

Part I, Administrative Legislation

Chapter 1

GENERAL PROVISIONS

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Adoption of Code
[Adopted 2-14-2008 by Ord. No. 2008-02]

§ 1-1. Approval, Adoption and Enactment of Code.

Pursuant to Section 1601(d) [53 P.S. § 66601(d)] of the Second Class Township Code, the Codification of a complete body of legislation for the Township of Upper Frederick, County of Montgomery, Commonwealth of Pennsylvania, as revised, codified and consolidated into chapters, articles and sections by General Code, and consisting of Chapters 1 through 285, together with an Appendix, are hereby approved, adopted, ordained and enacted as a single ordinance of the Township of Upper Frederick, which shall be known and is hereby designated as the "Code of the Township of Upper Frederick," hereinafter referred to as the "Code."

§ 1-2. Effect of Code on previous provisions.

The provisions of this Code, insofar as they are substantively the same as those of ordinances and resolutions in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinance or resolution. All such provisions are hereby continued in full force and effect, and are hereby reaffirmed as to their adoption by the Board of Supervisors of the Township of Upper Frederick, and it is the intention of said Board of Supervisors that each such provision contained within the Code is hereby reenacted and reaffirmed as it appears in said Code. Only such provisions of former ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below, and only new or changed provisions, as described in § 1-6 below, shall be deemed to be enacted from the effective date of this Code, as provided in § 1-15 below.

§ 1-3. Repeal of legislation not contained in Code.

All ordinances, or parts of ordinances, of a general and permanent nature adopted by the Township of Upper Frederick and in force on the date of the adoption of this Code and not contained in the Code, are hereby repealed as of the effective date given in § 1-15 below, except as hereinafter provided. In particular, this ordinance repeals the 1998 Code of Ordinances of the Township of Upper Frederick, adopted August 13, 1998, by Ordinance No. 98-4, as amended and supplemented.

§ 1-4. Legislation saved from repeal; matters not affected by repeal.

The adoption of this Code, and the repeal of ordinances provided for in § 1-3 of this ordinance, shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal; provided, however, that the repeal of ordinances pursuant to § 1-3 or the saving from repeal of ordinances pursuant to this section shall not be construed so as to revive any ordinance previously repealed, superseded or no longer of any effect:

- A. Any ordinance adopted subsequent to October 11, 2007.
- B. Any right or liability established, accrued or incurred under any legislative provision of the Township prior to the effective date of this ordinance, or any action or proceeding brought for the enforcement of such right or liability or any cause of action acquired or existing.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision of the Township or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance, brought pursuant to any legislative provision of the Township.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Township or any

lawful contract, obligation or agreement.

- F. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Township or other instruments or evidence of the Township's indebtedness.
- G. Any ordinance adopting an annual budget or establishing an annual tax rate.
- H. Any ordinance providing for the levy, imposition or collection of special taxes, assessments or charges.
- I. Any ordinance authorizing the purchase, sale, lease or transfer of property or acquiring property by acceptance of deed, condemnation or exercise of eminent domain.
- J. Any ordinance annexing land to the Township.
- K. Any ordinance providing for or requiring the construction or reconstruction or opening of sidewalks, curbs and gutters.
- L. Any ordinance, or part of an ordinance, providing for laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, sidewalk, park or other public place or property or designating various streets as public highways.
- M. Any ordinance establishing water, sewer or other special purpose districts and designating the boundaries thereof; providing for a system of sewers or water supply lines; or providing for the construction, extension, dedication, acceptance or abandonment of any part of a system of sewers or water supply lines.
- N. Any ordinance providing for the making of public improvements.
- O. Any ordinance providing for the salaries and compensation of officers and employees of the Township, or setting the bond of any officer or employee.
- P. Any ordinance concerning changes and amendments to the Zoning Map.
- Q. Any ordinance relating to or establishing a pension plan or pension fund for municipal employees.
- R. Any ordinance, or portion of an ordinance, establishing a specific fee amount for any license, permit or service obtained from the Township.

§ 1-5. Inclusion of new legislation prior to adoption of Code.

All ordinances of a general and permanent nature adopted subsequent to the date given in § 1-4A, and/or prior to the date of adoption of this ordinance, are hereby deemed to be a part of the Code and shall, upon being printed, be included therein. Attested copies of all such ordinances shall be temporarily placed in the Code until printed supplements are included.

§ 1-6. Changes and revisions in previously adopted legislation; nonsubstantive grammatical changes.

In compiling and preparing the ordinances and resolutions of the Township for adoption and revision as part of the Code, certain nonsubstantive grammatical and style changes were made in one or more of said ordinances and resolutions. It is the intention of the Board of Supervisors that all such changes be adopted as part of the Code as if the ordinances and resolutions so changed had been previously formally amended to read as such.

§ 1-7. Interpretation of provisions.

In interpreting and applying the provisions of the Code, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of the Code

impose greater restrictions or requirements than those of any statute, other ordinance, resolution or regulation, the provisions of the Code shall control. Where the provisions of any statute, other ordinance, resolution or regulation impose greater restrictions or requirements, the provisions of such statute, other ordinance, resolution or regulation shall control.

§ 1-8. Titles and headings; editor's notes.

- A. Chapter and article titles, headings and titles of sections and other divisions in the Code, or in supplements made to the Code, are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.
- B. Editor's notes indicating sources of sections, giving other information or referring to the statutes or to other parts of the Code are inserted in the Code, and may be inserted in supplements to the Code for the convenience of persons using the Code, and are not part of the legislation.

§ 1-9. Filing of copy of Code.

At least one copy of the Code in a post-bound volume shall be filed with the Ordinance Book in the office of the Township Secretary, and shall remain there for use and examination by the public. Upon adoption, such copy or copies shall be certified to by the Township Secretary, as provided by law, and such certified copy or copies shall remain on file in the office of the Township Secretary, available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-10. Amendments to Code.

Any and all additions, deletions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intention of the Board of Supervisors to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such changes. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the post-bound book containing said Code as amendments and supplements thereto.

§ 1-11. Code books to be kept up-to-date.

It shall be the duty of the Township Secretary, or someone authorized and directed by him or her, to keep up-to-date the certified copy or copies of the book containing the Code required to be filed in the office of the Township Secretary for the use of the public. All changes in said Code and all legislation adopted by the Board of Supervisors subsequent to the effective date of this codification which the Board of Supervisors shall adopt specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new legislation are printed as supplements to said Code books, at which time such supplements shall be inserted therein.

§ 1-12. Publication of notices.

The Township Secretary, pursuant to law, shall cause to be published in the manner required, a notice of the introduction of the Code in a newspaper of general circulation in the Township. The enactment and application of this ordinance, coupled with the publication of the notice of introduction, the availability of a copy or copies of the Code for inspection by the public and the filing of an attested copy of this ordinance with the Montgomery County Law Library, as required by law, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-13. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, or to alter or tamper with the Code, or any part or portion thereof, in any manner whatsoever, which will cause the law of the Township to be

misrepresented thereby. Any person who violates or permits a violation of this section of this ordinance, upon being found liable therefor in a civil enforcement proceeding, shall pay a fine of not more than \$600, plus all court costs, including reasonable attorney's fees, incurred by the Township in the enforcement of this chapter. No judgment shall be imposed until the date of the determination of the violation by the Magisterial District Judge and/or Court. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable Rules of Civil Procedure. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

Chapter 5

APPEALS PROCEEDINGS

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick 10-10-1974 by Ord. No. 74-3. Amendments noted where applicable.]

§ 5-1. Procedure for filing of appeals.

All appeals to the Board of Supervisors shall be made in accordance with the procedures and conditions set forth in this chapter, which shall be in addition to any and all procedures, requirements and authorizations contained in relevant state laws, county and Township ordinances and regulations.

§ 5-2. Scope of filing of appeal.

The requirements of this chapter shall also apply to and shall be deemed to authorize appeals from any order granting or denying applications for any sanitary sewage disposal system permit, use or occupancy permit, or other permit authorized by the Commonwealth of Pennsylvania or County of Montgomery to be issued by this Township.

§ 5-3. Forms.

All appeals shall be upon forms prescribed officially by the Board of Supervisors and shall be supplied by the Secretary upon request of the party undertaking an appeal.

§ 5-4. Reasons for filing of appeal.

Every such appeal shall specify in legible printing or typewritten letters the name or names, legal residence and post office address, the nature and purpose of the application that was granted or denied and a statement of the facts alleged, the reasons and the provisions of law constituting the basis for the appeal.

§ 5-5. Number of copies.

The original appeal form only need be signed by the appellant and such signature witnessed by one person, but four additional conformed or identical copies shall be filed with the original appeal, plus copies for all other persons known to appellant to have a justifiable interest in the appeal.

§ 5-6. Filing of appeals.

The appeal shall be filed with the Chairman of the Board of Supervisors, but if the Chairman is away from the Township, or is ill or otherwise incapacitated, the appeal shall be filed with the Township Secretary. Copies shall be mailed forthwith to each of the Township Supervisors, Solicitor, Secretary and all other interested parties.

§ 5-7. Appeal fee. [Amended 10-14-1976 by Ord. No. 76-2; 8-13-1998 by Ord. No. 98-4]

Appellant shall pay concurrently with the filing of the appeal a fee, in an amount to be established from time to time by resolution of the Board of Supervisors, by certified or cashier's check or postal money order payable to the Township Treasurer. This charge is intended to cover all costs incidental to the said appeal and any balance remaining after payment of said costs shall be returned to the appellant. An additional charge, in an amount to be established from time to time by resolution of the Board of Supervisors, shall be required of and paid by the appellant for each hour or fraction thereof for any hearing taking more than 90 minutes, and a fee, in an amount established from time to time by resolution of the Board of Supervisors, for each appeal hearing continued at the request of the appellant.

§ 5-8. Remittance of fee.

The Board reserves the option at its discretion to remit all or part of such appeal fees.

Chapter 16

FIREMEN'S RELIEF ASSOCIATION, VOLUNTEER

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick 8-13-1998 by Ord. No. 98-4. Amendments noted where applicable.]

§ 16-1. Recognition of Firemen's Relief Association.

- A. The following association is hereby recognized as actively engaged in providing fire protection and/or emergency services in the Township:
 - (1) Upper Frederick Fire Company No. 1 Firemen's Relief Association.
- B. The above named association has been formed for the benefit of its members and their families in case of death, sickness, temporary or permanent disability or accident suffered in the line of duty.
- C. The above named association of the Township is designated the proper association to receive such funds as are due and payable to the Township Treasurer by the Treasurer of the Commonwealth of Pennsylvania from the tax on premiums from foreign fire insurance companies.

§ 16-2. Certification to Auditor General.

The Board of Supervisors shall annually certify to the Auditor General of the Commonwealth, the name of the active association and the percentage of service they contribute to the protection of the Township. Such certification shall be on forms prescribed by the Auditor General.

§ 16-3. Annual appropriation.

There is annually appropriated from the Township Treasury all such sums of money that may hereafter be paid into the Township Treasury by the Treasurer of the State of Pennsylvania on account of taxes paid on premiums of foreign fire insurance companies in pursuance of the Act of December 18, 1984, No. 205, § 701 et seq., as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania. Such monies received by the Township Treasurer from the State Treasurer shall be distributed to the duly recognized association within 60 days of receipt. The funds shall be distributed on the basis of the percentage of service established in the certification to the Auditor General and with other provisions of the Act.

Chapter 20

IDENTITY THEFT POLICY

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick 4-9-2009 by Res. No. 2009-07. Amendments noted where applicable.]

GENERAL REFERENCES

Officers and employees — See Ch. 29.

Public records — See Ch. 48.

§ 20-1. Background.

The risk to the Township, its employees and customers from data loss and identity theft is of significant concern to the Township and can be reduced only through the combined efforts of every employee and contractor.

§ 20-2. Purpose.

- A. The Township adopts this sensitive information policy to help protect employees, customers, contractors and the Township from damages related to the loss or misuse of sensitive information.
- B. This policy will:
 - (1) Define sensitive information;
 - (2) Describe the physical security of data when it is printed on paper;
 - (3) Describe the electronic security of data when stored and distributed; and
 - (4) Place the Township in compliance with state and federal law regarding identity theft protection.
- C. This policy enables the Township to protect existing customers, reducing risk from identity fraud, and minimizes potential damage to the Township from fraudulent new accounts. The program will help the Township:
 - (1) Identify risks that signify potentially fraudulent activity within new or existing covered accounts;
 - (2) Detect risks when they occur in covered accounts;
 - (3) Respond to risks to determine if fraudulent activity has occurred, and act if fraud has been attempted or committed; and
 - (4) Update the program periodically, including reviewing the accounts that are covered and the identified risks that are part of the program.

§ 20-3. Applicability.

This policy, and the subsequent protection program authorized by the Township, applies to employees, contractors, consultants, temporary workers and other workers at the Township, including all personnel affiliated with third parties.

§ 20-4. Sensitive information.

Sensitive information policy:

- A. Definition of "sensitive information." Sensitive information includes the following items, whether stored in electronic or printed format:
- (1) Credit card information, including any of the following:
 - (a) Credit card number (in part or whole).
 - (b) Credit card expiration date.
 - (c) Cardholder name.
 - (d) Cardholder address.
 - (2) Tax identification numbers, including:
 - (a) Social security number.
 - (b) Business identification number.
 - (c) Employer identification numbers.
 - (3) Payroll information, including, among other information:
 - (a) Paychecks.
 - (b) Pay stubs.
 - (4) Cafeteria plan check requests and associated paperwork.
 - (5) Medical information for any employee or customer, including, but not limited to:
 - (a) Doctor names and claims.
 - (b) Insurance claims.
 - (c) Prescriptions.
 - (d) Any related personal medical information.
 - (6) Other personal information belonging to any customer, employee or contractor, examples of which include:
 - (a) Date of birth.
 - (b) Address.
 - (c) Phone numbers.
 - (d) Maiden name.
 - (e) Names.
 - (f) Customer number.
 - (7) Township personnel are encouraged to use common sense judgment in securing confidential information to the proper extent. Furthermore, this section should be read in conjunction with the Pennsylvania Open Records Act and the Township's open records policy. If an employee is uncertain of the sensitivity of a particular piece of information, he/she should contact his/her supervisor.
- B. Hard copy distribution. Each employee and contractor performing work for the Township will comply with

the following policies:

- (1) File cabinets, desk drawers, overhead cabinets, and any other storage space containing documents with sensitive information will be locked when not in use.
- (2) Storage rooms containing documents with sensitive information and record retention areas will be locked at the end of each workday or when unsupervised.
- (3) Desks, workstations, work areas, printers and fax machines, and common shared, work areas will be cleared of all documents containing sensitive information when not in use.
- (4) Whiteboards, dry-erase boards, writing tablets, etc., in common shared work areas will be erased, removed or shredded when not in use.
- (5) When documents containing sensitive information are discarded, they will be placed inside a locked shred bin or immediately shredded using a mechanical crosscut or Department of Defense (DOD) approved shredding device. Locked shred bins are labeled "Confidential Paper Shredding and Recycling." Township records, however, may only be destroyed in accordance with the Township's records retention policy.

C. Electronic distribution. Each employee and contractor performing work for the Township will comply with the following policies:

- (1) Internally, sensitive information may be transmitted using approved municipal e-mail. All sensitive information must be encrypted when stored in an electronic format.
- (2) Any sensitive information sent externally must be encrypted and password protected and only to approved recipients. Additionally, a statement such as this should be included in the e-mail:

"This message may contain confidential and/or proprietary information and is intended for the person/entity to whom it was originally addressed. Any use by others is strictly prohibited."

§ 20-5. Identity theft prevention program.

A. Red flags. Possible sources used for detecting red flags include:

- (1) Alerts, notifications or other warnings received from consumer reporting agencies or service providers, such as fraud detection services.
- (2) Presentation of suspicious or altered documents.
- (3) Presentation of suspicious, inconsistent or altered personal identifying information, such as a suspicious address change.
- (4) Attempts to access an account by unauthorized users.
- (5) Unusual use or other suspicious activity related to the covered account.
- (6) Notice from members, victims of identity theft, law enforcement authorities or other persons regarding possible identity theft in connection with covered accounts.

B. Response program.

- (1) Once potentially fraudulent activity is detected, an employee must act quickly, as a rapid appropriate response can protect customers and the Township from damages and loss.
- (2) If a transaction is determined to be fraudulent, appropriate actions must be taken immediately. Actions may include canceling the transaction, notifying and cooperating with law enforcement, determining the

extent of liability of the Township and notifying the actual customer that fraud has been attempted.

§ 20-6. Periodic updates.

- A. The policy and procedures established in the program will be reevaluated to determine whether all aspects of the program are up-to-date and applicable in the current business environment. Periodic review will include an assessment of which accounts are covered by the program.
- B. As part of the review, red flags may be revised, replaced or eliminated. Defining new red flags may also be appropriate. Actions to take in the event that fraudulent activity is discovered may also require revision to reduce damage to the Township and its customers.

§ 20-7. Program Administration.

- A. Board of Supervisors to administer. The Upper Frederick Township Board of Supervisors shall be responsible for the development, implementation, oversight and continued administration of the program. The program shall train staff, as necessary, to effectively implement the program, and the program shall exercise appropriate and effective oversight of service provider arrangements.
- B. Oversight of the program. Oversight of the program shall include assignment of a specific responsibility for implementation of the program to Jackie Tallon, Township Manager; review of reports prepared by staff regarding compliance; and approval of material changes to the program, as necessary.

§ 20-8. Other applicable legal requirements.

The Upper Frederick Township Board of Supervisors shall meet other applicable legal requirements, including, but not limited to, the requirement to file suspicious activity reports, the requirement under the Fair Credit Reporting Act (FCRA) regarding the circumstances in which credit may be extended when the Township detects fraud or some other alert; the requirement under the FCRA for furnishers of information to credit bureaus to correct or update inaccurate or incomplete information and to not report information that is believed inaccurate; and the prohibitions under the FCRA on the sale, transfer and placement for collection of certain debts resulting from identity theft.

§ 20-9. Credit bureau requirements.

Township employees who use credit reporting information must implement policies and procedures designed to enable the employees to form a reasonable belief that a credit report relates to the customer about whom it has requested a report when the employee receives a notice of address discrepancy, which is a red flag. Employees must compare and verify the information in the credit report with the information that the Township obtains and uses to verify the customer's identity.

§ 20-10. Oversight of service providers.

It is the responsibility of the Township to ensure that the activities of all service providers are conducted, in accordance with the reasonable policies and procedures designed to detect, prevent and mitigate the risk of identity theft.

Chapter 29

OFFICERS AND EMPLOYEES

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Manager
[Adopted 1-12-1995 by Ord. No. 95-1]

§ 29-1. Creation of office.

The office of Township Manager is hereby created, subject to the right of the Township, by ordinance at any time, to abolish said position.

§ 29-2. Appointment and removal. [Amended 8-13-1998 by Ord. No. 98-4]

The Township Manager may be appointed for a term of one year by a majority vote of all the members of the Township Board of Supervisors. The Township Manager shall serve at the pleasure of the Board of Supervisors, the Township Manager may be removed at any time by a majority vote of all of its members. At least 14 days before such removal becomes effective, the Board of Supervisors shall furnish the Township Manager with a written statement setting forth its intent to remove the Township Manager from office. When a vacancy occurs in the position of the Township Manager by reason of death, resignation or removal by the Board of Supervisors, the Board of Supervisors shall then appoint a suitable person to hold the office in accordance with the provisions of this section.

§ 29-3. Qualifications.

The Manager shall be chosen solely on the basis of executive and administrative abilities, with special reference to the duties of the office herein outlined. No individual who has served in the position for Supervisor for Upper Frederick Township shall be appointed Manager until he/she has been out of office for at least six months.

§ 29-4. Bond.

Before entering upon the Township Manager's duties, the Township Manager shall, at the expense of the Township, file with the Township a bond to be approved by the Board of Supervisors, with a bonding company as surety, in the sum of \$50,000, in favor of the Board of Supervisors conditioned upon the faithful performance of the Township Manager's duties as Township Manager.

§ 29-5. Compensation.

The compensation of the Township Manger shall be fixed from time to time by resolution of the Board of Supervisors of Upper Frederick Township.

§ 29-6. General authority.

The Township Manager shall carry on the business of the Township under the direction of the Board of Supervisors, and the Township Manger's powers and duties shall relate to the general management of all Township business not expressly imposed or conferred by statute upon other Township officers or hereinafter expressly reserved or restricted.

§ 29-7. Specific powers and duties.

The Township Manager shall be the Chief Administrative Officer of the Township, and the Township Manager shall be responsible to the Board of Supervisors as a whole for the proper and efficient administration of the affairs of the Township. Subject to recall by resolution of the Board of Supervisors and upon the Township Manager's selection and assumption of office, the powers and duties of the Township Manager shall include the following:

- A. The Township Manager, on the direction of the Board of Supervisors, shall execute and enforce the laws of the Commonwealth and ordinances, resolutions and bylaws of the Board of Supervisors.

- B. The Township Manager shall attend all meetings of the Board of Supervisors and recommend such measures as he or she shall deem expedient.
- C. The Township Manager shall make a monthly report to the Board of Supervisors, and at such other times as the Board of Supervisors may direct, upon the affairs of the Township and keep the Township Board of Supervisors duly advised of the Township's financial condition and its financial needs.
- D. The Township Manager shall supervise and be responsible for the activities of all Township departments, but not limited to pensions, insurances, vacations, fringe benefits, etc.
- E. The Township Manager shall prepare and submit to the Board of Supervisors, pursuant to the terms of the Second Class Township Code, a recommendation of the budget for the next fiscal year and an explanatory budget when necessary. Such budget shall be submitted in sufficient time to allow for its study and adoption within the time directed by the Second Class Township Code. In preparing the recommended budget, the Township Manager or any officer designated by the Township Manager shall obtain from the head of each department, agency, board or office estimates of revenues and expenditures and such other supporting data as the Township Manager may require. The Township Manager shall review such estimates and may revise them before submitting the recommended budget to the Board of Supervisors.
- F. The Township Manager shall be responsible for the administration of the budget after its adoption by the Board of Supervisors.
- G. The Township Manager shall hold such other municipal offices or head one or more of the Township departments as the Board of Supervisors may from time to time direct.
- H. The Township Manager shall, in addition to attending all meetings of the Board of Supervisors, attend meetings of each department, committee, agency or board when directed to do so by the Board of Supervisors, with the right to take part in the discussions, and the Township Manager shall receive notice of all special meetings of the Board of Supervisors or its departments, committees, agencies and boards.
- I. The Township Manager shall prepare the agenda for each meeting of the Board of Supervisors and supply facts pertinent thereto.
- J. The Township Manager shall keep the Board of Supervisors informed as to the conduct of the Township's affairs, submit periodic reports on the condition of the Township's finances and such other reports as the Board of Supervisors requests and make such recommendations to the Board of Supervisors as the Township Manager deems necessary.
- K. The Township Manager shall submit to the Board of Supervisors, as soon as possible after the close of the fiscal year, a complete report on the financial and administrative activities of the Township for the proceeding year.
- L. The Township Manager shall see that the provisions of all the franchises, leases, permits and privileges granted by the Township Board of Supervisors are observed.
- M. The Township Manager may employ, by and with the approval of the Board of Supervisors, experts or consultants to perform work and to advise in connection with any of the functions of the Township.
- N. The Township Manager shall, subject to the Board of Supervisor's approval, attend to the letting of contracts in due form of law, and the Township Manager shall supervise the performance and faithful execution of the same, except insofar as such duties are expressly imposed upon some other Township officer by statute.
- O. The Township Manager shall see that all money owed the Township is promptly paid and that proper proceedings are taken for the security and collection of all the Township's claims, provided that the Township Manager shall not be responsible for the payment or collection of any taxes imposed by the Township.

