so long as the retention of this right is explicitly specified in the conservation easements and on the Conservation Plan.
  7. All owners of all legal and beneficial interests in the tract from which development rights are to be severed shall execute the Deed of Transferable Development Rights and Conservation Easement and all lienholders of such tract shall execute a recordable joinder and/or consent thereto.
  8. Final approval for any subdivision or land development plan utilizing transferred development rights shall be contingent upon the recording of appropriate restrictions in the Office of the Recorder of Deeds of Chester County.

**SECTION 804      TRANSFER OF LESS THAN TOTAL RIGHTS FROM A TAX PARCEL**

When a landowner wishes to transfer less than the total number of development rights established for his or her tract of land, as identified by a single tax parcel, the landowner may do so, provided that:

- A. No residual parcel, except parcels from which development rights have been transferred, shall be created, except in conformance with the lot size and dimensional requirements of the (A) Agricultural Preservation district.
- B. In determining which portions of a tract of land should be included in the conservation easement agreement, the landowner shall adhere to the following priorities, in descending order of importance (and as specified in Article V, Natural Resource Protection Standards):
  1. Prime agricultural soils;
  2. Lands devoted to agricultural uses;
  3. Historic, cultural and scenic resources, as identified in the *Highland Township Comprehensive Plan* (2001);

4. Floodplains and floodways;
5. Wetlands and wetland margins;
6. Woodlands and slopes exceeding fifteen (15) percent.

**SECTION 805 RECEIVING AREA QUALIFICATIONS AND CALCULATIONS**

Owners of tracts which meet the following requirements may use development rights that are purchased from sending area landowners.

**A. Receiving Area Qualifications**

The receiving tract of land shall be located in the (RV-2) Rural Village district.

**B. Use of Transferable Development Rights on Receiving Area Sites**

**1. Increase in Permitted Density**

Subject to conditional use approval, the maximum base density otherwise established in the (RV-2) Rural Village district may be increased through receipt of transferable development rights up to a maximum as shown below:

**Permitted Maximum Increases In Density Over Base Zoning**

<u>Base District</u>	<u>Allowable Density Without TDR</u>	<u>Allowable Density With TDR</u>
RV-2	2 dwelling units/gross acre*	4 dwelling units/gross acre

\* Based on availability of public or community sewer and water supply systems. This shall be the density upon which received development rights shall be added.

Calculation of the base permitted density shall otherwise comply with the provisions of the (RV-2) Rural Village district. Received development rights, above the applicable base density, may be developed at a rate of 1 residential dwelling unit per 1 received development right, regardless of type of residential unit.

**2. Design Requirements and Modification of Area and Bulk Standards**

All development using Transferable Development Rights shall comply with all requirements and design standards applicable in the (RV-2) Rural Village district except as specifically provided in this Article. For any development where at least twenty (20) Transferable Development Rights are received, applicable area and bulk requirements may be modified by as much as twenty-five (25) percent subject to conditional use approval by the Board of Supervisors, so long as such modification is consistent with the purposes of this Ordinance and with the supplemental land use standards provided in Article VI.

**SECTION 806 PLAN SUBMITTAL PROCESS**

- A. Applicants for use of transferable development rights shall either submit subdivision or land development plans as required in accordance with the Township Subdivision and Land Development Ordinance, or a conditional use application where applicable. Submitted subdivision or land

development plans or conditional use applications, as applicable, shall, in addition to meeting all other applicable provisions, include the following:

1. A Deed of Transferable Development Rights or an agreement of sale for all development rights proposed to be purchased and proof of ownership or equitable ownership of the appropriate number of development right(s) needed for the proposed development, up to the maximum additional increment, calculated as above.
2. A note on the plan showing the total number of dwelling units proposed on the receiving area site, the total number that could be built in the (RV-2) Rural Village district and the incremental difference allowed through the use of TDRs.
3. A plan of the sending site(s) from which the applicant proposes to purchase development rights, showing all information needed to determine the number of development rights which may be sold, as required herein. In addition, the plan shall specify the total number of rights available at the sending site(s) under the (A) Agricultural Preservation district, the total number of rights to be sold, and total number to be retained at the sending site(s). The plan shall be accompanied by a metes and bounds description of the sending property(s), as well as each tax parcel number and owner name.

If the applicant is purchasing development rights from a portion of a sending area site, this portion shall be shown on the plan and described by metes and bounds and in a conservation easement. If the development rights have previously been severed from a tract in the sending area, a copy of the recorded Deed of Transferable Development Rights and accompanying conservation easement (as drawn and described) shall be submitted.

4. A title search of the tract from which the transferable development rights will be transferred sufficient to determine all owners and lienholders thereof. If the development rights have previously been severed from the tract in the sending area, a title search of the rights set forth in the Deed of Transferable Development Rights sufficient to determine all of the owners of the development rights and all lienholders shall be furnished to the Township.
- B. In order to receive final plan approval, the applicant must prove that conservation easements have been recorded for all sending area lands whose development rights the applicant proposes to use. These conservation easements must meet the requirements stipulated herein. The conservation easement on the sending area land shall be recorded first, followed by a Deed of Transfer, in accordance with the provisions of the Pennsylvania Municipal Planning Code, as amended, which transfers the development rights from the sending area landowner to the receiving area landowner.

#### **SECTION 807 PUBLIC ACQUISITION**

Highland Township may purchase development rights and may accept ownership of development rights through transfer by gift. All such development rights may be resold or retired by the Township. Any such purchase or gift shall be accompanied by Conservation Easements as specified in Section 803.F.

#### **SECTION 808 AMENDMENT AND/OR EXTINGUISHMENT**

The Township may totally abrogate or amend this Ordinance in the future, including changing the manner in which the number of development rights shall be calculated for a tract in the sending area and the manner in which development rights can be conveyed. No owner of the land or owner of development rights shall have any claim against the Township for damages resulting from a change in this Ordinance relating to the

regulations governing the calculation, transfer and use of development rights or the abolition of the transferable development rights program. If the transferable development rights program is abolished by the Township, no developer may attach development rights to any tract in the receiving area after the effective date of the ordinance abolishing the transferable development rights program unless an application in conformity with the provisions of this Article was filed prior to the effective date of such ordinance and thereafter is continuously processed to approval, and, following such approval, a complete subdivision and/or land development application complying with such rights is thereafter filed within six (6) months from the date of such approval.

**ARTICLE IX**

**SIGN REGULATIONS**

---

**SECTION 901 APPLICATION**

Any sign hereafter erected or maintained in Highland Township shall conform to the following provisions and regulations.

**SECTION 902 GENERAL SIGN RESTRICTION**

The following provisions shall apply to permitted signs in all districts:

A. Sign Location

1. No sign shall be erected or maintained so as to prevent free ingress or egress from any door, window or fire escape.
2. No sign shall be erected in such a position that it will obstruct free and clear vision to traffic. In no case shall a sign be located within the clear sight triangle, as defined in this Ordinance.
3. No sign, other than signs authorized by this Article, shall be erected within the right-of-way of any public road, public sidewalk, or shall be closer to a road than ten (10) feet, except for single dwelling real estate signs, which may be set closer for proper view from the road.
4. No sign shall project beyond or hang over a public sidewalk.

B. Sign Illumination

Except as otherwise provided in this Ordinance, any permitted sign, building or structure in any district may be illuminated provided that there shall be no illumination of a flashing, intermittent, moving, rotating, oscillating or similar type, and further provided that floodlighting shall be so shielded and aimed that the source of light shall not be visible from any point off the lot on which the sign, building, or structure being illuminated is erected, and such that only such sign, building or structure is directly illuminated thereby.

C. Sign Area

For the purposes of this Ordinance, the area of a sign shall be calculated as follows:

1. The area of the sign shall include the entire area within a single continuous perimeter enclosing the outer limits of such sign. The sign area shall not include any structural elements lying outside the limits of such sign and not forming an integral part of the display.
2. In the case of an open sign made up of individual letters, attached to or painted on a building, wall, window, canopy, or awning, the sign area shall be that of the smallest rectangle or other geometric shape which encompasses all of the letters and symbols.

3. In computing the area of a double-faced sign, only one (1) face shall be considered, provided that both faces are identical in area. In "V" type structures, if the interior angle of the sign faces exceeds forty-five (45) degrees, both faces shall be considered in computing the sign area.

D. Sign Height

The height of a sign shall be measured from the existing ground elevation at the base of the sign to the highest point of the sign structure. In the case where there is a sidewalk, the height shall be measured from the elevation of the sidewalk.

E. Vehicular Signs

A sign on a vehicle denoting a business-related activity shall be considered a business sign and shall be subject to the following regulations:

1. Vehicles containing a business sign and parked in a residential district shall be concealed (garaged) from public view or in a parking space screened from view from the road unless such vehicle is moved on a regular basis (i.e., at least three times per week) and except where the vehicle owner or repairman is actually engaged in authorized repairs or construction at that location.
2. Vehicles shall not be parked in public view in any district when their sole purpose is to serve as a sign or advertisement. (See also Section 904.K, Prohibited Signs.)

F. Construction and Maintenance

1. Every sign permitted by this Ordinance shall be constructed of durable materials and kept in good condition and repair. Any sign which is allowed to become dilapidated shall be removed at the expense of the owner or lessee.
2. All signs requiring the use of electricity shall be manufactured in accordance with Underwriter Laboratories' specifications.
3. Floodlighting used to illuminate signs shall be aimed as required to ensure light does not spill off the sign.

- G. No sign, except where exempted by these regulations, shall be erected without the issuance of a sign permit by the Zoning Officer. Issuance of sign permits is governed by the procedural requirements in Section 1004.4 of this Ordinance.

**SECTION 903 EXEMPT SIGNS**

No permit need be obtained to erect any of the following signs in any district. (See also Section 905.B, Temporary Signs not Requiring a Permit.) Exempt signs shall, however, conform to all other applicable regulations of this Ordinance:

- A. Official highway route number signs, street name signs, directional, or other official federal, state, county, or Township traffic signs.



- B. Directional information or public service signs, such as those advertising the availability of restrooms, telephone or similar public conveniences, and signs advertising meeting times and places of nonprofit service or charitable clubs or organizations, may be erected and maintained, provided that such signs do not significantly advertise any commercial establishment, activity, organization, product, goods or services, except those of public utilities. Directional and information signs provided for the safety and/or convenience of the public within commercial establishments may also be erected. Signs erected under this provision shall not exceed four (4) square feet in area.
- C. Trespassing signs or signs indicating the private nature of a road, driveway or premises, signs prohibiting or otherwise controlling hunting or fishing upon particular premises, and signs indicating ownership of a property, provided the sign area does not exceed three (3) square feet.
- D. Signs displaying name and address of the occupant of the premises, provided that the area of any such sign shall not exceed one (1) square foot and not more than one (1) such sign shall be erected for each property held in single and separate ownership, unless such property fronts on more than one (1) road, in which case one (1) sign may be erected along each road frontage.
- E. Governmental flags or insignias not exceeding eighty (80) square feet.
- F. Legal notices.
- G. Window signs indicating the store hours or names of credit institutions, provided that the total area of such sign or signs does not exceed two (2) square feet.
- H. Signs or emblems of a religious, civic, philanthropic, historical or educational organization not exceeding four (4) square feet in area.
- I. Vending machine signs bearing the brand name of the product being sold or price of such product.
- J. Memorial signs or historical tablets, provided that such sign or tablet does not exceed four (4) square feet.
- K. Signs which are a permanent architectural feature of a building or structure, such as a cornerstone, or identifying letters carved into or embossed on a building, provided that the letters are not made of a reflective material nor contrast in color with the building.
- L. Revolving barbershop pole sign, provided that such sign does not exceed thirty-six (36) inches in height as measured from the ground.
- M. Signs advertising the variety of crop growing in a field. Such signs shall be removed after the growing season.

**SECTION 904 PROHIBITED SIGNS**

The following signs are unlawful and prohibited:

- A. A flashing, rotating, animated, or revolving sign, with the exception of barbershop poles, a searchlight or hot air or gas filled balloon used as a means of drawing attention to a business or other use.

- B. A sign suspended between poles and lighted by a series of lights.
- C. A sign suspended between poles consisting of either pennants or spinners, except as permitted in Section 905.B.3.
- D. Any sign erected, painted, or drawn on a tree or rock or other natural feature.
- E. Signs shall only be attached to utility poles in conformance with state and utility regulations and the requirements of this Ordinance.
- F. No sign which emits smoke, visible vapors or particles, sound or odor shall be permitted.
- G. Any banner sign or sign of any other type across a public road except as provided for in Section 905.C.1.
- H. Any sign containing information which states or implies that a property may be used for any purpose not permitted under this Ordinance.
- I. Any sign which uses the words "stop," "look," "danger," or any other word or character which attempts or appears to attempt to direct traffic or which interferes with or resembles any official traffic sign, signal, or device within seventy-five (75) feet of a public right-of-way or within two hundred (200) feet of a traffic control device, whichever is greater.
- J. Except for traffic control signals, red or green lights which may be mistaken for official traffic lights are prohibited within seventy-five (75) feet of a public right-of-way or within two hundred (200) feet of a traffic control device, whichever is greater.
- K. A truck or other vehicle not used for normal day-to-day operations of a business or not regularly moved for business purposes shall be prohibited from use as a sign. (See also Section 902.E.1)
- L. Roof signs as defined by this Ordinance.

**SECTION 905 TEMPORARY SIGN REGULATIONS**

In addition to other applicable regulations, the following regulations for temporary signs shall be observed in all districts:

- A. The Zoning Officer may permit the use of temporary signs for advertising. Such signs or banners may be made of wood, cloth, light fabric or other such material and may be displayed for a maximum period of thirty (30) days provided:
  - 1. No such sign shall cause an obstruction to the view of motorists or in any way cause a vehicular hazard.
  - 2. No sign shall exceed the size limitations specifically provided for each district.
- B. General Provisions
  - 1. Temporary signs shall be placed so as not to obstruct access to or from any door, window, fire escape, or ventilating equipment nor be attached to any stand-pipe or fire escape.

2. Such signs shall be placed so as not to obstruct vehicular or pedestrian traffic or create a safety hazard.
3. Unless specified otherwise, temporary signs shall be removed within three (3) days after completion of the event, situation, or circumstance for which it is used.

C. Temporary Signs Requiring a No-Fee Permit

The following temporary signs shall require a no-fee permit if erected in compliance with the following regulations:

1. Temporary signs of contractors and artisans, erected and maintained on the premises during the period of their work, one (1) such sign per trade, each having an area of not more than six (6) square feet.
2. Temporary yard or garage sale signs, provided they do not exceed four (4) square feet in area, are erected no more than two (2) days before the first day of the sale, and are removed within two (2) days after the sale. No more than three (3) such temporary off-premises signs shall be permitted and permission shall be obtained from the landowner or utility to post such signs.
3. A sign, bunting, or pennants announcing the opening of a new business or industry provided they are removed within seven (7) days of the opening day or first day of business.
4. Temporary window signs announcing a drive or event of a civic, philanthropic, educational, or religious organization, less than four (4) square feet, placed in a store or office window. Temporary signs for such events shall be removed within three (3) days after the event. Permission shall be obtained from the landowner or utility to post said temporary signs.
5. Real estate signs shall be permitted, subject to the following standards:
  - a. Real estate signs shall not exceed six (6) square feet in area in residential districts and twenty four (24) square feet in area in all other districts.
  - b. Corner lots may have one (1) such sign for each road frontage.
  - c. Such signs shall be located only on the property for which they are advertising. All off-site real estate signs may be removed by the Township.
  - d. Such signs shall be removed within five (5) days after final settlement or a rental agreement has been reached.
6. Political signs shall be permitted as temporary signs, provided that:
  - a. Such signs shall not exceed four (4) square feet in area, except at a polling place, in which case no sign shall exceed twenty-four (24) square feet in area.
  - b. Such signs shall be removed within seven (7) days after the election or referendum.

- c. Any site or building on which such sign was erected shall be restored to its original or better condition upon removal of the sign.

D. Temporary Signs Requiring a Fee-Based Permit

The following temporary signs require a fee-based permit and shall be erected in compliance with the following regulations:

- 1. Temporary signs announcing special events or the temporary lawful sale of products, goods, and/or services, such as the sale of Christmas trees, shall be permitted, provided that:
  - a. Such permits shall run for a thirty (30) day period or for the length of the permit issued for a temporary use. Temporary window signs, as described in Section 905.B.4, above, shall not require a permit.
  - b. Such signs shall comply with all pertinent regulations applicable to permanent type signs. Sign permits shall be issued only when the use or activity stated on such sign is permitted by the underlying zoning district.
  - c. No such sign shall be posted earlier than three (3) weeks before the occurrence of the event to which it relates.
  - d. Signs shall be removed upon the expiration of the permit or within one (1) week after the date of the special event or the last day of sales, whichever comes first.
  - e. Any site or building on which the sign was erected shall be restored to its original or better condition upon expiration of the permit.
  - f. Community Special Event Signs - Where such signs are in the form of banners proposed to be suspended across public roads, the following standards shall apply in addition to those noted above:
    - 1) The sign shall not exceed three (3) feet high by thirty (30) feet wide and the bottom edge of the sign shall be at least fifteen (15) feet above the road surface.
    - 2) The Township shall be notified prior to the erection of such sign.
    - 3) Where the proposed banner spans a state road, the applicant shall also comply with PennDOT's requirements for the placement of signs or banners across state highways. Evidence of such compliance shall be supplied to the Township.
- 2. Portable signs shall be allowed only for temporary display and shall be subject to the following provisions:
  - a. Portable signs shall only be permitted in districts where commercial uses are permitted as a principal use. Portable signs shall comply with all pertinent regulations applicable to permanent type signs permitted in the underlying district, including maximum area and height requirements for ground signs.

- b. Permits shall be issued for a one (1) month period for portable signs but not more than twice in any one (1) calendar year.
  - c. No more than one (1) portable sign shall be allowed per premises.
  - d. Application for a portable sign permit shall be made to the Township Zoning Officer accompanied by the required permit fee and an escrow deposit, as established by the Township fee schedule, as a guarantee that the portable sign shall be removed at the end of the authorized period. If not so removed within ten (10) days of the permit expiration date, the Township shall remove the sign and keep from the escrow amount the sum necessary from the escrow amount to cover the expense incurred in removal.
3. Construction/development signs shall be permitted, subject to the following standards:
- a. Construction/development signs shall not exceed twelve (12) square feet in area in the (RC) Rural Conservation, (RV-1) Gum Tree Rural Village, and (RV-2) Rural Village districts, and twenty-four (24) square feet in area in all other districts.
  - b. Corner lots may have one (1) such sign for each road frontage.
  - c. Such signs shall be located on the property to which they relate.
  - d. Such signs shall be removed when ninety (90) percent of the properties have been developed or eighteen (18) months after the erection of the sign, whichever comes first.

**SECTION 906 SIGNS IN AGRICULTURAL AND RESIDENTIAL DISTRICTS: (A)  
Agricultural Preservation, (RC) Rural Conservation**

In addition to the exempt signs in Section 903 and the applicable temporary signs in Section 905, the following signs may be erected in the A and RC districts, subject to the following standards:

- A. Residential Accessory, Home Occupation or Name Plate Signs indicating the name, profession or activity of the occupant of a dwelling provided that:
  - 1. No such sign shall exceed a surface area of two (2) square feet.
  - 2. No more than one (1) sign for each permitted use or dwelling shall be allowed. No more than one (1) such sign shall be allowed on the premises for each permitted use or dwelling unit.
  - 3. No such sign shall be closer to a road or property line than ten (10) feet.
- B. Real Estate Signs, provided that:
  - 1. No such sign shall exceed a surface area of nine (9) square feet.
  - 2. No more than one (1) such sign shall be permitted on premises unless said premises fronts two (2) or more roads, whereupon one (1) sign may be placed along each road frontage.

3. No such sign shall be illuminated.
  4. All such signs shall be removed within seven (7) days of the date the transaction closes.
- C. Signs intended for permitted nonresidential uses, provided that:
1. No such sign shall not exceed a surface area of twenty (20) square feet.
  2. No more than one (1) such sign shall be permitted on premises for each two hundred (200) feet of frontage, with a maximum of two (2) signs, unless said premises fronts two (2) or more roads, in which case a maximum of two (2) signs may be placed on the frontage of the road of primary access, as above, and one (1) sign may be placed on each other road frontage.
  3. No such sign shall be illuminated except by concealed or indirect lighting, which must be attached to the sign itself.
- D. Temporary Professional Signs, providing that:
1. No such sign shall exceed a surface area of nine (9) square feet.
  2. Such sign shall be displayed only on the premises where services are being performed.
  3. No such sign shall be illuminated.
  4. Such signs shall be removed promptly upon the completion of active work.
- E. Temporary Nonprofessional Signs, provided that:
1. No such sign shall exceed a surface area of nine (9) square feet.
  2. Such sign shall be removed promptly after the event with which such sign is concerned has taken place.
  3. The permit for such sign shall expire within thirty (30) days of issuance.
- F. Portable Signs, when in accordance with the following provisions:
1. The permit for such sign shall expire within thirty (30) days of issuance.
  2. Tags issued at the time of permit approval must be affixed to each such sign in an easily identifiable location.
  3. Portable signs shall comply with all pertinent regulations applicable to permanent type signs.
- G. Banners, when in accordance with the following provisions:
1. The hanging of banners is the sole responsibility of the applicant.
  2. A permit is required from the PennDOT for banners over state roads.