- P. The Township Manager shall be the purchasing agent of the Township, and the Township Manager shall have the full power to purchase all supplies and equipment for the use of the Township Manager's own and various departments and offices of the Township; provided, however, that no single article or purchase shall be in excess of \$500. The Township Manager shall keep an account of all purchases made by the Township Manager and shall, from time to time and as directed by the Board of Supervisors, make a full written report thereof. The Township Manager shall also issue rules and regulations, subject to the approval of the Board of Supervisors, governing the requisition and purchasing of all municipal supplies and equipment. These duties may also be delegated to any other officer of the Township upon the approval of the Board of Supervisors.
- Q. All complaints regarding service or personnel of the Township, except for complaints regarding the service or personnel of the Police Department of the Township, shall be referred to the office of the Township Manager, the Township Manager, or an official designated by the Manager, shall investigate and coordinate the disposition of such complaints with the head of each department, and the Township Manager shall report thereon to the Board of Supervisors.
- R. The Township Manager shall make research and investigation into the administrative and governmental functions of the federal government and state government and of various Township and make recommendations to the Board of Supervisors of all available grants-in-aid and other assistance available to the Township affecting the health, safety, welfare and administration of the Township.
- S. A Township Manager may also serve as Secretary and/or Treasurer of the Township and, when so appointed, shall have all of the powers and duties given to the office of Township Secretary and/or Treasurer by statute and ordinance of this Township.
- T. All applications for employment by the Township, except for the appointed offices of the Township which by law are required to be filled by legislative action of the Board of Supervisors, such as the Township Treasurer and the Township Solicitor, shall be made to the Township Manager. The Township Manager shall present the application to the Board of Supervisors, with the Township Manager's recommendations, for final decision by the Board of Supervisors. The Township Manager shall have the authority to recommend dismissal of any Township employee, except the appointed officers of the Township, which by law are required to be filled by the legislative action of the Board of Supervisors, such as the Township Treasurer and the Township Solicitor. Such recommendations shall contain the reasons asserted by the Township Manager in support of the recommendations. Except for the purposes of inquiry, the Board of Supervisors shall deal with the administrative service solely through the Township Manager, and neither the Board of Supervisors nor any member thereof shall give orders to any subordinates of the Township Manager, either publicly or privately. The Township Manager shall have full power and authority to direct the work, employment and service including, but not limited to, suspension of any employee up to a maximum of five days, of said regular Township employees over whom the Township Manager is hereby given the power of employment and dismissal.

§ 29-8. Disability or absence of Manager.

If the Manager becomes ill or needs to be absent from the Township, he or she shall designate one qualified member of his staff to perform the duties of the Manager during his or her absence or disability. The person so designated shall not perform these duties for a period longer than two weeks without the approval of the Board of Supervisors.

Chapter 37

PERSONNEL POLICIES

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Drug and Alcohol Policy for Commercial Drivers
[Adopted 12-19-1995 by Res. No. 95-21]

§ 37-1. Purpose.

The purposes of this article are:

- A. To comply with the requirements of employees pursuant to the federal legislation concerning CDL licenses pursuant to the Omnibus Transportation Employee Testing Act of 1991, and the federal regulations thereto, insofar as they apply to this Township.
- B. To conform the employment policies of this Township with the requirements of said law and regulations.

§ 37-2. Application.

This policy shall apply only to those employees and applicants for employment who are required to have a CDL license for their employment by the Township and are assigned to operate Township owned, leased or borrowed vehicles or equipment requiring CDL licensure.

§ 37-3. Federal regulations.

The regulations of the Federal Highway Management Administration are hereby adopted by reference, insofar as they apply to this Township and this policy.

§ 37-4. Policy established.

- A. Employees shall not use, sell, possess or receive alcohol or illegal drugs or distribute or sell prescription drugs while on duty. Violation of these rules will subject the employee to discipline and/or dismissal pursuant to the provisions of § 37-7 of this policy, subject to any applicable provisions and procedures of the collective bargaining agreement in effect, if any.
- B. Prescription drugs must be kept in their original container identifying the drug, dosage, date of prescription and physician. Employees are required to notify their designated supervisory personnel if they are taking a prescription drug and shall file with the Township a statement on a form provided by the Township from the doctor who issued such prescription stating whether or not such prescription drug will impair the employee's ability to operate a CDL vehicle or equipment. The term "illegal drugs" shall include drugs for which the employee does not have a valid prescription, and cocaine, phencyclidine (PCP), marijuana, opiates (including heroin), amphetamines and such other illegal drugs as may be identified from time to time.

§ 37-5. Tests established.

The following drug and alcohol test procedures shall be applicable to all employees and applicants for employment to whom this policy applies:

- A. Preemployment. All applicants for employment shall be tested for drugs prior to acceptance for employment by the Township. Any applicant testing positive shall not be considered for employment. The Township will reimburse the applicant for the cost of this test if the test is negative and if employment is offered to the applicant.
- B. Random. The Township will implement a random testing procedure which meets the requirements of the federal regulations. The procedure shall include Township-paid tests of affected employees on a random basis, and shall be conducted without any advance notice; but, shall be done not less than on a quarterly basis. The number of affected employees selected shall be at least 50% of the employees for drug testing and 25% of the employees for alcohol testing annually; provided, however, that the requirements of this policy shall be

satisfied if the above percentages are selected from a pool of employees which includes the Township's employees.

- C. Reasonable cause. Any employee giving reasonable cause to believe that he or she is in violation of the policy established in § 37-4, above, shall be subject to Township-paid testing immediately upon observation of such reasonable cause by trained supervisory personnel. Reasonable cause shall be limited to behavior or conduct observed at the work place or in route to a work place during working hours. Observation shall be by supervisory personnel who have receive at least one hour of training in drug use detection. Supervisory personnel making reasonable cause observations shall make and file with the Township a written report on a form provided by the Township of the attendant circumstances. Such reports shall be confidential.
- D. Post accident. Any employee involved in an accident, as defined herein, shall be tested at the Township's expense for drugs as soon after an accident occurs as is possible, but not later than 32 hours, and for alcohol as soon after an accident as possible, but not later than eight hours. Provided:
 - (1) Testing should not take precedence over needed medical treatment or other needed emergency measures.
 - (2) If, for any reason, the tests cannot be obtained within the times provided, the tests shall not be administered. However, refusal to submit to a test or interfering with the successful completion of such a test shall be deemed a positive test result in accordance with § 37-6, below.
 - (3) No employee shall consume alcohol or illegal drugs between the time of the accident and the test administration.
 - (4) An accident shall include any occurrence involving a vehicle where the following conditions occur:
 - (a) There is a fatality regardless of fault.
 - (b) There is issuance of a citation to the Township CDL employee for a moving violation and (i) bodily injury of any person involved requiring transportation of the injured person away from the accident scene for treatment; or (ii) vehicular damage requiring the vehicle to be towed from the scene.

§ 37-6. Test standards.

Any refusal or failure by the CDL employee or applicant to submit to any test required by this policy, or the applicable law, shall be deemed to be a positive result. Refusal to submit to a test under this policy shall include any act or omission which prevents, thwarts or frustrates the objectives of this policy including, without limitation, the following: (1) refusal to submit in a timely fashion to testing; (2) refusal or failure by the employee or applicant to complete, sign or initial the required testing form; (3) refusal or failure, without good cause, to provide any sample or provide an adequate sample for testing; and/or (4) failure or refusal to otherwise cooperate with the testing process in a way which prevents the completion of any required test.

- A. Alcohol testing. Alcohol testing shall be conducted using a federally approved breathalyzer. Any employee receiving a test result of greater than 0.02 but less than 0.04 breath alcohol level shall be removed from safety sensitive duties, as defined in the Act and the regulations, for 24 hours. Any test result of greater than 0.04 breath alcohol level shall be considered a positive test and shall subject the employee to the disciplinary provisions of § 37-7 of this policy.
- B. Drug testing. Drug testing shall be conducted by urine sample which shall be analyzed at a federally approved testing facility. Any test result showing the presence of illegal drugs shall be considered a positive test and shall subject the employee to the disciplinary provisions of § 37-7 of this policy. Any employee testing positive for illegal drugs may request a split sample of the same specimen to be retested, at the employee's expense. Employees shall speak with the medical review officer about such request.

§ 37-7. Positive tests.

An employee who tests positive for a drug and/or alcohol test shall subject the employee to immediate dismissal by the Township.

§ 37-8. Test results.

Employees will be notified of their positive test results. Test results shall be retained by the medical review officer responsible for analyzing the employee's test results. Said results shall be held in strictest confidence and shall be accessible only to the employee, the employer, and such other persons authorized by law, and shall not be released to any other person except with the written consent of the employee. The results of the tests made known to the Township may be leased to future employers in accordance with the federal regulations.

§ 37-9. Confidentiality of documents.

All files, documents and records of the Township related to the application of this policy to individual employees shall be deemed and kept confidential by the Township.

§ 37-10. Recordkeeping.

- A. All of the records relating to the administration and results of the Township's alcohol and drug testing program for its CDL drivers will be maintained for a minimum of 12 months.
- B. Tests will be conducted by a licensed facility and will be analyzed by a medical review officer. The medical review officer who is appointed shall be licensed doctor of medicine or osteopathy with knowledge of drug and alcohol abuse disorders and who is employed by the Township, or group which the Township has joined, to conduct alcohol and drug testing in accordance with the federal regulations. The medical review officer shall be the sole custodian of individual test results. The medical review officer shall retain the reports of individual test results for a minimum of five years, the Township shall retain the employee's personnel file information indicating only the following:
 - (1) The employee submitted to a drug and/or alcohol test.
 - (2) The date of such test.
 - (3) The location of such test.
 - (4) The identity of the person or entity performing the test.
 - (5) The test result (e.g., "positive" or "negative").
- C. The Township will also maintain an annual calendar year summary of the records related to the administration and results of the testing program for its drivers under the federal regulations.

§ 37-11. Access to test results and findings.

No person may obtain the individual test results retained by the medical review officer, and no medical review officer shall release the individual test results of any employee to any person without first obtaining written authorization from the tested individual, unless otherwise requested by law.

§ 37-12. Employee assistance program.

The Township shall establish the following:

- A. A list of the consultative and treatment services available in the area for drug and alcohol abuse problems. Said list shall be given to each employee or posted at a place readily accessible to employees.

- B. A list of educational and training resources available in the area for drug and alcohol abuse problems. Said list shall be given to each employee or posted at a place readily accessible to employees.
- C. A place or service for referring employees who test positive for drugs or alcohol for consultation and treatment.
- D. A one hour training and educational program for employees.
- E. One hour training each in drug and alcohol detection and related matters for supervisory personnel. Said training programs shall include the following components:
 - (1) Effects of drug and alcohol abuse on health and safety.
 - (2) Manifestations of abuse and abuse detection.
 - (3) Documentation of training and implementation of the policy.

§ 37-13. CDL information contact.

- A. The following entity is designated by the Township for the purpose of providing information to employees concerning the federal laws and regulations governing the testing of CDL employees and for implementing and monitoring the Township's compliance with the federal testing program:

PSATS CDL Drug and Alcohol Testing Program

3001 Gettysburg Road

Camp Hill, Pennsylvania, 17011

Phone No. 1-800-235-7579

Fax No. 1-717-763-9732
- B. Designation of the PSATS program as available to provide information to the Township's employees shall continue for as long as the Township is a member in good standing in the PSATS program.

§ 37-14. Interpretation; miscellaneous provisions.

- A. This policy shall be implemented with the constitutional and legal rights of the employees subjected to it.
- B. This policy shall not be deemed to be a covenant of employment or other form of covenant or contract between the Township and the employee.
- C. Any collective bargaining agreement entered by the Township subsequent to the adoption of this policy shall conform to the provisions of this policy.
- D. Any agreement for the sharing, leasing, lending or other transfer of CDL employees between the Township and any other municipality or private enterprise shall address, in writing, the status of said employees as to whether they are employees of the receiving entity during the period of the transfer.
- E. Any contract for services involving CDL employees shall expressly state whether the contracting party is an independent contractor or employee/agent of the Township.
- F. The definition of terms shall be as contained in the relevant federal regulations.
- G. A copy of this policy shall be delivered to every employee and applicant for employment who is subject to it, and to all supervisory personnel. Such employee shall sign an acknowledgment of receipt of the policy.

- H. A copy of the controlling law or federal regulations shall be maintained in the Township offices and shall be accessible to employees, upon request.
- I. This policy will be limited by any applicable federal or state law or municipal ordinance, and by any applicable collective bargaining agreements. Any portion of this policy which directly conflicts with such a law, ordinance or agreement will not be implemented in that jurisdiction or bargaining unit, but shall be severable and shall not affect the validity and enforcement of the remainder of the policy.
- J. Employees agree to waive any liability against the Township arising out of the Township's administration of this policy and its administration of the program established pursuant to the federal law or regulations regarding the Township's responsibility for CDL drivers.

ARTICLE II
(Reserved)¹

1. Editor's Note: Former Art. II, Administrative Personnel Policy, adopted 12-12-1996 by Res. No. 96-15, as amended, was repealed 2-14-2013 by Res. No. 2013-04. The current Employee Handbook, Personnel Policies, Rules and Regulations is on file in the Township offices.

Chapter 41

PLANNING COMMISSION

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision and land development — See Ch. 240.

Zoning — See Ch. 285.

ARTICLE I
Upper Frederick Township Planning Commission
[Adopted 11-13-1975 by Ord. No. 75-1]

§ 41-1. Short title.

This article shall be known and may be cited as the "Upper Frederick Township Planning Commission Ordinance of 1975."

§ 41-2. Definitions.

The following words when used in this article shall have the meanings indicated below:

BOARD — The Board of Supervisors of the Township of Upper Frederick, Montgomery County, Pennsylvania.

COMMISSION — The Upper Frederick Township Planning Commission as reconstituted and established by this article.

§ 41-3. Establishment of Commission.

There is recreated, reconstituted and established hereby the Upper Frederick Township Planning Commission, which Commission shall consist of five members.

§ 41-4. Terms of office.

The terms of each of the members of the Commission shall be for four years, or until his or her successor is appointed and qualified; provided, however, that no more than two members of the Commission shall be reappointed or replaced during any calendar year commencing January 1, 1976.

§ 41-5. Existing members of Commission.

Members of the Upper Frederick Township Planning Commission appointed and qualified under ordinance of March 8, 1962, who are presently members of the Commission shall be deemed appointed, qualified and with full authority to serve until the end of their respective terms as previously constituted, and also any appointments made to membership upon the previous Commission or the Commission established by this article to fill existing vacancies in 1975 shall be deemed appointed, qualified and authorized to serve until the termination of the previously designated date or dates for such vacant offices as may be filled hereunder.

§ 41-6. Vacancies.

In the event a vacancy shall occur otherwise than by expiration of the Commission member's term, such vacancy shall be filled by appointment by the Board for the unexpired term according to the provisions of this article.

§ 41-7. Membership.

The members of the Commission shall be residents of the Township, at least three of whom shall not be officers of employees of Upper Frederick Township.

§ 41-8. Removal.

Any member of the Commission appointed under this or the prior ordinance or pursuant to Act of Assembly may be removed from office only for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority of the Board, which action may be taken only after the member has received 15 days advance written notice of the intent of the Board to take a vote removing the member from the Commission. A hearing shall be held in conformity with the requirements of the Pennsylvania Municipalities Planning Code.

§ 41-9. Meetings.

All meetings of the Commission shall be in accordance with a schedule established and advertised by the Commission, shall be always open to the public at large and shall be conducted according to rules established by the Commission from time to time and as may be provided by ordinance adopted by the Board.

§ 41-10. Officers.

The Commission shall elects its Chairman and Vice Chairman and fill such other offices as it may determine at the regular January meeting of the Commission, and may govern its procedures consistent with all ordinances of the Township and the laws of the commonwealth. The Commission shall keep a full record of its business and make a written report annually, by March 1 of each year, of its activities for the previous calendar year to the Board. Interim reports shall be made as often as may be requested by the Board.

§ 41-11. Authority and procedures generally.

The powers, responsibilities and procedures of the Commission at all times shall be as specified in and subject to the provisions of the Pennsylvania Municipalities Planning Code and other pertinent laws of the commonwealth now in effect and as the same shall be amended or extended from time to time hereafter. All regulations in or pursuant to this article are enacted to clarify, implement and/or supplement the code and laws aforementioned.

ARTICLE II
Central Perkiomen Valley Regional Planning Commission
[Adopted 8-9-2001 by Ord. No. 01-4]

§ 41-12. Creation.

Upper Frederick Township shall join with the municipalities of Lower Frederick Township, Perkiomen Township, Skippack Township, Schwenksville Borough, Colledgeville Borough and Trappe Borough to create the Central Perkiomen Valley Regional Planning Commission as per the guidelines set forth under Articles I, II and XI of the Pennsylvania Municipalities Planning Code, Act 247, as amended, August 2000.

§ 41-13. Purpose.

- A. The seven municipalities of the Central Perkiomen Valley have come to recognize that the issues associated with growth and development such as, but not limited to, traffic congestion, air and water pollution and loss of open space, are too large for any one municipality to effectively deal with. They further recognize that current growth and anticipated growth, if not properly managed, will lead to the diminution of the region's quality of life. They are concerned that current zoning requirements which call for each and every municipality to provide for a full range of uses, regardless of historic development patterns, is inefficient and potentially destructive to the region's economic and social structure.
- B. To this end, the municipalities of the Central Perkiomen hereby embark on a course of action to implement regional planning. Upper Frederick Township empowers the Central Perkiomen Valley Regional Planning Commission to undertake the development of a Regional Comprehensive Plan.

§ 41-14. Membership.

The Central Perkiomen Valley Regional Planning Commission shall be comprised of the following member municipalities: Lower Frederick Township, Perkiomen Township, Skippack Township, Schwenksville Borough, Colledgeville Borough and Trappe Borough. Each participating municipality shall appoint two members to the Commission. One member must be from the elected governing body and the other may be either from the governing body or Municipal Planning Commission. The term of each member shall be two years, with the initial terms being staggered with one appointee serving one year and the second for two years.

§ 41-15. Voting rights. [Amended 10-11-2001 by Ord. No. 01-5]

Each member municipality shall have one vote to cast on all matters that come before the Regional Planning Commission that requires action. If two members from a municipality are present at the meeting and cannot agree as to how to cast their vote, then the vote of the member from the elected governing body shall control.

§ 41-16. Powers and duties.

The Central Perkiomen Valley Regional Planning Commission shall have the responsibility to prepare a Regional Comprehensive Plan for the seven participating municipalities. To this end, the powers and duties of the Regional Planning Commission are as follows:

- A. To prepare a Regional Comprehensive Plan pursuant to Article II of the Pennsylvania Municipalities Planning Code.
- B. That in the preparation of said plan, the members of the Commission shall represent the interests of their respective municipalities and shall cast one vote per municipality on all matters that require action.
- C. That upon completion of the Regional Comprehensive Plan, the Regional Planning Commission shall forward said plan on to the participating municipalities by unanimous consent.

- D. The Regional Planning Commission shall not usurp the powers, duties and obligations of the individual Municipal Planning Commissions and Zoning Hearing Boards regarding subdivision, land developments and zoning matters.
- E. The Central Perkiomen Valley Regional Planning Commission is an advisory body.

§ 41-17. Administration and the expenditure of funds. [Amended 10-11-2001 by Ord. No. 01-5]

The Central Perkiomen Valley Regional Planning Commission may prepare an annual budget and appropriate funds for its operation. The Regional Planning Commission may also seek federal, state and county grants to offset the cost of operation.

- A. Each member municipality shall be responsible to pay one-seventh of all budgeted expenditures.
- B. All budgeted items shall be approved by the unanimous vote of the voting members of the Regional Planning Commission.

§ 41-18. Hiring of staff or professional consultants.

Within the limits imposed upon it by the funds available for its use, the Regional Planning Commission may employ such staff or personnel and enter into contracts with consultants as it see fit to aid in its work.

§ 41-19. Withdrawal.

Any participating municipality may withdraw from the Regional Planning Commission after six months written notice. Upon receiving notice that a municipality wishes to withdraw from the Regional Planning Commission, the governing bodies of the remaining municipalities shall promptly schedule a meeting to consider whether the remaining municipalities wish to continue with the Regional Planning Commission and the creation of a Regional Comprehensive Plan.

§ 41-20. Financial responsibility.

Any municipality which has exercised its right to withdraw from the regional planning organization shall be financially responsible, even after withdrawal, for only those budgeted and nonbudgeted items which it, or its representative to the Regional Planning Commission had agreed to or voted for, for a period of one year after the effective date of withdrawal.

§ 41-21. Officers; terms. [Added 10-11-2001 by Ord. No. 01-5]

- A. The positions of Chairman, Vice Chairman and Treasurer shall be held by individuals representing three different municipalities.
- B. Officers shall serve a one-year term and may succeed themselves for a second one-year term; provided that, at the end of two years, the position shall be filled by an individual representing a different municipality.

§ 41-22. Municipal Planning Commissions. [Added 10-11-2001 by Ord. No. 01-5]

Each of the Central Perkiomen Valley municipalities shall retain their individual Planning Commissions. Each local Planning Commission shall continue to review those subdivisions, land developments and zoning revisions that are proposed within their municipality and then provide advisory comment to the elected officials.

Chapter 48

RECORDS, PUBLIC

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Access to Public Records
[Adopted 1-5-2009 by Res. No. 2009-01²]

§ 48-1. Applicability to all requests for public record access.

This policy shall govern all requests made for access to the public records of Upper Frederick Township (the "Township") and shall repeal any previous policy adopted by the Township.

§ 48-2. Definitions

For the purpose of this policy:

PUBLIC RECORD — Shall have the meaning given to such term under Pennsylvania Act 3 of 2008 (the "Act"), also known as the "Right-to-Know Law,"³ as amended, to the date of adoption of this policy, including a financial record, that:

- A. Is not exempt under Section 708 of the Act;⁴
- B. Is not exempt from being disclosed under any federal or state law or regulation or judicial order or decree; or
- C. Is not protected by a privilege.

§ 48-3. Open Records Officer.

The Township designates the Township Manager, Jackie Tallon, or her successor, to act as the Open Records Officer of the Township. Ms. Tallon's contact information is set forth below;

Mailing Address:	Jackie Tallon Upper Frederick Township P.O. Box 597 Frederick, Pennsylvania 19435
Telephone:	(610) 754-6436
Fax:	(610) 754-6828
E-mail:	jtallon@twp.upper-frederick.pa.us

§ 48-4. Oral and written requests for records.

Requests for public records can be made by any person who is a legal resident of the United States and also by other local agencies. The Township may permit an oral request for a public record or require the request to be in writing. However, if the requester wishes to pursue the relief and remedies provided for in the Right-to-Know Law, the request for access to records must be a written request. A written request for access to records may be submitted in person, by mail, by e-mail or by facsimile. The form which may be used to file a request is posted at the Township Office and, if the Township does develop an Internet website, at that website. All written requests must be addressed to the Open Records Officer. In the event that a written request for records is addressed to a Township employee other than the Open Records Officer, the Township employee is hereby directed to promptly forward such request to the Open Records Officer.

2. Editor's Note: This resolution also repealed former Art. I, Access to Public Records, adopted 12-12-1998 by Res. No. 98-16, as amended.
 3. Editor's Note: See 65 P.S. § 67.101 et seq.
 4. Editor's Note: See 65 P.S. § 67.708.

§ 48-5. Fees.

All applicable fees shall be paid in order to receive access to the record requested. The following fees are hereby established by the Township:

Record Type	Fee
Copies: A "photocopy" is either a single-sided copy or one side of a double-sided black-and-white copy of a standard 8.5" x 11" page.	\$0.25 per page
Certification of a record	\$1 per record, not per page. Certification fees do not include notarization fees.
Specialized documents, for example, but not limited to, blueprints, color copies, nonstandard-sized documents.	Actual cost
Facsimile, microfiche, other media	Actual cost
Redaction fee	No redaction fee may be charged.
Conversion to paper	If a record is only maintained electronically or in other nonpaper media, duplication fees shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the original media, unless the requester specifically requests for the record to be duplicated in the more expensive medium [Section 1307(e) ⁵].
Postage fees	Fees for postage may not exceed the actual cost of mailing.

Prepayment: Prior to granting a request for access in accordance with this Act, an agency may require a requester to prepay an estimate of the fees authorized under this section if the fees required to fulfill the request are expected to exceed \$100.

Payment at delivery: Once the request is fulfilled and prepared for release, the Township should obtain the cost of the records prior to releasing the records.

§ 48-6. Response time.

The time for response shall not exceed five business days from the date the written request is received by the Open Records Officer.

§ 48-7. Determination of need for redaction; denial of request for access.

Upon receipt of a written request, the Open Records Officer shall determine if the request for access requires redaction of a record, requires a legal review to determine whether the record is a record subject to access under the Act, or if one of the other reasons exist which would allow an extension of time for response under Section 902 of the Act.⁶ Otherwise, the time for response shall not exceed five business days from the date the written request is received by the Open Records Officer. If the Township fails to send the response within five business days, the written request for access shall be deemed denied. If the agency's response is a denial, the denial shall be issued in writing and shall include the information required by Section 903 of the Act.⁷

5. Editor's Note: See 65 P.S. § 67.1307(e)

6. Editor's Note: See 65 P.S. § 66.902.

7. Editor's Note: See 65 P.S. § 66.903.

§ 48-8. Appeals.

If a written request for access of a record is denied, or deemed denied, the requester may file an appeal with the Office of Open Records within 15 business days of the mailing date of the Township's response or within 15 days of a deemed denial. The written appeal should be sent to:

Terry Mutchler, Executive Director
Office of Open Records
Commonwealth Keystone Building
400 North Street, Fourth Floor
Harrisburg, Pennsylvania 17120
The Office of Open Records website is:
<http://openrecords-state.pa.us>

§ 48-9. Access to computers.

Nothing in this policy or in the Right-to-Know Law shall be construed to require access to any computer of the Township or that of an individual or employee of the Township.

§ 48-10. Removal or redaction of information not subject to public access.

If a public record request involves both information subject to public access and information not subject to public access, the Township shall grant access to those portions subject to public access. The Township shall remove or redact any record or portion not subject to public access. The Township shall remove or redact only any record or portion not subject to public access.

§ 48-11. Inspection of records.

The Township shall notify the person or entity seeking access as to when the records are available for inspection. Inspection shall be made at the Township's offices: 3205 Big Road, Obelisk, Upper Frederick Township, Pennsylvania 19492, unless the Township designates an alternative location where the records can be reviewed. Inspection shall be made between 9:00 a.m. and 4:00 p.m. during any weekday (Monday through Friday), except public holidays or days when the Township's offices are not otherwise generally available and open for business. The Township shall not designate an alternative location unless the above location is not available or unless some or all of the requested records are being kept at a location other than the above location or unless another sound reason exists for the designation of an alternative location.

§ 48-12. Compliance with applicable laws.

It is the intent of the Township to comply with all applicable laws, including all statutes and regulations, which apply to the matters covered in this policy. This includes all federal, state, county, municipal or other law binding on the Township. To the extent anything in this document shall be inconsistent with or prohibited by any provision of any applicable statute or regulation bearing on these matters and binding on the Township, then the provisions of this policy shall be deemed to be amended to the extent necessary for these policies not to be in violation of any statute or regulation. To the extent any portion of this policy shall be inconsistent with or in violation of any applicable statute or regulation and there is more than one possible method by which the policies could be altered so as to remove such inconsistency or violation, then this policy shall be deemed amended in the manner which results in the least possible change while still resulting in this policy being in compliance with all applicable statutes and regulations, it being the intention that if more than one change in this policy would cure how this policy would otherwise be in violation of any statute or regulation, then this policy shall be deemed amended in this manner so that after such deemed amendment, this policy remains as closely as possible to the terms and intent of the policy as adopted by the Township.

§ 48-13. Requests for interpretation.

If there is any question or uncertainty as to the interpretation or effect of this policy, a written request for an interpretation or explanation or clarification shall be sent to either:

A. The Township; or

Upper Frederick Township
P.O. Box 597
Frederick, Pennsylvania 19435
Fax: (610) 754-6828

B. The Township Solicitor:

David L Allebach, Jr., Esquire
YERGEY•DAYLOR•ALLEBACH•SCHEFFEY•PICARDI
1129 High Street
P.O. Box 776
Pottstown, Pennsylvania 19464-0776
Fax: (610)323-4660

§ 48-14. When effective.

These policies shall be in effect for all requests of public records made on or after the policies are adopted by a resolution by the Board of Supervisors of Upper Frederick Township.

§ 48-15. Posting of policy.

A copy of this policy must be posted prominently at the Township offices.

Chapter 56

SALARIES AND COMPENSATION

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Board of Supervisors
[Adopted 12-14-1995 by Ord. No. 95-7]

§ 56-1. Amount of annual compensation.

Each Supervisor of Upper Frederick Township elected to take office or appointed to office on or after the effective date of this article shall receive compensation as a Supervisor in the annual amount of \$1,875.

§ 56-2. Payment of compensation.

Such compensation shall be paid in monthly or quarterly installments.

Part II, General Legislation

Chapter 80

ALARM SYSTEMS

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick 3-14-1996 by Ord. No. 96-2. Amendments noted where applicable.]

§ 80-1. Definitions and word usage.

- A. Words used in the singular include the plural; words in the plural include the singular; words used in the present tense include the future.
- B. The word "shall" is always mandatory.
- C. Specific definitions. The following words, terms and phrases, as used in this chapter, shall have the following meanings given herein, unless the context specifically and clearly indicates otherwise:

ALARM EQUIPMENT SUPPLIER — Any person, firm or corporation who sells or leases or installs automatic protection devices.

AUDIBLE ALARM — Any device, bell, horn or siren which is attached to the interior or exterior of a building and emits a warning signal audible outside the building and designed to attract attention when activated by a criminal act or other emergency requiring police, fire or emergency personnel to respond.

AUTOMATIC PROTECTION DEVICE — An electronically, electrically or mechanically operated instrument composed of sensory apparatus and related hardware which automatically transmits an alarm over regular telephone line by direct or indirect (through a central processing center or intermediary) connection to the police or a fire company, upon receipt of a stimulus from sensory apparatus that has detected a physical force or condition inherently characteristic of a fire or intrusion.

FALSE ALARM — Any signal activated by an automatic protection device, any audible alarm of any other kind, direct or indirect, signal given the police or fire communication center to which police or a fire company respond, which is not the result of a fire, burglary, robbery attempted burglary or robbery or similar emergency.

FIRE COMPANY — The Upper Frederick Township Fire Company, or any other fire company responding pursuant to any mutual aid agreement.

FIRE MARSHAL — The individual appointed by the Upper Frederick Township Fire Company to serve as Fire Marshal.

PERSON — Any person or persons, corporation, association, partnership, company, owner, occupant, lessee or any agency, organization or other entity recognized by law as the subject of rights and duties.

POLICE or POLICE DEPARTMENT — Any state or local police force responding to emergencies in Upper Frederick Township.

TOWNSHIP — The Township of Upper Frederick, Montgomery County, Pennsylvania.

USER — Any person who owns, leases or otherwise possesses an automatic protection device for use on any property in Upper Frederick Township.

§ 80-2. Audible alarms; automatic timing mechanisms.

- A. After the enactment of this chapter, persons must equip audible alarms with a timing mechanism that will disengage the audible alarm after a maximum period of 15 minutes. Audible alarms without such a timing mechanism shall be unlawful in the Township and must be disconnected by the persons within 60 days from the effective date of this chapter. Excepted from this requirement are fire suppression systems with audible alarms activated by the flow of water.

- B. Any sensory mechanism used in connection with an automatic protection device must be adjusted to suppress false indications of fire or intrusion, so that the device will not be actuated by impulses due to fleeting pressure changes of water pipes, short flashes of light, rattling or vibrating of doors and windows, vibrations to the premises caused by the passing of vehicles, or any other force not related to genuine alarms.
- C. All components comprising such a device must be maintained by the user in good repair to assure maximum reliability of operation.

§ 80-3. Testing; repair.

- A. No persons shall conduct any test or demonstration of an automatic protection device without first obtaining permission from the police and Fire Marshal, or his designated agent. Where the equipment is keyed through an intermediary, no such permission is necessary unless the alarm or signal is to be relayed to the police or fire company.
- B. Prior to direct connection to any police department or fire company, every automatic protection device shall be operational and tested for a period of 90 days, and certified as having been so tested on the registration form.
- C. At the time of installation, an alarm equipment supplier shall furnish to all of its users written information as to how service may be obtained at any time, including the telephone number of an alarm equipment supplier or agent responsible for service. Such users and the alarm equipment supplier or agent supplying a service shall be responsible for having the device disconnected or repaired as quickly as possible after notice that the automatic protection device is not functioning properly.
- D. Alarm equipment suppliers, installers of audible alarms and intermediaries shall furnish, prior to the time of contracting and at their own expense, a copy of this chapter to users of the equipment or services to be supplied.

§ 80-4. Registration. [Amended 8-13-1998 by Ord. No. 98-4]

- A. All automatic protection devices located within the Township shall be registered with the Township prior to its installation. All presently existing automatic protection devices shall be registered within 60 days from the effective date of this chapter. There shall be no fee for registration within 60 days of this chapter, or within 21 days of the installation. Any late registration shall require a fee in an amount as established from time to time by resolution of the Board of Supervisors. Any late registration made after a false alarm shall require a fee in an amount as established from time to time by resolution of the Board of Supervisors.
- B. Registration shall require, inter alia, all of the following information:
 - (1) Name and street address of the owner, lessee or occupant of any building containing an automatic protection device.
 - (2) The name, address and telephone number of any person or entity acting as an intermediary, servicing and repairing facility, central processing facility.
 - (3) Name, address and telephone number of an adult not resident in the alarmed premises able to respond to the premises within 30 minutes in the event of an emergency. Such person shall have authority and ability to enter the premises.
 - (4) A certification, if appropriate, of testing as required by § 80-3B of this chapter.
- C. All locations with an automatic protection device shall have its street number address posted so that the same will be visible at night from the street.
- D. The registration form shall contain an acknowledgment by the registrant that in the event of an alarm, the fire

company may forcibly enter the premises, if warranted, in the reasonable discretion of the officer in charge, and that there shall be no liability for damages or inquiries resulting from the response to the call or forcible entry and appropriate search through the premises.

§ 80-5. False alarms.

- A. Any person who installs, or permits to be installed, in any building, used or occupied for any purpose, any answering device, audible alarm, automatic protection device or central station protection system, whereby false alarms are transmitted to the police department, a fire company or any other municipal office or officer shall be in violation of this chapter.
- B. Any person who owns, leases or occupies a building which has an answering service, audible alarm, automatic protection device or central station protective system installed, and such equipment results in continual accidental activation, shall be in violation of this chapter.
- C. "Continual accidental activation" shall be defined to mean in excess of one alarm within a six month period, resulting from any cause other than an actual emergency for which the alarm is sent.
- D. When messages evidencing failure to comply with the operational requirements of this chapter are received by a fire company or police department, and a representative of the police or Fire Marshal conclude that the automatic protection device should be disconnected in order to relieve the particular department of the burden of responding to false alarms, each or both is/are authorized to demand that the user of the device, or his representative, disconnect the device, or his representative, disconnect the device until it is made to comply with operational requirements. If disconnection of the defective device is not accomplished promptly, and the police and/or Fire Marshal determine that the malfunctioning device is repeatedly sending false alarms without any intermittent valid alarms, they may take steps necessary to disconnect the defective automatic protection device. Any expenses so incurred by the Township shall be promptly reimbursed by the owner or lessee of the defective device.
- E. For the purposes of enforcing this chapter, it shall be a condition of installing and maintaining an automatic protection device that the building inspector or the Fire Marshal or police may enter upon a user's premises within the Township at such reasonable times and upon such reasonable notice to inspect the installation or operation of an automatic protection device. Each user shall cooperate with such officials in every reasonable manner to permit such inspections.

§ 80-6. Violations and penalties. [Amended 8-13-1998 by Ord. No. 98-4; 12-14-2000 by Ord. No. 00-4]

Any person, firm or corporation who, after 30 days' written notice, shall fail to register an automatic protection device as required by § 80-4 hereof, or shall violate any other provision of this chapter, upon conviction thereof in an action brought before a District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this chapter continues or each section of this chapter which shall be found to have been violated shall constitute a separate offense.

Chapter 87

ANIMALS

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Piggeries
[Adopted 9-8-1955 by Ord. No. 55-1]

§ 87-1. Establishing or conducting piggery prohibited.

No person, corporation or other legal entity shall set up, establish or conduct any piggery in the Township of Upper Frederick where garbage is fed to the pigs in any manner whatsoever.

§ 87-2. Accumulation of garbage, manure or refuse.

No person, corporation or other legal entity shall setup or permit any accumulation of garbage, manure or refuse from a piggery where garbage is fed either upon private or public property within the limits of the Township of Upper Frederick.

§ 87-3. Discontinuance of piggery.

Any piggery where garbage is fed which is in existence and operation at the time of the passage of this article, when discontinued for a period of one-year, may not be resumed nor may the volume or capacity of any such existing piggery be increased after the passage of this article.

§ 87-4. Violations and penalties. [Amended 8-13-1998 by Ord. No. 98-4]

Any person, firm or corporation who shall violate any provision of this article, upon conviction thereof in an action brought before a District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this article continues or each section of this article which shall be found to have been violated shall constitute a separate offense.

Chapter 99

BUILDINGS, NUMBERING OF

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick 8-14-2003 by Ord. No. 03-03. Amendments noted where applicable.]

§ 99-1. Building numbering system adopted.

The survey, plan and system for the numbering of houses and buildings, as established by Upper Frederick Township, is hereby approved and adopted.

§ 99-2. Responsibility for numbering buildings.

On and after the passage and approval of this chapter, it shall be the duty of each and every owner, trustee, lessee, agent and occupant of each and every house, building or other structure in Upper Frederick Township to cause the same to be numbered in accordance with this chapter, and the system and plan hereby adopted and approved.

§ 99-3. Requirements for numbers.

- A. The number shall be placed in a conspicuous place on or over each front door, on the front transom bar, front transom glass or front show window, over or on either side of the entrance or on a post or other available structure at the driveway entrance to the property. The number shall be reflective in character, at least three inches in height, and shall be so placed as to be in full view from the opposite side of the street. In those instances where the house, building or other structure is too distant for the posted numbers to be visible from the street, the numbers shall be placed on a post or other available structure at the driveway entrance to the property. In those instances where the length of the driveway from the street to the residence exceeds 200 feet, a marker to be supplied by Upper Frederick Township at cost to the owner, shall be posted at the driveway entrance.
- B. It shall be unlawful to cover any house number with any sign, drapery or other obstruction tending to conceal such number, and all old numbers shall removed from any house, building or other structure when a new number has been assigned, and when so directed by the Upper Frederick Township Engineer.
- C. The Upper Frederick Township Engineer is hereby authorized to require the numbering and renumbering of any house, building or other structure in accordance with this chapter.

§ 99-4. Violations and penalties.

Any person, firm or corporation who shall violate any provision of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000, plus costs; and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this chapter continues shall constitute a separate offense.

Chapter 103

BURNING, OUTDOOR

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Open Burning
[Adopted 10-8-1992 by Ord. No. 92-11]

§ 103-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

CONTAINED FIRE — A fire in which any material is burned in a receptacle other than a furnace or incinerator.

DOMESTIC REFUSE — Any waste material normally generated in the operation of a single-family dwelling including, but not limited to, such items as paper products and not including noncombustible material.

FURNACE — Any enclosed device specifically designed for burning any material for the production of heat.

GARBAGE — All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

GOVERNING BODY — The Board of Supervisors of Upper Frederick Township, Montgomery County, Pennsylvania.

INCINERATOR — Any device specifically designed for the destruction by burning of refuse, sewage sludge or any other combustible material.

OPEN FIRE — A fire in which any material is burned in the open.

PERSON — Any individual, partnership, association, corporation, department, bureau, agency or other legal entity.

REFUSE — Garbage, rubbish and trade waste.

RUBBISH — Solids not considered to be highly flammable or explosive including, but not limited to, rags, old clothes, leather, rubber, carpets, wood, excelsior, paper, ashes, tree branches, tree leaves, yard trimmings, furniture, tin cans, glass, crockery, masonry and other similar materials.

SALVAGE OPERATION — Any business, trade or industry engaged, in whole or in part, in salvaging or reclaiming any product or material including, but not limited to, metals, chemicals, shipping containers or drums.

TRADE WASTE — All solid or liquid material or rubbish resulting from construction, building operations or the prosecution of any business, trade or industry including, but not limited to, plastic products, cartons, paint, grease, oil and other petroleum products, chemicals, cinders and other forms of solid or liquid waste materials; provided, that "trade waste" shall not include any coal refuse associated with the mining or preparation of coal.

§ 103-2. Regulations. [Amended 8-13-1998 by Ord. No. 98-4; 7-11-2002 by Ord. No. 2002-11]

With respect to outdoor burning and the operation of any indoor incinerator within the confines of Upper Frederick Township, no person shall:

- A. Ignite or feed an open fire for the destruction of refuse, imported material or in the conduct of a salvage operation in any public or private place outside any building.
- B. Cause, suffer, allow or permit the maintenance of any open fire for the destruction of refuse, imported material or in the conduct of a salvage operation on any property under his control outside of any building.
- C. Cause, suffer, allow or permit the maintenance of any open fire which is started prior to one hour after sunrise or which is not extinguished at least one hour before sunset.
- D. Cause, suffer, allow or permit any open burning operation whatsoever if said burning operation is contrary to § 129.14, Chapter 129 of Title 25, Rules and Regulations of the Department of Environmental Protection.

- E. Hinder, delay, obstruct, resist, prevent or, in any way, interfere with the fire officers or their assistants in the performance of their duty hereunder, or refuse such personnel, after proper identification, entrance at reasonable hours to any premises.
- F. Cause, suffer, allow or permit burning on any street or sidewalk within Upper Frederick Township.
- G. Conduct any outdoor burning during periods of high winds, declared drought or weather inversion or other situations deemed hazardous by the Fire Marshal, his officers or the emergency management coordinator.
- H. Use petroleum products to start or aid outdoor burning.
- I. Conduct outdoor burning without being attended by an individual during the entire period of burning.

§ 103-3. Exceptions.

Subject to the following exceptions:

- A. Open fires may be set in the performance of an official duty of any public officer if the fire is necessary for:
 - (1) The prevention of a fire hazard which cannot be abated by other means.
 - (2) The protection of public health.
- B. Open burning for recreational or ceremonial purposes on the property of recognized Scout camps.
- C. Open burning for the cooking of food over a campfire.
- D. Open fires may be set with the approval of the Fire Chief of the Upper Frederick Township Fire Department or, in his absence or unavailability, the Assistant Fire Chiefs via Montgomery County radio dispatch; provided:
 - (1) Leaves, branches and other nonputrescible vegetable matter only are burned and are in piles exceeding five-foot by five-foot by five-foot.
 - (2) There is no practical available alternative method for disposal of the material to be burned.
 - (3) No hazardous or other objectionable condition will be created by such burning.
- E. Open fires may be set without the approval of the Fire Chief or Assistant Fire Chief of the Upper Frederick Township Fire Department; provided, that only the following items are burned:
 - (1) Dry twigs, dry branches and other native vegetation in piles not to exceed five feet by five feet by five feet. Piles larger than this shall be permitted only when approved by the Fire Chiefs of the Upper Frederick Township Fire Department.
- F. Contained fires may be set without the approval of the Fire Chief or Assistant Fire Chiefs of the Upper Frederick Township Fire Department; provided, that only the following items are burned:
 - (1) Leaves, branches and other nonputrescible vegetable matter.
 - (2) Normal household rubbish, but not including cans, bottles, aerosol containers and plastics.
- G. Burning for the purpose of instructing personnel in fire fighting, when approved by fire company officers.

§ 103-4. Enforcement.

It shall be the duty of the Upper Frederick Township Fire Marshal to enforce the provisions of this chapter and the rules and regulations contained herein:

- A. Receive and initiate complaints or violations of this chapter.
- B. Enter and inspect any building, property, premises or place for the purpose of investigating an actual or suspected source of open burning or for the purpose of ascertaining the compliance or noncompliance with any regulation of this chapter.
- C. Have access to and require information pertinent to any matter under investigation.
- D. Send written notice of any violation of this chapter to the person responsible for the violation.
- E. Attend meetings of the Board when requested and file a written report of violation of any regulation of this chapter.
- F. Institute prosecution for violation of the regulations of this chapter.

§ 103-5. Regulations pertaining to burning domestic refuse.

The following regulations shall apply to burning domestic refuse:

- A. Outdoor burning of domestic refuse shall be in an approved burning barrel or other approved incinerator. An approved burning barrel is a solid, sturdy, steel cylindrical container with a sealed steel bottom with ventilation holes and an open top which, during outdoor burning, is covered firmly and completely by a steel, spark-arresting screen. Other approved incinerators are containers approved in writing by the Township Fire Marshal after review and inspection, with a volume no greater than fifty-five-gallon drum with containment, ventilation and spark-arresting features similar to those of an approved burning barrel.
- B. Outdoor burning of domestic refuse shall be attended at all times by a competent adult. Outdoor burning of domestic refuse shall not be conducted within 25 feet of any building or other structure, or on any road, alley or public walkway, or in any area specifically disapproved by the officers.
- C. The area within five feet of any burning barrel or other incinerator shall be completely clear of any combustible material during outdoor burning.
- D. Fire extinguishing equipment shall be readily available for use during any outdoor burning.
- E. Every outdoor fire shall be started one hour after sunrise and completely extinguished one hour before sunset. No outdoor fire shall be started within an hour of sunset. The officers shall have the right to inspect outdoor burning.
- F. No petroleum products may be used to start or aid outdoor burning.

§ 103-6. Violations and penalties. [Amended 8-13-1998 by Ord. No. 98-4]

- A. Any person, firm or corporation who shall violate any provision of this chapter, upon conviction thereof in an action brought before a District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this chapter continues or each section of this chapter which shall be found to have been violated shall constitute a separate offense.
- B. The Fire Marshal may institute an action in equity for an injunction to restrain continuous violations of this chapter in the event the Fire Marshal has issued an abatement notice which is being violated and which is not then the subject of judicial review.

ARTICLE II
Outdoor Wood-Fired Boilers
[Adopted 1-8-2009 by Ord. No. 2009-02⁸]

§ 103-7. Title.

This article shall be known and may be cited as the "Upper Frederick Township Outdoor Wood-Fired Boiler Ordinance of 2009."