3. No banner may hang lower than fifteen (15) feet over a street.
4. No more than two (2) banners may be displayed over any one (1) road.
5. No banner shall restrict views or impede vehicular circulation.
6. Banners may not be hung more than fourteen (14) days prior to the date of the event being advertised and must be removed no later than seven (7) days after the conclusion of such event.

H. Development Signs, provided that:

1. No such sign shall exceed a surface area of twenty (20) square feet.
2. The manner in which such sign is supported and displayed does not create a visual or safety hazard to vehicular traffic and is compatible with the character of the community.
3. No more than one (1) such sign shall be permitted on the premises of the development, unless said premises has two (2) or more entrances, in which case one (1) sign may be placed at each entrance.
4. Such sign shall only be illuminated by indirect lighting attached to the sign.

I. Trespassing or other such signs, expressing the private nature or restricted use of a property, provided that no such sign shall exceed two (2) square feet.

**SECTION 907 SIGNS IN THE (RV) RURAL VILLAGE DISTRICTS**

In addition to the exempt signs referred to in Section 903 and the applicable temporary signs in Section 905, the following regulations apply to signs erected in the (RV) Rural Village districts:

- A. Residential uses: signs in connection with residential uses shall comply with the sign requirements as contained in Section 906.
- B. Commercial uses: signs in connection with commercial uses may be erected in accordance with either subsection 1. or subsection 2. below:
  1. One (1) freestanding sign up to ten (10) square feet plus one (1) of the following:
    - a. One (1) wall sign mounted flush on the wall up to eight (8) square feet; or
    - b. One (1) wall sign, when part of the architectural design of the building, consisting of individual letters or symbols, not to exceed ten (10%) percent of the wall area: or
    - c. One (1) window sign consisting of individual letters or symbols not to exceed thirty (30%) percent of the total glass area of the building front.
  2. One (1) sign projecting not more than five (5) feet from the wall up to eight (8) square feet in size plus one (1) of the following:

- a. One (1) wall sign mounted flush on the wall up to eight (8) square feet; or
  - b. One (1) wall sign, when part of the architectural design of the building, consisting of individual letters or symbols, not to exceed ten (10%) percent of the wall area: or
  - c. One (1) window sign consisting of individual letters or symbols not to exceed thirty (30%) percent of the total glass area of the building front.
3. If a building fronts upon more than one (1) road, one (1) additional sign in conformity with either subsections, a., b., or c. above may be permitted on each road frontage.
  4. No portion of a projecting sign shall be less than ten (10) feet above nor more than twenty (20) feet above finished grade.
  5. The maximum height of freestanding signs shall be eight (8) feet above the finished grade.
  6. Where multiple uses are located within a single structure, the size of the permitted freestanding sign may be increased by two (2) square feet for each additional use, up to a maximum total sign area of sixteen (16) square feet and the height of such signs may be increased to a maximum of twelve (12) feet.
  7. Portable signs shall not be permitted.

**SECTION 908 SIGNS IN THE (IND) INDUSTRIAL DISTRICT**

In addition to the exempt signs referred to in Section 903 and the applicable temporary signs in Section 905, the following signs may be erected in the IND district, subject to the following conditions:

- A. All signs, as permitted in Sections 906 and 907, provided that such signs relate to a use permitted in the district.
- B. Business, commercial or industrial signs, provided that:
  1. No more than one (1) sign will be permitted for each establishment, unless said establishment fronts two (2) or more streets, whereupon one (1) sign may be placed on each street frontage.
  2. The total surface area of one (1) side of any freestanding sign shall not exceed twenty-four (24) square feet.
  3. No more than one (1) sign will be permitted for the purpose of announcing a commercial center, unless such center fronts two (2) or more roads, in which case one (1) sign may be placed on each road frontage.
  4. Where three (3) or more establishments are contiguous to one another, no sign shall exceed fifteen (15) square feet per establishment.
  5. Freestanding business signs may be located no closer to a side or rear property boundary line or road right-of-way than whichever of the following is greater:



- a. Fifteen (15) feet.
  - b. A distance equivalent to the height of the sign.
  - c. The minimum side or rear yard distance required for the permitted use being identified.
6. No freestanding sign shall exceed twelve (12) feet in height when measured from the ground level to the top of the sign nor be less than six (6) feet from ground level to the bottom of the sign, except that a portable sign shall not exceed four (4) feet in height.
- C. Directional Signs, provided that:
1. No such sign shall have a surface area on one side greater than four (4) square feet.
  2. No establishment shall erect more than two (2) directional signs within Highland Township.
  3. No more than two (2) such signs will be permitted at any intersection.
  4. No such sign shall be erected without the approval, in writing, of the owner of the property on which the sign is erected.
- D. Wall-mounted Business Signs, provided that:
1. A wall-mounted sign shall be permitted on any wall of a building or structure incident to a permitted use.
  2. Wall-mounted signs shall be installed parallel to the supporting wall and project no more than ten (10) inches from the face of such wall.
  3. The maximum display area of a sign mounted on any wall of a building or structure shall not exceed one (1) square foot for each lineal foot of building frontage on which the sign is mounted, provided that:
    - a. The total display area of any such sign shall not exceed twenty (20) percent of the total area of the wall on which the sign is mounted.
    - b. The total display area of all signs mounted on the sides and/or rear of a structure shall not exceed the area of the sign mounted on the front wall.
    - c. The total display area for all signs shall not exceed fifty (50) square feet.
  4. No wall-mounted signs shall extend above the roofline or cornice of any building.
  5. For integrated multiple uses on a single lot or within a single building, each use is permitted one (1) wall-mounted sign for identification and/or merchandising purposes, provided such signs comply with the regulations stated herein.
- E. Projecting Business Signs, provided that:

1. One (1) projecting business identification sign shall be permitted for each building or structure incident to a permitted use, except wherein wall-mounted signs are used for identification and/or merchandising purposes.
2. For integrated, multiple uses on a single lot or within a single building, each use will be permitted one (1) projecting sign, unless wall-mounted signs are used.
3. The display area of a projecting sign shall be a maximum of six (6) square feet and extend no more than two (2) feet from the building surface.
4. No part of the projecting sign shall be less than eight (8) feet nor more than twelve (12) feet above the ground or walking level.

F. Billboards, provided that:

1. These signs shall be the principal use of the property on which they are located.
2. Billboards shall be setback a minimum of three hundred (300) feet from residential uses or the (RV) Rural Village district, and a minimum of five hundred (500) feet from all schools, churches and places of worship, hospitals, and recreational areas.
3. Billboards shall not be placed on the top of a building or structure.
4. Properties upon which a billboard is placed must comply with all base zoning district regulations including setbacks and minimum lot area.
5. The total vertical height of a billboard shall not exceed thirty-five (35) feet.
6. The total area of one side of a billboard shall not exceed four hundred (400) square feet.
7. Lighting shall comply with the following regulations:
  - a. Light fixtures shall be so placed that the light is directed downward to illuminate the billboard.
  - b. The light source shall not cause glare or directly shine on anything other than the billboard.
  - c. All lighting shall otherwise comply with the requirements in Section 707 of this Ordinance.
8. Billboards shall also comply with the provisions set forth in Section 902.

**SECTION 909 REMOVAL OF UNSAFE, UNLAWFUL, OR ABANDONED SIGNS**

A. Unsafe or Unlawful Signs

1. Upon written notice by the Township, the owner, person, or firm maintaining a sign must remove said sign when it:

- a. Becomes unsafe, is in danger of falling, or becomes so deteriorated that it no longer serves a useful purpose of communication;
  - b. Is determined by the Township to be a nuisance; or
  - c. Is unlawfully erected in violation of any of the provisions of this Article.
2. The Township may remove or cause to be removed any such sign at the expense of the owner or lessee in the event the owner or the person or firm maintaining said sign has not complied with the terms of said removal notice within fourteen (14) days of the date of such notice. However, in the event of immediate danger, the Township may remove said sign immediately upon the issuance of said notice to the owner, person, or firm maintaining said sign.

B. Abandoned Signs

1. Abandoned signs, as defined by this Ordinance, shall be removed by the landowner or person controlling the property within fourteen (14) days of such abandonment.
2. The Township may remove or cause to be removed any such sign at the expense of the owner or lessee in the event the owner or the person or firm maintaining said sign has not complied with the terms of said notice within thirty (30) days of such notice.

**SECTION 910 NONCONFORMING SIGNS**

Nonconforming signs shall be subject to the requirements of Section 1306 of this Ordinance.

(this page intentionally left blank)

**ARTICLE X**

**ADMINISTRATION AND ENFORCEMENT**

---

---

**SECTION 1001 APPLICABILITY, ADMINISTRATION AND ENFORCEMENT**

1001.1 **Application and Purpose**

- A. The purpose of this Article is to establish the procedures and regulations by which this Ordinance shall be administered permits are obtained and regulated and how this Ordinance may be amended and enforced.
- B. No land shall be used or occupied, and no building or structure shall be created, altered, used or occupied, except in conformity with the regulations herein established for the district in which such land, building, or structure is located and any other applicable standards.
- C. In cases of mixed occupancy within the same building or on the same lot, the regulations for each use shall apply to that portion of the building or land so used.

1001.2 **Administration**

- A. **Appointment of the Zoning Officer.** There shall be a Zoning Officer whose appointment and compensation shall be determined by the Board of Supervisors. The Zoning Officer shall not hold any elective office in the Township and shall meet the qualifications established by the Board of Supervisors. Further, the Zoning Officer shall be able to demonstrate to the satisfaction of the Board of Supervisors a working knowledge of municipal zoning. The Zoning Officer shall administer the Zoning Ordinance in accordance with its literal term and shall not have the power to permit any construction or change of use that does not conform to this Ordinance. The Zoning Officer may be authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of his employment.
- B. **Duties.** The Zoning Officer's duties shall include, but not be limited to, the following:
  - 1. To enforce all provisions of this Ordinance and all amendments thereto.
  - 2. To receive and examine all applications for building permits and zoning and other permits, to refer applications to the Planning Commission when advisable, and to issue building, zoning, and other permits only when there is compliance with the provisions of this and other Township ordinances.
  - 3. To receive applications for special exceptions or variances and refer these applications to the Zoning Hearing Board for action thereon.
  - 4. To issue permits in connection with special exception or variance applications only upon written order of the Zoning Hearing Board. Permits requiring approval by the Board of Supervisors, including but not limited to conditional use applications, shall be issued only upon written authorization from the Board of Supervisors.

5. To receive applications for appeals and variances and forward these applications to the Zoning Hearing Board for action thereon.
6. To conduct inspections and surveys to determine compliance or noncompliance with this Ordinance.
7. To issue stop, cease and desist orders and to require, in writing, correction of all conditions found to be in violation of the provisions of this Ordinance. Such written orders shall be served personally or by registered mail with return receipt upon the persons, firms or corporations deemed by the Zoning Officer to be violating this Ordinance. It shall be unlawful for any person to violate any such order lawfully issued by the Zoning Officer, and any person violating such order shall be guilty of a violation of this Ordinance.
8. To keep an official record of all business and activities, including complaints of a violation of any of the provisions of this Ordinance and of the subsequent action taken on each such complaint, and to record and file all applications for permits with accompanying plans and documents.
9. To be responsible for the administration of the National Flood Insurance Program in the Township and specifically in those areas where records must be maintained relative to the types of land use permitted and occurring within the floodplain district, variances issued, base flood elevations, elevation of lowest floor, including basement, the elevation to which the structure is flood-proofed and other administrative functions necessary for participation in the National Flood Insurance Program.
10. To be responsible for maintaining an up-to-date copy of this Ordinance and the Zoning Map.
11. To issue use and occupancy permits in accordance with the terms of this Article.
12. Upon the request of the Board or the Zoning Hearing Board, to present facts, records and any similar information to either such body.

1001.3 **Enforcement**

- A. **Enforcement Notice.** If it appears to the Township that a violation of any provision of this Ordinance or any amendment thereto, any statement or plan approved under this Ordinance or prior enabling laws or any amendments thereto, or any condition of a variance or special exception or of a conditional use has occurred or is occurring, the Board of Supervisors shall authorize the Zoning Officer to initiate enforcement proceedings by sending notice thereof as provided in this subsection. By means of the enforcement notice, the Zoning Officer may order the discontinuance of the illegal use of the land or structures, the removal of illegal structures thereto, or the discontinuance of any illegal work being done.
  1. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, by registered mail with return receipt, to any person who has filed a written request to receive such a notice regarding that parcel, and to any other person requested in writing by the owner of record of the

parcel.

2. The enforcement notice shall state at least the following:
  - a. The name of the owner of record and any other person against whom the Township intends to take action.
  - b. The location of the property in violation.
  - c. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the Ordinance.
  - d. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
  - e. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with the procedures set forth in Article XI of this Ordinance.
  - f. That failure to comply with the notice within the time specified unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with such possible sanctions as are described in subsection E., Enforcement Remedies, below.

- B. Causes of Action. In case any building, structure, landscaping or land is, or is proposed to be erected, constructed, reconstructed, altered, repaired, demolished, converted, maintained or used in violation of any ordinance enacted under Act 247 of 1968, as amended, the Board of Supervisors, or, with the approval of the Board, an officer of the Township or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the municipality at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Board of Supervisors. No such action may be maintained until such notice has been given.
- C. Repeat violation after an initial notification of a violation of an Ordinance provision shall result in the fines, as provided in subsection E., below.
- D. Complaints Regarding Violations. Whenever a violation of this Ordinance occurs or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Zoning Officer who shall record such complaint, investigate, take action thereon as provided by this Article and report to the Board of Supervisors regarding the complaint and the action taken thereon.

E. Enforcement Remedies.

1. The District Justice shall have initial jurisdiction over enforcement remedy proceedings.
2. Any person, partnership or corporation who or which has violated, or permitted the violation of the provisions of this Ordinance shall, upon being found liable thereof in a civil enforcement proceeding, pay a judgment of not less than One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars (\$500.00), plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof.
3. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant fails to pay or to appeal the judgment in a timely manner, the Township may enforce the judgment pursuant to the applicable rules of civil procedure.
4. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth (5<sup>th</sup>) day following the date of the determination of a violation by the District Justice; and thereafter each day that a violation continues shall constitute a separate violation.
5. All judgments, costs and reasonable attorney fees collected for violating this Ordinance shall be paid to the Township.
6. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
7. Nothing contained in this subsection shall be construed or interpreted to grant any person or entity other than the Township the right to commence any action for enforcement pursuant to this subsection.

**SECTION 1002 EXEMPTIONS**

- A. The provisions of this Ordinance shall not apply to Highland Township, nor to any building or land of the Township or extension thereof, or to the use of any premises to any building, lands or premises owned or operated by the Township.
- B. This Ordinance shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.



**SECTION 1003 GENERAL PERMIT REQUIREMENTS**

**1003.1 General Requirements**

Any type of permit, whether it be a zoning permit, building permit, use and occupancy permit, sign permit, or otherwise, shall include or follow, when applicable, the provisions below:

- A. Applications for permits shall be made in writing on an appropriate form to the Zoning Officer and shall contain all information, including the following necessary for such officer to ascertain whether the proposed use of land or improvement will comply with the provisions of this Ordinance:
  - 1. Name and address of applicant.
  - 2. Name and address of landowner of property where construction is proposed.
  - 3. Name and address of contractor.
  - 4. Site location.
  - 5. Listing of other permits required.
  - 6. Brief description of proposed work and estimated cost.
  - 7. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
  - 8. Any other lawful information required by the Zoning Officer.
  
- B. All applications shall be accompanied by:
  - 1. Three (3) copies of the approved land development and/or plot plan, together with any other data and information required by the Zoning Officer to evaluate compliance with this Ordinance.
  - 2. Three (3) copies of detailed architectural plans, the level of detail to be determined by the Zoning Officer, for any proposed building or structure under the application.
  - 3. Where the disturbance or movement of earth is contemplated, a soil erosion and sedimentation control plan with an accompanying narrative prepared by a qualified person; or, when applicable, a copy of the permit issued by the Pennsylvania Department of Environmental Protection and Chester County Conservation District approving earth moving operations.
  - 4. Permits or certification from the appropriate agency for the provision of a healthful water supply, disposal of sewage and other wastes, and control of objectionable effects, as well as any other appropriate, lawful permits as may be required.

5. With respect to construction or alteration in the Flood Hazard District, all permits shall comply with the provisions of Section 402, Flood Hazard District, of this Ordinance.
  6. All applicable PennDOT permits.
  7. Additional copies of any information that may be required by the Zoning Officer.
- C. Application for permits under this Article, along with accompanying plans and data, may be submitted by the Zoning Officer to any appropriate governmental agency, authority or representative for review and comment and the Zoning Officer may consider those comments in acting on the application.
  - D. Applications for permits required under this Article may be submitted by an owner or a designated representative thereof; however, responsibility for obtaining any required permit and compliance with all legal requirements shall rest with the property owner.
  - E. No permit shall be issued, except in conformity with this Ordinance except after written order from the Zoning Hearing Board or a court of appropriate jurisdiction.
  - F. If the Zoning Officer expresses a reasonable doubt as to the ability of a proposed use to meet all the requirements of this Ordinance, the applicant shall furnish adequate evidence in support of his or her application. If such evidence is not presented, the zoning permit may be denied.
  - G. Applications shall only be submitted by the owners, legal or equitable, of the parcel or parcels of land or buildings or parts of buildings for which an permit application is submitted; if ownership is equitable, proof of equitable ownership shall be furnished at the time of application.
  - H. No application is complete until all necessary documents have been filed and fees have been paid.

#### 1003.2 **Fees**

All permit fees under this Ordinance shall be determined by the Board of Supervisors and a schedule of such fees shall be made available to the general public. Such fee schedule and alterations thereof shall not be considered either a part nor an amendment to this Ordinance but may be adopted at any public meeting of the Board of Supervisors by resolution.

#### 1003.3 **Permit Issuance or Refusal**

If the Zoning Officer determines that an application is in compliance with this Ordinance, he or she shall issue the appropriate permit. If he determines that an application is not in compliance with this Ordinance, he or she shall refuse the permit, in writing with a detailed statement of the reasons therefore, in which case he shall advise the applicant of the method of appeal or application to the Zoning Hearing Board.

1003.4 **Revocation or Suspension**

Any permit issued under this Ordinance may be revoked or suspended by the Board of Supervisors after due notice to the permit holder upon the occurrence of any of the following circumstances:

- A. Violation of any condition of the permit, provision of this Ordinance or any other applicable law, ordinance, rule or regulation.
- B. Existence of any condition or the doing of any act considering or creating a nuisance, hazard or endangering human life or the property of others.
- C. Failure to carry out the measures called for in the permit.

**SECTION 1004 TYPES OF PERMITS**

1004.1 **Zoning Permits**

- A. **Requirement.** A zoning permit shall be required prior to a change in use of land or buildings; a change in the principal use or expansion of a nonconforming use; or development within the Floodplain Conservation District. The placing of vacant land under cultivation shall not require a zoning permit. No site work or other work requiring a zoning permit shall commence until a permit has been properly issued therefor.
- B. **Application.** See subsection 1003.1, above.
- C. **Temporary Permits.** A temporary zoning permit may be issued for a specified period of time, not exceeding one (1) year by the Zoning Officer for a nonconforming structure or use deemed beneficial to the public health or general welfare or necessary to promote the proper development of the community, provided that such nonconforming structure or use shall be completely removed upon expiration of such permit, without cost to the Township.