§ 103-8. Authority.

The Board of Supervisors of Upper Frederick Township, under and by virtue of and pursuant to the authority granted by the Second Class Township Code, and Section 12 of the Air Pollution Control Act (35 P.S. § 4012), does hereby enact and ordain this article.

§ 103-9. Applicability.

This article applies to the installation and use of all outdoor wood-fired boilers within the Township.

- A. This article does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- B. This article does not apply to burning in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.
- C. This article does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

§ 103-10. Definitions.

The following words, terms and phrases, when used in this article, unless the context clearly indicates otherwise, shall have the following meanings ascribed to them:

APPEALS BOARD — The Code Appeals Board appointed by the Board of Supervisors.

BOARD OF SUPERVISORS — Board of supervisors of the Township of Upper Frederick.

CHIMNEY — Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a furnace, especially that part of a structure extending above a roof.

CLEAN WOOD — Natural wood that has no paint, stains or other types of coatings, and natural wood that has not been treated with, including, but not limited to, copper chromium arsenate, creosote or pentachlorophenol.

EPA-CERTIFIED — An outdoor wood-fired boiler for which the manufacturer has supplied a certificate of compliance, or other proof of compliance, with EPA recommendations and/or promulgated emission standards for that particular furnace or appliance type and model.

EXISTING OUTDOOR WOOD-FIRED BOILERS — An outdoor wood-fired boiler that is fully installed and/or operational in the Township as of the enactment date of this article.

OUTDOOR WOOD-FIRED BOILER —

- A. A fuel-burning device designed:
 - (1) To burn clean wood or other approved solid fuels;

- (2) By the manufacturer specifically for outdoor installation or installation in structures not normally intended for habitation by humans or domestic animals (e.g., garages); and
- (3) To heat building space and/or water via distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.

B. Outdoor wood-fired boilers are also known as "outdoor wood-fired furnaces," "outdoor wood-burning appliances" or "outdoor hydronic heaters," etc.

PERSON — Any individual, public or private corporation for profit or not for profit, association, partnership, firm, trust, estate, department, board, bureau or agency of the commonwealth or the federal government, political subdivision, municipality, district, authority, or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.

RESPONSIBLE OFFICIAL — A person designated by the municipality to be responsible for the administration and enforcement of this article.

TOWNSHIP — The Township of Upper Frederick.

YARD WASTE — Leaves, grass clippings, garden residue, tree trimmings, chipped shrubbery and other vegetative material.

§ 103-11. Applications and permits.

After the effective date hereof, no outdoor wood-fired boiler shall be maintained, installed or operated in the Township without the owner first submitting an application in accordance with the terms contained herein. The application and permit process is as follows:

- A. Any person, business or association (hereinafter referred to as "applicant") who desires to install, maintain or operate an outdoor wood-fired boiler, after the effective date hereof, upon their property in the Township, must complete an application, in writing, and submit it to the Upper Frederick Township Office located at 3205 Big Road, Obelisk, Pennsylvania, 19492, along with the requisite application fee, at least 30 days prior to the desired date of installation or operation. Permit application forms shall be available at the Township Office during regular business hours.
- B. The applicant must provide proof that the outdoor wood-fired boiler to be installed, maintained or operated within the Township limits is certified to meet applicable EPA and DEP emission recommendations as amended; said standards must be submitted with the application, unless the outdoor wood-fired boiler is considered by the EPA and DEP to be exempt from certification.
- C. The applicant shall submit, with proof of low emissions, a copy of the manufacturer's recommended operating parameters, and all applicable information related to fuels necessary to achieve low emissions. This information, together with any amendments or modifications that may be forthcoming, shall be kept on file at the Township Office, along with copies of the application, permit, proof of certification and all other necessary documents.
- D. If an existing chimney is to be utilized, a written statement from the local Fire Chief or Building Code Enforcement Officer stating that the chimney has been inspected and is suitable for use with appropriate fuels shall be submitted with the application. If a new chimney is to be constructed, a building permit shall be required.
- E. Within 20 business days of receipt of a complete application, and other required documents as described herein and, if necessary, after a site inspection, a written decision shall be forwarded to the applicant from the Zoning Enforcement Officer, or other responsible official, which either grants or denies a permit to install, operate or maintain the outdoor wood-fired boiler.
- F. The applicant may appeal a denial to the Appeals Board in accordance with § 103-16 hereof. Written notice

of the request for appeal shall be filed in the Township Office within 10 calendar days of the date of denial, along with all appropriate fees.

- G. If the Zoning Officer, or responsible official of the Township, determines that all the provisions of this article and the application process have been met, a permit shall be issued to the applicant to install, operate or maintain the outdoor wood-fired boiler in accordance herewith.
- H. If the Zoning Officer, or responsible official of the Township, determines that any person, company or organization is violating a provision or provisions of this article, its permit may be revoked and/or a cease and resist order may be charged against any offending person, company or organization.
- I. In the event that an application is denied, a permit is revoked or a cease and desist order is issued, notice shall be given to the applicant, permittee or offending person, company or organization. The notice shall:
 - (1) Be in writing.
 - (2) Include a description of the property sufficient for identification.
 - (3) Include a statement of the reason or reasons why the notice is being issued.
 - (4) Include a correction order allowing a reasonable time (not to exceed 10 calendar days) for changes and/or corrections to be made to bring the outdoor wood-fired boiler into compliance with the provisions of this article.

§ 103-12. Fees.

Application, permit, inspection, variance and appeal fees shall be set by resolution of the Board of Supervisors.

§ 103-13. Regulations and requirements for outdoor wood-fired boilers.

- A. All outdoor wood-fired boilers must meet applicable regulations and recommendations of the EPA and DEP. All outdoor wood-fired boilers shall meet emission certification requirements unless expressly exempted otherwise. The applicant shall have the burden of proving that the outdoor wood-fired boiler it desires to install, operate and maintain meets all existing laws, regulations and certifications.
- B. The outdoor wood-fired boiler shall be located at least 500 feet from the nearest building that is not on the same property as the outdoor wood-fired boiler, and the outdoor wood-fired boiler shall be located at least 300 feet from the property line.
- C. All noncatalytic outdoor wood-fired boilers must be certified not to exceed EPA particulate matter emission standards. All catalytic outdoor wood-fired boilers must be certified not to exceed EPA particulate matter emission standards. If the EPA or other agency should promulgate stricter standards, the stricter standards shall apply.
- D. The outdoor wood-fired boiler shall have a permanent chimney that extends at least 15 feet. If there are any residences within 500 feet not on the same property, the chimney shall also extend at least five feet above the height of the roofs of all such residences.
- E. Outdoor wood-fired boilers may only burn fuels for which the same were designed to burn and which are approved by the manufacturer. None of the following fuels or materials may be burned in any outdoor wood-fired boilers under any circumstances:
 - (1) Any material that does not meet the definition of "clean wood."
 - (2) Furniture.
 - (3) Garbage.

- (4) Tires.
- (5) Lawn clippings or yard waste.
- (6) Material containing plastic.
- (7) Material containing rubber.
- (8) Waste petroleum products.
- (9) Paints and paint thinners.
- (10) Chemicals.
- (11) Any hazardous waste.
- (12) Coal.
- (13) Glossy colored paper.
- (14) Construction and demolition debris.
- (15) Plywood.
- (16) Particleboard.
- (17) Salt water driftwood.
- (18) Manure.
- (19) Animal carcasses.
- (20) Asphalt products.

- F. Ashes or residue shall not be accumulated upon any property. Ashes and residue may not be dispersed on any property. Any accumulation of ashes or residue must be disposed of appropriately. It is the responsibility of the owner to ensure that no live coals or embers are present in any ashes or residue in such a manner as to constitute a fire hazard.
- G. All firewood that is to be burned shall be neatly stacked and stored under cover.
- H. No outdoor wood-fired boiler shall be altered or modified such that the applicable certification emission tests would be invalidated. Any antipollution device installed by the manufacturer, or required by this article or otherwise, shall not be disconnected or rendered inoperative. Operation of the outdoor wood-fired boiler shall be in accordance with the manufacturer's written instructions. This shall include, if applicable, periodic inspection and replacement of catalytic combustors.
- I. All outdoor wood-fired boilers shall be installed, operated and maintained in strict conformance with the manufacturer's instructions, the provisions of this article, applicable building codes, and all applicable local, state and federal laws and regulations. In the event of a conflict, this article shall apply unless the manufacturer's instructions or regulations are more strict, in which case the manufacturer's instructions or regulations shall apply. A copy of the manufacturer's installation and/or operating instructions shall be filed with the Township Office, by the applicant, together with any subsequent amendments or modifications.
- J. For all outdoor wood-fired boilers, a chimney stack greater than 15 feet in height must be secured against high winds and be constructed, installed and maintained in such a manner that it does not constitute a safety hazard. All chimney stacks shall be constructed in accordance with all rules and regulations of the Township and commonwealth and shall be constructed in accordance with the manufacturer's instructions.

- K. The outdoor wood-fired boiler shall have an orange hang tag that signifies that it meets the EPA's standards for Phase I air emission levels of 0.60 pound of fine particulates per million BTU heat input and qualifies for the EPA's voluntary program.

§ 103-14. Existing outdoor wood-fired boilers.

Outdoor wood-fired boilers that exist within the Township limits on the date this article takes effect shall be subject to the following terms and conditions of this article:

- A. In order to continue to maintain and operate an existing outdoor wood-fired boiler, owners must submit an application for a permit to operate their existing outdoor wood-fired boiler in accordance with § 103-11 hereof. Said application must be submitted within 30 days of the effective date hereof.
- B. An application submitted under this section shall act as a temporary permit to operate and maintain the existing outdoor wood-fired boiler so that the applicant has time to comply with the application process and meet the terms and conditions of this article.
- C. Owners of existing outdoor wood-fired boilers who give notice of the same, by submitting an application, within 30 days of the effective date of this article, shall be grandfathered in as it relates to setback and construction requirements of this article. This nonconforming use shall extend only to new outdoor wood-fired boilers installed in the same location as the outdoor wood-fired boiler existing at the enactment of this article.
- D. An owner who fails to file such an application, or is denied a permit for reasons contained herein, shall not be permitted to maintain and operate the existing outdoor wood-fired boiler within the Township.
- E. In the event that an outdoor wood-fired boiler is determined to be 50% torn down, physically deteriorated, rusted or decayed, the outdoor wood-fired boiler must be removed and/or replaced with a new unit. In the event a unit needs to be replaced, a new application must be submitted, and all other provisions hereof must be followed.

§ 103-15. Testing and inspections.

- A. If a complaint is received by the Township, or if the Zoning Officer or responsible official feels there is a violation of this article, the Township may conduct an inspection to determine if the outdoor wood-fired boiler is being operated and maintained in accordance with this article, EPA and DEP regulations, or the manufacturer's recommended operating parameters. If it is determined that the owner/operator is violating a provision hereof, the Township may impose an inspection fee in addition to other enforcement remedies contained herein.
- B. In the event the owner has received updated recommendations from the manufacturer, the same shall be utilized to determine compliance. The owner shall be required to correct any deviations found as a result of the inspection. Failure to correct the deviations within 30 calendar days shall constitute a violation of this article. The owner's refusal to allow the inspection shall result in immediate permit revocation.
- C. If, at the sole discretion of the Zoning Officer, or other responsible official, an inspection is required as part of the application process as a condition of receiving a permit, an inspection fee may be imposed in accordance with § 103-12 hereof.

§ 103-16. Appeals Board.

- A. Any applicant, permittee or person affected by a decision of the Zoning Officer, or other responsible official of the Township, may appeal, for the reasons set forth in § 103-16B hereof, to the Appeals Board, provided that a written application for appeal is submitted. The notice of appeal shall:

- (1) Be in writing.
 - (2) Be submitted with applicable appeal application fee.
 - (3) Be submitted within 10 calendar days of the decision being appealed.
 - (4) State the reasons for the appeal, with reasonable particularity, including, but not limited to, the sections of the article that are applicable.
- B. The Appeals Board shall have jurisdiction to hear appeals related to the following:
- (1) Appeal of denial of application.
 - (2) Appeal of denial of permit.
 - (3) Appeal of denial or revocation of permit.
 - (4) Appeal of cease and desist order.
 - (5) Appeal for a variance of the terms of this article.
- C. Upon receipt of an appeal, a hearing shall be scheduled before the Appeals Board within 60 calendar days, or in a manner to allow for appropriate advertising, and shall be held at the Township Office, or other designated location within the Township. Notice of the hearing shall be appropriately advertised and posted at the Township Office and shall be served by the Township, via United States first-class mail, or by hand delivery, upon the applicant.
- D. The burden shall be on the appellant to supply all necessary testimony, exhibits and information that the Appeals Board needs to make a decision.
- E. The Appeals Board may dismiss the case *sui sponte* if it determines, *inter alia*, that the appellant has not complied with the appeal process or provided necessary information. The Township Solicitor may be present at this hearing, and the appellant may be represented by counsel.
- F. The Appeals Board shall issue a written decision within 30 days of the last hearing for a given appeal. The Board may grant or deny an appeal, in full or in part, or provide for conditional approval where appropriate. The decision shall be forwarded to the appellant by hand delivery or regular mail. A copy of the decision shall be available at the Township offices. The Appeals Board may impose additional conditions or restrictions upon the appellant as it deems appropriate. The decision of the Appeals Board shall be final.

§ 103-17. Variance procedure.

- A. In considering a variance appeal in accordance with § 103-16 hereinabove, the Appeals Board shall consider the following factors:
- (1) The degree of compliance with published guidelines and recommendations for outdoor wood-fired boiler setbacks, chimneystack heights and emissions.
 - (2) Prior complaints concerning the outdoor wood-fired boiler.
 - (3) Comments and/or concerns of residents within 1,000 feet of the outdoor wood-fired boiler.
 - (4) Minimum setback from neighboring boundary lines of 300 feet.
 - (5) Chimneystack height a minimum of two feet and a maximum of five feet above the peak of neighboring dwellings.
 - (6) Either retrofit to meet EPA's Phase I emission standards or upgrade to meet EPA's Phase II emission

standards.

- B. In considering a variance appeal, the Appeals Board may consider the following factors:
- (1) Whether the outdoor wood-fired boiler maintains or enhances the character of the area in which it is located.
 - (2) Whether the outdoor wood-fired boiler constitutes a safety or health hazard, a nuisance, or has a noxious effect on the surrounding area either due to appearance or operation.
 - (3) Whether the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible for the regulation at issue.
 - (4) Whether, in the case of a hardship, that hardship has been created by the applicant.
 - (5) Whether the variance, if authorized, will alter the essential character of the neighborhood or district in which the outdoor wood-fired boiler is located or substantially or permanently impair the appropriate use or development of adjacent property or be detrimental to the public welfare.

§ 103-18. Enforcement; right of entry.

- A. The Zoning Officer, or other responsible official, shall have the power and duty to enforce the provisions of this article, and in such event, the Zoning Officer, or other responsible official, pursuant to statutory or otherwise authorized police powers, shall have the right and power to enter upon the property for enforcement purposes.
- B. The Township may issue such orders as are necessary to aid in the enforcement of the provisions of this article. These orders shall include, but shall not be limited to, orders requiring persons to cease unlawful use of outdoor wood-fired boilers, which are in violation of any provision of this article; orders to take corrective action or to abate a public nuisance; or orders requiring production of information. Such an order may be issued if the Township finds that any person is in violation of any provision of this article.
- C. The Township may, in its order, require compliance with this article.
- D. An order issued under this section shall take effect upon notice, unless the order specifies otherwise. An appeal to the Appeals Board of the Township's order shall not act as a supersedeas; provided, however, that, upon application and for cause shown, the Appeals Board may issue such a supersedeas under rules established by the Appeals Board.
- E. The Zoning Officer or responsible official may commence civil and/or criminal proceedings against any offending person. The offending person shall pay the costs of such measures, including, but not limited to, the costs of any equipment, reimbursement of wages for Township employees or agents, and reasonable counsel fees.
- F. The authority of the Township to issue an order under this section is in addition to any remedy or penalty that may be imposed pursuant to this article. The failure to comply with any such order is hereby declared to be a public nuisance.

§ 103-19. Violations and penalties.

Any person, firm or corporation who or which shall violate any provision of this article shall, upon conviction thereof, be sentenced to pay a fine of no less than \$300 and no more than \$1,000, or the maximum amount permitted by law, and, in default of payment of said fine, to imprisonment for a term not to exceed 90 days. Every day that a violation of this article continues shall constitute a separate offense. In addition, violation of any provision of this article may result in suspension or revocation of a permit. The Township, or other responsible official, shall forward such suspension or revocation notice in writing, via United States first-class mail. Upon receipt of such notice, the

property owner or occupant shall immediately cease utilizing the outdoor wood-fired boiler. A suspended permit may be reinstated once the condition which resulted in suspension is remedied and a letter from the Township or other responsible official authorizing reinstatement is received.

§ 103-20. Public nuisances.

A violation of this article or of any order issued by the Township under this article shall constitute a public nuisance. The Township shall have the authority to order any person causing a public nuisance to abate the public nuisance. In addition, when abating a public nuisance, the Township may recover the expenses of abatement. Whenever the nuisance is maintained or continued contrary to this article or any order issued pursuant to this article, the nuisance may be abatable in the manner provided by this article. Any person who causes the public nuisance shall be liable for the cost of abatement.

§ 103-21. Repealer.

All other ordinances, or parts thereof, which are in conflict with this article are hereby repealed.

§ 103-22. Severability.

The provisions of this article are severable, and if any section, clause, sentence, part or provision thereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, clauses, sentences, parts or provisions of this article. It is hereby declared to be the intent of the Board of Supervisors that this article would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence, part or provision had not been included herein.

§ 103-23. When effective.

This article shall become effective five days following the date of adoption.

Chapter 106

CABLE FRANCHISES

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Comcast of Southeast Pennsylvania
[Adopted 3-8-2012 by Ord. No. 2012-02]

§ 106-1. Agreement.

The Chairman and Secretary are hereby authorized, on behalf of Upper Frederick Township, to enter into a nonexclusive cable franchise agreement with Comcast of Southeast Pennsylvania, LLC (the "Agreement"), for a term expiring on November 30, 2023, to construct, install, maintain and operate a cable system, the specific terms of which, agreeable to both parties, are memorialized in said agreement, and are incorporated herein by reference.

§ 106-2. Severability.

If any sentence, clause, section or part of this article is, for any reason, found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not effect or impact any other remaining provisions, sentences, clauses, sections or parts of this article. It is hereby declared as the intent of the Upper Frederick Township Board of Supervisors that this article would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

§ 106-3. Repealer.

Any prior ordinances or resolutions granting a franchise in favor of Comcast, or its predecessors in interest, are hereby repealed insofar as the same affects this article.

§ 106-4. When effective.

This article shall become effective five days following the date of adoption.

Chapter 107

EMERGENCY SERVICES COST REIMBURSEMENT

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick 5-12-2016 by Ord. No. 2016-05. Amendments noted where applicable.]

§ 107-1. Title.

This chapter shall be known as the Upper Frederick Township Emergency Services Cost Reimbursement Ordinance.

§ 107-2. Authorization, findings and purpose.

- A. Pursuant to 53 P.S. § 66803(d), Upper Frederick Township has recognized and appointed the Upper Frederick Township Fire Company as the designated Fire Company within Upper Frederick Township.
- B. Pursuant to 53 P.S. § 66803(b) and § 66553, Upper Frederick Township, Montgomery County, Pennsylvania, has the authority to make rules and regulations for the governing of fire services and emergency services within Upper Frederick Township.
- C. The Upper Frederick Township Fire Company responds to hazardous material incidents, environmental incidents, fire, safety and rescue incidents.
- D. Upper Frederick Township recognizes that the duties of the Upper Frederick Township Fire Company require specialized tools for fire suppression, safety and rescue responses, hazardous material abatement equipment, and environmental incident abatement and remediation. Upper Frederick Township recognizes that such tools and equipment place a financial burden on the Upper Frederick Township Fire Company, and the replacement of such materials adds to the financial burden for said Fire Company.
- E. The Board of Supervisors of Upper Frederick Township intends, by this chapter, to recognize the authority of the Upper Frederick Township Fire Company to seek collection and reimbursement for the reasonable costs of responding to such incidents, whether within or outside Upper Frederick Township, when responding directly, upon dispatch by the Montgomery County Department of Public Safety Central Dispatch, through response under mutual aid agreements, or in coordination with the Township, County, Commonwealth or Federal Office of Emergency Management.

§ 107-3. Recovery of costs.

- A. Upper Frederick Township authorizes the Upper Frederick Township Fire Company to recover the reasonable cost of emergency rescue tools, equipment and materials, hazardous material abatement tools, equipment and materials used or expended in the response to any hazardous material, environmental, fire, safety and/or rescue incident or operation, including vehicular accidents.
- B. The reasonable costs incurred by the Upper Frederick Township Fire Company may be recovered directly by said Fire Company or through a third party billing service as an authorized agent for the collection of such costs.
- C. The Upper Frederick Township Fire Company and any third party billing service shall only have the authority to recover the aforementioned costs from an applicable insurance company/carrier, and not any individual or other entity, unless such individual or entity volunteers or agrees to reimburse the said costs.
- D. The reimbursement rates for the aforementioned tools, equipment and materials shall be as set by the Upper Frederick Township Fire Company from time to time, and shall be only applied to the recovery of applicable costs. No recovery shall be made for any manpower or personnel, except as may otherwise be permitted by the Pennsylvania Hazardous Materials and Emergency Planning and Response Act, 35 P.S. § 6022.210, or as

otherwise authorized by any statute, case law or common law.

- E. In addition to the aforementioned recoverable costs, Upper Frederick Township and/or the Upper Frederick Township Fire Company, or any third party billing service, shall be authorized to collect reasonable interest, collection fees, attorney fees, as well as reasonable administrative fees, for collecting the same, and any and all additional fees as may be authorized by the Hazardous Materials and Emergency Planning and Response Act, or as authorized by any other statute or law.

§ 107-4. Responsibility of Township.

Except for recovery of costs incurred by the Township, the Township shall not be responsible for any aspect of the recovery costs set forth under this chapter. The Township shall have no obligation to assist the Fire Company, or any third party billing service, in the recovery of costs set forth under this chapter.

§ 107-5. Repealer.

Any ordinance, part of any ordinance, or any amendment thereto which is inconsistent with this chapter, is hereby repealed.

§ 107-6. Severability.

If any section, paragraph, subsection, clause or provision of this chapter shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this chapter as a whole, and any part thereof other than that portion specifically declared invalid shall remain in full force and effect.

§ 107-7. Effective date.

This chapter shall become effective five days following enactment.

Chapter 108

FIREWORKS

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick 12-12-2019 by Ord. No. 2019-03. Amendments noted where applicable.]

§ 108-1. Authority and intent.

This chapter is adopted pursuant to the authority granted under Pennsylvania's fireworks regulations and laws as adopted and codified by the Pennsylvania legislature at 72 P.S. § 9401-9416, and pursuant to the authority to regulate fireworks as set forth in the Second Class Township Code at 53 P.S. § 66534. This chapter is adopted with the intent to comply with such state fireworks laws, properly regulate fireworks use within the Township, and to protect the health, safety and welfare of Township citizens.

§ 108-2. Definitions.

The following words and phrases, when used in this chapter, shall have the meanings given to them in this section unless the context clearly indicates otherwise:

APA 87-1 — The American Pyrotechnics Association Standard 87-1: Standard For Construction and Approval For Transportation of Fireworks, Novelties and Theatrical Pyrotechnics, 2001 edition, or any subsequent edition.

CONSUMER FIREWORKS —

- A. Any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public, complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to commercial practices) or any successor regulation, and complies with the provisions for "consumer fireworks," as defined in APA 87-1 or any successor standard, the sale, possession and use of which shall be permitted throughout this commonwealth.
- B. The term does not include devices such as ground and hand-held sparkling devices, novelties or toy caps in APA 87-1 or any successor standard, the sale, possession and use of which shall be permitted at all times throughout this commonwealth.

DISPLAY FIREWORKS — Large fireworks to be used solely by professional pyrotechnicians and designed primarily to produce visible or audible effects by combustion, deflagration or detonation. The term includes, but is not limited to, the following:

- A. Salutes that contain more than two grains or 130 milligrams of explosive materials;
- B. Aerial shells containing more than 60 grams of pyrotechnic compositions; and
- C. Other display pieces that exceed the limits of explosive materials for classification as consumer fireworks and are classified as fireworks UN0333, UN0334 or UN0335 under 49 CFR 172.101 (relating to purpose and use of hazardous materials table).

NFPA 1124 — The National Fire Protection Association Standard 1124, Code For the Manufacture, Transportation and Storage of Fireworks and Pyrotechnic Articles, 2006 edition, or any subsequent edition.

OCCUPIED STRUCTURE — A structure, vehicle or place adapted for overnight accommodation of persons or for conducting business, whether or not a person is actually present.

TEMPORARY STRUCTURE — A structure, other than a permanent facility with fixed utility connections, which is in use or in place for a period of 20 consecutive calendar days or less and is dedicated to the storage and sale of consumer fireworks and related items. The term includes temporary retail sales stands, tents, canopies and membrane structures meeting the specifications of NFPA 1124. The term shall not include a facility that is not

licensed to sell consumer fireworks under this chapter.

§ 108-3. Use, sale and storage of consumer fireworks.

- A. Conditions. A person who is at least 18 years of age and meets the requirements of this chapter may purchase, possess and use consumer fireworks.
- B. Prohibitions. A person may not intentionally ignite or discharge:
 - (1) Consumer fireworks on public or private property without the express permission of the owner.
 - (2) Consumer fireworks or sparkling devices within, or throw consumer fireworks or sparkling devices from, a motor vehicle or building.
 - (3) Consumer fireworks or sparkling devices into or at a motor vehicle or building or at another person.
 - (4) Consumer fireworks or sparkling devices while the person is under the influence of alcohol, a controlled substance or another drug.
 - (5) Consumer fireworks within 150 feet of an occupied structure.
 - (6) Consumer fireworks upon any Township roadway or Township property.
 - (7) Consumer fireworks within 100 feet of any combustible material.
 - (8) Consumer fireworks such that the sparks or any portion of the fireworks will land upon the property of another without the owner's express permission.
 - (9) Consumer fireworks should not be ignited or discharged after 10:00 p.m., except on New Year's Eve, when the time restriction shall be 1:00 a.m.
 - (10) A person may not offer for transportation or transport, the following explosives unless otherwise provided in Subsection 173 of 49 CFR, as follows:
 - (a) An explosive that has not been approved in accordance with § 173.56 of 49 CFR.
 - (b) An explosive mixture or device containing a chlorate and also containing:
 - [1] An ammonium salt, including a substituted ammonium or quaternary ammonium salt; or
 - [2] An acidic substance, including a salt of a weak base and a strong acid.
 - (c) A leaking or damaged package or article containing an explosive.
 - (d) Propellants that are unstable, condemned or deteriorated.
 - (e) Nitroglycerin, diethylene glycol dinitrate, or any other liquid explosives not specifically authorized by this subchapter.
 - (f) A loaded firearm (except as provided in 49 CFR 1544.219).
 - (g) Fireworks that combine an explosive and a detonator.
 - (h) Fireworks containing yellow or white phosphorus.
 - (i) A toy torpedo, the maximum outside dimension of which exceeds 23 mm (0.906 inch), or a toy torpedo containing a mixture of potassium chlorate, black antimony (antimony sulfide), and sulfur, if the weight of the explosive material in the device exceeds 0.26 g (0.01 ounce).

- (j) Explosives specifically forbidden in the table as set forth in § 172.101 of 49 CFR.
 - (k) Explosives not meeting the acceptance criteria specified in § 173.57 of 49 CFR.
 - (l) An explosive article with its means of initiation or ignition installed unless approved in accordance with § 173.56 of 49 CFR.
- C. Sale and storage of consumer fireworks. The sale and storage of consumer fireworks is licensed and regulated by the Pennsylvania Department of Agriculture. Any person who intends to sell or store consumer fireworks within the Township shall provide proof of such licensure prior to such use being conducted within the Township, in addition to compliance with all other applicable Township ordinances and regulations.

§ 108-4. Temporary structures for consumer fireworks.

- A. Conditions. If a person is licensed by the Pennsylvania Department of Agriculture to store and sell consumer fireworks within a temporary structure, as defined herein, such use shall be permitted within the Township, provided all other applicable Township ordinances and regulations are met.
- B. The person authorized to store and sell consumer fireworks within such temporary structure shall comply with the regulations of the Pennsylvania Department of Agriculture, and shall provide verification of such compliance prior to being permitted to conduct such use within the Township.

§ 108-5. Permits and use provisions for display fireworks.

- A. No display fireworks shall be ignited within 300 feet of a facility selling or dispensing gasoline, propane or other flammable products.
- B. Permits are required to be issued by the Township prior to the use of display fireworks. Application for permits shall be made in writing at least 30 days in advance of the planned date of the use of display fireworks, together with the permit fee. Permit fees shall be as established by Resolution of the Board of Supervisors.
- C. Permits for display fireworks may only be issued to persons age 21 or older.
- D. Each display firework shall be:
 - (1) Handled by a competent operator with the proper authorization to handle, operate or store display fireworks;
 - (2) Inspected by the Township Code Enforcement Officer, Fire Marshall or other appropriate officer, and after proper inspection, deemed to not be hazardous to property or endanger any person prior to the display occurring; and
 - (3) After permission is granted under this section, possession and use of display fireworks shall be lawful for that purpose only.
- E. License requirements. Any business entity which performs, provides or supervises display fireworks for profit shall provide proof of registration with the Pennsylvania Attorney General to the Township as part of the permitting process.
- F. Display fireworks may be possessed and used by a person (age 21 or older) holding a permit from the Township at the display covered by the permit, or when used as authorized by a permit for any of the following additional activities:
 - (1) For agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage.
 - (2) By railroads or other transportation agencies for signal purposes or illumination.

- (3) In quarrying or for blasting or other industrial use.
- (4) In the sale or use of blank cartridges for a public show or theater.
- (5) For signal or ceremonial purposes in athletics or sports.
- (6) By military organizations or organizations composed of veterans of the Armed Forces of the United States.

§ 108-6. Bonding and extension requests for display fireworks.

- A. Bond and liability insurance. The Township shall require a bond deemed adequate by the Board from the permittee in a sum not less than \$50,000 or such other amount as the Board may deem appropriate, to be conditioned on the payment of all damages which may be caused to a person or property by reason of the display fireworks and arising from an act of the permittee or an agent, an employee or a subcontractor of the permittee. The bonding requirement may be deemed unnecessary or reduced in amount by the Board of Supervisors for the additional activities listed under § 108-5F above. Further, liability insurance covering damages which may be caused to a person or property by reason of the display fireworks in an amount of \$1,000,000 insured by an approved insurance company to do business within the Commonwealth of Pennsylvania shall be provided before the permit shall issue. The Township, the Fire Marshall and the Township Code Enforcement Officer shall be additional insureds.
- B. Extension of permit.
 - (1) Authorization. If, because of unfavorable weather, the display fireworks for which a permit has been granted does not occur at the time authorized by the permit, the person to whom the permit was issued may, within 24 hours, apply, in writing, for a request for extension to the Township. The requested continuance of the permit shall be not later than one week after the date originally designated in the permit.
 - (2) Conditions. The extension of time shall be granted without the payment of an additional fee and without requiring a bond other than the bond given for the original permit, the provisions of which shall extend to and cover all damages which may be caused by reason of the display occurring at the extended date and in the same manner and to the same extent as if the display had occurred at the date originally designated in the permit.

§ 108-7. Permits granted for agricultural purposes.

- A. Authorization. The Township may grant permits for the use of suitable fireworks for agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage.
- B. Duration of permit. A permit under this section shall remain in effect for the calendar year in which it was issued.
- C. Conditions. After a permit under this section has been granted, sales, possession and use of fireworks of the type and for the purpose mentioned in the permit shall be lawful for that purpose only.

§ 108-8. Authority and confiscation of materials.

- A. The Township Code Enforcement Officer or the Township Fire Marshall shall take, remove or cause to be removed, at the expense of the owner, all stocks of consumer fireworks, display fireworks or combustibles offered or exposed for sale, stored or held in violation of this chapter. The owner shall also be responsible for the storage and, if deemed necessary, the destruction of these fireworks.
- B. The Township Code Enforcement Officer and the Township Fire Marshall are authorized to cease all fireworks activity when there is a determination that there is imminent or immediate danger to any person(s)

or any property, buildings, structures or premises, take any steps necessary, within the reasonable performance of their duties, to extinguish, mitigate and/or control any fireworks in order to preserve and protect the life, health, welfare or safety of any person(s) and to preserve and protect property, building structures or premises.

§ 108-9. Violations and penalties.

- A. A person using consumer fireworks in violation of the provisions of this chapter commits a summary offense and, upon conviction, shall be punished by a fine of not more than \$100.
- B. A person selling consumer fireworks in violation of the provisions of this chapter commits a misdemeanor of the second degree.
- C. A person selling display fireworks in violation of the provisions of this act commits a felony of the third degree.
- D. A person selling federally illegal explosives such as devices as described in 49 CFR 173.54 (relating to forbidden explosives) or those devices that have not been tested, approved and labeled by the United States Department of Transportation, including, but not limited to, those devices commonly referred to as "M-80," "M-100," "blockbuster," "cherry bomb" or "quarter or half stick" explosive devices, in violation of the provisions of this chapter, commits a felony of the third degree.
- E. All prosecutions related to this chapter shall be the responsibility of the Township Code Enforcement Officer.

Chapter 109

NOISE

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick 12-12-2019 by Ord. No. 2019-04. Amendments noted where applicable.]

§ 109-1. Title.

This chapter shall be known as the Upper Frederick Township Noise Ordinance of 2019.

§ 109-2. Authority.

This chapter is enacted pursuant to the provisions and the authority of the Second Class Township Code, 53 P.S. § 65101, et seq.

§ 109-3. Purpose.

The purpose of this chapter is to ensure that the public health, safety and welfare are not abridged by noise pollution nor public nuisance from disturbing, excessive or offensive noises within Upper Frederick Township. The Board of Supervisors of Upper Frederick Township recognizes that uncontrolled noise represents a danger to the health, safety and welfare of the general public, and that each person in the Township is entitled to enjoy an environment in which the level of impulsive and amplified noise is controlled and minimized. It is the purpose and scope of this chapter to provide regulations defining the maximum sound levels that people, vehicles, appliances and equipment shall be allowed to produce at specified distances and locations, and to prohibit certain other types of offensive noise. These regulations and prohibitions are intended to protect the physical, emotional, mental and social well-being of the general public within Upper Frederick Township.

§ 109-4. Legislative findings.

The Board of Supervisors of Upper Frederick Township finds that failure to regulate noise can and will lead to violations of the peace and quiet enjoyment of the residents and inhabitants of the Township and otherwise constitute a public nuisance. Specifically, such noise emanating from homes, businesses, industries, sound amplification equipment, radios, stereos, vehicles, animals, individuals, equipment machinery, including, but not limited to: snow blowers, lawn mowers, generators, power tools and any other activity or device that:

- A. Creates a noise level such that adjacent or nearby residents are deprived of the peaceful enjoyment of their homes, are disturbed in their sleep, or are otherwise prevented from the quiet enjoyment of their residential premises;
- B. Adversely affects the property values in the Township;
- C. Adversely affects the public welfare by reflecting negatively on the quality of life in residential areas of the Township;
- D. Disturbs the peace, quiet and good order of the Township; and
- E. Creates or constitutes noise pollution.

§ 109-5. Definitions.

- A. The following words and phrases, when used in this chapter, shall have, unless the context clearly indicates otherwise, the meanings given to them in this section. All other words and terms not defined herein shall be interpreted in accordance with their ordinary meaning of standard usage.
- B. All acoustical terminology shall be interpreted in accordance with that contained in ANSI SI.1, "Acoustical

Terminology."

ANSI — American National Standard Institute, or its successor.

DAY TIME — 7:00 a.m. to 10:00 p.m., prevailing time.

DECIBEL (dB) — A unit of sound level which is a division of a logarithmic scale used to express the ratio of sound pressure of the source to the pressure of an arbitrarily chosen reference pressure; the ratio is expressed on the decibel scale by multiplying its "base 10 Logarithm" by 20.

EXCESSIVE NOISE — That sound or sounds which are: (1) injurious to, or which unreasonably interfere with, the comfortable enjoyment of life and property. Further, measured noise levels in excess of limits established in these regulations or those specified in a valid permit are declared to be excessive noise; and (2) annoying to a person of ordinary sensibilities.

NIGHT TIME — 10:00 p.m. to 7:00 a.m., prevailing time.

NOISE — Any sound emitted by a person, animal, appliance, machine, equipment, instrument or other device.

NOISE LEVEL — Airborne sound levels expressed in dB and obtained by the use of specific frequency dependent weighting networks, as specified in the referenced standards and indicated by proper notation; if "A" weighting is employed, the sound level is identified as dB(A).

NOISE POLLUTION — Noise of such loudness and character from a single source or from one or more sources, which is injurious to the public health, safety or welfare, or which is injurious to the health of one or more persons in Upper Frederick Township, or, noise which unreasonably interferes with the enjoyment of public or private property or with any business, commercial or other lawful activity. Noise/sound pressure levels exceeding those permitted in any Zoning District shall constitute "noise pollution."

PERIOD OF OBSERVATION — The time interval during which acoustical data are obtained. The period of observation is determined by the characteristics of the noise being measured and the instrumentation being used. The period of observation must be at least as long as the response time of the instrumentation. The greater the variance in individual sound level, the longer must be the observation time for a given expected accuracy of measurement.

PERSON — Includes an individual, firm, association, organization, partnership, trust, company, corporation or any other similar entity.

SOUND LEVEL — Noise level.

SOUND LEVEL CALIBRATOR — An instrument used to ensure that a sound level meter is accurately reading sound levels, including, but not limited to, the Extech Sound Level Calibrator, Model 407722, or any equivalent product, used in accordance and in compliance with the manufacturer's instructions for said instrument.

SOUND LEVEL METER — An instrument, or combination of instruments, capable of measuring the noise limits identified in § 109-6 below, with accuracy, including, but not limited to, the Extech Digital Sound Level Meter, Model 407732, or any equivalent product, which shall be used in accordance and in compliance with the manufacturer's instructions for said instrument.

TOWNSHIP — Township of Upper Frederick, Montgomery County, Pennsylvania.

VEHICLE — Any device or machine used for, or capable of being used for, transporting persons, property or cargo. Vehicles include, but are not limited to: automobiles, trucks, trash collection trucks, buses, motorcycles, motorized bicycles, snowmobiles, scooters, all-terrain vehicles, go-carts, farm machinery, industrial machinery, highway graders, trailers, graders and semi-trailers.

§ 109-6. Noise limits.

No person shall create or allow the creation or existence of any noise, nor operate or cause to be operated any source of sound in Upper Frederick Township which, when measured from any point along the perimeter of the lot, parcel, tract or property on which such noise is generated, exceeds the following noise levels:

- A. 90 decibels (dB(A)) during day time.
- B. 70 decibels (dB(A)) during night time.
- C. Notwithstanding the provisions of Subsections A and B above, dog barking, regardless of decibel level, continually for 10 minutes or more, or intermittently for 30 minutes or more, shall constitute noise pollution, and shall be prohibited by this chapter.

§ 109-7. Exemptions.

Noise emitted from the following sources shall be exempt from the noise standards specified herein:

- A. All safety signals and warning devices (e.g., intrusion alarms, back-up alarms on trucks); authorized vehicles when responding to emergencies (e.g., police, fire, ambulance sirens or any other device used to alert persons to an emergency or used during the conduct of emergency work).
- B. Providers of municipal services and public utilities, including, but not limited to, Upper Frederick Township, the Upper Frederick Township road crew, PECO, Aqua, etc., as well as all of their agents, employees, workmen, contractors and subcontractors. For purposes of this subsection, the term "municipal services" includes public and private trash haulers and snow plows.
- C. Bells, chimes and carillons used for religious purposes or in conjunction with national celebrations or public holidays.
- D. Household or industrial mowers, appliances, lawn mowers, garden equipment, chain saws and power tools in use between the hours of 7:00 a.m. (prevailing time) and 9:00 p.m. (prevailing time) provided such are operated within the manufacturer's specifications and with all standard noise reducing equipment in use, unmodified and in proper operating condition.
- E. Heavy construction equipment when being used on a specific short-term project (such as constructing a building; constructing, repairing or cleaning a road; drilling a well; and other similar short-term, specific construction, demolition or repair projects) in use between the hours of 7:00 a.m. and 9:00 p.m., prevailing time, for the duration of such short-term, specific project; provided, such heavy construction equipment is operated within the manufacturer's specifications and with all standard noise-reducing equipment in use, unmodified and in proper operating condition.
- F. Air conditioners, fans, heating units and similar comfort devices, provided such are operated within the manufacturer's specifications and with all standard noise reducing equipment in use, unmodified and in proper operating condition.
- G. Music, recreational and athletic events conducted by schools, local government, community or community association or village festivals, or events sponsored by nonprofit organizations.
- H. Activities permitted by special waiver, as provided herein, according to the terms and conditions of said waiver.
- I. All farm related operations and activities, provided such are operated within the manufacturer's specifications and with all standard noise-reducing equipment in use, unmodified and in proper operating condition.
- J. Unless controlled by another ordinance, regulation or agreement, any existing business, commercial or industrial operation during the day time, provided any and all appliances, equipment, machinery or devices

used in such operation and creating noise are operated within the manufacturer's specifications and with all standard noise-reducing equipment in place, unmodified and in proper working order.

- K. Snow removal equipment may be used any time during or after the accumulation of snow on the ground, provided all snow removal equipment is operated with all standard noise reducing equipment in place, unmodified and in proper working order.
- L. Any time the power is out, a generator may be used provided that it is operated within the manufacturer's specifications and with all standard noise-reducing equipment in place, unmodified and in proper working order.

§ 109-8. Special waivers.

A temporary waiver from strict compliance with the noise standards specified herein may be granted to persons during emergency circumstances, as determined by the Board of Supervisors, to permit reasonable time to effect necessary repairs.

§ 109-9. Policy.

It is the policy of the Board of Supervisors in adopting this chapter not to force any industrial or commercial enterprise out of business, but rather to work with any industrial or commercial enterprise to find ways to reduce noise levels to the level permitted by this chapter.

§ 109-10. Enforcement Officer.

This chapter shall be enforced by the Township Code Enforcement Officer.

§ 109-11. Enforcement procedures.

The following procedures and penalties are prescribed for enforcement of this chapter.

- A. Public nuisance. Any emission of noise from any source in excess of the limitations established herein is hereby declared to be a public nuisance and may be abated by administrative or judicial proceedings, fines and penalties herein provided.
- B. Warnings. Any person affected by a noise level suspected to be in excess of the noise levels proscribed by this chapter may file a written complaint with the Township Code Enforcement Officer using a citizen complaint form available at the Township Office and on the Township website. Upon receipt of any such complaint, the Township Code Enforcement Officer shall investigate the complaint, and if as the result of the investigation, the Code Enforcement Officer determines that the complaint is justified, the Township Code Enforcement Officer shall issue a written warning to the person responsible for the noise violation.
- C. Penalty. If, within six months of receiving a written warning, a person violates the same provision of this chapter, enforcement action shall be initiated by the Code Enforcement Officer before the District Justice having jurisdiction in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure; and, upon conviction thereof, shall be sentenced to pay a fine not to exceed \$1,000 per violation and/or imprisonment to the extent allowed by law for the punishment of summary offenses. The Township Solicitor shall assume charge of any such prosecution.
- D. Injunctions. This chapter may also be enforced by the Township through an action in equity to abate or enjoin violation of the provisions hereof.
- E. Other remedies. Nothing in this chapter shall be construed to impair any cause of action or legal remedy thereof, of any person or public for injury or damage arising from the emission or release into the atmosphere or ground from any source whatever of noise on such place or manner, or at such levels which may give rise

to such cause of action.

§ 109-12. Relationship with other restrictions.

The provisions of this chapter are not intended to interfere with, abrogate or annul other rules, regulations or ordinances, including Title 18 (Crimes Code) and Title 75 (Vehicle Code), Pennsylvania Consolidated Statutes. If more stringent requirements concerning noise abatement are contained in other statutes, rules, regulations or ordinances, the more stringent regulation shall apply.

Chapter 112

CODE ENFORCEMENT

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Licensing of contractors — See Ch. 117.

Rental property — See Ch. 202.

Property maintenance — See Ch. 194.

ARTICLE I
Code Enforcement Procedures
[Adopted 4-14-1988 by Ord. No. 88-4]

§ 112-1. Applicable codes and ordinances. [Amended 7-9-1992 by Ord. No. 92-9; 8-13-1998 by Ord. No. 98-4; 6-10-2004 by Ord. No. 04-02]

The term "applicable codes and ordinances" and the enforcement thereof as referred to in this, as well as other sections of this article, shall apply to those codes and/or ordinances which are listed as follows:

- A. Uniform Construction Code, contained in 34 Pa. Code, Chapters 401 to 405, as amended from time to time.
- B. The International Building Code published and revised by the International Code Council.
- C. The International Code Council Electrical Code published and revised by the International Code Council.
- D. The International Mechanical Code published and revised by the International Code Council.
- E. The International Fuel Gas Code published and revised by the International Code Council.
- F. The International Plumbing Code published and revised by the International Code Council.
- G. The International Residential Code published and revised by the International Code Council.
- H. The International Fire Code published and revised by the International Code Council.
- I. The International Existing Building Code published and revised by the International Code Council.
- J. The International Energy Conservation Code published and revised by the International Code Council.
- K. BOCA National Property Maintenance Code/1993 Edition, as published by the Building Officials and Code Administrators International, Inc. and such future editions of same, which are republished every third year.

§ 112-2. Creation of Office of Code Enforcement.

- A. Creation of Office of Code Enforcement. There is hereby created by the Board of Supervisors of the Township of Upper Frederick an office to be known as the "Office of Code Enforcement." Said office shall have the responsibility for administering and enforcing the provisions of this article and of those other codes and/or ordinances of the Township referred to as "applicable codes and ordinances" in § 112-1 of this article, which designates said Office of Code Enforcement as their official administration and enforcement agency.
- B. Appointment of Code Enforcement Officer. There shall be appointed, by the Board of Supervisors of the Township, a Code Enforcement Officer who shall be in charge of the Office of Code Enforcement of the Township. The Code Enforcement Officer shall supervise such other employees or assistants as shall be necessary for the administration and execution of the responsibilities of said office, as appointed and approved by the Board of Supervisors. Said Code Enforcement Officer and other personnel may consist of employees directly hired and compensated by the Township.
- C. Relief from personal liability. The Code Enforcement Officer, or other official or employees, shall not, while acting for the Township, render himself liable personally because of any act or omission as required or permitted in the discharge of his official duties. Any suit instituted against such Code Enforcement Officer, official or employee because of his duties shall be defended by the Solicitor of the Township, and in no case will said Officer, official or employee be liable for costs in any action, suit or proceeding.
- D. Official record. An official record shall be kept of all business and activities of the Office of Code Enforcement, and all such records shall be open to the public for inspection at all appropriate times, except that no individual, owner, operator, occupant or other person shall be subject to unwarranted invasion of

privacy, and except that all evidence or information obtained in the course of any inspection shall be kept confidential. Such evidence or information shall not be disclosed, except as may be necessary in the judgment of the Code Enforcement Officer for the proper and effective administration and enforcement of the provisions of this article, and shall not otherwise be made public without the consent of the owner, occupant, operator or other person in charge of the unit, structure or premises inspected.