1004.2 **Building Permits**

- A. **Requirement.** A building permit shall be required prior to the erection or alteration of, or addition to, any building or other structure or portion thereof. It shall be unlawful for any person to commence work on the erection or alteration of, or addition to, any building or structure or portion thereof until a building permit has been duly issued therefor.
- B. **Applications.** All applications for building permits shall be accompanied by a plot plan drawn to scale and accurately showing the exact size and location of any buildings or other structures and natural features existing on the lot in question or upon abutting land within fifty (50) feet of the side and rear lot lines of such lot, and the lines within which the proposed building or other structure shall be erected or altered, as well as the items in subsection 1003.1, above.
- C. **Building Permit Issuance.** Building Permits shall be issued in accordance with subsection 1003.1, above, and all other applicable ordinances and shall be visibly posted on the premises, showing the date of issuance and the Code Officer's signature, during the entire

time the proposed work is being undertaken.

Upon completion of the erection, addition to, or alteration of any building, structure, or portion thereof authorized by any building permit obtained in compliance with this Ordinance, and prior to use and occupancy, the holder of such permit shall notify the Code Officer of such completion. Use and occupancy shall not be authorized until the Code Officer has certified that the work has been inspected and approved as being in conformity with this and all other applicable ordinances, and has issued a use and occupancy permit as provided in subsection 1004.3, below. A building permit shall expire one (1) year from the date of issuance, provided that it may be extended for a six (6) month period where good faith is demonstrated by the applicant.

**1004.3 Use and Occupancy Permits**

- A. Requirement. It shall be unlawful to sell, use or occupy any building or other structure or parcel of land until a use and occupancy permit, if required, has been duly issued therefor. A use and occupancy permit shall be required prior to any of the following activities:
  - 1. Use and occupancy of any parcel of land, building or other structure hereinafter erected, altered or enlarged for which a zoning or building permit is required.
  - 2. For all commercial and industrial uses, where a change of ownership or use of any parcel of land, building, or other structure for which a zoning permit has been issued under this or a previous Zoning Ordinance.
  - 3. For new construction in all zoning districts prior to sale.
  - 4. Change in use of any parcel of land, building or structure, or change in or extension of a nonconforming use.
- B. Applications. See Section 1003.1, General Requirements, above.
- C. An as-built plan, where applicable, shall be filed with the Township prior to the issuance of a use and occupancy permit. No use and occupancy permit shall be issued until the Zoning Officer has certified that the proposed use complies with all the provisions of this Ordinance and any other applicable ordinance.
- D. Issuance of use and occupancy permits shall be according to the following:
  - 1. Use and occupancy permits shall be granted or refused within ten (10) days from the date of application. No application shall be granted or refused until the Zoning Officer has inspected the premises. Issuance of this permit by the Township official or employee designated by the Zoning Officer shall be based upon conformity with the requirements of this Ordinance and any other pertinent ordinance.
  - 2. Pending completion of a building or of alterations thereto, a temporary use and occupancy permit may be issued by the Zoning Officer for temporary occupancy of part or all of the building, provided that such temporary occupancy will not adversely affect the health, safety, and welfare of the public or property, and

providing further that a time limit for each temporary permit be set not exceeding six (6) months.

3. In commercial and industrial districts in which performance standards are imposed or when required by the Zoning Officer, no use and occupancy permit shall become permanent until sixty (60) days after the facility is fully operating, when upon a re-inspection by the Zoning Officer, it is determined that the facility is in compliance with all performance standards.

#### 1004.4 **Sign Permits**

- A. **Requirement.** A sign permit shall be required prior to the erection or modification of any sign, sign structure or change in location of an existing sign, with the exception of those signs exempted in Article IX, Sign Regulations.
- B. **Applications.** Application shall be made in general accordance with subsection 1003.1, General Requirements and shall be accompanied by plans or diagrams in duplicate and approximately to scale, showing the information required. Applications must be accompanied by the following:
  1. Dimensions of the lot (including any rights-of-way lines) and/or building upon which the sign is proposed to be erected;
  2. Size, dimensions and location of the said sign on the lot or building, together with its type, construction, materials to be used and the manner of installation; and
  3. Any other lawful information which may be required by the Zoning Officer.

### **SECTION 1005    CONDITIONAL USES**

#### 1005.1 **Intent**

This Ordinance provides for certain uses to be permitted as conditional uses. These uses may not be appropriate at every location and accordingly, express standards and criteria by which to evaluate and decide upon conditional use applications are hereby established. The Board of Supervisors shall have the power to approve conditional uses by the procedures set forth in this Section and any other reasonable conditions and safeguards to protect the health, safety and general welfare of the community.

#### 1005.2 **Content of Application**

- A. Applications for conditional uses shall be filed with the Board of Supervisors, through the Township Secretary, on forms prescribed for that purpose, and shall include the required filing fee, and the following information:
  1. Name and address of the applicant.
  2. Name and address of the owner of the real estate to be affected by the proposed conditional use.

3. Description and location of the real estate on which the conditional use is proposed.
4. Statement of the present zoning classification and land use of, and existing improvements on the real estate in question.
5. Statement of the section of this Ordinance that authorizes the proposed conditional use.
6. Description of the proposed use and site improvements.

B. Site Plan

The application for conditional use shall be accompanied by a proposed site plan that includes the following information:

1. Drawn to a scale of one (1) inch equals one hundred (100) feet.
2. Location, dimensions, use, coverage, and height of proposed buildings and improvements in relation to property and road lines.
3. Dimensional features showing compliance with the applicable area, width, lot coverage, yard, and design standards specified in this Ordinance.
4. Location, dimension, and arrangements of proposed facilities including sidewalks, parking areas, site access, interior circulation, off-street loading and unloading, and lighting for these areas.
5. Location, dimensions, and arrangement of all areas devoted to open space, ground cover, trees, plantings, and recreation.
6. Provisions for handling of stormwater drainage, disposal of sewage, and supply of water.
7. A copy of the recorded last subdivision plan that includes the property or a copy of the legal description.

- C. In addition to the above information, conditional use applications shall include all required information required to determine compliance with Article VI .

1005.3 Application Review Procedure

- A. Upon receipt of a complete conditional use application, the Township Secretary shall submit the application to the Board of Supervisors who shall decide whether to refer the application to the Township Planning Commission; if so referred, the Planning Commission shall perform a review and provide a report to the Board of Supervisors concerning the grant of approval or disapproval of the proposed use.
- B. The Board shall hold a public hearing for public review and comment and decide to approve or disapprove the proposed use. The Planning Commission shall submit its

recommendation to the Board prior to the date of such public hearing.

- C. The hearing shall be conducted in accordance with the MPC §913.2, *Governing Body's Functions; Conditional Uses*, as amended, and the Zoning Hearing Board procedures for hearings, MPC §908, *Hearings*, as amended, when §913.2 is silent on a procedural matter. The hearing shall be held in accordance with the following MPC procedures:
1. Notice.
    - a. Notice of public hearing shall be published in a newspaper of general circulation in the Township once each week for two successive weeks.
    - b. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing.
    - c. The first publication shall not be more than 30 days and the second publication shall not be less than seven days before the date of the hearing.
    - d. In addition to such public notice, the Board of Supervisors shall give written notice to the applicant, the zoning officer, such other persons as are specified in Section 1107 of this Ordinance and to any person who has made timely request for the same.
    - e. Written notices shall be given at such time and in such manner as shall be prescribed by Section 1107 of this Ordinance. Written notice of the hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing. Proof of proper notification shall be required as a precondition before any formal action on the application.
  2. The Board may prescribe reasonable fees that may include, but not be limited to, compensation for the secretary, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses or expenses for engineering, architectural or other technical consultants or expert witness costs.
  3. The parties to the hearing shall be the Township, any person affected by the application who has made timely appearance of record before the Board of Supervisors, and any other person, including civic or community organizations permitted to appear by the Board. The Board shall have the power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
  4. The Chairman or Acting Chairman of the Board of Supervisors or the hearing officer presiding in place of the Board shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers.
  5. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine

- adverse witnesses on all relevant issues.
6. Formal rules of evidence shall not apply, but the Board or hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence.
  7. The Board or hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.
  8. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- D. The Board of Supervisors shall conduct the hearing or the Board may appoint any member or an independent attorney as a hearing officer. The Board shall make the decision, or, where no decision is called for, the findings. However, the appellant or the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive the Board's decision or findings and accept the decision or findings of the hearing officer as final.
  - E. In granting a conditional use, the Board of Supervisors may attach such reasonable conditions and safeguards, in addition to those expressed in the Ordinance, as it may deem necessary to implement the purposes of this Ordinance and to protect the health, safety, and general welfare of the community.
  - F. The first, hearing before the Board or Hearing Officer shall be commenced within sixty (60) days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time.
  - G. Each subsequent hearing before the Board or Hearing Officer shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record.
  - H. An applicant shall complete the presentation of his case-in-chief within one hundred (100) days of the first hearing. Upon request of the applicant, the Board or Hearing Officer shall assure that the applicant receives at least seven (7) hours of hearing within the one hundred (100) days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (100) days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an



equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

- I. The Board of Supervisors shall render a written decision or, when no decision is called for, make written findings on the conditional use application within forty-five (45) days after the last hearing before the Board of Supervisors. Where the application is contested or denied, the decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons for the final decision. Conclusions based on any provisions of this Ordinance, or of any rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.
- J. Where the Board fails to render the decision within forty-five (45) days or fails to commence, conduct or complete the required hearing as provided in section §908 (1.2) of the MPC, [see subsections F., G. and H., above] the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time.
- K. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of the decision within ten (10) days from the last day it could have met to render a decision in the same manner as required by the public notice requirements of the MPC §107(a). If the Board shall fail to provide such notice, the applicant may do so.
- L. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
- M. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him no later than the day following its date.
- N. Nothing in this Section shall relieve the applicant for a conditional use approval from obtaining other required approvals mandated by the Township Subdivision and Land Development Ordinance and any other applicable Township, county, state or federal regulations.
- O. If the Board of Supervisors approves a conditional use application and site plan, such approved plan shall accompany any application for subdivision of land or land development as prescribed by the Township Subdivision and Land Development Ordinance and any application for a building permit.
- P. Any grant of conditional use approval shall be null and void twelve (12) months from the date of such approval, if within that period, no application is made for a building permit, a use and occupancy permit, or a subdivision or land development approval, as appropriate, unless the Board of Supervisors shall grant an extension.

1005.4 **General Review Conditions for Approval**

- A. In reviewing an application for conditional use, the Board of Supervisors shall evaluate the degree of compliance with the following conditions:
1. Consistency with the purpose of the Article whereby it is permitted, the overall purpose of the zoning as contained in Article I, the *Highland Township Comprehensive Plan* (2001); the relevant provisions and requirements of the Township Subdivision and Land Development Ordinance and any other applicable ordinance, code and/or regulations.
  2. Limitation of the proposed use to those authorized as conditional uses within the zoning district in which the lot or parcel is located.
  3. Location of the proposed use in an area or areas for which the lot is suited, is consistent with the nature of land uses existing on immediately adjacent properties, and design, construction, and maintenance in a manner which complements the appearance and character of the neighborhood.
  4. If the development is to be carried out in successive stages, each stage shall be so planned that the intent of this Ordinance shall be fully complied with at the completion stage.
  5. If containing more than one (1) building, the development shall consist of a harmonious grouping of buildings or other structures.
  6. The proposed use will be in the public interest and not impair the health, safety, and general welfare of the Township.
  7. The proposed use shall be consistent with, and have no adverse effect upon the logical extension of public services and utilities, such as a public water, public sewer, police, fire protection, recreational opportunities, open space, and public schools.
  8. That new construction and proposed change(s) in use of existing buildings will be compatible with and in keeping with the existing character of the neighborhood.
  9. That the proposed use reflects an environmentally sensitive approach to land planning and design, will be sited in a manner sensitive to existing site conditions including streams, vegetation, and other natural resources, and is consistent with the natural resource protection standards of Article V.
  10. That the proposed use will provide safe and adequate access to roads, existing or proposed, will not result in excessive traffic volumes, and will include any improvements needed to achieve compatibility with adjacent roads and public services.
  11. That the interior traffic circulation will provide safe and convenient circulation for all users, including vehicular and pedestrian modes. Emergency design

considerations shall also be addressed in the proposed plan.

12. That the sanitation and public safety provisions shall be adequate with a certificate of adequacy of sewage and water facilities from a governmental health agency to be provided where required or deemed necessary.
  13. That the proposed use will be developed using effective stormwater management techniques and soil erosion and sedimentation control techniques.
  14. For residential cluster developments, consistency with the requirements of Article VI.
- B. The Board of Supervisors may impose such conditions of approval as may be necessary to ensure compliance with any or all of the above standards as well as with any other relevant ordinances, regulations and codes.
- C. The applicant shall bear the burden of demonstrating compliance with all standards and criteria required for conditional use approval.

**SECTION 1006 MUNICIPAL LIABILITY**

The granting of any permit under this Ordinance for the use of land or structures or the erection, alteration or extension of any structure or the approval of any subdivision or land development plan shall not constitute a representation, guarantee, or warranty of any kind by the Township or any of its officials or employees as to any consequences or effects of such use, erection, alterations or extension, and shall create no liability upon, or a cause of action against such public body, officials or employees for any damages or injury that may result.

(this page intentionally left blank)

**ARTICLE XI**

**ZONING HEARING BOARD**

---

**SECTION 1101 ESTABLISHMENT AND PURPOSE**

There shall be a Zoning Hearing Board, hereinafter referred to as the “Board,” in accordance with the provisions of Article IX of the Municipalities Planning Code, Act 247, as amended. The Board of Supervisors shall appoint the members of the Zoning Hearing Board by resolution.

The purpose of this Article is to establish regulations to govern the establishment, functions, and procedures of the Zoning Hearing Board.

**SECTION 1102 MEMBERSHIP, APPOINTMENT, TERMS AND REMOVAL**

- A. This Zoning Hearing Board shall consist of three (3) residents of the Township.
- B. The term of office shall be three (3) years and shall be fixed so that the term of office of one (1) member shall expire each year.
- C. The Board shall promptly notify the Board of Supervisors of any vacancy. Appointments to fill vacancies shall be only for the unexpired portion of the term.
- D. Members of the Board shall hold no other elected or appointed office in the Township, nor shall any member be an employee of the Township.
- E. The Board of Supervisors shall appoint by resolution at least one (1) resident to serve as an alternate member of the Board. The term of the alternate member shall be three (3) years. The alternate member shall hold no other elected or appointed office in the Township, nor shall any alternate member be an employee of the Township.
  - 1. When seated pursuant to the provisions of Section 1104.C, below, an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this Ordinance, by the Code, and as otherwise provided by law.
  - 2. Unless designated as a voting alternate member pursuant to Section 1104.C below, any alternate may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of said Board nor be compensated pursuant to Section 1105, Expenditures and Fees below.
- F. Any board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by majority vote of the Board of Supervisors, taken after the member has received fifteen (15) days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

**SECTION 1103 JURISDICTION**

The Board shall have exclusive jurisdiction to hear and render final decisions in the following matters:

- A. Substantive challenges to the validity of this Ordinance or Zoning Map, except those brought before the Board of Supervisors pursuant to Section 609.1, Curative Amendments and 916.1(a)(2), Validity of Ordinances, of the Pennsylvania Municipalities Planning Code (MPC), as amended.
- B. Challenges to the validity of this Ordinance or Map raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said Ordinance.
- C. Appeals from the determination of the Zoning Officer, including, but not limited to the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order, or the registration or refusal to register any nonconforming use, structure or lot, or the misinterpretation or misapplication of any provision of this Ordinance or the Zoning Map.
- D. Appeals from a determination by the Township Engineer or the Zoning Officer with reference to the administration of any floodplain provision within Article VIII, Overlay Districts of this Ordinance.
- E. Applications for variances, pursuant to Section 1110 of this Ordinance and Section 910.2 of the MPC, Zoning Hearing Board's Function; Variances.
- F. Applications for special exceptions pursuant to Section 1111 of this Ordinance, and Section 912.1 of the MPC, Zoning Hearing Board's Function; Special Exceptions.
- G. Appeals from the Zoning Officer's determination under Section 916.2 of the MPC, Procedure to Obtain Preliminary Opinion.
- H. Appeals from the determination of the Zoning Officer or Township Engineer in the administration of this Ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development.
- I. Appeals from the determination of any officer or agency charged with the administration of transferable development rights or performance density provisions of the zoning ordinance.

**SECTION 1104 ORGANIZATION OF THE BOARD**

- A. The Board shall elect its officers, who shall serve annual terms as such and may succeed themselves.
- B. For the conduct of any public hearing and the taking of any action, a quorum shall not be less than a majority of all the members of the Board, but the Board may appoint a Hearing Officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board, as provided in Section 1108, Hearings, below.
- C. If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate the alternate member to sit on the Board. The alternate member shall continue to serve on the Board in all proceedings involving the matter or case for which the

alternate was initially appointed, until the Board has made a final determination of the matter or case.

- D. The Board may make, alter, and rescind rules and forms for its procedure consistent with the provisions of this Ordinance and the laws of the Commonwealth.
- E. The Board shall keep full public record of its business, which records shall be the property of the Township, and shall submit a report of its activities to the Board, as requested.

**SECTION 1105 EXPENDITURES FOR SERVICES – FEES**

- A. Within the limits of funds appropriated by the Board of Supervisors, the Zoning Hearing Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. The Zoning Hearing Board may employ legal counsel, but cannot be the Township Solicitor.
- B. Members of the Zoning Hearing Board, including the alternate member when designated in accordance with Section 1104.C of this Article, may receive compensation for the performance of their duties, as may be fixed by the Board of Supervisors. In no case shall the amount of compensation exceed the rate authorized to be paid to the Board of Supervisors.
- C. The Board of Supervisors may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board, including: compensation for the secretary; notice and advertising costs and necessary administrative overhead connected with the hearing, such duplication or copying costs, an equal share of the court reporter’s attendance fee, cost of stenographic record (see Section 1108.H, below), and other related application costs. The costs, however, shall not include legal expenses of the Zoning hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs.
- D. Applicants before the Zoning Hearing Board shall deposit with the Treasurer of the Township such sum of money as set forth in a fee schedule adopted by resolution of the Board of Supervisors.
- E. Continued Hearings and Collection of Fees.
  - 1. In the event more than one (1) hearing is necessary on any application, as promptly as may be possible following the initial hearing, the Zoning Hearing Board shall determine the total amount of all applicable costs incurred, and shall deduct same from the application fee. In the event the application fee is, at any time, insufficient to cover the costs incurred or reasonably anticipated to be incurred, the Zoning Hearing Board shall notify the applicant, provide the applicant with a written copy of each item, and shall require the applicant to pay, within ten (10) days of such notification, any balance then due, together with a further minimum deposit of one-half (1/2) of the initial filing fee. In the event of multiple hearings, all applicable costs shall be reported and collected in accordance with this procedure.
  - 2. The failure of the Zoning Hearing Board to demand additional deposits from time to time shall not relieve the applicant of liability for costs, charges, expenses and fees in excess of the applicant’s deposit; and in the event of default, such shall be recoverable by such action as is by law provided.

3. All funds deposited by the applicant in excess of the actual cost of the hearing or hearings shall be returned to the applicant upon completion of the proceeding.

**SECTION 1106 APPLICATIONS FOR HEARINGS**

- A. Applications for hearings before the Zoning Hearing Board shall be filed with the Zoning Hearing Board or its Designee together with the proper fee in accordance with Section 1105 of this Article.
- B. An application for a special exception or variance from the terms of this Ordinance shall state:
  1. The name and address of the applicant.
  2. Name and address of the owner of the property to be affected by the proposed application if different from applicant.
  3. A brief description and location of the real estate to be affected by such proposed change.
  4. A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof.
  5. A statement of the section of this Ordinance under or from which the exception or variance requested may be authorized, and the reasons why it should be granted.
  6. A description of the proposed use and improvements.
  7. A copy of the site plan indicating the location, use, arrangement, building height, and dimensional features showing compliance with the applicable area, width, coverage, yard, and design standards (as specified in the zoning district in which the site in question is located) of all existing and proposed improvements and facilities.
  8. A copy of the last recorded subdivision plan which includes the property or a copy of the legal description.
  9. Any additional information as may be otherwise required by this Ordinance or the Rules of the Zoning Hearing Board.
- C. Applications for relief other than for special exceptions or variances shall contain sufficient written information to fully describe the intended use. Where in such case, at the discretion of the Zoning Officer, it is appropriate for the applicant to furnish plans and/or specifications, or any other relevant information incident to an intended use, such information shall be required with the application.
- D. In the event that any such required information is not furnished, the application for a hearing shall be refused and the fee returned to the applicant unless the applicant appeals the application and includes therein as an issue for the Board the Zoning Officer's demand of such information.