§ 112-3. Duties and powers of Code Enforcement Officer. [Amended 10-14-1993 by Ord. No. 93-4]

- A. Enforcement by Code Enforcement Officer. The Code Enforcement Officer shall enforce and administer all of the provisions of this article, and of those other applicable codes and ordinances which establish the office of Code Enforcement as their official administration agency.
- B. Duties of Code Enforcement Officer. The duties of the Code Enforcement Officer shall include the receipt of applications, the issuance of permits, notices, certificates and orders, the making of inspections to determine conformance with applicable codes and ordinances, the undertaking of systematic inspection programs, the undertaking of searches and investigations, the recommendation of appropriate administrative rules for review and adoption by the Board of Appeals, the keeping of records, the issuance of written annual reports, and such other activities as may be required.
- C. Right of entry.
 - (1) In the discharge of his duties and upon reasonable cause of a code violation, the Code Enforcement Officer, or his authorized representative, upon showing proper identification where requested, is hereby authorized to enter and inspect, between the hours of 9:00 a.m. and 4:00 p.m., any structure or premises in the Township to enforce the provisions of this article, and of those other applicable codes and ordinances. The assistance and cooperation of all other Township officials, including police and fire departments, shall be available to the Code Enforcement Officer to assist in the performance of his duties and in securing right of entry.
 - (2) The Code Enforcement Officer and the owner, operator or occupant or other person in charge of any structure or premises subject to the provisions of this article may agree to an inspection by appointment at a mutually convenient time.
 - (3) The owner, operator or occupant or other person in charge of any structure or premises shall give the Code Enforcement Officer entry and free access thereto, and to every part of the structure or to the premises surrounding the structure.
 - (4) If any owner, operator or occupant or other person in charge fails or refuses to permit entry and free access to the structure or premises under his control, or to any part thereof with respect to any authorized inspection, the Code Enforcement Officer may, upon a showing that probable cause exists for the inspection, file a complaint and may petition for and obtain an order directing compliance with the inspection requirements of this article from a court of competent jurisdiction. Any person who refuses to comply with such an order issued pursuant to this section shall be subject to such penalties as may be authorized by law for violation of a court order.

§ 112-4. Permits, certificates and fees. [Amended 6-10-2004 by Ord. No. 04-02]

- A. Permit required. An application for a permit shall be required in accordance with the provisions of those applicable codes and ordinances which the Office of Code Enforcement has the responsibility to administer. Said application shall be submitted in such form as may be prescribed by the Code Enforcement Officer, and shall be accompanied by any required fee.
- B. Action on application. The Code Enforcement Officer shall examine said application to determine compliance with those other applicable codes and ordinances of the Township, and shall, within 90 days after filing, either approve or reject said application. If said application is rejected, the Code Enforcement Officer shall inform

the applicant, in writing, stating the reasons for such rejection.

C. Time limit on application.

- (1) An application for a permit for any proposed work shall be deemed to have been abandoned six months after date of filing, unless such application has been diligently prosecuted or a permit shall have been issued, except that for reasonable cause, the Building Official may grant one or more extensions of time for additional periods not exceeding 90 days each.
- (2) All permits granted under any of the above applicable codes and ordinances shall be good for a period of one year; provided, that extensions may be granted by the Code Enforcement Officer for good reason, except that any permit granted for demolition activities shall be valid for three months only months only, and if such demolition is not completed within that time, any bond posted by the applicant shall be forfeited.

D. Certificates. The following certificates shall be required in accordance with the provision of those other applicable codes and ordinances which the Code Enforcement Officer has the responsibility to administer. Said certificates may be issued separately or combined in the form of a single certificate.

- (1) Certificate of use and occupancy. A certificate of use and occupancy shall be issued or withheld in accordance with the applicable codes and ordinances.
- (2) Certificates. All certificates and shall be issued or withheld in accordance the applicable codes and ordinances.

§ 112-5. Violations and penalties; unfit buildings. [Amended 7-9-1992 by Ord. No. 92-9; 10-14-1993 by Ord. No. 93-4; 8-13-1998 by Ord. No. 98-4]

A. Procedure in case of violations. Whenever the Code Enforcement Officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this article, or of the other applicable codes and ordinances, or of any rules or regulations adopted pursuant thereto, he shall proceed as follows:

- (1) Serve notice, in writing, of the alleged violation which shall be signed by the Code Enforcement Officer, or his authorized representative. Said notice shall be served personally to the responsible owner, occupant, operator or other person in charge; or served by registered mail with a return receipt requested; or where such responsible person in charge cannot be found, service may be made by posting a notice in or about the structure or premises, or by publishing such notice in a newspaper of general circulation for a period of three consecutive days; or served by any other method authorized under the laws of the Commonwealth of Pennsylvania.
- (2) Said notice shall include a statement of the reasons why the notice is being issued, the sections of the codes and/or ordinances which have been violated, and the remedial actions required.
- (3) Said notice shall allow a reasonable time not to exceed 60 days for the initiation and correction of the violation alleged, or of the remedial actions required, except where conditions exist which require immediate corrective action.
- (4) Said notice shall contain a statement indicating that the notice will become an order if no request and approval for an extension of time is made to the Code Enforcement Officer, or if no petition for an appeal or hearing is requested before the Board of Appeals within 15 days from the receipt of said notice.
- (5) The Code Enforcement Officer may grant a request for a reasonable extension of time where he has evidence to believe that the responsible person is attempting to remove the alleged violation. However, no such extension of time may exceed a period of 90 days, unless authorized by the Board of Appeals upon appeal of the responsible owner, operator, occupant or other person in charge.

B. Penalties.

- (1) Any person, firm or corporation who shall violate any provision of this article, upon conviction thereof in an action brought before a District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$50 more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this article continues or each section of this article which shall be found to have been violated shall constitute a separate offense.
- (2) The imposition of the penalties herein prescribed shall not preclude the Solicitor representing the Township from initiating, and he is hereby ordered to initiate appropriate actions or proceedings in law, or in equity, to effect the purposes of this article.

C. Dangerous and unsafe conditions and structures and dwellings unfit for human habitation. Structures which contain dwellings which are unfit for human habitation, or structures which are dangerous or unsafe and structures which contain dangerous conditions or materials, as defined by the applicable codes and ordinances of the Township, are hereby declared to be a public nuisance.

- (1) General procedure. The Code Enforcement Officer shall order the responsible owner, operator, occupant or person in charge of the structure or premises which are dangerous, unsafe or unfit for human habitation to vacate, repair and/or demolish said structure, and to remove the public nuisance as provided for in this article and in the applicable codes and ordinances of the Township, in accordance with the laws of the Commonwealth of Pennsylvania.
- (2) Failure to comply. Whenever an order to vacate, repair and/or demolish a structure which is a public nuisance because it is unsafe, dangerous or unfit for human habitation has not been complied with, the Code Enforcement Officer may, in accordance with the laws of the Commonwealth of Pennsylvania, proceed to cause the structure to be vacated, repaired and/or demolished, or take such other action as is necessary to abate the nuisance. Abatement under this section shall not commence until at least 10 days after the service of the order, except that the Code Enforcement Officer may determine that more immediate action is required because of the special emergency or dangerous conditions which exist.
- (3) Recovery of expenses.
 - (a) The expenses incurred pursuant to Subsection C(2) of this section, and of the other applicable codes and ordinances, shall be paid by the responsible owner, operator or occupant, or by the persons who caused or maintained such a public nuisance.
 - (b) The Code Enforcement Officer shall file, on his records, an affidavit stating with fairness and accuracy the items and date of the expenses incurred. The Board of Supervisors of the Township may institute a suit to recover such expenses to be charged against the property as a lien.

§ 112-6. Variances and appeals. [Amended 10-14-1993 by Ord. No. 93-4; 6-10-2004 by Ord. No. 04-02]

A. Board of Appeals. Unless consolidated with appeals of other applicable codes and ordinances of this chapter, for all appeals of the Property Maintenance Code, there is hereby established a Board of Appeals which shall consist of the Board of Supervisors of the Township. All other appeals shall be heard in accordance with Sections 403.121 and 403.122 of the Uniform Construction Code.

B. Powers of the Board of Appeals. The Board of Appeals shall have the following powers and duties:

- (1) Interpretation. On appeal from a determination of the Code Enforcement Officer, or on request of any Township official, the Board of Appeals shall decide any questions involving the interpretation of any provision of this article, or of those other applicable codes and ordinances.
- (2) Variances. The Board of Appeals may grant a variance from the strict application of this article, or of

those other applicable codes and ordinances. Such variances may be granted only in those cases which would result in practical difficulty or unnecessary hardship and where the public health and safety shall not be jeopardized.

- (3) Decide appeals. The Board of Appeals shall hear all appeals made to it and, depending on its findings, shall decide whether such appeals shall be granted.

C. Requests for appeals or variances. Any person requesting a variance or aggrieved by a decision of the Code Enforcement Officer, or by another employee or official charged with the administration and enforcement of this article, and of those other applicable Codes or Ordinances, may take an appeal to the Board of Appeals. All appeals must be made in writing, stating the grounds upon which the appeal is based, and shall be transmitted to the Office of Code Enforcement. An appeal must be taken within 15 days of the action or of the receipt of written notice of any decision or ruling which is being appealed.

D. Appeals and variance procedure.

- (1) Public hearing. The Board of Appeals shall meet and conduct a hearing within 45 days of the receipt of an appeal or a request for a variance. All hearings shall be public, and all persons whose interests may be affected shall be given an opportunity to be heard. A record shall be kept of all evidence and testimony presented at the hearing.
- (2) Decision of the Board. All decisions of the Board shall be in writing, and a copy of each decision shall be sent to the applicant and to the Code Enforcement Officer. The Board of Appeals shall also retain, in its files, a copy of each decision, which files shall be available for inspection by the public. Each decision shall set forth fully the reasons for the decision of the Board of Appeals and the findings of fact on which the decision was based. The Board of Appeals shall make an order on its decision, and the Code Enforcement Officer shall take immediate action to carry out said order.

§ 112-7. Short title.

This article shall be known and may be cited as the "Code Enforcement Ordinance of the Township of Upper Frederick."

ARTICLE II
Uniform Construction Code
[Adopted 6-10-2004 by Ord. No. 04-03]

§ 112-8. Adoption of Uniform Construction Code.

- A. This Township hereby elects to administer and enforce the provisions of the Pennsylvania Construction Code Act, Act 45 of 1999, 35 P.S. §§ 7210.101 to 7210.1103, as amended from time to time, and its regulations.
- B. The Uniform Construction Code, contained in 34 Pa. Code, Chapters 401-405, as amended from time to time, is hereby adopted and incorporated herein by reference as the municipal building code of this Township.

§ 112-9. Administration and enforcement.

Administration and enforcement of the code within this Township shall be undertaken in any of the following ways as determined by the governing body of this Township from time to time by resolution:

- A. By the designation of an employee of the Township to serve as the Code Enforcement Officer to act on behalf of the Township;
- B. By the retention of one or more construction code officials third-party agencies to act on behalf of the Township;
- C. By agreement with one or more other municipalities for the joint administration and enforcement of this article through an intermunicipal agreement;
- D. By entering into a contract with another Township for the administration and enforcement of this article on behalf of the Township;
- E. By entering into an agreement with the Pennsylvania Department of Labor and Industry for plan review, inspections and enforcement of structures other than one-family or two-family dwelling units and utility and miscellaneous use structures.

§ 112-10. Appeals.

A Board of Appeals shall be established by resolution of the governing body of this Township in conformity with the requirements of the relevant provisions of the code, as amended from time to time, and for the purposes set forth therein. If at any time enforcement and administration is undertaken jointly with one or more other municipalities, said Board of Appeals shall be established by joint action of the participating municipalities.

§ 112-11. Additions and amendments. [Amended 6-13-2005 by Ord. No. 05-06]

- A. All building code ordinances or portions of ordinances which were adopted by this Township on or before July 1, 1999, and which equal or exceed the requirements of the code shall continue in full force and effect until such time as such provisions fail to equal or exceed the minimum requirements of the code, as amended from time to time.
- B. All building code ordinances or portions of ordinances which are in effect as of the effective date of this article and whose requirements are less than the minimum requirements of the code are hereby amended to conform with the comparable provisions of the code.
- C. All relevant ordinances, regulations and policies of this Township not governed by the code shall remain in full force and effect.
- D. Section 403.42.

(1) Section 403.42 of the Uniform Construction Code shall be amended by deleting Subsection (c)(1)(iii) which reads:

"Retaining walls which are not over four feet in height measured from the lowest level of grade to the top of the wall, unless it is supporting a surcharge or impounding class I, II or III-A liquids."

(2) Section 403.42 is further amended by deleting in its entirety Subsection (c)(1)(v). A new Subsection (c)(1)(v) is hereby enacted to read as follows:

"Sidewalks and driveways that are 17 inches or less above adjacent grade and not placed over a basement or story below it."

E. Subsection 403.43(g) is hereby deleted in its entirety. A new Subsection 403.43(g) is hereby enacted to read as follows:

"A permit becomes invalid pursuant to the provisions of Article I, Code Enforcement Procedures, § 112-4C of this chapter."

F. Section 403.45 is hereby amended by adding Subsection 403.45(f) to read as follows:

"The Code Enforcement Officer shall have all rights of entry in accordance to the provisions of Article I, Code Enforcement Procedures, § 112-3C."

G. Section 403.62.

(1) Section 403.62 of the Uniform Construction Code is hereby amended by deleting Subsection (c)(1)(ii) which read:

"Retaining walls that are not over four feet in height measured from the lowest level of grade to the top of the wall unless the wall supports a surcharge."

(2) Section 403.62 is further amended by deleting in its entirety Subsection (c)(1)(iv). A new Subsection (c)(1)(iv) is hereby enacted to read as follows:

"Sidewalks and driveways that are 17 inches or less above adjacent grade and not placed over a basement or story below it."

(3) Section 403.62 is further amended by deleting in its entirety Subsection (c)(1)(xvii). A new Subsection (c)(1)(xvii) is hereby enacted to read as follows:

"Installation of an uncovered deck where the floor of the deck is no more than eight inches above grade."

H. Section 403.64 is hereby amended by adding Subsection 403.64(h) to read as follows:

"The Code Enforcement Officer shall have all rights of entry in accordance to the provisions provided in Article I, Code Enforcement Procedures, § 112-3C."

I. Section 403.82 is hereby deleted in its entirety. A new Section 403.82 is hereby enacted to read as follows:

"(a) The Code Enforcement Officer shall proceed as provided in Article I, Code Enforcement Procedures, § 112-5, Violations and penalties; unfit buildings, if an inspection reveals a violation of the Uniform Construction Code.

"(b) Penalties for violations of this article are permitted as provided under Article I, Code Enforcement Procedures, § 112-5B."

J. Section 403.84 is hereby deleted in its entirety. A new Section 403.84 is hereby enacted to read as follows:

- "(a) The Code Enforcement Officer shall follow the provision of Article I, Code Enforcement Procedures, § 112-5C, in the event he determines a building, structure or equipment is unsafe.
- "(b) The Department may seal an elevator for an unsafe condition under Section 105(c)(1) of the Act [35 P.S. § 7210.105(c)(1)]. The Department is the only entity that may remove or authorize the removal of a seal if an owner abates or corrects the unsafe condition."

K. In addition to all types of construction, placement of structures, repairs and alterations for which the Uniform Construction Code requires a permit, the Township, pursuant to the authorization of Act 92 of 2004, shall require persons to obtain permits under the Upper Frederick Township Uniform Construction Code for all of the following:

- (1) The construction, erection or placement of any accessory structure which is equal to or greater than 250 square feet, whether or not such accessory structure is connected to any utility.
- (2) The construction, erection or placement of any accessory structure which is less than 250 square feet, if such accessory structure is provided with any utility service. The applicant shall obtain a permit only for the purpose of inspection for the utility or utilities being installed or provided to the accessory structure.
- (3) All alterations or repairs to residential buildings which are exempt from the UCC by Act 92 of 2004; provided, however, that the following types of alterations and repairs shall continue to be exempt, and no permit will be required.
 - (a) Replacement of windows and doors when there is no change in the size of the existing opening.
 - (b) Reroofing of less than 25% of the total existing roof square footage.
 - (c) Replacement of hot water heater, boiler or furnace, or the replacement of any part of a hot water heater, boiler or furnace with the same efficiency rating, electrical and plumbing requirements.
 - (d) Addition or replacement of siding on the exterior of the residential structure.
 - (e) Repair or replacement of any nonstructural portion of a deck, porch or stoop.
 - (f) Replacement of an appliance switch or receptacle with a switch or receptacle which is the same or has a like rating.
 - (g) The addition of one appliance switch or receptacle.
 - (h) The repair or replacement of any nonstructural member.
 - (i) The repair or replacement of any sink, toilet, tub, shower or similar plumbing fixture without relocation of any drain or venting device.

§ 112-12. Fees.

Fees assessable by the Township for the administration and enforcement undertaken pursuant to this article and the code shall be established by the governing body by resolution from time to time.

ARTICLE III
International Building Code
[Adopted 6-10-2004 by Ord. No. 04-04]

§ 112-13. Adoption of International Building Code, 2003 Edition.

A certain document, a copy of which is on file in the office of the Township Secretary of Upper Frederick Township, being marked and designated as, the International Building Code, 2003 Edition, as published by the International Code Council, subject to the revisions below in § 112-14, and including Appendices E, F, G and H, be and is hereby adopted as the Building Code of Upper Frederick Township, in Montgomery County, Pennsylvania, for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said International Building Code are hereby referred to, adopted and made a part hereof as if fully set out in this article, with all additions, insertions, deletions and changes, if any, prescribed in § 112-14 of this article.

§ 112-14. Additions, insertions and changes.

The International Building Code, as referenced in this article, shall be revised as follows:

- A. The following subsections and/or words in the Code are hereby revised to substitute the following words for the original words contained in the ordinance [original language is contained in brackets]:
 - (1) Section 101.1. Substitute "Upper Frederick Township" for [Name of Jurisdiction].
 - (2) Section 101.4.4. Substitute "25 Pa. Code Chapter 73" for [International Private Sewage Disposal Codes].
 - (3) Section 3410.2. Substitute "the effective date of the first Building Code Ordinance" for [Date to be Inserted by the Jurisdiction].
 - (4) Substitute in all sections of the code "Code Enforcement Officer" for [The Building Official].
 - (5) Substitute in all sections of the code "The Board of Supervisors" for [The Governing Body].
- B. The title of § 103 is deleted in its entirety. A new title is hereby enacted to read as follows: "Code Enforcement Officer and Deputies."
- C. Section 103.1 is deleted in its entirety. A new § 103.1 is hereby enacted to read as follows:
 "103.1 Creation of the Office of the Code Enforcement Officer. The office of the Code Enforcement Officer is hereby created."
- D. Section 103.2 is deleted in its entirety. A new § 103.2 is hereby enacted to read as follows:
 "103.2. Appointment. The Code Enforcement Officer shall be appointed by the Board of Supervisors, and shall serve at the pleasure of the Board of Supervisors."
- E. The title of Section 104.7 is deleted in its entirety. A new title is hereby enacted to read as follows:
 "Section 104.7 Code Enforcement Officer's Records."
- F. Section 105.2.

(1) Section 105.2 is hereby amended by deleting in its entirety Subsection 2 under the listing "Building" which read:

"Retaining walls which are not over four feet (1,219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II, or III-A liquids.

(2) Section 105.2 is further amended by deleting in its entirety Subsection 6 under the listing "Building" and replacing it as follows:

"Sidewalks and driveways not more than 17 inches above grade and not over any basement or story below and which are not part of an accessible route."

G. Section 112.1 is hereby deleted in its entirety. A new § 112.1 is hereby enacted to read as follows:

"112.1 Appeals. Any person or persons shall have the right to appeal a decision of the Code Enforcement Officer to the Appeals Board in accordance with §§ 403.121 and 403.122 of the Uniform Construction Code, as amended as adopted by this Township. An application for an appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, or an equally good or better form of construction is proposed.

"All such appeals shall be filed on a form obtained from the Code Enforcement Officer within 30 days after the notice of a decision was issued. The Appeals Board shall have exclusive jurisdiction over such appeals, and failure to appeal the decision of the Code Enforcement Officer to the Appeals Board renders the decision of the Code Enforcement Officer unappealable."

H. Section 113.4 is hereby revised to add the following sentence at the end of the section:

"Any person or persons who violate a provision of the Code, or of a permit or certificate issued under the provisions of this Code, shall be guilty of a summary offense, punishable by a fine of not less than \$100, but not more than \$1,000, plus costs and, in default of payment of said fine and costs, to a term of imprisonment not exceeding 30 days. Each day that a violation continues shall constitute a separate offense."

I. Subsection 114.3 is hereby revised by deleting the last clause which states, "shall be subject to penalties as prescribed by law," and substituting in its place, "shall be subject to penalties for violations pursuant to § 113.4."

J. Section 202 is hereby revised to include the following additional definition:

"Occupied: As applied to a building, or portion thereof, shall be construed as though followed by the words, 'or intended, arranged or designed to be occupied, or having a certificate of use and occupancy'."

K. Section 1612.3 - Insert "Upper Frederick Township" for [Name of Jurisdiction], and "December 19, 1996" for [Date of Issuance].

§ 112-15. Automatic adoption.

By December 31 of the year of the issuance of a new triennial ICC International Building Code, or its successor building code, the new International Building Code, or its successor building code, shall be automatically adopted as the Township of Upper Frederick Building Code, including appendices as determined by the Pennsylvania Department of Labor and Industry.

ARTICLE IV
International Code Council Electrical Code
[Adopted 6-10-2004 by Ord. No. 04-05]

§ 112-16. Adoption of Electrical Code.

A certain document, a copy of which is on file in the office of the Township Secretary of Upper Frederick Township, being marked and designated as the ICC Electrical Code Administrative Provisions, 2003 Edition, subject to the revisions below in § 112-17, be and is hereby adopted as the Electrical Code of Upper Frederick Township, in Montgomery County, Pennsylvania; for the regulation and control of electrical systems as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Electrical Code are hereby referred to, adopted and made a part hereof as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed in § 112-17 of this article.

§ 112-17. Additions, insertions and changes.

The ICC Electrical Code, 2003 Edition, as referenced in § 112-16, shall be revised as follows:

- A. The following subsections and/or words in the code are hereby revised to substitute the following words for the original words contained in the ordinance [original language is contained in brackets]:
- (1) Section 101.1. Substitute "Upper Frederick Township" for [Name of Jurisdiction].
 - (2) Substitute in all sections of the code "Code Enforcement Officer" for [The Building Official].
 - (3) Substitute in all sections of the code "the Board of Supervisors" for [The Governing Body].
- B. Section 202 is hereby revised to include the following additional definition:
- "Occupied: As applied to a building, or portion thereof, shall be construed as though followed by the words, 'or intended, arranged or designed to be occupied, or having a certificate of use and occupancy'."
- C. Section 301.1 is deleted in its entirety. A new § 301.1 is hereby enacted to read as follows:
- "301.1 The Upper Frederick Township Code Enforcement Officer(s) shall enforce this code by utilizing approved third-party inspection agencies, who shall be selected and/or approved by the Code Enforcement Officer(s). Any and all costs or fees charged by the inspection agency shall be paid by the applicant."
- D. Section 301.2 is deleted in its entirety. A new § 301.2 is hereby enacted to read as follows:
- "301.2 Appointment. The Code Enforcement Officer(s) shall be appointed by the Board of Supervisors and shall serve at the pleasure of the Board of Supervisors."
- E. The title of Section 302.8 is deleted in its entirety. A new title is hereby enacted to read as follows:
- "Section 302.8 Code Enforcement Officer's Records."
- F. Chapters 4 and 5 of the Code are deleted in their entirety.
- G. Section 1003.1 is hereby revised to add the following sentence at the end of the section:
- "Any person or persons who violate a provision of the code, or of a permit or certificate issued under the provisions of this code, shall be guilty of a summary offense, punishable by a fine of not less than \$100, but not more than \$1,000, or by imprisonment not exceeding 90 days, or both such fine and imprisonment."
- H. Section 1101.1 is deleted in its entirety. A new § 1101.1 is hereby enacted to read as follows:

"1101.1 Appeals. Any person or persons shall have the right to appeal a decision of the Code Enforcement Officer to the Appeals Board in accordance with §§ 403.121 and 403.122 of the Uniform Construction Code, as amended as adopted by this Township. An application for an appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed.

"All such appeals shall be filed on a form obtained from the Code Enforcement Officer within 30 days after the notice of a decision was issued. The Appeals Board shall have exclusive jurisdiction over such appeals, and failure to appeal the decision of the Code Enforcement Officer to the Appeals Board renders the decision of the Code Enforcement Officer unappealable."

I. Section 1101.2 is deleted in its entirety. A new § 1101.2 is hereby enacted to read as follows:

"An application for an appeal shall be based on a claim that the true intent of this code, or the rules legally adopted thereunder, have been incorrectly interpreted, the provisions of this code do not apply, or an equivalent form of construction or materials is to be used."

J. Sections 1102 and 1103 are deleted in their entirety.

§ 112-18. Automatic adoption.

By December 31 of the year of the issuance of a new triennial ICC International Code Council Electrical Code, or its successor code council electrical code, the new International Code Council Electrical Code, or its successor code council electrical code shall be automatically adopted as the Township of Upper Frederick Code Council Electrical Code, including appendices as determined by the Pennsylvania Department of Labor and Industry.

ARTICLE V
International Existing Building Code
[Adopted 6-10-2004 by Ord. No. 04-06]

§ 112-19. Adoption of International Existing Building Code, 2003 Edition.

A certain document, a copy of which is on file in the office of the Township Secretary of Upper Frederick Township, being marked and designated as the International Existing Building Code, 2003 Edition, subject to the revisions below in § 112-20, and including Appendices A and B and Resource A, is hereby adopted as the Existing Building Code of Upper Frederick Township, in Montgomery County, Pennsylvania, and each and all of the regulations, provisions, penalties, conditions and terms of said International Existing Building Code are hereby referred to, adopted and made a part hereof as if fully set out in this article, with the additions, insertions, deletions and changes, if any, contained below.

§ 112-20. Additions, insertions and changes.

The International Existing Building Code, 2003 Edition, as referenced in § 112-19, shall be revised as follows:

- A. The following subsections and/or words in the code are hereby revised to substitute the following words for the original words contained in the ordinance [original language is contained in brackets]:
- (1) Section 101.1. Substitute "Upper Frederick Township" for [Name of Jurisdiction].
 - (2) Substitute in all sections of the code "Code Enforcement Officer" for [The Code Official].
 - (3) Substitute in all sections of the code "The Board of Supervisors" for [The Governing Body].
 - (4) Substitute in all sections of the code "Code Appeals Board" for [Board of Appeals].
- B. Section 103 is amended to provide that the Code Enforcement Officer, as established by Upper Frederick Township through the adoption of the International Building Code, 2003 Edition, shall assume the responsibilities of § 103.
- C. Section 104 is amended to provide that the Code Enforcement Officer, as established by Upper Frederick Township through the adoption of the International Building Code, 2003 Edition, shall assume the responsibilities of § 104.
- D. Section 105.1.1 is amended to provide that all permits shall be issued by the Code Enforcement Officer, as established by Upper Frederick Township through the adoption of the International Building Code, 2003 Edition.
- E. Section 112.1 is deleted in its entirety. A new § 112.1 is hereby enacted to read as follows:
- "112.1 Appeals. Any person or persons shall have the right to appeal a decision of the Code Enforcement Officer to the Appeals Board in accordance with Uniform Construction Code §§ 403.121 and 403.122. An application for an appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed.
- "All such appeals shall be filed on a form obtained from the Code Enforcement Officer within 30 days after the notice of a decision was issued. The Appeals Board shall have exclusive jurisdiction over such appeals, and failure to appeal the decision of the Code Enforcement Officer to the Appeals Board renders the decision of the Code Enforcement Officer unappealable."
- F. Section 113.4 is hereby revised to add the following sentence at the end of the section:

"Any person or persons who violate a provision of the code or of a permit or certificate issued under the provisions of this code shall be guilty of a summary offense, punishable by a fine of not less than \$100, but not more than \$1,000, plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation continues shall constitute a separate offense."

§ 112-21. Automatic adoption.

By December 31 of the year of the issuance of a new triennial ICC International Existing Building Code, or its successor existing building code, the new International Existing Building Code, or its successor existing building code shall be automatically adopted as the Township of Upper Frederick Existing Building Code, including appendices as determined by the Pennsylvania Department of Labor and Industry.

ARTICLE VI
International Fuel Gas Code
[Adopted 6-10-2004 by Ord. No. 04-08]

§ 112-22. Adoption of Fuel Gas Code.

A certain document, a copy of which is on file in the office of the Township Secretary of Upper Frederick Township, being marked and designated as the International Fuel Gas Code, 2003 Edition, subject to the revisions below in § 112-23, and including Appendices A, B and C, be and is hereby adopted as the Fuel Gas Code of Upper Frederick Township, in Montgomery County, Pennsylvania, for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said International Property Fuel Gas Code are hereby referred to, adopted and made part hereof, as if fully set out in this article, with additions, insertions, deletions and changes, if any, prescribed in § 112-23 of this article.

§ 112-23. Additions, insertions and changes.

The International Fuel Gas Code, 2003 Edition, as referenced in § 112-22, shall be revised as follows:

- A. The following subsections and/or words in the code are hereby revised to substitute the following words for the original words contained in the ordinance [original language is contained in brackets]:
- (1) Section 101.1. Substitute "Upper Frederick Township" for [Name of Jurisdiction].
 - (2) Section 108.4. Substitute "summary offense" for [Specify Offense]; "\$1,000" for [Amount]; and "90 days" for [Number of Days].
 - (3) Section 108.5. Substitute "\$100" for the first reference to [Amount]; substitute "\$1,000" for the second reference to [Amount].
 - (4) Substitute in all sections of the code "Code Enforcement Officer" for [The Building Official].
 - (5) Substitute in all sections of the code "the Board of Supervisors" for [The Governing Body].

- B. The title of § 103 is deleted in its entirety. A new title is hereby enacted to read as follows:
"Code Enforcement Officer and Deputies."
- C. Section 103.1 is deleted in its entirety. A new § 103.1 is hereby enacted to read as follows:
"103.1 Creation of The Office of the Code Enforcement Officer. The office of the Code Enforcement Officer is hereby created, and the executive official(s) in charge thereof shall be known as the Code Enforcement Officer(s)."
- D. Section 103.2 is deleted in its entirety. A new § 103.2 is hereby enacted to read as follows:
"103.2 Appointment. The Code Enforcement Officer(s) shall be appointed by the Board of Supervisors and shall serve at the pleasure of the Board of Supervisors."
- E. The title of § 104.8 is deleted in its entirety. A new title is hereby enacted to read as follows:
"Section 104.8 Code Enforcement Officer's Records."
- F. Section 106.5.2 is deleted in its entirety. A new § 106.5.2 is hereby enacted to read as follows:
"The fees for all work, permits, charges, etc. shall be paid in accordance with the Fee Schedule Resolution in effect at the time application is made."
- G. Section 106.5.3 is deleted in its entirety. A new Section 106.5.3 is hereby enacted to read as follows:
"106.5.3 Fee Refunds. All fee refunds shall be paid in accordance with the Fee Schedule Resolution in effect at the time application is made."
- H. Subsections 109.1 through and including 109.6 are hereby deleted in their entirety. A new Subsection 109.1 is hereby enacted to read as follows:
"109.1 Appeals. Any person or persons shall have the right to appeal a decision of the Code Enforcement Officer to the Appeals Board in accordance with §§ 403.121 and 403.122 of the Uniform Construction Code, as amended as adopted by this Township. An application for an appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed.
"All such appeals shall be filed on a form obtained from the Code Enforcement Officer within 30 days after the notice of a decision was issued. The Appeals Board shall have exclusive jurisdiction over such appeals, and failure to appeal the decision of the Code Enforcement Officer to the Appeals Board renders the decision of the Code Enforcement Officer unappealable."
- I. Section 202 (IFGC) is hereby revised to include the following additional definition:
"Occupied: As applied to a building, or portion thereof, shall be construed as though followed by the words, 'or intended, arranged or designed to be occupied, or having a certificate of use and occupancy'."

§ 112-24. Automatic adoption.

By December 31 of the year of the issuance of a new triennial ICC International Fuel Gas Code, or its successor fuel gas code, the new International Fuel Gas Code, or its successor fuel gas code shall be automatically adopted as the Township of Upper Frederick Fuel Gas Code, including appendices as determined by the Pennsylvania Department of Labor and Industry.

ARTICLE VII
International Mechanical Code
[Adopted 6-10-2004 by Ord. No. 04-09]

§ 112-25. Adoption of Mechanical Code.

A certain document, a copy of which is on file in the office of the Township Secretary of Upper Frederick Township, being marked and designated as the International Mechanical Code, 2003 Edition, subject to the revisions below in § 112-26, and including Appendix A, is hereby adopted as the Mechanical Code of Upper Frederick Township, in Montgomery County, Pennsylvania, for the regulation and control of mechanical systems as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said International Mechanical Code are hereby referred to, adopted and made a part hereof as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed in § 112-26 of this article.

§ 112-26. Additions, insertions and changes.

The International Mechanical Code, 2003 Edition, as referenced in § 112-25, shall be revised as follows:

- A. The following subsections and/or words in the code are hereby revised to substitute the following words for the original words contained in the ordinance [original language is contained in brackets]:
 - (1) Section 101.1. Substitute "Upper Frederick Township" for [Name of Jurisdiction].
 - (2) Substitute in all sections of the code "Code Enforcement Officer" for [The Building Official].
 - (3) Substitute in all sections of the code "The Board of Supervisors" for [The Governing Body].
- B. Section 108 is amended to provide that all violations of any provision of this code shall be enforced in accordance with the provisions of § 113 of the International Building Code, 2003 Edition, adopted by Upper Frederick Township, and may be in accordance with the procedures provided in this code.
- C. Section 109 is amended to provide that all appeals, orders, decisions or determinations of the Code Enforcement Officer relative to the application and interpretation of this Code shall be heard by the Code Appeals Board in accordance with the provisions of § 112 of the International Building Code, 2003 Edition, adopted by Upper Frederick Township, which may operate in accordance with the provisions of this code.

- D. The title of § 103 is deleted in its entirety. A new title is hereby enacted to read as follows:
"Code Enforcement Officer and Deputies."
- E. Section 103.1 is deleted in its entirety. A new § 103.1 is hereby enacted to read as follows:
"103.1 Creation of The Office of The Code Enforcement Officer. The office of the Code Enforcement Officer is hereby created, and the executive official(s) in charge thereof shall be known as the Code Enforcement Officer(s)."
- F. Section 103.2 is deleted in its entirety. A new § 103.2 is hereby enacted to read as follows:
"103.2 Appointment. The Code Enforcement Officer(s) shall be appointed by the Board of Supervisors and shall serve at the pleasure of the Board of Supervisors."
- G. Section 106.5.2 is deleted in its entirety. A new § 106.5.2 is hereby enacted to read as follows:
"The fees for all work, permits, charges, etc. shall be paid in accordance with the Fee Schedule Resolution in effect at the time application is made."
- H. Section 106.5.3 is deleted in its entirety. A new § 106.5.3 is hereby enacted to read as follows:
"106.5.3 Fee Refunds. All fee refunds shall be paid in accordance with the Fee Schedule Resolution in effect at the time application is made."
- I. Subsections 109.1 through and including 109.5 are hereby deleted in their entirety. A new Subsection 109.1 is hereby enacted to read as follows:
"109.1 Appeals. Any person or persons shall have the right to appeal a decision of the Code Enforcement Officer to the Appeals Board in accordance with §§ 403.121 and 403.122 of the Uniform Construction Code, as amended as adopted by this Township. An application for an appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed.
"All such appeals shall be filed on a form obtained from the Code Enforcement Officer within 30 days after the notice of a decision was issued. The Appeals Board shall have exclusive jurisdiction over such appeals, and failure to appeal the decision of the Code Enforcement Officer to the Appeals Board renders the decision of the Code Enforcement Officer unappealable."
- J. Sections 109.2 through and including 109.7 are hereby deleted in their entirety.
- K. Section 202 is hereby revised to include the following additional definition:
"Occupied: As applied to a building, or portion thereof, shall be construed as though followed by the words, 'or intended, arranged or designed to be occupied, or having a certificate of use and occupancy'."

§ 112-27. Automatic adoption.

By December 31 of the year of the issuance of a new triennial ICC International Mechanical Code, or its successor mechanical code, the new International Mechanical Code, or its successor mechanical code shall be automatically adopted as the Township of Upper Frederick Mechanical Code, including appendices as determined by the Pennsylvania Department of Labor and Industry.

ARTICLE VIII
International Residential Code
[Adopted 6-10-2004 by Ord. No. 04-10]

§ 112-28. Adoption of International Residential Code for One- and Two-Family Dwellings, 2003 Edition.

A certain document, a copy of which is on file in the office of the Township Secretary of Upper Frederick Township, being marked and designated as, the International Residential Code For One- and Two-Family Dwellings, 2003 Edition, subject to the revisions below in § 112-29, and including Appendices A, B, C, E, F, and G, is hereby adopted as the Residential Code for One- and Two-Family Dwellings of Upper Frederick Township, in Montgomery County, Pennsylvania, for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said International Residential Code for One- and Two-Family Dwellings are hereby referred to, adopted and made a part hereof as if fully set out in this article, with the additions, insertions, deletions and changes, if any, contained below.

§ 112-29. Additions, insertions and changes.

The International Residential Code For One- and Two-Family Dwellings, 2003 Edition, as referenced in § 112-28, shall be revised as follows:

- A. The following subsections and/or words in the Code are hereby revised to substitute the following words for the original words contained in the ordinance [original language is contained in brackets]:
- (1) Section R101.1. Substitute "Upper Frederick Township" for [Name of Jurisdiction].
 - (2) Substitute in all sections of the code "Code Enforcement Officer" for [The Building Official].
 - (3) Substitute in all sections of the code "The Board of Supervisors" for [The Governing Body].
 - (4) Substitute in all sections of the code "Code Appeals Board" for [Board of Appeals].
- B. The title of § R103 is deleted in its entirety. A new title is hereby enacted to read as follows: "Code Enforcement Officer and Deputies."
- C. Section R103.1 is deleted in its entirety. A new § R103.1 is hereby enacted to read as follows:
- "R103.1. Creation of the Office of the Code Enforcement Officer. The office of the Code Enforcement Officer is hereby created."
- D. Section R103.2 is deleted in its entirety. A new § R103.2 is hereby enacted to read as follows:
- "R103.2. Appointment. The Code Enforcement Officer shall be appointed by the Board of Supervisors, and shall serve at the pleasure of the Board of Supervisors."
- E. Section 105.2.
- (1) Section 105.2 shall be amended by deleting in its entirety the exemption listed as Building: 4 which reads:

"Retaining walls which are not over four feet in height measured from the lowest level of grade to the top of the wall, unless it is supporting a surcharge or impounding class I, II or III-A liquids."
 - (2) Section 105.2 is further amended by deleting in its entirety the exemption listed as Building: 5. A new exemption listed as Building: 5 is hereby enacted to read as follows:

"Sidewalks and driveways that are 17 inches or less above adjacent grade not exceeding three feet and not placed over a basement or story below it."

F. Section R112.1 is deleted in its entirety. A new § R112.1 is hereby enacted to read as follows:

"R112.1. Appeals. Any person or persons shall have the right to appeal a decision of the Code Enforcement Officer to the Appeals Board in accordance with §§ 403.121 and 403.122 of the Uniform Construction Code, as amended. An application for an appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed.

"All such appeals shall be filed on a form obtained from the Code Enforcement Officer within 30 days after the notice of a decision was issued. The Code Appeals Board shall have exclusive jurisdiction over such appeals, and failure to appeal the decision of the Code Enforcement Officer to the Code Appeals Board renders the decision of the Code Enforcement Officer unappealable."

G. Section R113.4 is hereby amended to provide that all violations of any provisions of this code shall be enforced in accordance with the provisions of § 113 of the International Building Code, 2003 Edition, adopted by Upper Frederick Township. If the notice of violation is not complied with in the time prescribed by such notice, the Code Enforcement Officer is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto. This section is also revised to add the following text at the end of the section:

"Any person or persons who violate a provision of the code or of a permit or certificate issued under the provisions of this code shall be guilty of a summary offense, punishable by a fine of not less than \$100, but not more than \$1,000, plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation continues shall constitute a separate offense."

H. Table R301.2(1) contained within § R301 is hereby completed with the following climatic and geographic design criteria as noted below:

Ground snow load	30 pounds
Wind speed	90 mph
Seismic design category	B
Weathering	Severe
Frost line depth	30 inches
Termite protection	Moderate
Decay	Slight
Ice shield underlay required	Yes
Winter design temperature	13° F.
Flood hazards	See Chapter 285, Zoning
Air freezing index	1,000
Mean annual temperature	50° F.

I. Appendix I, Section AI101.1. Substitute "25 Pa. Code Chapter 73" for "International Private Sewage Disposal Code."

§ 112-30. Automatic adoption.

By December 31 of the year of the issuance of a new triennial ICC International Residential Code, or its successor residential code, the new International Residential Code, or its successor residential code shall be automatically adopted as the Township of Upper Frederick Residential Code, including appendices as determined by the Pennsylvania Department of Labor and Industry.

ARTICLE IX
International Plumbing Code
[Adopted 6-10-2004 by Ord. No. 04-11]

§ 112-31. Adoption of Plumbing Code.

A certain document, a copy of which is on file in the office of the Township Secretary of Upper Frederick Township, being marked and designated as the International Plumbing Code, 2003 Edition, subject to the revisions below in § 112-32, and including Appendices B, D, E and F, be and is hereby adopted as the Plumbing Code of Upper Frederick Township, in Montgomery County, Pennsylvania; for the regulation and control of plumbing systems as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said International Plumbing Code are hereby referred to, adopted and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed in § 112-32 of this article.

§ 112-32. Additions, insertions and changes.

The International Plumbing Code, 2003 Edition, as referenced in § 112-31, shall be revised as follows:

- A. The following subsections and/or words in the code are hereby revised to substitute the following words for the original words contained in the ordinance [original language is contained in brackets]:
- (1) Section 101.1. Substitute "Upper Frederick Township" for [Name of Jurisdiction].
 - (2) Section 108.5. Substitute "\$100" for the first reference to [Amount]; substitute "\$1,000" for the second reference to [Amount].
 - (3) Section 305.6.1. Substitute "36" for the first reference to [Number]; substitute "36" for the second reference to [Number].
 - (4) Section 904.1. Substitute "12 inches" for [Number].
 - (5) Substitute in all sections of the code "Code Enforcement Officer" for [The Building Official].
 - (6) Substitute in all sections of the code "the Board of Supervisors" for [The Governing Body].
- B. The title of § 103 is deleted in its entirety. A new title is hereby enacted to read as follows:
 "Code Enforcement Officer and Deputies."
- C. Section 103.1 is deleted in its entirety. A new § 103.1 is hereby enacted to read as follows:
 "103.1 General. The office of the Code Enforcement Officer is hereby created, and the executive official(s) in charge thereof shall be known as the Code Enforcement Officer(s)."
- D. Section 103.2 is deleted in its entirety. A new § 103.2 is hereby enacted to read as follows:
 "103.2 Appointment. The Code Enforcement Officer(s) shall be appointed by the Board of Supervisors and shall serve at the pleasure of the Board of Supervisors."
- E. Section 106.6.2 is deleted in its entirety. A new § 106.6.2 is hereby enacted to read as follows:
 "The fees for all plumbing work, permits, charges, etc. shall be paid in accordance with the Fee Schedule Resolution in effect at the time application is made."
- F. Section 106.6.3 is deleted in its entirety. A new § 106.6.3 is hereby enacted to read as follows:

"106.6.3 Fee Refunds. All fee refunds shall be paid in accordance with the Fee Schedule Resolution in effect at the time application is made."

- G. Subsections 109.1 through and including 109.6 are hereby deleted in their entirety. A new Subsection 109.1 is hereby enacted to read as follows:

"109.1 Appeals. Any person or persons shall have the right to appeal a decision of the Code Enforcement Officer to the Appeals Board in accordance with §§ 403.121 and 403.122 of the Uniform Construction Code, as amended as adopted by this Township. An application for an appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed.

"All such appeals shall be filed on a form obtained from the Code Enforcement Officer within 30 days after the notice of a decision was issued. The Appeals Board shall have exclusive jurisdiction over such appeals, and failure to appeal the decision of the Code Enforcement Officer to the Appeals Board renders the decision of the Code Enforcement Officer unappealable."

- H. Subsections 304.6.1 through 904.1 are hereby revised to delete all references to "(mm)."

§ 112-33. Automatic adoption.

By December 31 of the year of the issuance of a new triennial ICC International Plumbing Code, or its successor plumbing code, the new International Plumbing Code, or its successor plumbing code shall be automatically adopted as the Township of Upper Frederick Plumbing Code, including appendices as determined by the Pennsylvania Department of Labor and Industry.

ARTICLE X
International Energy Conservation Code
[Adopted 7-8-2004 by Ord. No. 04-12]

§ 112-34. Adoption of International Energy Conservation Code, 2003 Edition.

A certain document, a copy of which is on file in the office of the Township Secretary of Upper Frederick Township, being marked and designated as the International Energy Conservation Code, 2003 Edition, as published by the International Code Council, subject to the revisions below in § 112-35, and including the Appendix, be and is hereby adopted as the Energy Conservation Code of Upper Frederick Township, in Montgomery County, Pennsylvania, for regulating and governing energy efficient buildings envelopes and installation of energy efficient mechanical, lighting and power systems, as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said International Energy Conservation Code are hereby referred to, adopted and made part hereof, as if fully set out in this article, with additions, insertions, deletions and changes, if any, prescribed in § 112-35 of this article.

§ 112-35. Additions, insertions and changes.