**SECTION 1107 NOTICE OF HEARINGS**

The Zoning Hearing Board shall give notice as follows:



A. **Public Notice**

The public notice herein required shall be published in a newspaper of general circulation in the Township and shall state the name of the applicant, the location of the lot or building, the general nature of the question involved, and the date, time and location of the hearing. The notice shall state that a copy of the landowner's request, including plans and proposed amendments, may be examined by the public at the Township Building during regular business hours. Such public notice shall be published once a week for two (2) successive weeks, not less than seven (7) days nor more than thirty (30) days prior to the hearing.

B. **Written Notice**

1. Written notice thereof shall be given to the applicant, Board of Supervisors, the Zoning Officer, Township Secretary, the Planning Commission, and to any person who has made timely request for the same or who have registered their names and addresses for this purpose with the Board.
2. Written notice of said hearing shall also be conspicuously posted both as designated by the Township and on the affected tract of land at least one (1) week prior to the hearing.

**SECTION 1108 HEARINGS**

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the following requirements as specified in MPC §908, as amended:

- A. Hearings shall be held at a reasonable time and place.
- B. The first hearing before the Zoning Hearing Board or Hearing Officer shall be commenced within sixty (60) days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the Zoning Hearing Board or Hearing Officer shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to in writing or on the record by the applicant. An applicant shall complete the presentation of his case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the Zoning Hearing Board or Hearing Officer shall assure that the applicant receives at least seven (7) hours of hearings within the one hundred (100) days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (100) days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and Township, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.
- C. The hearings shall be conducted by the Zoning Hearing Board or the Zoning Hearing Board may appoint any member or an independent attorney as the Hearing Officer. The decision, or, where no decision is called for, the findings, shall be made by the Zoning Hearing Board; however, the appellant or the applicant, as the case may be, in addition to the Township, may, prior to the decision, waive the decision or findings by the Zoning Hearing Board and accept the decision or findings of the Hearing Officer as final.

- D. The parties to the hearing shall be the Township, any person who has made timely appearance of record before the Zoning Hearing Board and any other person including civic or community organizations permitted to appear by the Zoning Hearing Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
- E. The Chairman or Acting Chairman of the Zoning Hearing Board or the Hearing Officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- F. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and to cross-examine adverse witnesses on all relevant issues.
- G. Formal rules of evidence shall not apply, but irrelevant, immaterial, unduly repetitious evidence may be excluded at the discretion of the Zoning Hearing Board.
- H. The Zoning Hearing Board or the Hearing Officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or Hearing Officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.
- I. The Zoning Hearing Board or the Zoning Hearing Officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issued involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- J. The Zoning Hearing Board or the Hearing Officer, as the case may be, shall render a written decision, or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Zoning Hearing Board or Hearing Officer.
  - 1. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this Ordinance or of any act, rule or regulation, shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in light of the facts found.
  - 2. If the hearing is conducted by the Hearing Officer and there has been no stipulation that his decision or findings are final, the Zoning Hearing Board shall make his report and recommendations available to the parties within forty-five (45) days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Zoning Hearing Board's decision shall be entered no later than thirty (30) days after the report of the Hearing Officer.

3. Except for challenges filed under Section 916.1 of the Municipalities Planning Code, where the Zoning Hearing Board fails to render a decision within the forty-five (45) day period required by this subsection and Section 908(9) of the MPC, or fails to commence, conduct or complete the required hearing as provided in subsection B., above and Section 908(1.2) of the MPC, as amended, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Zoning Hearing Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in Section 1107, Notice of Hearing, above. If the Zoning Hearing Board shall fail to provide such notice, the applicant may do so.
  4. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
- K. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Zoning Hearing Board not later than the last day of the hearing, the Zoning Hearing Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

**SECTION 1109 APPEALS TO THE ZONING HEARING BOARD**

- A. The landowner affected, any person aggrieved by any decision of the Board or any officer or agency of the Township may file an appeal under Section 1103.A through Section 1103.D and 1103.G through Section 1103.I of this Article with the Board in writing specifying the grounds thereof within the time required by the MPC, as amended, or as provided by the rules of the Board.
- B. Requests for a variance or special exception may be filed by any landowner, or any tenant with the permission of the landowner. The appropriate fee, as established in the fee schedule adopted by resolution of the Board of Supervisors, shall be paid in advance for each appeal or application for a variance or special exception.

**SECTION 1110 GRANTING OF VARIANCES**

- A. The Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship on the applicant.
- B. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance.
- C. The Board may grant a variance, provided the following findings are made where relevant in a given case:
  1. That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the

provisions of the Zoning Ordinance in the district in which the property is located.

2. That, because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is, therefore, necessary to enable the reasonable use of the property.
  3. That such unnecessary hardship has not been created by the applicant.
  4. That the variance, if authorized, will neither alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
  5. That, in the case where the property is located in part or totally within the regulatory floodway, the granting of a variance will not increase the base flood elevation. In addition, whenever a variance is granted with respect to the provisions of Section 402, Flood Hazard District, of this Ordinance, the Township shall notify the applicant in writing that the granting of the variance may result in increased premium rates for flood insurance, and such variance may increase the risks to life and property. Furthermore, the Township shall maintain a complete record of variance requests and related actions with respect to Section 402 of this Ordinance and shall report all granted variances during the year to the Federal Insurance Administration in accordance with Section 402.10 of this Ordinance.
  6. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- D. In addition, the Board shall, to the full extent permitted by law, consider the factors and criteria listed in Section 1111 below.
- E. The applicant shall bear the burden of presenting such evidence as is necessary to demonstrate that the proposed use or modification complies with the pertinent criteria and standards set forth in this Section and in Section 1111.

#### **SECTION 1111 GRANTING OF SPECIAL EXCEPTIONS**

Where in this Ordinance special exceptions are stated to be granted or denied pursuant to express standards and criteria, the Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in the Ordinance, as it may deem necessary to implement the purposes of the MPC and this Zoning Ordinance. It shall be the responsibility of the applicant requesting approval of a special exception to present such evidence as is necessary to demonstrate that the proposed use or modification complies with all pertinent criteria or standards. The Board shall consider the following factors and criteria where appropriate:

- A. That the size, scope, extent and character of the special exception request is consistent with the *Highland Township Comprehensive Plan (2001)* and with the purpose and intent of the zoning district involved.

- B. That the proposed special exception's character and type of development constitutes an appropriate use in the area consistent with the character and type of development in the area surrounding the location for which the request is made and will not substantially impair, alter, or detract from the use of surrounding property or from the character of the neighborhood, the number, extent, and scope of nonconforming uses in the area, and the presence or absence in the neighborhood of conditions or uses which are the same or similar in character to the condition or use for which the applicant seeks approval.
- C. That the proposed special exception does not impair the health, safety, and welfare, nor the best interests of the Township.
- D. That the proposed special exception complies with the applicable provisions of the Township Subdivision and Land Development Ordinance.
- E. That the effects of the proposed use relative to the most appropriate use of the land; the conservation of the value of buildings; safety from fire, panic, and other dangers; the adequacy of light and air; the overcrowding of land; congestion of population; and the adequacy of public and community services.
- F. That the proposed use limits the total number of new access points, reduces the need for on-street parking, and encourages the frontage of buildings on parallel marginal roads, or on roads perpendicular to the roadways with higher functional classification.
- G. That the proposed special exception will protect roads and highways from undue congestion and, to that end, provides adequate access and parking arrangements. The applicant shall establish the effect of the proposed development or use on the reserve capacity of the public roads and road intersections providing access to and in the area of the subject property.
- H. That the natural features of the proposed site and its surroundings will not suffer unnecessary degradation and that the management of stormwater, the provision of water or sewer service, and any other alterations to the site's predevelopment condition shall be consistent with Township goals, practices and plans as set forth in the *Highland Township Comprehensive Plan (2001)*, and that demand for water and energy by the proposed use shall be minimized to the maximum extent possible.
- I. That all commercial or industrial parking, loading, access and service areas shall be illuminated in accordance with the lighting standards of Section 707 of this Ordinance.
- J. That the proposed change is reasonable in terms of the logical, efficient and economical extension of public services and facilities, including but not limited to public water and sewer, police and fire protection, transportation and public schools.
- K. The recommendations of the Planning Commission on the proposed development plan, where such plan is required.
- L. In addition to conforming with the general standards above, and all other applicable regulations contained in this Ordinance, the proposed special exception shall conform with all conditions for that use as given in Article VI.

**SECTION 1112 EXPIRATION OF SPECIAL EXCEPTIONS AND VARIANCES**

Unless otherwise specified by the Board, a special exceptions and variances shall expire if the applicant fails to obtain a building permit, a use and occupancy permit, or a subdivision and land development approval, as the case may be, within six (6) months from the date of authorization thereof.

**SECTION 1113 TIME LIMITATIONS**

- A. No aggrieved person shall be allowed to file any proceedings with the Board later than thirty (30) days after:
  - 1. A permit has been issued or refused or any other decision has been made by the Zoning Officer.
  - 2. Any application for development, preliminary or final, has been approved by the Board of Supervisors if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given.
- B. If such person succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest.
- C. All appeals from determinations adverse to the applicant shall be filed by the landowner within thirty (30) days after notice of the determination is issued.

**SECTION 1114 STAY OF PROCEEDINGS**

- A. Upon filing of any proceeding referred to in Section 1109 and during its pendency before the Board, all land development pursuant to any challenged zoning ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property. In such case, the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the Court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body.
- B. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Zoning Hearing Board by persons other than the applicant, the applicant may petition the court have jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Zoning Hearing Board. Where such a petition is presented, the procedures outlined in Section 915.1(b), (c), and (d) of the Municipalities Planning Code shall apply.

**SECTION 1115 APPEALS TO COURT**

Appeals to Court shall be in accordance with Article X-A, *Appeals to Court*, of the Municipalities Planning Code, as amended.

**ARTICLE XII**

**AMENDMENTS**

---

**SECTION 1201 AMENDMENTS**

The Board may from time to time amend, supplement, change, modify or repeal this Ordinance including the Zoning Map in accordance with Sections 609 and 610 of the Municipalities Planning Code (MPC), as amended. The Board shall fix the time and place of the public hearing on the proposed change, amendment or repeal, and cause notice thereof to be given as follows:

**A. Notice for Public Hearing**

1. By publishing a notice once each week for two (2) successive weeks in a newspaper of general circulation in the Township. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.
2. In addition, if the proposed amendment involves a Zoning Map change, notice of said public hearing shall be conspicuously posted at points deemed sufficient by the Township along the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one (1) week prior to the date of the hearing.
3. In addition to the notice requirements in subsections 1. and 2., above, where the proposed amendment involves a Zoning Map change, notice of the public hearing shall be mailed by the Township at least thirty (30) days prior to the date of the hearing by first class mail to the addresses to which real estate tax bills are sent for all real property located within the area being rezoned, as evidenced by tax records within the possession of the Township. The notice shall include the location, date and time of the public hearing. However, this subsection shall not apply when the rezoning constitutes a comprehensive rezoning. A good faith effort and substantial compliance shall satisfy the requirements of this subsection.

**B. Notice for Advertisement and Availability of Amendment prior to Public Hearing**

1. Proposed zoning amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth below and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the Township where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The Board of Supervisors shall publish the proposed amendment once in one (1) newspaper of general circulation in the Township not more than sixty (60) days nor less than seven (7) days prior to passage. Publication of the proposed amendment shall include either the full text thereof or the title and a brief summary, prepared by the Township Solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:
  - a. A copy thereof shall be supplied to a newspaper of general circulation in the Township at the time the public notice is published.

- b. An attested copy of the proposed amendment shall be filed in the Chester County Law Library or other county office designated by the county commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said ordinances.
2. In the event substantial amendments are made in the proposed amendment, before voting upon enactment, the Board of Supervisors shall, at least ten (10) days prior to enactment, readvertise in one (1) newspaper of general circulation in the Township, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.

**SECTION 1202 PLANNING COMMISSION REFERRAL**

The Board of Supervisors shall refer each proposal for change or amendment to the Township Planning Commission and the County Planning Commission at least thirty (30) days prior to the hearing, which shall consider whether or not such proposed change or amendment would be consistent with and desirable in furtherance of the Comprehensive Plan upon which this Ordinance is based, as the same may be modified from time to time. Each Commission shall transmit its conclusions, findings and recommendations thereon, together with its reasons therefore, to the Board of Supervisors within thirty (30) days. The Board of Supervisors shall take such conclusions and reasons into consideration in reaching its decision, but shall not be bound thereby.

**SECTION 1203 CURATIVE AMENDMENT PROCEDURES**

**A. Landowner Originated Curative Amendments**

1. A landowner who desires to challenge on substantive grounds the validity of the Zoning Ordinance or Zoning Map or any provision thereof, which prohibits or restricts the use or development of the land in which he has an interest may submit a curative amendment to the Board of Supervisors with a written request that his challenge and proposed amendment be heard and decided as provided for in Sections 609.1 and 916.1 of the Municipalities Planning Code, as amended. The Board shall commence a hearing thereon within sixty (60) days of the request as provided in Section 916.1 of the MPC, as amended. The curative amendment and challenge shall be referred to the Township Planning Commission and the Chester County Planning Commission as provided in Section 609 of the MPC, as amended and notice of the hearing thereon shall be given as provided in Section 610 (see Section 1201.B, above) and in Section 916.1 of the MPC, as amended.
2. The hearing shall be conducted in accordance with Section 908 (see Section 1108, *Hearings*, above) of the MPC, as amended and all references therein to the Zoning Hearing Board shall, for purposes of this Section be references to the Board of Supervisors provided, however, that the provisions of Section 908(1.2) and (9) shall not apply and the provisions of Section 916.1 of the MPC, as amended shall control. If the Township does not accept a landowner's curative amendment brought in accordance with the subsection and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire Zoning Ordinance and Zoning Map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge.



**B. Township Originated Curative Amendments**

1. The Board may declare this Ordinance, or portions thereof, substantively invalid and propose to prepare a curative amendment, in accordance with Section 609.2 of the MPC, as amended, to overcome such invalidity. Within thirty (30) days following such declaration and proposal the Board shall:
  - a. By resolution make specific findings setting forth the declared invalidity of the Zoning Ordinance which may include:
    1. References to specific uses which are either not permitted or not permitted in sufficient quantity;
    2. Reference to a class of use or uses which require revisions; or
    3. Reference to the entire Ordinance which requires revisions.
  - b. Begin to prepare and consider a curative amendment to the Zoning Ordinance to correct the declared invalidity.
2. Within one hundred eighty (180) days from the date of the declaration and proposal, the Board of Supervisors shall enact a curative amendment to validate, or reaffirm the validity of, the Zoning Ordinance pursuant to the provisions required by Section 609 of the MPC, as amended to cure the declared invalidity of the Zoning Ordinance.
3. Upon the initiation of the procedures, as set forth in subsection B.1., above, the Board shall not be required to entertain or consider any landowner's curative amendment filed under Section 609.1 of the MPC, as amended or Section 1204.A, above, nor shall the Zoning Hearing Board be required to give a report requested under Section 909.1 or 916.1 of the MPC, as amended subsequent to the declaration and proposal based upon grounds identical to or substantively similar to those specified in the resolution required by subsection B.1.a., above. Upon completion of the procedures as set forth in subsections 1. and 2. above, no rights to a cure pursuant to the provisions of Sections 609.1 and 916.1 of the MPC, as amended, shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended Zoning Ordinance for which there has been a curative amendment pursuant to Section 1204.B., herein.
4. The Board, having utilized the procedures as set forth in subsection B.1 and 2, above, may not again utilize said procedure for a thirty-six (36) month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of the Zoning Ordinance pursuant to subsection B.2., above; provided, however, if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the Township by virtue of a change in statute or by virtue of a Pennsylvania appellate court decision, the Township may utilize the provisions of Section 1204.B., herein, to prepare a curative amendment to the Ordinance to fulfill said duty or obligation.

(this page intentionally left blank)

**ARTICLE XIII**

**NONCONFORMING USES, BUILDINGS, STRUCTURES, LOTS, AND SIGNS**

---

**SECTION 1301 APPLICATION OF REGULATIONS**

The following regulations shall apply to nonconforming uses, structures, buildings, lots, and signs as defined below:

- A. **Nonconforming Use.** A use, whether of land or of structure, which does not comply with the applicable use provisions in this Ordinance or amendments hereafter enacted where such use was lawfully in existence prior to the enactment of this Ordinance or amendments.
- B. **Nonconforming Structure.** A structure which does not comply with the applicable dimensional regulations, including those relating to density, impervious surfaces, building coverage, building height, and setbacks in this Ordinance or amendments hereafter enacted where such structure was lawfully in existence prior to enactment of this Ordinance or amendments. Such structures include, but are not limited to, buildings, fences, and swimming pools.
- C. **Nonconforming Lot.** A lot or site which does not comply with the applicable dimensional regulations, including those related to site area, lot area, and lot width, in this Ordinance or amendments hereafter enacted where such lot was lawfully in existence prior to enactment of this Ordinance or amendments.
- D. **Nonconforming Sign.** Any sign legally existing at the time of the enactment of this Ordinance that does not conform in use, location, height, or size to the regulations of Article IX.

**SECTION 1302 CONTINUATION**

Any lawful building or other structure or any lawful use of a building, structure, land, or sign legally existing at the time of the enactment of this Ordinance or any amendment thereof, or authorized by a building permit issued prior thereto, may be continued in the form it existed at the time of adoption of this Ordinance or any amendment thereof.

**SECTION 1303 NONCONFORMING USES**

Except as provided in this Article, any use lawfully existing at the time of enactment of this Ordinance, or any amendment thereto, may be continued, subject to compliance with the following provisions:

- A. **Change of Use.** A non-conforming use may be changed to another non-conforming use by grant of special exception only upon determination by the Zoning Hearing Board that the proposed new use will be no more detrimental to the objectives and purposes of this Ordinance or to the character, neighborhood and surrounding areas of the Township than the existing use. In determining what is detrimental, the Zoning Hearing Board shall consider, among other things, whether additional traffic might be generated; any nuisance characteristics, such as the emission of noise, dust and smoke; fire hazards; potential environmental degradation; the hours and manner of operation; and hardship(s) facing the owner.
- B. **Expansion.** A nonconforming use of a building, structure, portion of a building or structure, or lot shall not be enlarged, extended or structurally altered, unless required to assure the structural

safety of the building, or unless the Zoning Hearing Board grants a special exception authorizing such a limited extension of a non-conforming use. The Zoning Hearing Board may grant such a special exception provided that:

1. Such an exception will not be materially detrimental to the objectives and purposes of this Ordinance or to the character, neighborhood, and surrounding areas of the Township, as defined in Section 1303.A., above.
  2. The area devoted to the nonconforming use will in no case be increased cumulatively by more than thirty (30) percent.
  3. Any extension of a building, structure, or of a lot having a nonconforming use shall conform to the area, height, setback, and other applicable dimensional regulations of the district in which it is situated.
  4. Where a non-conforming use is conducted entirely on or in unenclosed premises, no structure to house or enclose such use, whether or not such structure would otherwise conform to the provisions of this Ordinance, shall be erected.
- C. **Discontinuance or Abandonment.** Whenever a non-conforming use, building, structure, lot or sign is discontinued for one (1) year, such non-conformity shall not thereafter be reestablished and all future uses shall be in conformity with the provisions of this Ordinance.
- D. **Reconstruction.** A structure containing a nonconforming use involuntarily destroyed by fire, explosion, flood, or other phenomena, or legally condemned, may be reconstructed and used for the same nonconforming use, provided that:
1. Reconstruction of the structure shall commence within one (1) year from the date the structure was destroyed or condemned and shall be completed within one (1) year of the date reconstruction commenced.
  2. The reconstructed structure shall not exceed the area and bulk of the damaged or destroyed structure, except as provided for in Section 1303.B, above.

#### **SECTION 1304 NONCONFORMING BUILDINGS AND STRUCTURES**

The continuation, alteration or extension of a non-conforming building or structure shall comply with the following requirements:

- A. **Alteration or Enlargement.** A nonconforming building or structure which is used, or proposed to be used, for a conforming purpose may be continued, altered, or enlarged provided the alteration or enlargement does not increase the nonconformity of the building or structure with respect to the existing setback, land coverage or density requirements of this Ordinance.
- B. **Restoration.** A nonconforming building or structure damaged or destroyed by fire or other casualty may be reconstructed in its former location to its former dimensions and be used for the same purpose for which it was used before its damage or destruction, provided that such reconstruction shall be commenced within one (1) year from the date of damage or destruction, and shall be completed within two (2) years of the date of such damage or destruction.

- C. **Voluntary Demolition and Abandonment.** Where a nonconforming building or structure housing a non-conforming use is voluntarily demolished or destroyed, except for reconstruction and/or modernization, the nonconforming use as well as the nonconforming structure shall be deemed to have been abandoned and discontinued and any use thereafter shall conform to the provisions of this Ordinance.

#### **SECTION 1305 NONCONFORMING LOTS**

Except as provided in this Article, any lot lawfully existing at the time the enactment of this Ordinance, or any amendment thereto, may be utilized subject to the following provisions:

- A. A nonconforming lot held in single and separate ownership at the effective date of this Ordinance, or of any amendment hereto, which is not of the required minimum area or width, may be used for the construction, reconstruction, or alteration of a building or structure or may be otherwise used if the construction, reconstruction, alteration, or other use is itself in compliance with the use, yard, setback, density and other provisions of this Ordinance.
- B. An owner of two (2) or more contiguous, nonconforming lots which, if combined, would create a lot of conforming size, shall be required to combine such lots prior to the issuance of a building permit.
- C. No lot area shall be reduced so that the area, width, or the applicable setback dimensions of the lot shall be smaller than herein prescribed.

#### **SECTION 1306 NONCONFORMING SIGNS**

Except as provided in this Article, any nonconforming sign lawfully existing at the time of enactment of this Ordinance, or any amendment thereto, may be continued, subject to compliance with the following provisions:

- A. **Moving.** A nonconforming sign shall not be moved to a position where such sign remains nonconforming except by special exception.
- B. **Area.** The total area of all such signs relating to a single use at the effective date of this Ordinance, or at the effective date of any amendment to this Ordinance by which any sign shall be made nonconforming, shall not be increased.
- C. **Repair or Replacement.** Nonconforming signs, once removed or damaged by more than sixty (60) percent, including structural framing or bracing, shall be replaced with conforming signs. Signs with damage of sixty (60) percent or less may be repainted or repaired, provided that their nonconformities are not hereby increased.
- D. **Discontinuance.** Whenever any nonconforming use ceases, as described in Section 1303.C, all signs accessory to such use shall be removed within thirty (30) days from the date such use terminates.

**SECTION 1307 NONCONFORMING USES AND STRUCTURES IN THE FLOOD HAZARD DISTRICT**

A structure or use of a structure or premises which lawfully existed before the enactment of the Flood Hazard District provisions of this Ordinance, but which is not in conformity with those provisions, shall be subject to the requirements of Section 402 of this Ordinance.

**ARTICLE XIV**  
**DEFINITIONS**

---

**SECTION 1401 LANGUAGE INTERPRETATION**

Unless otherwise expressly stated, for the purposes of this Ordinance the following words shall be interpreted as indicated in the following clauses:

- A. The present tense includes the future.
- B. The singular includes the plural and the plural the singular, except that such interchange of meaning shall not apply where numbers in the text refer to specific minimum and maximum quantities.
- C. The masculine gender includes the feminine and neuter.
- D. The word “shall” or “must” indicates a mandatory requirement.
- E. The word “person” includes an individual, corporation, partnership, firm, organization, association, incorporated association or any other similar entity.
- F. The word “Township” shall mean Highland Township, Chester County, Pennsylvania.
- G. The term “Board of Supervisors” shall mean the Board of Supervisors of Highland Township.
- H. The term “Zoning Hearing Board” shall mean the Zoning Hearing Board of Highland Township.
- I. The word “Commission” and the words “Planning Commission” shall mean the Highland Township Planning Commission.
- J. The word “building” includes “structure” and any part thereof.
- K. The word “used” includes the words “designed, arranged, or intended to be used”.
- L. The word “occupied” includes the words “designed, or intended to be occupied”.
- M. The word “includes” or “including” shall not limit the term to the specified example, but is intended to extend its meaning to all other instances of like kind and character.

**SECTION 1402 DEFINITION OF TERMS**

**ABANDONMENT** – The relinquishment of a use without the intention to resume the said use as provided for in Article XIII, Nonconforming Uses, Buildings, Structures, Lots, and Signs.

**ACCESSORY AGRICULTURAL DWELLING** – An accessory dwelling unit intended to be occupied by one (1) or more of the following: 1) a tenant or 2) employees and their immediate family members, who are engaged in the conduct of a principal agricultural use carried out on the premises on which the dwelling unit is situated.

**ACCESSORY BUILDING OR STRUCTURE** – A subordinate building or structure located on the same lot as a principal building and the use of which is clearly incidental and subordinate to the principal building. Any portion of a building or structure devoted or intended to be devoted to an accessory use is not an accessory building.

**ACCESSORY USE** – A use located on the same lot with a principal use, and clearly incidental or subordinate to, and in connection with, the principal use.

**ACT 247** – Pennsylvania Municipalities Planning Code of 1968, as amended, (53 P.S. §§ 10101, et seq.).

**ADVERSELY AFFECT** – Raise, lower or in any way influence the level of the surface water of the 100 year flood or in any way the topography of any watercourse, drainage ditch or drainage facility.

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

**AGRICULTURE** – The cultivation of the soil, and the raising, harvesting and/or storage of the products of the soil (no matter where raised), including but not by way of limitation: nurserying, horticulture, foresting and the breeding, raising and maintenance of livestock.

**AGRICULTURE, INTENSIVE**<sup>1</sup> – Agricultural uses involving the raising, production and preparation for market of livestock or poultry and their products which meet or exceed the minimum criteria of a CAO (8 or more animal equivalent units (AEUs) where the animal density exceeds 2 AEUs per acre on an annualized basis) as established by the State Conservation Commission under the authority of 3 Pa.C.S. Chapter 5 (relating to nutrient management and odor management) in 25 Pa. Code, Chapter 83, Subchapter D (relating to nutrient management).

**AGRICULTURE, NONINTENSIVE** – The cultivation of the soil and the raising and harvesting of products of the soil, including nurseries, horticulture, commercial greenhouses, forestry, and the raising of less livestock or poultry than the minimum criteria for a CAO specifies (less than 8 animal equivalent units (AEUs) and an animal density of less than 2 AEUs per acre on an annualized basis as established by the State Conservation Commission under the authority of 3 Pa.C.S. Chapter 5 (relating to nutrient management and odor management) in 25 Pa. Code, Chapter 83, Subchapter D (relating to nutrient management).

**ALLEY** – A minor way, which may or may not be legally dedicated, used primarily for vehicular service access to the rear or side of properties otherwise abutting on a road.

**ALLUVIAL SOILS** – Areas subject to periodic flooding as defined in the Chester and Delaware Counties, Pennsylvania Soil Survey, 1963, No. 19, as amended, and reclassified in the Soil Survey Geographic Database for Chester County, PA, U.S. Department of Agriculture, Natural Resources Conservation Service, 1997.

Chewacla silt loam (Ch)

Wehadkee silt loam (We)

---

<sup>1</sup> Federal and State legislation set forth the criteria for “Intensive Agriculture.” The Township may not regulate more or less stringently.



**ALTERATION** – Any change or rearrangement, other than a repair, in the supporting members of an existing building, such as the bearing walls, columns, beams, or girders, as well as any change in exterior doors or windows, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or moving of a building or structure from one location to another.

**ANIMAL EQUIVALENT UNIT (AEU)** – One thousand (1,000) pounds of live weight of livestock or poultry animals on an annualized basis, regardless of the actual number of individual animals comprising the unit.

**ANIMAL EQUIVALENCY UNIT (AEU) PER ACRE** – An animal equivalent unit per acre of cropland or acre of land suitable for application of animal manure.

**ANTENNA ARRAY** – One or more whips, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antenna (whip), directional antennae (panel) and parabolic antennae (disc), but not the Support Structure as defined herein.

**ANTENNA, RADIO OR TELEVISION** – A device, either freestanding or attached to a building, used for receiving frequency signals, including television and radio antennae and which is not used for commercial purposes. Such devices shall also include ham and citizen band radio antennae used by amateur radio operators.

**APPLICANT** – A landowner or developer, as hereinafter defined, who has filed an application for development including his heirs, successors and assigns.

**APPLICATION FOR DEVELOPMENT** – Every application, whether preliminary, tentative or final, required to be filed and approved prior to the start of construction or development, including, but not limited to an application for a building permit, for the approval of a subdivision plat or plan or for the approval of a development plan.

**ARCHITECTURAL FEATURE** – A prominent or significant part or element of a building, structure, or site.

**ATTACHED WIRELESS COMMUNICATIONS FACILITY (Attached WCF)** – An Antenna Array that is attached or affixed to an existing building or structure (including but not limited to a utility pole, sign or water tower), along with any transmission cables and accompanying pole or device that attaches or affixes the Antenna Array to the existing building or structure.

**AUTOMOBILE SERVICE STATION/GAS STATION** – A facility used for the retail sale of motor fuel and lubricants and services, and the incidental sale, installation or minor repair of tires, batteries or other automobile accessories.

**BASEMENT** – An enclosed area partly underground, but having one half or more of its height (measured from floor to ceiling) above the average level of the adjoining ground which shall be considered a story for the purpose of height measurements or determining square footage and floor area only if the vertical distance between the ceiling and the average level of the adjoining ground is more than four (4) feet or if used for business or dwelling purposes.

**BED AND BREAKFAST** – A building occupied by a resident innkeeper containing four (4) or fewer guest rooms for the temporary lodging of guests for compensation and providing to the guests such lodging services as maid service and accessory eating and drinking facilities.

**BILLBOARD** – A sign upon which advertising matter of any character is printed, posted or lettered, except for a sign indicating a business or profession conducted on the premises. A billboard may be either freestanding or attached to a surface of a building or other structure.

**BLOCK** – A tract of land bounded by streets, public parks, railroad right-of-way or corporate boundary lines of the Township or any combination thereof.

**BOARD** – The Board of Supervisors of Highland Township.

**BUFFER** – An area which provides year-round visual and sound attenuation between uses through the application of such means as plantings, earthen berms, depressions, fences or walls.

**BUILDING** – A combination of materials forming a permanent structure having walls and a roof. Manufactured homes and trailers for human habitation are included in this definition.

**BUILDING, PRINCIPAL** – A structure in which is conducted, or is intended to be conducted, the principal use of the lot on which it is located.

**BUILDING HEIGHT** – The vertical distance measured from the elevation of the proposed finished grade at the front of the building to a point midway between the highest and lowest point of the roof, but not including chimneys, spires and those buildings and structures accessory to agriculture (excluding residences). See Figure 14-C.

**BUILDING PERMIT** – An approval statement signed by the Code Officer, indicating compliance with this Ordinance and any other ordinances or regulations, authorizing the construction, alteration, reconstruction, restoration, demolition or razing of all or a part of any building or structure within the Township.

**BUILDING SETBACK LINE** – The line established within a lot, measured from the street right-of-way and parallel thereto, defining the minimum distance in which no building may be constructed. In the case of an existing interior lot not fronting a street for its entire width, the building setback line shall be a line parallel to the street right-of-way measured from the property interior line nearest the street, defining the minimum distance in which no building may be constructed. Also known as the minimum front yard setback. See Figure 14-A.

**BULK** – The term used to describe the size of buildings or other structures and their relationship to each other, to open areas, such as yards and to lot lines, and the size, height and floor areas of buildings or other structures; the relation of the number of dwelling units in a residential building to the area of the lot (usually called density); all open areas in yard space relating to buildings and other structures.

**CALIPER** – The diameter of a tree trunk measured at a point six (6) inches above ground level.

**CARTWAY** – The paved portion of a road or right-of-way intended for vehicular use.

**CEMETERY** – Land used or intended to be used for burial of deceased persons or animals, including mausoleums and mortuaries when operated in conjunction with the cemetery and within its boundaries.

**CENTERLINE** – (See **ROAD, CENTERLINE OF**).

**CHURCH** – (See **RELIGIOUS WORSHIP, PLACE OF**).

**CLEARCUTTING** - The indiscriminate removal of all trees on a site or portion thereof.

**CLEAR SIGHT TRIANGLE** – An area of unobstructed vision at a road intersection, defined by lines of sight between points at a given distance from the intersection down the center lines of the road. See Figure 14-B.

**CLUSTER DEVELOPMENT** – An arrangement of dwellings that allows for reducing lot area and yard requirements and incorporating the remaining area as permanent open space.

**CO-LOCATION** – Use of a common Wireless Communication Facility (WCF) or common Support Structure by two or more wireless communication license holders or by one wireless communications license holder for more than one type of communications technology, or, placement of a WCF on a structure owned or operated by a utility or other public entity, or, placement of an Attached WCF.

**COMMERCIAL** – A use of land, or improvements thereto, for the purpose of engaging in retail, wholesale or service activities for profit.

**COMMON OPEN SPACE** – A parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of a development, not including roads, off-street parking areas, and areas set aside for public facilities.

**COMPLETELY DRY SPACE:** A space which will remain totally dry during flooding.

**COMPOST** – Relatively stable decomposed organic material.

**COMPOSTING** – A controlled process of degrading organic matter by microorganisms. .

**COMPOSTING, COMMERCIAL** – A composting operation where the compost produced is not intended primarily for use on the premises where it is prepared. .

**COMPREHENSIVE PLAN** – The Comprehensive Plan of Highland Township, as adopted and amended.

**CONCENTRATED ANIMAL FEEDING OPERATION (CAFO)** –Agricultural operation with more than one thousand (1,000) animal equivalent units (AEUs); agricultural operation with a discharge to surface waters during a storm event of less than 25-year/ 24 hour storm intensity; or a CAO with greater than three hundred (300) animal equivalency units (AEUs).

**CONCENTRATED ANIMAL OPERATION (CAO)** – Agricultural operations with eight (8) or more animal equivalent units (AEUs) where the animal density exceeds two (2) animal equivalency units (AEUs) per acre on an annualized basis.

**CONDITIONAL USE** – Uses permitted by the Board of Supervisors pursuant to the provisions of Article X of this Ordinance.

**CONDOMINIUM** – A type of ownership wherein each apartment or dwelling unit is owned in fee by its occupant, while the land and such appurtenances as driveways, parking areas, sidewalks, landscaping, swimming pools and other recreation facilities, street lighting, heating facilities, entrance lobbies, halls, elevators and on-site utilities remain under the ownership, with full responsibility for maintenance, of the developer or any organization holding title to such land and appurtenances in accordance with the Pennsylvania Uniform Condominium Act of 1980 (68 Pa.C.S. §§ 3101-3404). The unit may be any permitted dwelling type.

**CONSTRUCTION** – The construction, reconstruction, erection, rebuilding, renovation, repair, extension, expansion, alteration, demolition or relocation of a building or structure including the placement of mobile homes.

**CONVERSION** – The alteration of a building, structure or land by change of the use, theretofore existing, to a new use which involves other special provisions of a law governing building construction, equipment, exits or zoning regulations.

**CONVERSION, RESIDENTIAL** – An alteration of a building, structure or land by change of use, theretofore existing, to a new use which imposes other special provisions of a law governing building construction, equipment, exits or zoning regulations.

**CORNER LOT** – See **LOT, CORNER**.

**COUNTRY CLUB** – An association of persons for the common object of enjoying different forms of recreation such as golf and tennis.

**COVERAGE, BUILDING** – The ratio of the total ground floor area of all buildings on a lot to the total area of the lot on which the buildings are located. See Figure 14-A.

**COVERAGE, LOT** – The ratio of the total ground floor area of all buildings and other impervious surfaces on a lot to the total area of the lot on which they are located.

**DAY CARE**

1. **Commercial Adult Day Care** – A commercial facility where daytime supervision is provided for adults.
2. **Commercial Child Day Care Center** – A facility which exclusively provides supplemental parental care and instruction to children who are not related to the caregiver or operator; where tuition, fees, or other forms of compensation are charged and which is licensed or approved to provide child care by the Commonwealth of Pennsylvania for more than six (6) children.
3. **Home Day Care** – A major home occupation in which a private residence is used for the care and supervision of between four (4) and six (6) children or adults not related to the caregiver.

**DENSITY** – The total land area divided by the total number of dwellings located thereon, expressed in dwelling units (DU) per acre.

**DEP or PaDEP** – Pennsylvania Department of Environmental Protection.

**DEPARTMENT OF HEALTH** – The Department of Health of the Commonwealth of Pennsylvania or of Chester County, or their respective representative having jurisdiction in the Township.

**DEVELOPER** – Any landowner, agent of such landowner, tenant with the permission of such landowner, or equitable owner who makes or causes to be made a subdivision of land or a land development.

**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; roads and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

**DEVELOPMENT PLAN** – The provisions for development, including a planned residential development, a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, roads, ways and parking facilities, common open space and public facilities. The phrase “provisions of the development plan” shall mean the written and graphic materials referred to in this definition.

**DIAMETER AT BREAST HEIGHT (DBH)** – The diameter of a tree trunk measured at a point four (4) feet above ground level.

**DWELLING** – Any building or other structure designed for and occupied exclusively for residential purposes including an apartment, mobile home, recognized housing types, architectural types or styles, or combinations thereof, whether such housing units are for lease or for sale, but excluding rental units in a motel, rooming house, tourist home, institutional home, dormitory, and the like. Dwelling types include, but are not limited to, the following (see also Figure 14-D):

1. **Single-Family Detached.** A building designed for and occupied exclusively as a residence, containing one (1) dwelling unit and having no common party wall with an adjacent dwelling, and having yards on all sides. Where a private garage is structurally attached to such building, it shall be considered as part thereof.
2. **Twin.** A building designed for and occupied exclusively as a residence, containing two (2) dwelling units separated by a vertical common or party wall and having yards on all but one (1) side.
3. **Townhouse.** A building designed for and occupied exclusively as a residence, containing three (3) but not more than eight (8) dwelling units each accommodating one (1) family, which are attached by a vertical common party wall and which have side yards adjacent to each end unit.
4. **Multi-Family.** A building, such as an apartment building, designed for and occupied exclusively as a residence, containing three (3) or more dwelling units which is not a “townhouse.”
5. **Duplex.** A detached dwelling unit structure having a maximum of two (2) units, one located above the other, with each such unit having separate entrances.

**DWELLING UNIT** – A structure designed or used to provide complete, independent living facilities for one (1) family or for a common household, including permanent provisions for living, sleeping, eating, cooking, and sanitation, but excluding individual rental units in a motel, rooming house, tourist home, institutional home, dormitory, and the like.

**DWELLING UNIT, SUPPLEMENTAL** – A smaller secondary dwelling unit within an existing single-family detached dwelling or in an accessory building on the same lot as the principal dwelling where no substantial exterior modifications to the existing building are present.

**EASEMENT** – An interest in land owned by another that entitles the holder of the easement to a specific use or enjoyment of the land.

**EFFECTIVE DATE OF THIS ORDINANCE** – The date upon which this Ordinance officially comes into effect, except that with respect to the subject matter of any amendment, said date shall mean the date the particular amendment became or becomes effective.

**EFFECTIVE SCREEN** – A wall, fence, plantings, earth works, or combinations thereof, which are arranged or placed so as to divert attention from, or obstruct at least fifty (50) percent of an otherwise clear view of a use or activity during all seasons of the year. When plantings are used for screening, they shall consist of a combination of deciduous (leaf-shedding) and evergreen plantings to provide an effective screen throughout the year.

**EMPLOYEE** – A term referred to in the parking standards as a measure of the number of parking spaces required and shall include the maximum number of employees on duty at any time, whether they are full or part time. If two shifts overlap, the total of both shifts shall be counted.

**ENLARGEMENT** – An addition to the floor area and/or bulk of an existing building; also an increase in size of any structure or an increase in that portion of a tract of land occupied by an existing use.

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

**FAMILY** – A family is one (1) or more individuals living together as a single nonprofit housekeeping unit, sharing kitchen and other common facilities, and meeting one (1) of the four (4) criteria listed below:

1. A single person occupying a dwelling unit and maintaining a household;
2. Two (2) or more persons related by blood, foster relationship, marriage or adoption, occupying a dwelling unit, living together and maintaining a common household with not more than one (1) boarder, roomer or lodger;
3. Not more than four (4) unrelated persons occupying a dwelling unit, living together and maintaining a common household, excluding a rooming or boarding house, fraternity house, dormitory, or transitional housing; or
4. A group of individuals with disabilities living together as the functional equivalent of a family and entitled to a reasonable accommodation to allow them adequate housing choices pursuant to the Federal Fair Housing Act, as amended (42 U.S.C. §§ 3601, et seq.) and the Pennsylvania Human Relations Act, as amended (43 Pa. Stat. §§951-963).

**FCC** – Federal Communications Commission or its successors.

**FEMA** – The Federal Emergency Management Agency.

**FENCE** – Any freestanding structure erected to secure or divide a property from another or a part of a property from the remaining part of the same property.

**FILL** – Material, exclusive of structures, placed or deposited so as to form an embankment or to raise the surface elevation of land.

**FLOOD** – A temporary inundation of normally dry land areas.

**FLOOD, BASE** – The flood selected to serve as the basis upon which the floodplain management provisions of this Ordinance have been prepared; specifically, the one hundred year flood. (See **FLOOD, ONE HUNDRED YEAR**.)

**FLOOD ELEVATION, BASE** – Within the one hundred year flood elevation, the base flood elevation shall be established as a point on the boundary of the approximated floodplain which is nearest to the site in question.

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

**FLOOD-FRINGE AREA** – That portion of the one hundred year flood plain outside of the floodway area.

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

**FLOOD, ONE HUNDRED YEAR** – A flood that, on the average, is likely to occur 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).

**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. The floodplain shall include the area within the Flood Hazard District as defined by Section 402.B.

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

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

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

**FLOOR AREA** – The sum of the areas of the several floors of a building or structure, including areas used for human occupancy or required for the conduct of business or use, and basements, attics, and penthouses, elevator shafts and stairwells, as measured from the exterior faces of the walls or from the center lines of walls separating two buildings. Not included are cellars, unenclosed porches, attics not used for human occupancy, nor any floor space in an accessory building nor in the main building intended or designed for the parking of motor vehicles in order to meet the parking requirements of this Ordinance, nor any floor space intended and designed for accessory heating and ventilating equipment.

**FLOOR AREA, GROSS** – The floor area as measured from within the perimeter of the outside walls of the building or from the centerline of the wall separating two (2) buildings, without deduction for hallways, stairs, closets, thickness of walls, or other features.

**FOOTCANDLE** – A unit of light intensity stated in lumens per square foot and measurable with an illuminant meter, also known as a light meter.

**FORESTRY** – The management of forests and timberlands in accordance with accepted silvicultural principles, through the developing, cultivating, harvesting, transporting, and selling of trees for commercial purposes, which does not involve land development.

**FREEBOARD** – A margin of safety, expressed in feet, above the 100-year flood elevation.

**FRONT YARD** – (See **YARD**).

**FRONT YARD LINE** – Also known as the **BUILDING SETBACK LINE** (See also **YARD LINE**).

**FRONTAGE** – The length of a front lot line coinciding with a road line.

**GLARE** - The sensation produced by lighting that causes an annoyance, discomfort, or loss in visual performance and visibility to the eye.

**GREENHOUSE, COMMERCIAL (RETAIL OR PRODUCTION)** – A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature or humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale.

**GROSS FLOOR AREA (GFA)** – The total of all floor areas of a building, excluding stairwells, equipment rooms, interior vehicular parking or loading, intended for the occupancy and exclusive use of the tenant or owner and not for public use.

**GROUNDWATER RECHARGE** – The replacement of water in interconnected pores located below the water table in an aquifer by the infiltration of precipitation, streams, lakes, or other water sources.

**GROUP HOME** – A licensed community-based living unit functioning as a single household and providing rehabilitative services and residential services to persons who, due to age, disability or handicap as defined by the Federal Fair Housing Act, as amended, (42 U.S.C. §§ 3601, et seq.) are not able to live without professional care or supervision. Group homes do not include a disciplinary facility confining adjudicated delinquents or convicted criminals, parolees or supervised probationers under the custody of the courts or county, state or federal correctional agencies.

**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 on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on an 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 certified either:
  - a. By an approved state program, as determined by the Secretary of the Interior; or



- b. Directly by the Secretary of the Interior.

**HOME OCCUPATION** – An accessory use which is clearly incidental or secondary to the residential use of the dwelling unit and is an activity conducted for profit by persons residing on the premises. Home occupations are further divided into two (2) categories, “minor home occupation” and “major home occupation.”

- 1. Minor Home Occupation – A business or commercial activity conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic (whether vehicular or pedestrian), and no pickup, delivery or removal functions to or from the premises in excess of those normally associated with the residential use. The business or commercial activity must satisfy the following requirements:
  - a. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
  - b. The business shall employ no employees other than family members residing in the dwelling.
  - c. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
  - d. There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
  - e. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception detectable in the neighborhood.
  - f. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with the residential use in the neighborhood.
  - g. The business activity shall be conducted only within the dwelling and may not occupy more than twenty-five (25) percent of the habitable floor area.
- 2. Major Home Occupation – A major home occupation is any home occupation that does not meet any one (1) or more of the criteria for minor home occupation, above.

**HOMEOWNERS’ ASSOCIATION** – A non profit organization of homeowners or property owners, planned and operated under approved rules and regulations, for the purpose of administering to the needs of residents through the maintenance of community owned property.

**HOSPITAL** – An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices, and staff residences.

**HOTEL** – A multi-story, multi-unit lodging complex primarily for transients, with access to each unit from the inside.

**HOUSEHOLD PETS** – Domesticated animals normally kept in or in conjunction with a dwelling unit, such as dogs, cats, small birds, gerbils and other similar pets.

**HYDRIC SOILS** – Soils formed under saturated conditions including any soil inventoried or described as hydric according to the Chester and Delaware Counties, Pennsylvania Soil Survey, 1963, No. 19, as amended, and reclassified in the Soil Survey Geographic Database for Chester County, PA, U.S. Department of Agriculture, Natural Resources Conservation Service, 1997. Hydric soils shall include, but are not limited to those soils listed in Appendix 5-1.

**ILLUMINANCE** – The quantity of light measured in footcandles or lux.

**IMPERVIOUS SURFACE** – Those surfaces which do not absorb precipitation or allow for groundwater recharge. All buildings, parking areas, driveways, roads, sidewalks, and any areas in concrete, asphalt, and packed stone shall be considered impervious surfaces within this definition. In addition, other areas determined by the Township Engineer to be impervious will also be classified as impervious surfaces.

**JUNK YARD OR SALVAGE YARD** – Any area or structure used for the collecting, storage and/or sale of waste paper, rags, scrap metal, or discarded material, or for the collecting, dismantling, storage, or salvaging of machinery or wrecked, disabled, or unregistered vehicles. The collecting, dismantling, deposit, storage and/or salvaging of two (2) or more vehicles, which are wrecked, disabled, currently unregistered or without a current inspection sticker, shall constitute a junk yard. (See Highland Township Junkyard Ordinance) Toxic wastes, radioactive materials, poisons, and other substances which are potentially harmful to man are excluded from this definition.

**KENNEL** – The use of land, building or structure for the purpose of breeding, boarding, training or grooming of customary household pets for compensation or the maintenance of five (5) or more dogs that are more than six (6) months old on a single lot or contiguous lots under single ownership or lease.

**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 roads, common areas, leaseholds, condominiums, building groups or other features.
2. A subdivision of land.
3. Development in accordance with the following exclusions:
  - a. The conversion of an existing single-family detached dwelling or single family semi-detached dwelling into not more than three (3) residential units unless such units are intended to be a condominium;
  - b. The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building; or

- c. The addition or conversion of buildings or rides within the confines of an amusement park. For purposes of this subclause, an amusement park is a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved.

**LAND DISTURBANCE** – Any activity which exposes soils, alters topography, and/or alters vegetation.

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

**LANDSCAPING** – The planting of turf or other appropriate groundcover or the planting of deciduous and evergreen trees and shrubbery, including the maintenance thereof, for the control of erosion, the retention of precipitation, protection against the elements, and promotion of human comfort and welfare.

**LIFE CARE FACILITY** – Residence for the frail elderly that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide other services, such as recreational activities, financial services, and transportation.

**LOT** – A tract or parcel of land used or set aside for use as the site of one or more buildings and any buildings accessory thereto or for any other purpose in single and separate ownership and not divided by a road, nor including any land within a right-of-way or a public or private road upon which said lot abuts, even if the ownership to such right-of-way is in the owner of the lot. A lot for the purpose of this Ordinance may or may not coincide with a lot of record.

**LOT AREA, NET** – The area of a lot or parcel excluding all dedicated rights-of-way.

**LOT, CORNER** – A lot bounded on at least two (2) sides or more by roads, whenever the lines of such roads extend from an interior angle of one hundred and thirty-five (135) degrees or less. Both yards adjacent to the roads shall be considered front yards. The owner or developer of a corner lot may specify which remaining lot lines shall be the side lot line and rear lot lines.

**LOT COVERAGE** – See **COVERAGE, LOT**.

**LOT LINES** – A property boundary line dividing one lot from another or from a road or any public space, except that, in the case of any lot abutting a road deemed to be the same as the road line, the lot line shall not be the centerline of the road, or any other line within the road line even though such may be on the property boundary line in a deed. See Figure 14-A, Lot Dimensions.

**LOT LINE, FRONT** – The line separating a lot from the road line. See Figure 14-1.

**LOT LINE, REAR** – Any lot line which is parallel to or within forty-five (45) degrees of being parallel to a road line (through lot), but that in the case of a corner lot there shall be no rear lot line. In the case of a lot having no road frontage or a lot of an odd shape, only the one (1) lot line furthest from any road shall be considered a rear lot line. See Figure 14-1.

**LOT LINE, SIDE** – Any lot line, which is not a front lot line or a rear lot line, except in the case of a corner lot, where both lot lines not adjacent to the road or considered side lot lines. See Figure 14-1.

**LOT WIDTH** – The distance measured between the side lot lines at the required building setback line. In the case of a corner lot, lot width shall be measured between such side lot line and the opposite lot line or front lot line. See Figure 14-A.

**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.

**LUX** – A unit of light intensity stated in lumens per square meter. There are approximately 10.7 lux per footcandle.

**MANUFACTURED HOME** – A transportable, single-family dwelling intended for permanent occupancy, office or place of assembly contained in one (1) or more sections and 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.

**MEDICAL CENTER** – An institution providing secondary health services and medical or minor surgical care to outpatients suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions and may include related facilities such as laboratories, training facilities, and medical offices.

**MINIMUM BUILDABLE AREA** – That area of a lot that has no development restrictions. The minimum buildable area shall not include the area in any required setbacks (except driveways which cross yards), buffer yards, natural features with one hundred (100) percent protection as specified in Article V, Natural Resource Protection Standards, and the portion of other protected natural features that may not be developed or intruded upon.

**MINI-WAREHOUSE or SELF-STORAGE** – A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

**MINOR REPAIR** – The replacement of existing work with equivalent materials as 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 the rearrangement of parts of a structure affecting the exitway requirements; nor do minor repairs include the 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.

**MOBILE HOME** – A transportable, single-family dwelling intended for permanent occupancy, contained in one (1) unit or in two (2) or more units designed to be joined into one (1) integral unit capable of again being separated for repeat towing which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations and constructed so that it may be used with a permanent foundation.

**MOBILE HOME LOT** – A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobile home.

**MOBILE HOME PARK** – A parcel or contiguous parcels of land which has been so designated and improved that it contains two (2) or more mobile home lots for the placement thereon of mobile homes.

**MOTEL** – A multi-unit lodging complex primarily for transients, with access to each unit from the outside.

**MUNICIPAL USE** – Any building, structure, facility, complex, area, or use provided, constructed, or maintained by Highland Township, Chester County, Pennsylvania.

**MUNICIPALITIES PLANNING CODE (MPC)** – The Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended (53 P.S. §§10101, et seq.)

**MUNICIPALITY** – Shall mean the Township of Highland.

**NATIVE SPECIES** – A species of plant that currently or previously inhabited or grew in a specified location, and which was not introduced to that location as a result of human activity, either intentional or accidental. The term “native” species generally refers to a species whose range was located within a large area like a continent or a nation. The term “indigenous” species is typically used to refer to a species whose original range extended into a smaller area like a state, county, or watershed.

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

**NONCONFORMING LOT** – A lot the area or dimensions of which was lawful prior to the adoption or amendment of a zoning ordinance, but which now fails to conform to the requirements of the zoning district in which it is located by reason of such adoption or amendment.

**NONCONFORMING STRUCTURE** – A structure or part of a structure which does not comply with the applicable use or extent of use provisions in this Ordinance or amendments hereafter enacted where such structure lawfully existed prior to such enactment. Such nonconforming structures include, but are not limited to, nonconforming signs.

**NONCONFORMING USE** – A use, whether of land or of structure, which does not comply with the applicable use provisions in this Ordinance or amendment hereafter enacted, where such use was lawfully in existence prior to such enactment.

**NURSERY** – Land or greenhouses used to raise flowers, shrubs, trees, and other plants for commercial purposes.

**NURSING HOME OR CONVALESCENT HOME** – A building or series of buildings for the housing and care of persons in need of specialized care and attention, but which does not necessarily provide a hospital level of services.

**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.

**OPEN SPACE LAND** – That portion of a tract set aside for the protection of sensitive natural features, farmland, scenic views, historic resources, and other unique features. Open space land may be accessible to the residents of a development or the Township or it may be or contain areas or conservancy lots which are not accessible to the public.

**OPEN SPACE, COMMON** – A parcel or parcels of land or an area of water, or a combination of land and water, within a development site, designed and intended for the use and enjoyment by residents of such development and possibly the general public. Common open space is substantially free of structures, including stormwater detention basins, but may contain such improvements as are in the finally approved development plan, but shall not include individually owned private yards, streets, and off-street parking areas unless provided in conjunction with a recreational facility.

**PaDEP** – See **DEP**.

**PARKING SPACE** – An open space with an all-weather surface, or space in a private garage or other structure for the storage of one automobile, accessible from a public way.

**PARTY WALL** – A common shared wall between two (2) separate structures, buildings, or dwelling units.

**PASSIVE RECREATION AREA** – Areas intended for recreational uses without the alteration of the property on which such uses occur, including, but not limited to, hiking and picnicking.

**PennDOT** – Pennsylvania Department of Transportation.

**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.

**PLACE OF WORSHIP** – Any structure or structures used for worship or religious instruction, including social and administrative rooms accessory thereto, but not including any commercial activity.

**PLANNING COMMISSION** – The Planning Commission of Highland Township.

**PRIME AGRICULTURAL SOILS** – Soils which, due to their suitability for cultivation and agricultural use, have been classified by the U.S. Department of Agriculture as being in capability units I, II, or III as defined in the Chester and Delaware Counties, Pennsylvania Soil Survey, 1963, No. 19, as amended, and reclassified in the Soil Survey Geographic Database for Chester County, PA, U.S. Department of Agriculture, Natural Resources Conservation Service, 1997. For the purpose of this Ordinance, prime agricultural soils shall include, but are not limited to, those soils listed in Appendix 3.

**PRINCIPAL BUILDING** – See **BUILDING, PRINCIPAL**.

**PRINCIPAL USE** – The dominant or main use on a lot.

**PUBLIC GROUNDS** – Includes parks, playgrounds, trails, paths and other recreational areas and public areas; sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities; and publicly owned or operated scenic and historic sites.

**PUBLIC HEARING** – A formal meeting held pursuant to public notice by the Board of Supervisors, intended to inform and obtain public comment, prior to action in accordance with the Municipalities Planning Code, Act 247 of 1968, as amended.

**PUBLIC MEETING** – A forum held pursuant to 65 Pa.C.S. Ch.7 (relating to open meetings).

**PUBLIC NOTICE** – Notice published once each week for two (2) successive weeks in a newspaper of general circulation in the Township, stating the time and place of a hearing and the particular nature of the matter to be considered at the hearing with the first publication not occurring more than thirty (30) days and the second publication not less than seven (7) days before the date of the hearing.

**PUBLIC RECREATION** – Leisure-time activities, including but not limited to sports and entertainment, which are open to anyone without restriction, except for rules and standards of conduct and use.

**PUBLIC USE** – Any building, structure, facility, complex, or area used by the general public or which provides a service to the public.

**REAR YARD** – (See **YARD, REAR**).

**RECREATION, ACTIVE** – Recreation activities, including the facilities used for such activities, that are usually rigorously athletic, not quiet, and have a noticeable impact on the surrounding neighborhood and environment. Active recreation may include, but is not limited to, individual or team sports, child’s play, larger picnics, playground play, ball courts, swimming pools, and recreational events with a large number of participants and/or spectators.

**RECREATION, PASSIVE** – Recreation activities, including the facilities used for such activities, that are usually quiet and not rigorously athletic and that have a low impact on the surrounding environment. Passive recreation may include, but is not limited to, walking, hiking, fishing, bird watching, and quiet picnicking.

**RECREATIONAL FACILITY** – A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities.

**RECREATIONAL USE, INDOOR** – The use of a building or part thereof for indoor sports such as bowling, tennis, racquetball, squash, indoor basketball, indoor swimming, and those sports activities usually conducted indoors, but excluding target shooting or any other activities that create loud noises or may be dangerous or disturbing to surrounding residents.

**RECREATIONAL USE, OUTDOOR** – A recreational use and associated facilities designed and equipped for sports and leisure time activities, including swimming, tennis and other court games, baseball and other field sports, playground and other outdoor activities, but excluding amusement parks; go-carts, dirt bikes, or motor-cross tracks; shooting ranges and other activities which generate noise objectionable in a residential environment.

**RECREATIONAL VEHICLE** – A vehicle which is (1) built on a single chassis; (2) contains not more than four hundred (400) square feet, measured at the largest horizontal projections; (3) is designed to be self-propelled or permanently towable by a light-duty truck; (4) is 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.

**RETAIL STORE** – Establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods, such as, but not limited to, a hardware store, pharmacy, magazine or book store, florist, or clothing store.

**RETIREMENT COMMUNITY** – A development of individual or multiple dwelling units which is designed for adults and which meets the definition of “housing for older persons” as set forth in the Fair Housing Act of 1988, as amended (42 U.S.C. §§ 3601, et seq.).

**REVERSE FRONTAGE** – A lot located between and having frontage on two (2) roads that are approximately parallel with access to the less major road.

**RIGHT-OF-WAY** – Land reserved or dedicated for use as a road, alley, other means of travel, or essential services and utilities. See Figure 14-A.

**RIPARIAN BUFFER** – An area of trees and other vegetation adjacent to a watercourse that forms a transition area between the aquatic and terrestrial environment. The riparian buffer is designed to intercept 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 is divided into three (3) Zones:

1. *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.
2. *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. 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 equals a maximum width of eighty (80) feet.
3. *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; it consists of grasses and dispersion features and provides for surface runoff to be dispersed as 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.

**ROAD** – Includes street, avenue, road, highway, freeway, lane, alley, and any other ways used or intended to be used by vehicular traffic or pedestrians, whether public or private, classified in accordance with its function as a carrier of traffic and from which specific setback distances as specified in this Ordinance apply. The Board of Supervisors shall classify new roads by the following classification system:

1. **ARTERIAL** – A road with two (2) or more lanes, both limited access and non-limited access for large volumes of traffic between major population centers.
2. **COLLECTOR** – A road for the movement of traffic to community facilities that carries larger volumes of traffic to the arterial road system.
3. **LOCAL** – A road for local traffic movement and direct access to abutting properties.
4. **MARGINAL ACCESS** – Local or minor roads parallel and adjacent to abutting properties with controlled access points onto the collector or arterial road.



**ROAD, CENTERLINE OF** – A line which is an equal distance from both road lines unless officially designated otherwise.

**ROAD LINE** – The legal right-of-way line of a road dividing a lot from the boundary of a public road.

**ROAD, PRIVATE** – A thoroughfare serving not less than two (2) or more than three (3) lots held in single and separate ownership and not deeded or intended to be dedicated to the Township.

**ROAD, PUBLIC** – A public thoroughfare which has been dedicated and deeded to the Township and which affords the principal means of access to the abutting property.

**ROAD, SINGLE ACCESS** – A road which has access to an existing public road and circulation system only at one (1) point. A single access road includes cul-de-sacs, loop roads, and dead end roads.

**SCHOOLS OR EDUCATIONAL FACILITIES** – Use of land or building(s) for the establishment and maintenance of a public or private college, commercial or non-profit, secondary or elementary school, or other educational institution for the primary purpose of instruction and learning, requiring certification, licensing, or review by the Pennsylvania Department of Education.

**SECONDARY FARM BUSINESS** – An agricultural accessory use, such as the repair of agricultural equipment, butcher shop, or processing of local agricultural products, which provides a secondary source of income to the primary agricultural use.

**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 apply.

**SETBACK** – See **BUILDING SETBACK LINE**.

**SEWAGE** – Any substance that contains any waste products or excrementitious matter or other discharge from the bodies of human beings or animals and laundry, bathroom, and kitchen waste water.

**SEWAGE DISPOSAL SYSTEM** –

1. On-lot – The disposal of sewage from one (1) dwelling unit to septic tanks or by the use of other safe and healthful means approved by the Chester County Health Department.
2. Community – A sanitary sewage system which carries sewage from individual dischargers by a system of pipes to one (1) or more common treatment and disposal facilities, either on-site or off-site approved by the Pennsylvania Department of Environmental Protection.
3. Public – An off-site system for collection, treatment, and disposal of sewage in which sewage is conveyed to a treatment facility and disposed of through means approved by the Pennsylvania Department of Environmental Protection.

**SHOPPING CENTER** – The multiple use of a single property for the retail sale of such things as dry goods, variety and general merchandise, clothing, food, flowers, drugs, household supplies or furnishings, sale or repair of jewelry, watches, and clocks, optical goods, or musical, professional or scientific instruments and the provision of personal services such as barber shops, banks, hairdressers, laundry or laundromats, and cleaning and pressing shops, and for such activities as theaters or bowling alleys.

**SIDE YARD** – See **YARD, SIDE**. See Figure 14-1.

**SIDE YARD LINE** – See **YARD LINE**.

**SIGHT DISTANCE** – The maximum extent of observed vision (in a vertical or horizontal plan) along a road from a vehicle located at any give point on the road.

**SIGN** – Any portion of a structure or any device attached thereto, or any freestanding device that is intended for visual communication through the display of any letter, words, model, device, symbol, insignia, picture, barrier, or other representation, used for announcement or advertisement for commercial purposes, as regulated in Article IX. Visual displays promoted by government, civic, religious or charitable organizations made up of flags or insignia are not considered as signs so long as there is not commercial intent.

**SIGN, ABANDONED** – A sign erected on, or related to, the use of a property on which the uses ceases for a period of six (6) months or more or any sign which related to a time, event, or purpose which is past.

**SIGN, ADVERTISING:** A sign which offers services or goods produced or available somewhere other than on the lot on which the sign is located. The term “advertising sign” includes the word “billboards.”

**SIGN AREA OR SIZE** – The entire area within a single continuous perimeter enclosing the extreme limits of a sign, together with all moldings, battens, cappings, nailing strips, latticing and platforms which are attached and are part of the sign proper and/or form an integral part of the display. Signs composed of letters, words or representations only and which do not form a square or rectangular pattern include in the sign area a square or rectangle as drawn at the outer limits of the letters, words or representations.

**SIGN, BANNER** – Any sign intended to be hung either with or without frames, possessing characters, letters, illuminations or ornaments applied to paper, plastic or fabric of any kind. National flags, flags of political subdivisions and symbolic flags of any institution or business shall not be considered banners for this Ordinance.

**SIGN, BUSINESS** – A sign directing attention to a business, commodity or service conducted, sold, or offered upon the same premises as those upon which the sign is located and maintained.

**SIGN, CONSTRUCTION/DEVELOPMENT** – A type of temporary sign intended to display the name of the project and/or the contractor, architect, engineer, financier, or similar information pertaining to the project.

**SIGN, DIRECTIONAL** – A sign conveying instructions with respect to the premises on which it is maintained, such as the entrance and exit of a parking area, a warning sign, a danger sign and similar informational signs.

**SIGN, DOUBLE-FACED** – A sign with two (2) faces which displays the same or similar message on each face with each of the sign faces parallel to one another or separated by an interior angle of no greater than forty-five (45) degrees. In computing the area of a double-faced sign, each face may contain the maximum square footage permitted, unless the interior angle between sign faces is greater than forty-five (45) degrees, in which case all faces shall be included in computing the area of the sign.

**SIGN, FREE-STANDING** – A detached sign which shall include any sign, whose uprights or braces are placed upon or in the ground and not attached to any building.

**SIGN, GROUND** – A sign, other than a freestanding sign, placed directly on the ground without supports or pylons, independent from any building or structure.

**SIGN HEIGHT** - The distance from the existing ground elevation at the base of, or immediately below the sign, to the highest point of the sign structure. See Figure 14-E.

**SIGN, ILLUMINATED** – A non-flashing or non-twinkling sign which has characters, letters, figures, designs or outlines illuminated by direct or indirect electric lighting or luminous tubes as part of the sign.

**SIGN, OFFICIAL TRAFFIC** – Signs erected by the Commonwealth of Pennsylvania Department of Transportation or Highland Township, which are designed to regulate traffic, describe road conditions or supply directions.

**SIGN, OFF-SITE DIRECTIONAL** – Non-illuminating signs used to direct persons to civic or service clubs, churches, schools, nonprofit organizations or other public or quasi-public sites or facilities.

**SIGN, POLITICAL** – Any temporary sign pertaining to political views, an individual seeking election or appointment to a public office or a forthcoming public election or referendum.

**SIGN, PORTABLE** – Signs that can be attached or mounted on wheels or transported by flat bed trailer.

**SIGN, PROJECTING** – A sign attached directly to a building wall (perpendicularly) and that extends more than twelve (12) inches from the face of the wall.

**SIGN, REAL ESTATE** – A temporary sign indicating the development, sale, rental or lease of the premises on which the sign is located.

**SIGN, ROOF** – A sign erected above and maintained above the roofline, parapet, or eaves of a building.

**SIGN, TEMPORARY** – A sign intended for short-term use notifying of or advertising special events such as festivals, concerts or exhibits, business events, or community events.

**SIGN, TEMPORARY NONPROFESSIONAL** – Signs noting a special event, including a fair, circus, bingo or yard sale, or political election.

**SIGN, TEMPORARY PROFESSIONAL** – Signs of contractors, architects, mechanics or artisans displayed on a temporary basis on the premises at which services are being performed or notifying the public of residential or other development.

**SIGN, WALL** – Any sign erected against the wall of a building or displayed in windows or doors with the exposed face in a plane parallel to the face of said wall, window or door and which is mounted at a distance measured perpendicularly to said wall of not greater than twelve (12) inches.

**SIGN, WINDOW** – A temporary or permanent sign oriented to the public right-of-way located either on the inside or outside of a window.

**SINGLE AND SEPARATE OWNERSHIP** – Ownership by one (1) or more persons in which ownership is separate and distinct from any adjoining property.

**SITE** – A parcel or parcels of land intended for one (1) or more buildings or intended to be subdivided into one (1) or more lots by a single developer.

Site Area: All land area within the site as defined in the deed. Area shall be calculated from an actual site survey rather than a deed description.

Site Area, Base: - A calculated area used for the determination of Gross Density. Refers to the entirety of a tract or parcel of land. (See also **GROSS MAXIMUM DENSITY**).

**SITE RESTORATION** – Measures taken following completion of land disturbance activities which will stabilize the land surface and minimize possible erosion or sedimentation.

**SLUDGE** – Sewage treatment plant sludge or other commercial waste materials other than commercially prepared and sold agricultural fertilizers and agriculturally produced animal wastes.

**SOLID WASTE** – All refuse, including garbage and trash, and all solid material which is putrescent and originates from the preparation, cooking and consumption of food and market produce.

**SPECIAL EXCEPTION** – A permission or approval granted to an applicant to use land for a purpose other than that generally permitted by right in that district.

**SPECIES OF SPECIAL CONCERN SITES** – Sites 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.

**SPECIMEN TREE** – Any tree meeting the definition of specimen vegetation.

**SPECIMEN VEGETATION** – Vegetation including:

1. 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
2. For the purposes of this Ordinance, Specimen Vegetation also includes “Species of Special Concern” sites and is subject to the same provisions as Specimen Vegetation.

**STABLE** – Any building or establishment in which horses are kept for remuneration, hire, or sale.

**STEALTH DESIGN** – Those design and construction techniques used to disguise WCF and Support Structures and/or conceal an Antenna Array. Examples include, but are not limited to, rooftops, flagpoles, light poles, bell and clock towers, signs, water towers, silos, steeples, and chimneys.

**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:

1. *Moderately Steep Slopes* are those areas 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.
2. *Very Steep Slopes* are those areas where the grade is greater than twenty-five (25) percent.

**STORAGE** – The keeping of products, merchandise, materials, equipment or vehicles for a continuous period greater than eight (8) hours. Excluded from this definition are the following:

1. Equipment, vehicles and materials that are used in connection with a construction project during the period of construction.

2. The unloading or loading of vehicles parked against a building so that all activity occurs within the building.

**STORAGE, OUTDOOR** – The keeping of goods or materials in an area unprotected from the elements.

**STORY** – That portion of a building located between the surface of any floor and the ceiling or roof next above it.

**STRUCTURE** – Any man-made object having an ascertainable stationary location on or in land or water, whether public or private. For purposes of the Flood Hazard District, a “Structure” shall be 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.

**STRUCTURE, TEMPORARY** – A structure without foundation or footings which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

**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 or devisees, transfer of ownership or building or lot development. The division 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 not be considered a subdivision.

**SUBDIVISION AND LAND DEVELOPMENT ORDINANCE** – The Subdivision and Land Development Ordinance of Highland Township, Chester County, as adopted and amended.

**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.”

**SUPPORT STRUCTURE, WCF** – Any structure designed and constructed specifically to support an Antenna Array, and may include a monopole, self-supporting (lattice) tower, guy-wire support tower and other similar structures. Any device used to attach an Attached WCF to an existing building or structure shall be excluded from this definition.

**SURFACE RUNOFF** – That part of precipitation that passes over the surface of the soil.

**SWIMMING POOL** – Any man made facility with a water capacity in excess of 1,000 gallons used for swimming, excluding ponds or lakes.

**TIMBER HARVESTING** – The process of cutting down trees and removing logs from the forest for the primary purpose of sale or commercial processing of wood products. Also includes the terms Tree Harvesting and Logging.

**TOPSOIL** – Natural and friable loam containing sufficient nitrogen, phosphorus, and potassium to support plant growth and extending in depth to the extent of penetration of feeder roots of the prevailing native grasses.

**TOWNSHIP** – The Township of Highland, Chester County, Pennsylvania.

**TOWNSHIP ENGINEER** – A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for Highland Township.

**TRACT** – An area of land, parcel, or property which is the subject of a development application.

**TRAIL** – A right-of-way containing a marked or beaten path, whether paved or unpaved, for pedestrians, equestrian or bicycle use.

**TRANSFERABLE DEVELOPMENT RIGHTS** – Development rights attached to specified lands which are transferable from those lands so that the development potential which they represent may occur on other lands where more intensive development is more appropriate.

**TRANSITION AREA** – The land immediately upland of a wetland, which supports, shields assists or protects wetland value or function.

**TREE DRIPLINE** – The line marking the outer edges of the branches of a tree.

**TREE PROTECTION ZONE** – An area that is radial to the trunk of a tree in which no construction activity is to occur. For the purpose of this Ordinance, the tree protection zone is fifteen (15) feet from the trunk of the tree to be retained or the distance from the trunk to the dripline, whichever is greater. Where there is a group of trees or woodlands, the tree protection zone is the aggregate of the protection zones for individual trees.

**USE** – Any purpose for which a building or other structure or tract of land may be designed, arranged, intended, maintained or occupied, or any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure or a tract of land.

**USE, ACCESSORY** – See **ACCESSORY USE**.

**USE, BY RIGHT** – A use permitted in a zoning district without the need for a special exception, variance, or conditional use approval.

**UTILITIES** – Essential services such as light, power, telephone and water provided by a public or private agency, to include the services themselves and the necessary delivery systems.

**VARIANCE** – Relief granted pursuant to the provisions of Article XI, Zoning Hearing Board, of this Ordinance, and Articles VI and IX of the Municipalities Planning Code, Act 247 of 1968, as amended.

**VILLAGE** – An unincorporated settlement that is part of the Township where residential and mixed use densities of one (1) unit to the acre or more and/or commercial, industrial or institutional uses exist or are permitted.

**WATERCOURSE** – A channel or conveyance of surface water with a defined bed and banks, whether natural or artificial, with perennial or intermittent flow.

**WATER SUPPLY** –

1. **ON-SITE** – A supply of water to a single use or dwelling from a private well located on the lot on which the use is located and which does not fall under the definition of “community water supply.”
2. **COMMUNITY** – A system for supplying water from a common source or sources to more than one (1) dwelling and other buildings within a development. The water supply source may be located on-site or off-site and may be publicly or privately owned.
3. **PUBLIC** – A system for supplying water to more than one (1) dwelling or other buildings of a development which is administered by a municipal authority, a municipality, or public utility as defined and regulated by the Pennsylvania Public Utility Commission.

**WATER TABLE** – The upper surface of a zone of saturation, except where that surface is formed by an impermeable body.

**WCF** – Wireless Communications Facilities.

**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 applies.

**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 extends 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 always extends a minimum width of twenty-five (25) feet from the edge of the wetland boundary.

**WIRELESS COMMUNICATIONS** – Any wireless services as defined in the Federal Telecommunications Act of 1996, which includes FCC-licensed commercial wireless telecommunications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and other similar services that currently exist or that may in the future be developed.

**WIRELESS COMMUNICATIONS FACILITY** - A structure that includes a transmitting, receiving, or relay tower and support structures and accessory buildings licensed by the Federal Communications Commission (FCC) for the specified purpose of television, radio, or telephone communications beyond that which would be used for normal personal or residential use. Such uses include a cellular, television, radio, or microwave tower.

**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*).

**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 is measured from the outer-most dripline of all trees in the community. Woodlands 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.

**YARD** – An open space between the principal building or group of buildings and the nearest lot line or road right-of-way which is unoccupied and unobstructed from the ground upward except as herein permitted. The size of a required yard is measured as the shortest distance between the structure and lot line or road right-of-way.

**YARD, FRONT** – A yard between a principal building and the road right-of-way extending the full width of the lot, unoccupied and unobstructed from the ground upward exclusive of shrubs or fences. In the case of a corner lot, the yards extending along all roads are front yards. In the case of a lot other than a corner lot that fronts on more than one roads, the yards extending along all streets are front yards. See Figure 14-1.

**YARD, REAR** – A yard extending the full width of the lot between a principal building and the rear lot line. A rear yard of a reverse frontage lot is that which is opposite the road of primary access and extends the entire width of the lot. See Figure 14-1.

**YARD, SIDE** – A yard extending from the front yard to the rear yard between a principal building and the nearest side lot line. In the case of a lot having no road frontage or a lot of odd shape, any yard that is not a front yard or a rear yard shall be considered a side yard. See Figure 14-1.

**ZONING, BASE** – The basic system of zoning which, under the Township Zoning Ordinance as amended, divides all land in the Township into separate, distinct zoning classes and sets limits and requirements for land use in each of these base zoning districts.

**ZONING HEARING BOARD** – The Zoning Hearing Board of Highland Township.

**ZONING MAP** – The official Zoning Map of Highland Township, Chester County, Pennsylvania.

**ZONING OFFICER** – The administrative officer charged with the duty of enforcing the provisions of this Ordinance.

**ZONING ORDINANCE** – The Zoning Ordinance of Highland Township, as adopted and amended from time to time.

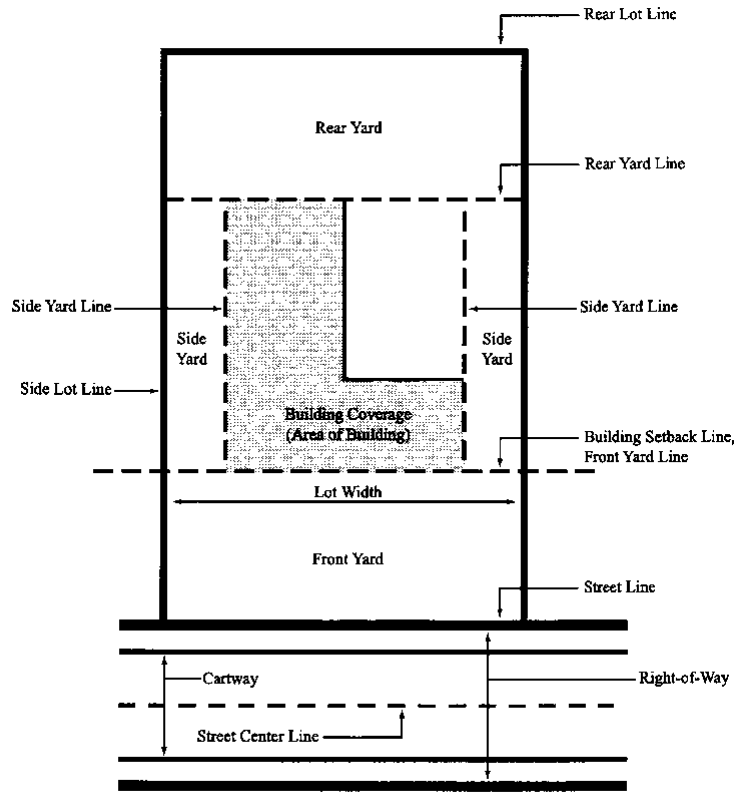
**ZONING PERMIT** – A permit indicating that a proposed use, building or structure is in accordance with the provisions of this Ordinance and which authorizes an applicant to proceed with said use, building or structure.



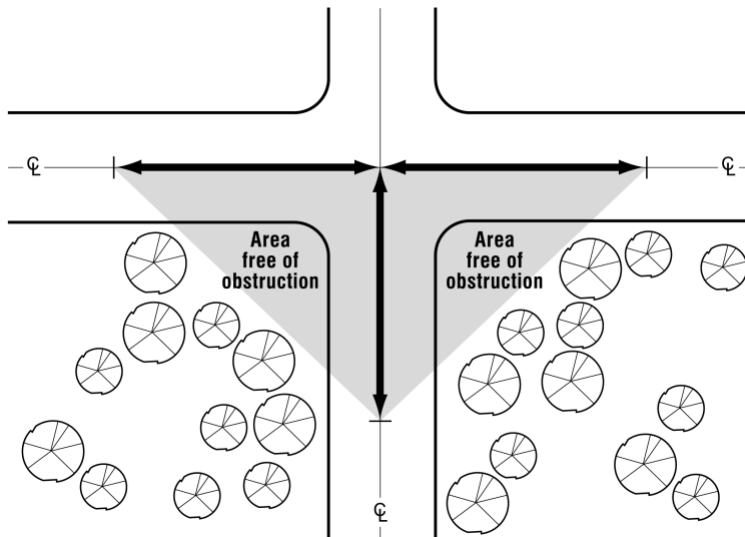
**SECTION 1403 INTERPRETATION OF REGULATIONS**

The interpretation of this Ordinance is intended to be such that whenever the provisions of this Ordinance are at variance with any other lawfully adopted rules, regulation, ordinances, deed restrictions or covenants, particularly area and bulk regulations which impose higher standards than are imposed by this Ordinance, then the most restrictive requirements govern. In cases where definitions do not appear above and disagreement arises as to meaning, the definitions which govern shall be those in the American Heritage Dictionary of the English Language.

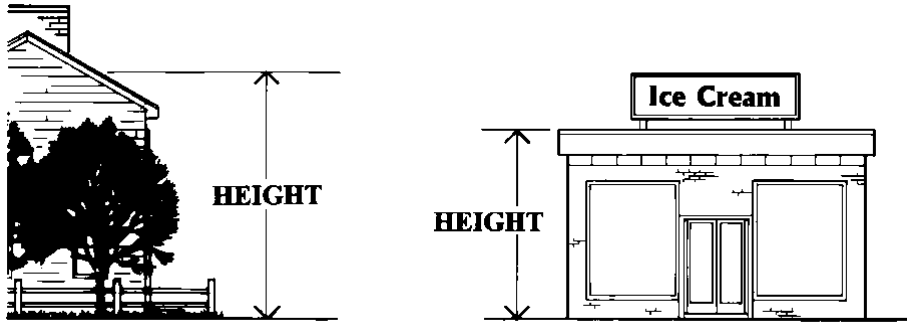
**Figure 14-1  
Lot Dimensions**



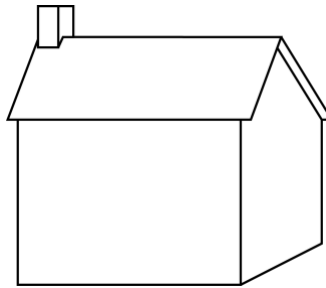
**Figure 14-2  
Clear Sight Triangle**



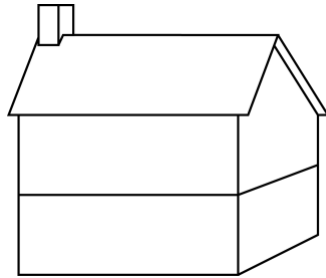
**Figure 14-3  
Building Height**



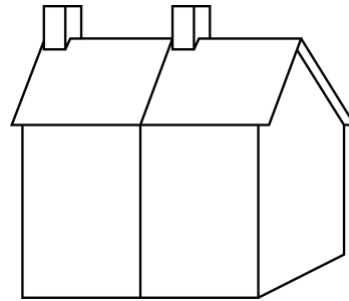
**Figure 14-4  
Dwelling Types**



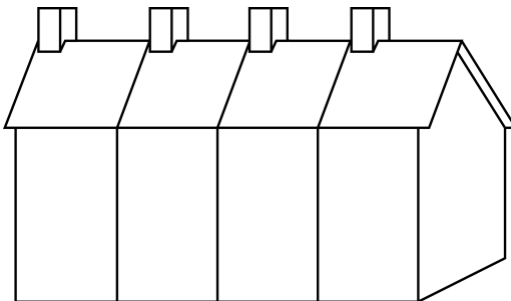
**SINGLE-FAMILY**



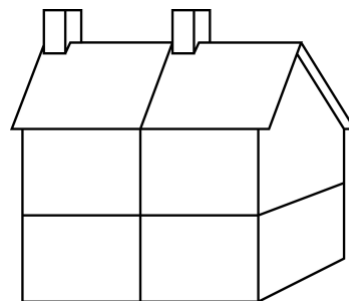
**DUPLEX**



**TWIN**

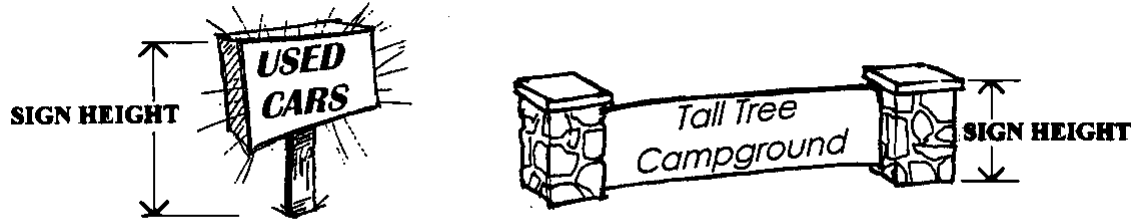


**TOWNHOUSE**



**MULTI-FAMILY**

**Figure 14-5**  
**Sign Height**



(this page intentionally left blank)

**APPENDIX 1**

**TABLE OF USES**

<b>USES PERMITTED BY DISTRICT</b>					
BR = By-Right SE = Special Exception CU = Conditional Use					
<b>Use/Supplemental Use Reference (if applicable)</b>	<b>A</b>	<b>RC</b>	<b>RV-1</b>	<b>RV-2</b>	<b>IND</b>
Accessory Agricultural Dwelling (603)	BR				
Accessory Use, Building or Structure, Agricultural (603)	BR	BR	BR	BR	BR
Accessory Use, Building or Structure, Residential (602)	BR	BR	BR	BR	BR
Accessory Use, Building or Structure, Commercial (602)			BR	BR	SE
Accessory Use, Building or Structure, Industrial (602)					SE
Accessory Use, Building or Structure, Institutional (602)			BR	BR	SE
Agricultural Uses, Animal (603)	BR	BR	SE	SE	BR
Agricultural Uses, Non-Animal (603)	BR	BR	BR	BR	BR
Agriculture, Intensive (603)	CU				CU
Agricultural Utilization of Sludge (603)	SE				SE
Animal Hospitals or Veterinary Clinics (604)			BR	BR	
Assembly of small office equipment/electrical appliances <sup>1</sup> , light metal processes, not involving heavy machinery					BR
Automotive, Truck, and Farm Equipment Sales (605)					SE
Bed and Breakfast Facilities (606)	SE		CU	CU	
Car Wash, Commercial (607)					SE
Cemeteries (608)	SE	SE			
Club or Lodge					SE
Composting Operations (603)	CU				
Conservation Uses (i.e., woodlands/game preserve, etc.)	BR				
Contractor's Office and/or Shop					SE
Day Care Center, Commercial (609)			CU	CU	
Eating Establishments and Restaurants (610)					CU
Forestry (611)	BR	BR	BR	BR	BR
Frozen Food Locker					SE
Greenhouse, Commercial (612)	SE	SE		SE	
Group Home		BR			
Highland Municipal Uses	BR	BR	BR	BR	BR
Home Occupation, Minor (613)	BR	BR	BR	BR	
Home Occupation, Major (613)	SE	SE	SE	SE	
Horticultural Uses	BR	BR	BR	BR	
Hospital (614)					CU
Kennels (604)	SE				
Laundry or Dry-Cleaning Operations					BR
Light Metal Processing/Finishing					BR
Manufacture of light industrial products from prepared materials					BR
Manufacture of heavy industrial products from prepared materials					SE
Medical Clinic (614)			BR	BR	
Mobile Home Park				SE	
Motel or Hotel					SE

<sup>1</sup> Must be made from previously existing materials.

Appendices

<b>USES PERMITTED BY DISTRICT</b>					
BR = By-Right SE = Special Exception CU = Conditional Use					
Use/Supplemental Use Reference (if applicable)	A	RC	RV-1	RV-2	IND
Multi-Family Dwellings (626)				BR	
Mushroom House (603)	SE				
Nurseries and Garden Supply Centers (616)				CU	SE
Nursing Home, Life Care Facility or Retirement Community (617)				CU	CU
Office, Professional, Administrative, or Consumer-Oriented			CU	CU	BR
Outdoor Storage of Man-Made Materials					SE
Personal Service Establishment			CU	CU	
Places of Worship (618)		CU	BR	BR	CU
Processing, Packaging, and Compounding Industries					BR
Printing or Publishing Shop					BR
Recreational Facilities, Commercial					SE
Recreational Facilities, Municipal or Low Intensity Use (619)	SE	BR	BR	BR	
Recreational Facilities, High Intensity Uses (619)	SE	SE		SE	
Research Laboratory					BR
Residential Cluster Development (620)	CU	CU			
Residential Conversion (621)	SE		SE	SE	
Retail Uses (Individual or Cluster) (622)				CU	
Riding Academies (623)	SE				
Schools and Educational Facilities (624)			BR	BR	
Scientific Testing Facility					BR
Self Storage Facilities or Mini-Warehouses (625)					BR
Secondary Farm Businesses (603)	SE				
Single-Family Detached Dwelling	BR	BR	BR	BR	BR
Single-Family Attached Dwelling (626)			BR		
Stables (623)	SE				
Storage Facilities, including Warehouse					BR
Townhouses (626)			BR	BR	
Transfer of Development Rights, Receiving Zone (Article XIII)				CU	
Trucking Terminal					SE
Two-Family Dwellings (Duplex or Twin) (626)			BR	BR	
Two or more permitted uses on a single lot or in single building with one or more residential units			CU	CU	
Uses Similar to other By-Right uses in the IND District (304.2.B)					SE
Uses Similar to other By-Right uses in the IND District, or not otherwise provided					CU
Wholesale or Distribution, Bottling or Packing Establishments					SE
Wireless Communication Facilities, Attached (627)	BR	BR	BR	BR	BR
Wireless Communication Facilities, Co-located (627)	BR				BR
Wireless Communication Facilities, New (627)	CU			CU	CU

**Note:** This Table is provided for reference purposes only. Where a contradiction or ambiguity between this Table and other provisions of this Ordinance exists, the other provisions of this Ordinance shall govern.

**APPENDIX 2**

**HYDRIC SOILS**

The following soils have been classified by the U.S. Natural Resources Conservation Service to be indicators of the presence of wetlands. This list is only a guide. An area which is covered by one of these soil types is very likely to be a wetland, according to the definition of the U.S. Army Corps of Engineers, although not definitively.

Ch	Chewacla silt loam
Cn	Congaree silt loam
GnA	Glenville silt loam, 0-3% slope
GnB	Glenville silt loam, 3-8% slope
GnB2	Glenville silt loam, 3-8% slope, moderate erosion
Gu	Guthrie silt loam
La	Lawrence silt loam
Mn	Melvin silt loam
We	Wehadkee silt loam
WoA	Worsham silt loam, 0-3% slope
WoB	Worsham silt loam, 3-8% slope
WoB2	Worsham silt loam, 3-8% slope, moderate erosion



**APPENDIX 3**

**PRIME AGRICULTURAL SOILS**

The following soils have been classified by the U.S. Department of Agriculture as being in capability units I, II, or III and are considered most suitable for agricultural cultivation:

**Class I**

CdA Chester silt loam  
GeA2 Glenelg channery silt loam

**Class II**

CdB Chester silt loam  
CdB2 Chester silt loam  
Ch Chewacla silt loam  
GeB Glenelg channery silt loam  
GeB2 Glenelg channery silt loam  
GnA Glenville silt loam  
GnB Glenville silt loam  
GnB2 Glenville silt loam  
MgA2 Manor loam  
MgB2 Manor loam

**Class III**

GeB3 Glenelg channery silt loam  
GeC Glenelg channery silt loam  
GeC2 Glenelg channery silt loam  
MgB3 Manor loam  
MgC Manor loam  
MgC2 Manor loam  
Mn Melvin silt loam  
We Wehadkee silt loam

APPENDIX 4

APPROVED PLANT MATERIALS LIST

The following lists are the approved plant materials for use in any subdivision or land development or other development project within Highland Township. For more information on the requirements for landscaping and screening, please refer to Section 705.

Deciduous/Canopy trees. Required canopy tree plantings shall be selected from the following list or a species hardy to the area. Trees marked with a (+) before their botanical name are native species and the use of these trees is encouraged.

	<b>Botanical Name</b>	<b>Common Name</b>
	<i>Acer campestre</i>	Hedge Maple
	<i>Acer ginnala</i>	Amur Maple
+	<i>Acer negundo</i>	Box Elder
	<i>Acer palmatum</i>	Japanese Maple
+	<i>Acer rubrum</i>	Red Maple
+	<i>Acer saccharum</i>	Sugar Maple
+	<i>Betula lenta</i>	Black Birch
+	<i>Betula nigra</i>	River Birch
	<i>Carpinus betulus</i>	European Hornbeam
+	<i>Carya ovata</i>	Shagbark Hickory
	<i>Crataegus phaenopyrum treeform</i>	Washington Hawthorn
	<i>Crataegus viridis 'Winter King'</i>	Winter King Hawthorn
+	<i>Fagus grandifolia</i>	American Beech
	<i>Fagus sylvatica</i>	European Beech
+	<i>Fraxinus americana</i>	White Ash
+	<i>Fraxinus pennsylvanica</i>	Green Ash
	<i>Ginkgo biloba</i>	Ginkgo (male only)
	<i>Larix kaempferi</i>	Japanese Larch
+	<i>Liquidambar styraciflua</i>	Sweet Gum
+	<i>Liriodendron tulipifera</i>	Tulip Tree, Yellow Poplar
	<i>Metasequoia glyptostroboides</i>	Dawn Redwood
+	<i>Nyssa Sylvatica</i>	Black Gum, Sourgum
+	<i>Ostrya virginiana</i>	American Hophornbeam
	<i>Phellodendron amurense</i>	Amur Cork Tree (male only)
	<i>Platanus acerifolia</i>	London Planetree
+	<i>Platanus occidentalis</i>	Americian Sycamore
+	<i>Quercus alba</i>	White Oak
	<i>Quercus coccinea</i>	Scarlet Oak
	<i>Quercus palustris</i>	Pin Oak
	<i>Quercus phellos</i>	Willow Oak
+	<i>Quercus rubra</i>	Red Oak
+	<i>Sassafras albidum</i>	Sassafras
	<i>Sophora japonica</i>	Japanese Pagodatree
	<i>Tilia americana 'Redmond'</i>	Redmond Linden
	<i>Tilia cordata 'Chancellor'</i>	Chancellor Linden
	<i>Zelkova serrata</i>	Japanese Zelkova

---

Appendices

---

Deciduous/Flowering trees. Required flowering tree plantings shall be selected from the following list or a species hardy to the area. Trees marked with a (+) before their botanical name are native species and the use of these trees is encouraged.

	<b>Botanical Name</b>	<b>Common Name</b>
+	<i>Amelanchier canadensis</i>	Shadblow Serviceberry
+	<i>Cercis canadensis</i>	Eastern Redbud
+	<i>Chioanthus virginicus</i>	Fringetree
+	<i>Cornus florida</i>	Flowering Dogwood
	<i>Cornus kousa</i>	Kousa Dogwood
	<i>Cornus mas</i>	Cornelian Cherry
	<i>Crataegus species</i>	Any Hawthorn species
	<i>Halesia carolina</i>	Carolina Silverbell
	<i>Koelreuteria paniculata</i>	Golden Rain Tree
	<i>Magnolia soulangeana</i>	Saucer Magnolia
	<i>Magnolia virginiana</i>	Sweetbay Magnolia
	<i>Malus species</i>	Any Crabapple species
	<i>Oxydendrum arboreum</i>	Sourwood, Sorrel Tree
	<i>Prunus cerasifera</i>	Purpleleaf Flowering Plum
	<i>Prunus kwanzan</i>	Kwanzan Cherry
	<i>Prunus sargentii</i>	Sargent Cherry
	<i>Prunus serrulata 'Kwanzan'</i>	Kwanzan Cherry
	<i>Prunus subhirtella var. pendula</i>	Weeping Higan Cherry
	<i>Pyrus calleryana 'Aristocrat'</i>	Aristocrat Pear
	<i>Pyrus calleryana 'Capital'</i>	Capital Pear
	<i>Pyrus calleryana 'Redspire'</i>	Redspire Pear
	<i>Pyrus calleryana 'Whitehouse'</i>	Whitehouse Pear
	<i>Stewartia koreana</i>	Korean Stewartia
+	<i>Viburnum prunifolium</i>	Blackhaw Viburnum

Evergreen trees. Required evergreen tree plantings shall be selected from the following list or a species hardy to the area. Trees marked with a (+) before their botanical name are native species and the use of these trees is encouraged.

	<b>Botanical Name</b>	<b>Common Name</b>
	<i>Abies concolor</i>	Concolor Fir
+	<i>Ilex opaca</i>	American Holly
+	<i>Juniperus virginiana</i>	Eastern Redcedar
+	<i>Kalmia latifolia</i>	Mountain Laurel
	<i>Picea abies</i>	Norway Spruce
	<i>Picea omorika</i>	Serbian Spruce
	<i>Pinus nigra</i>	Australian Pine
+	<i>Pinus strobus</i>	White Pine
	<i>Pseudotsuga menziesii</i>	Douglas Fir
	<i>Taxus baccata</i>	English Yew
	<i>Taxus cuspidata</i>	Japanese Yew
+	<i>Tsugas canadensis</i>	Hemlock

---

Appendices

---

**Shrubs.** Required shrubs shall be selected from the following list or a species hardy to the area. Shrubs marked with a (+) before their botanical name are native species and the use of these shrubs is encouraged.

	<b>Botanical Name</b>	<b>Common Name</b>
	<i>Euonymus alatus</i>	Winged Euonymus
	<i>Hamamelis vernalis</i>	Vernal Witch Hazel
+	<i>Hamamelis virginiana</i>	Common Witch Hazel
+	<i>Ilex glabra</i>	Inkberry
+	<i>Ilex verticillata</i>	Winterberry
+	<i>Kalmia latifolia</i>	Mountain Laurel
+	<i>Myrica pennsylvanica</i>	Bayberry
	<i>Pyracantha coccinea 'lalandi'</i>	Laland Firethorn
	<i>Rhamnus frangula</i>	Glossy Buckthorn
	<i>Taxus cuspidata 'capitata'</i>	Upright Yew
	<i>Taxus x media 'hicksii'</i>	Hicks Yew
+	<i>Viburnum dentatum</i>	Arrowwood Viburnum
	<i>Viburnum lantana</i>	Wayfaring Tree Viburnum
+	<i>Viburnum trilobum</i>	Highbush Cranberry

**Street/urban trees.** Required trees shall be selected from the following list or a species hardy to the area. Shrubs marked with a (+) before their botanical name are native species and the use of these shrubs is encouraged. Trees included on the following list tolerate urban conditions such as salt, drought, and soil compaction. The mature height is included for consideration in applications where overhead wiring is located.

	<b>Botanical Name</b>	<b>Common Name</b>	<b>Size</b>
+	<i>Acer rubrum</i>	Red Maple	75-100'
+	<i>Acer saccharum</i>	Sugar Maple	75-100'
	<i>Crataegus crusgalli</i>	Cockspur Hawthorne	20-35'
+	<i>Fraxinus americana</i>	White Ash	75-100'
+	<i>Fraxinus pennsylvanica</i>	Green Ash	75-100'
+	<i>Juniperous virginiana</i>	Eastern Red Cedar	50-75'
+	<i>Liquidambar styraciflua</i>	American Sweetgum	75-100'
+	<i>Nyssa silvatica</i>	Blackgum	50-75'
+	<i>Ostrya virginiana</i>	American Hophornbeam	35-50'
	<i>Oxydendrum arboreum</i>	Sourwood, Sorrel Tree	35-50'
+	<i>Quercus alba</i>	White Oak	50-100'
	<i>Quercus coccinea</i>	Scarlet Oak	50-90'
+	<i>Sassafras albidum</i>	Common Sassafras	35-50'

**Street/urban shrubs.** Required shrubs shall be selected from the following list or a species hardy to the area. Shrubs marked with a (+) before their botanical name are native species and the use of these shrubs is encouraged. Shrubs included on the following list tolerate urban conditions such as salt, drought, and soil compaction.

	<b>Botanical Name</b>	<b>Common Name</b>
+	<i>Ilex glabra</i>	Inkberry
+	<i>Juniperous communis</i>	Common Juniper
+	<i>Kalmia latifolia</i>	Mountain Laurel
+	<i>Myrica pennsylvanica</i>	Bayberry
+	<i>Viburnum dentatum</i>	Arrowwood Viburnum

APPENDIX 5

SAMPLE DEED OF TRANSFERABLE DEVELOPMENT RIGHTS (TDR)

THIS DEED, made this \_\_\_\_ of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_, hereinafter "Grantor" and \_\_\_\_\_, hereinafter "Grantee".

The Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended, 53 P.S. §§ 10101 et seq., enables municipalities to transfer development rights for the purpose of preserving designated resources and land areas. An easement granted to Highland Township, pursuant to the Highland Township Zoning Ordinance and recorded at Book \_\_\_\_\_, Page \_\_\_\_\_, in the Office of the Recorder of Deeds of Chester County, Pennsylvania, restricts future development from being constructed, occupied, or maintained on property hereinafter described situate in the Agricultural Preservation (A) District, Highland Township, Chester County, Pennsylvania, and also authorizes the conveyance of Development Rights.

NOW, THEREFORE, in consideration of \_\_\_\_\_, and other good and valuable considerations, the receipt of which is hereby acknowledged, Grantor does grant and convey to Grantee, his/her heirs, successors, and assigns, for attachment to and use in conjunction with development of Grantee's property situate in Rural Village (RV-2) District, Highland Township, Chester County, described as:

*Insert legal description of sending parcel, including street address, if any.*

BEING the same property which Grantor acquired by deed bearing date the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, and recorded in the Chester County Recorder of Deeds Office in Book \_\_\_\_\_, Page \_\_\_\_\_.

AND, Grantor covenants that he, she, they, or it will warrant specially the property rights hereby conveyed, that he, she, they, or it will execute such further assurances of said property rights as may be requisite and that he, she, they, or it has the right to convey the property rights.

IN WITNESS THEREOF, Grantors have affixed their hands and seals in the day and year above written.

SIGNATURES

ACKNOWLEDGEMENTS

Approved as to form and legality by the governing body of Highland Township, pursuant to Section 619.1 of the Pennsylvania Municipalities Planning Code this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Chairman, Highland Township Board of Supervisors



Data Source: Municipal Boundary, Parcels, Roads - Chester County Bureau of Land Records, 2003;  
 Waterways - Aerial Data Reduction Associated Inc. provided through sublicense agreement to the County of Chester, 1994;  
 Zoning - Highland Township 2005;  
 Chester County Planning Commission, 2005.

# ZONING MAP

- Zoning District Boundaries**
-  A Agricultural Preservation
  -  IND Industrial
  -  RC Rural Conservation
  -  RV-1 Rural Village - Gum Tree
  -  RV-2 Rural Village - Cochranville/Parkesburg Extension

-  Roads
-  Parcels
-  Waterbodies

Note:  
 A Agricultural Preservation District is TDR Sending Zone;  
 RV-2 Rural Village Districts are TDR Receiving Zones  
 (see Township Zoning Ordinance Article VIII for more information)

**Adopted October 11, 2005**

This map was digitally compiled for internal maintenance and developmental use by the County of Chester, Pennsylvania to provide an index to parcels and for other reference purposes. Parcel lines do not represent actual field surveys of premises. County of Chester, Pennsylvania makes no claims as to the completeness, accuracy or content of any data contained herein, and makes no representation of any kind, including, but not limited to, the warranties of merchantability or fitness for a particular use, nor are any such warranties to be implied or inferred, with respect to the information or data furnished herein.

No part of this document may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, except as expressly permitted by the County of Chester.

## Highland Township

Zoning Ordinance

October 2005



2000 0 2000 Feet