The International Energy Conservation Code, 2003 Edition, as referenced in § 112-34, shall be revised as follows:

- A. The following subsections and/or words in the code are hereby revised to substitute the following words for the original words contained in the ordinance [original language is contained in brackets]:
- (1) Section 101.1. Substitute "Upper Frederick Township" for [Name of Jurisdiction].
 - (2) Substitute in all sections of the code "Code Enforcement Officer" for [The Building Official].
 - (3) Substitute in all sections of the code "The Board of Supervisors" for [The Governing Body].
- B. Section 104.1 (General) is hereby revised to replace the first sentence of the section with the following sentence:
- "Construction documents and other supporting data shall be submitted in one or more sets, with each application for any permit required by § 105 of the International Building Code, 2003 Edition, and the Uniform Construction Code adopted by Upper Frederick, Township."
- C. Section 105.1 (General) is hereby deleted. A new § 105.1 is hereby enacted to read as follows:
- "105.1 General: Construction or work for which a permit is required by the International Building Code, 2003 Edition, and the Uniform Construction Code adopted by Upper Frederick Township, shall be subject to inspection by the Code Enforcement Officer."

§ 112-36. Automatic adoption.

By December 31 of the year of the issuance of a new triennial ICC International Energy Conservation Code, or its successor energy conservation code, the new International Energy Conservation Code, or its successor energy conservation code shall be automatically adopted as the Township of Upper Frederick Energy Conservation Code, including appendices as determined by the Pennsylvania Department of Labor and Industry.

ARTICLE XI
International Fire Code
[Adopted 12-16-2004 by Ord. No. 04-16]

§ 112-37. Adoption of International Fire Code, 2003 Edition.

A certain document, a copy of which is on file in the office of the Township Secretary of Upper Frederick Township, being marked and designated as the International Fire Code, 2003 Edition, subject to the revisions below in § 112-38, and including appendices, is hereby adopted as the Fire Code of Upper Frederick Township, in Montgomery County, Pennsylvania, for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of building or premises in the jurisdiction, and each and all of the regulations, provisions, penalties, conditions and terms of said International Fire Code are hereby referred to, adopted and made a part hereof as if fully set out in this article, with the additions, insertions, deletions and changes, if any, contained below.

§ 112-38. Additions, insertions and changes.

The International Fire Code, 2003 Edition, as referenced in § 112-37, shall be revised as follows:

- A. The following subsections and/or words in the code are hereby revised to substitute the following words for the original words contained in the ordinance [original language is contained in brackets]:
 - (1) Section 101.1. Substitute "Upper Frederick Township" for [Name of Jurisdiction].
 - (2) Substitute in all sections of the code "Fire Marshal" for [The Fire Code Official].
 - (3) Substitute in all sections of the code "The Board of Supervisors" for [The Governing Body].
 - (4) Substitute in all sections of the code "Code Appeals Board" for [Board of Appeals].
- B. Section 103.1 is amended to provide as follows:

"The implementation, administration and enforcement of the provisions of this code shall be by the Fire Marshal, as established by Upper Frederick Township through the adoption of the International Building Code, 2003 Edition."
- C. Sections 103.2, 103.3 and 103.4 shall be amended to substitute the term "Fire Marshal" for "Fire Code Official."
- D. Section 104, and all subsections thereunder, are amended to provide that the Fire Marshal, as established by Upper Frederick Township through the adoption of the International Building Code, 2003 Edition, shall assume the responsibilities of the Fire Code Official, and the term "Fire Marshal" shall be substituted for the term "Fire Code Official," wherever such term is used.
- E. Section 105.1.1 is amended to provide that all permits shall be issued by the Fire Marshal, as established by Upper Frederick Township through the adoption of the International Building Code, 2003 Edition.
- F. Section 108.1 is amended to provide as follows:

"All appeals of orders, decisions or determinations made by the Fire Marshal relative to the application and interpretations of this Code shall be heard by the Appeals Board in accordance with the procedure in §§ 403.121 and 403.122 of the Uniform Construction Code, as amended as adopted by the Township. An application for appeal shall be based on a claim that the intent of this code, or the rules legally adopted hereunder, have been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent method of protection or safety is proposed. The Board shall have no authority to waive requirements of this code.

"All such appeals shall be filed on a form obtained from the Fire Marshal within 30 days after the notice of a decision was issued. The Appeals Board shall have exclusive jurisdiction over such appeals, and failure to appeal the decision of the Fire Marshal to the Appeals Board renders the decision of the Fire Marshal unappealable."

- G. Section 109, and all subsections thereunder, are amended to provide that the Fire Marshal, as established by Upper Frederick Township through the adoption of the International Building Code, 2003 Edition, shall assume the responsibility of the Fire Code Official, and the term "Fire Marshal" shall be substituted wherever the term "Fire Code Official" is used.
- H. Section 109.3 is amended to substitute the following words for the original words contained in the ordinance [original language is contained in brackets]:
 - (1) Substitute "summary offense" for [Specify Offense].
 - (2) Substitute "\$1,000" for [Amount].
 - (3) Substitute "30 days" for [Number of Days].

§ 112-39. Automatic adoption.

By December 31 of the year of the issuance of a new triennial ICC International Fire Code, or its successor fire code, the new International Fire Code, or its successor fire code shall be automatically adopted as the Township of Upper Frederick Fire Code, including appendices as determined by the Pennsylvania Department of Labor and Industry.

ARTICLE XII
Rental Licensing
[Adopted 7-14-2011 by Ord. No. 2011-03]

§ 112-40. Rental license required for rental units.

No person, firm or corporation shall operate a commercial or residential rental unit without first obtaining a license to do so from the Township, as provided hereafter.

- A. For licensing purposes, the Code Enforcement Officer shall fully inspect each rental unit upon any change of occupancy, upon a property transfer, upon a complaint that a violation has occurred or where the Code Enforcement Officer has reasonable cause to believe that a violation is occurring. All other rental units that have not been inspected for the reasons set forth above shall be inspected and licensed at least once every five years. Unless sooner revoked for cause, the rental license shall remain in effect until such time as the next inspection occurs.
- B. Prior to initial occupancy of newly constructed or newly created or substantially rehabilitated rental units, the owner, operator, responsible agent or manager of each rental unit shall register with and make written application to the Code Enforcement Officer for a rental license as herein provided. Such units will be exempt from further inspection, unless a complaint of violation has occurred or the Code Enforcement Officer has probable cause to believe that a violation has occurred, for a period of five years, unless inspected prior thereto by reason of reoccupancy or property transfer. Absent reoccupancy, property transfer or complaint of violation, it is the intent of this article to inspect all rental units at least once every five years. Initial inspections will occur in accordance with a phased-in systematic inspection program to be prepared and made available upon request by the Code Enforcement Officer. A minimum 60 days' written notice shall be given for all initial inspections. The penalty for not allowing an inspection shall be revocation of the rental registration or the rental license.

§ 112-41. Application.

Applications for rental licenses shall be made, in writing, to the Township by the owner of the rental unit(s), or his/her agent, in a form supplied by the Township.

§ 112-42. Compliance.

If the Code Enforcement Officer, upon completion of the inspection, finds that the applicable codes have not been met, a notice of violation shall be issued.

- A. Notices of violation and the procedure for remedial action of said violations will be addressed as set forth in Article V, International Existing Building Code, of Chapter 112, Code Enforcement, of the Code of Ordinances of the Township of Upper Frederick, as amended.
- B. If, after the expiration of the notice provision, or any extensions thereof, the second reinspection reveals that all violations have not been corrected, the rental registration or the rental license for the rental unit shall be revoked, and if the rental unit is vacant, it shall remain vacant.
- C. A fee will be charged for the initial inspection and for each reinspection.

§ 112-43. Issuance of rental license.

A rental license shall be issued if the rental unit meets the following conditions:

- A. The Code Enforcement Officer finds that the rental unit is in compliance with all sections of the applicable codes that are deemed necessary by the Code Enforcement Officer and the Township Fire Marshal to make the dwelling or commercial unit acceptable for occupancy. A list of such requirements shall be maintained by

the Code Enforcement Officer.

- B. The owner, operator or manager provides the name of a responsible agent (if applicable).
- C. The owner, operator, responsible agent or manager pays the license inspection and reinspection (if applicable) fee(s).
- D. The uses of the property are in compliance with Chapter 285, Zoning, of the Code of Ordinances of the Township of Upper Frederick, as amended.
- E. The owner, operator, responsible agent or manager has submitted a complete and accurate and annual occupant listing by rental unit.

§ 112-44. Revocation of rental license.

A rental license shall be revoked if the owner or operator of a rental unit does not provide the name of a responsible agent (if applicable); does not correct Code violations found in response to a complaint within the time frame cited by the Code Enforcement Officer; changes the uses of the property so as to no longer be in compliance with Chapter 285, Zoning, of the Code of the Township of Upper Frederick, as amended; and does not submit a complete and accurate occupant listing by rental unit by April 15 of each year. If the rental license is revoked and the rental unit is vacant, it shall remain vacant.

§ 112-45. Reinstatement of rental license.

A rental license shall be reinstated if the owner or operator of a rental unit corrects the reasons for the revocation of the rental license and has paid the license reinstatement fee.

§ 112-46. Sale or transfer of rental unit.

A rental license shall not be transferred. In the case of licensed rental units that are sold or transferred, the new owner shall apply for a rental license for each rental unit and each rental unit inspected. Failure to seek a rental license for each rental unit within 60 days of the date of sale or transfer of ownership shall result in revocation of the rental license.

§ 112-47. Appeals of revocation of rental license.

Any person aggrieved by any decision of the Code Enforcement Officer may appeal to the Code Hearing Board in accordance with Article I, Code Enforcement Procedures, of Chapter 112 of the Code of the Township of Upper Frederick, as amended.

§ 112-48. Fees; violations and penalties.

- A. Rental license and registration fees. All fees established in this article shall be set by resolution of the Board of Supervisors, from time to time.⁹ The applicable types of fees are as follows:
 - (1) Registration: the fee for a rental registration as set forth and required by § 202-3.
 - (2) Licensing: the fee required for a rental license, which shall be payable per each rental unit.
 - (3) Reinspections: the fee for any subsequent inspection and all subsequent reinspections per rental unit.
 - (4) Reinstatement: the fee to reinstate a revoked rental registration or a rental license on a per-rental-unit basis.

⁹ Editor's Note: The current fee resolution is on file in the Township offices.

B. Penalties.

- (1) Revocation of rental registration or rental license: a fine of not less than \$600 per rental unit for each month the violation exists. Each month the violation exists constitutes a separate violation. A fine shall not be sought for any period during which the rental unit is vacant, and the owner, operator, responsible agent or manager is taking appropriate action to correct the violations.
- (2) Failure to register or failure to seek a rental license. Failure to register or failure to seek a rental license (for newly constructed, newly created or substantially rehabilitated rental units):
 - (a) The owner, responsible agent or manager shall be sent a thirty-day notice of violation, warning him or her of his or her failure to comply with the terms of this article. If he or she does not comply at the end of 30 days, there shall be a fine of not less than \$600 per rental unit for each month the violation exists. Each month the violation exists constitutes a separate violation.
 - (b) Whoever violates any provision of this article, or any section of this article, shall, upon a first offense, be fined not more than \$1,000 or imprisonment not more than 90 days, or both.
 - (c) If, after any conviction for violation of this article, or any lawful order issued pursuant thereto, such person continues violation, then such person shall be liable for further prosecution, conviction and punishment without any necessity of the Code Enforcement Officer to issue a new notice of violation or order and until such violation has been corrected.
 - (d) In addition to prosecution of persons violating this article, the Code Enforcement Officer, or any duly authorized agent of the Township of Upper Frederick, may take such civil or equitable remedies in any court of record of the Commonwealth of Pennsylvania, against any person or property, real or personal, to effect the provisions of this article.

Chapter 117

CONTRACTORS, LICENSING OF

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick 1-7-2002 by Ord. No. 02-1. Amendments noted where applicable.]

§ 117-1. Short title.

This chapter shall be known and may be cited as the "Upper Frederick Township Contractor Licensing Ordinance."

§ 117-2. Definitions and word usage.

The following words and phrases, as used in this chapter, shall have the meanings ascribed to them in this section unless the context clearly indicates a different meaning. The masculine includes the feminine, the singular includes the plural, and the plural includes the singular.

CONTRACT — An agreement, whether oral or written, and whether contained in one or more documents, between a contractor and an owner or another contractor for the performance of work, including all labor, services and materials to be furnished and performed thereunder.

CONTRACTOR — Any person, other than a bona fide employee of the owner, who undertakes or offers to perform construction, alterations, repairs, site improvements, sign installation and any other residential or nonresidential construction, or demolition or blasting work in the Township, whether as a general contractor, subcontractor, specialty contractor or home improvement contractor with respect to the owner.

DIRECTOR — The Director of the Office of Code Enforcement of the Township of Upper Frederick.

LICENSE YEAR — The twelve-month period beginning the first day of January of each year.

OWNER — Any property owner, tenant or other person who orders, contracts for or purchases the services of a contractor, or any person entitled to the work of a contractor pursuant to a contract, gift or otherwise.

PERSON — Any individual, partnership, limited partnership, association, corporation, trust or other legally recognizable entity.

TOWNSHIP — The Township of Upper Frederick.

§ 117-3. Enforcement.

The Director, or his authorized representatives, shall administer and enforce the provisions of this chapter.

§ 117-4. Compliance required.

No person shall act as a contractor in the Township, except in compliance with the provisions of this chapter. Any person, including an owner, who willfully aids a contractor or participates with a contractor in violating any provisions of this chapter is in violation of this chapter. The provisions of this chapter may not be waived by agreement.

§ 117-5. Craft licenses.

A license issued pursuant to this chapter shall not be construed to authorize the licensee to perform any particular type of work or type of business which is reserved to qualified licensees under other provisions of state or local law.

§ 117-6. License required; applications and renewals.

A. For the license year beginning January 1, 2002, and each license year thereafter, it shall be unlawful for any

person, firm or corporation to engage in the business of constructing, altering, repairing, roofing, remodeling, siding, demolishing or removing the whole or any part of a building or structure; or to install, resurface or improve driveways or sidewalks; or to engage in the construction or installation of swimming pools, satellite-receiving antennas, tennis courts, fences, garages, carports or storage sheds; or to engage in installation or replacement of heating/ventilating/air conditioning or sprinkler systems, tanks and gasoline pumps; or to engage in site improvement, including grading, paving, curbing or stormwater drainage installation; or to engage in the business of erecting or altering signs; or to engage in the hauling and spreading of sludge; or engage in the sale and installation of automatic protection devices; or conducting electrical inspections, without first obtaining a license therefor, as required by this chapter. **[Amended 2-17-2011 by Ord. No. 2011-01]**

- B. Such license shall be secured by the filing of an application, prepared and furnished by the Director, and the payment of a license fee as hereinafter set forth in this chapter.
- C. Each application shall be signed by the applicant, if a natural person, and, in the case of an association, firm, partnership or corporation, by a member, officer or agent of said association, firm, partnership or corporation. For each association, firm, partnership or corporation, any license will be issued in the name of the association, firm, partnership or corporation and the individual officer or agent of the association, firm, partnership or corporation who applies for the license shall be the custodian of the license. If the individual custodian of the license ceases to be an associate, member or agent of the association, firm, partnership or corporation, the association, firm, partnership or corporation shall promptly inform the Township of the name, title, position and address of the new custodian of the license.
- D. Each successful applicant shall be issued a license, which shall be in the form of a wallet-sized card. Each licensed contractor shall carry the license card on their person and, upon demand, shall display the license card to the Director, or his representative.
- E. All contractors' licenses shall expire at 12:00 midnight on December 31 of each license year, unless the license is revoked or suspended prior thereto under the terms of this chapter. A person with an unexpired license, which has not been revoked or suspended during the current license year, who makes application for a license for the following license year, need not complete an application form, but must submit the required license fee and, if the person qualifies for licensing and renewal under the terms of this chapter, the license shall be renewed for the following license year and a new license card and bumper sticker will be issued for the current licensing year.
- F. Any person carrying on the business of contracting in the Township of Upper Frederick must secure a license under the terms of this chapter for each license year during which he carries on such business.

§ 117-7. Exceptions and exemptions.

- A. The provisions of this chapter shall not apply to the official transactions of any authorized representative of the government of the United States, any state or commonwealth of the United States, any political subdivision of any state or commonwealth or any agency or instrumentality of the foregoing governments.
- B. No contractor's license shall be required of any person when acting in a particular capacity or particular type of transaction, as follows:
 - (1) A person who performs labor or services for a contractor for wage or salary.
 - (2) An individual who is required by other state or local law to attain standards of competency or experience, and who must obtain licensing under such other state or local law, as a prerequisite to engage in a craft or profession, and who is acting exclusively within the scope of such craft or profession for which he is currently licensed pursuant to such other law.

§ 117-8. Insurance required.

No contractor's license shall be issued unless the applicant files a certificate of insurance with the Director at the time of license application. The certificate of insurance shall contain a provision that coverage's afforded under the policy will not be cancelled until at least 15 days prior written notice of such cancellation has been given to the Township of Upper Frederick. The certificate of insurance must evidence policies of insurance, maintained at the expense of the applicant, for public liability, property damage, products liability and completed operations, each of which must have a single occurrence limit of at least \$300,000 for all contractors and must name the Township of Upper Frederick as an additional insured. Blasting and demolition insurance shall also be required for blasting and demolition contractors; blasting and demolition insurance coverage must be in the amount of \$1,500,000, and must name the Township of Upper Frederick as an additional insured for the time period involved for the blasting or demolition permit. All types and limits of insurance for which certificates are presented at the time of application, and based upon which a license is issued, shall be maintained throughout the license year, or the license will be suspended or revoked as hereinafter set forth in this chapter. The Director must approve the responsibility of a new insurance carrier prior to a change in a carrier during a license year.

§ 117-9. License fees; transferability.

At the time of application for a new license or for the renewal of a current license, the applicant shall pay to the Director a license application fee, all payable to the Township of Upper Frederick, which fee shall be set by resolution of the Board of Supervisors of Upper Frederick Township. No fee, or portion thereof, shall be returned to a successful applicant. Except as provided in § 117-6C, as to custodians of licenses for organizations, no license shall be transferable.

§ 117-10. Issuance or refusal to issue license; form of license application.

- A. When an application has been filed with the Director in proper form, the Director shall, within a period of 30 days from the date following the date the application is received, issue or refuse to issue the appropriate contractor's license to the applicant. If issuance of a license is denied, the Director shall mail to the unsuccessful applicant a written statement setting forth the reason or reasons for the denial within the aforesaid thirty-day period.
- B. The application for a license shall be a printed form, provided to the applicant by the Director, and the application shall require a written answer to all questions contained thereon. Failure to answer all questions on the application form shall mean that the applicant is not entitled to consideration of his application until he has answered all questions. The application form shall be signed by the applicant under oath. The questions and information requested on the application form shall include, but not be limited to, the following:
 - (1) The names of owners, partners, directors and officers of the applicant and the business address and trade names of the applicant.
 - (2) A statement as to whether or not any municipalities have refused to issue or have revoked any similar contractor's license to the applicant within two years previous to the date of the application. In the event there has been such a denial or revocation, the applicant must explain, in writing, the reasons for such denial or revocation.
 - (3) A listing of at least five previous contractors' jobs completed by the applicant within one year prior to the application, along with a statement of the location of the jobs, and the names, addresses and telephone numbers of the party or parties who contracted with the applicant for such jobs.
 - (4) A listing of all convictions within two years prior to the date of the application for any crimes or offenses under any federal or state criminal statutes or common law criminal offenses, or for violation of any Township ordinance, so long as such convictions were for crimes or offenses related to the applicant's work or contracts as a contractor. The term "conviction" shall include guilty pleas and pleas of nolo

contendere. If any such conviction exists, the applicant shall give, in writing, the caption, court and term number of the proceeding leading to the conviction. The applicant shall also explain, in writing, the nature of the conviction.

- (5) A listing of all unsatisfied civil judgments in any jurisdiction against the applicant, if such civil judgments were entered in a lawsuit in which it was alleged that the applicant failed to complete a contract, as defined in this chapter, or improperly performed a contract, as defined in this chapter. The applicant shall give, in writing, the caption, court and term number of the civil action upon which any such judgments were entered, and shall explain, in writing, the nature of all such civil judgments.

§ 117-11. Changes in ownership, management, address or trade name.

Every contractor licensee shall, within 10 days after a change in ownership, directors, officers, management, address or trade name, notify the Director of such change.

§ 117-12. Standards for refusal of issuance or renewal of license.

No license shall be issued or renewed under the following circumstances:

- A. If the applicant falsely answered any question or questions contained on the application form.
- B. If the applicant has been refused a similar contractor's license, or has had a similar contractor's license revoked or suspended by another municipality within two years prior to the date of application for issuance or renewal; and if the refusal, revocation or suspension by the other municipality was due to failure to comply with that municipality's building codes.
- C. If the applicant has been convicted, within two years prior to the date of the application, for any crimes or offenses under any federal or state criminal statute or common law criminal offense, or for violation of any Township ordinance, so long as such convictions were for crimes or offenses related to the applicant's work as a contractor. The term "conviction" shall include guilty pleas and pleas of nolo contendere.
- D. If an unsatisfied civil judgment against the applicant exists in any court in any jurisdiction, and if the record of such court shows that such judgment was entered because of the applicant's failure to complete a contract, as defined in this chapter, or if such judgment was entered because of the applicant's failure to properly perform a contract, as defined in this chapter.

§ 117-13. Revocation of license.

- A. The Director shall revoke any license issued under the provisions of this chapter under the following circumstances:
 - (1) If the licensee falsely answered any question or questions contained on the application for licensing or renewal of licensing previously submitted to the Director.
 - (2) Failure of the licensee to maintain, during the license year, the policies of insurance required under the provisions of this chapter.
 - (3) If the licensee violates any of the terms or provisions of this chapter of the Upper Frederick Township Code , as amended, or any terms or provisions of this chapter.
 - (4) If the licensee violates any condition or requirement of a building permit, sewer construction permit or highway permit issued by the Township of Upper Frederick.
 - (5) If the licensee willfully deviates from or disregards any plans or specifications for any contracting job in any material respect without first obtaining the consent of the owner, in writing, to any such change and without first notifying the Director of any such change.

- (6) If the licensee does any business through any person who is subject to the licensing requirements of this chapter and who is not licensed as required by this chapter.
- (7) If the licensee conducts a contractor's business in the Township under any name other than that under which he is licensed.
- (8) If the licensee fails to comply with an order, demand or requirement lawfully made by the Director under the authority of this chapter or any other Township ordinance.

B. Revocation of a license shall remain in effect for a period of one year, after which the licensee may reapply.

§ 117-14. Appeals.

Appeals from any decisions of the Director shall be made within 30 days to the Board of Supervisors, who shall hold a hearing and thereafter render a decision.

§ 117-15. Prohibited acts.

In addition to all other acts prohibited by the terms of this chapter, those acts warranting revocation of a license under this chapter shall also be prohibited.

§ 117-16. Violations and penalties.

In addition to refusal or revocation of a license as provided under this chapter, any person, as defined in this chapter, or any officer, agent, servant or employee thereof who shall fail, neglect or refuse to comply with any of the terms or provisions of this chapter shall, upon conviction thereof before a District Justice, be sentenced to pay a fine or penalty not to exceed \$1,000 and costs of prosecution for each offense, to be collected as like fines or penalties and costs are now by law collectible. The fine or penalty imposed by this section shall be in addition to any other penalty imposed by this chapter.

Chapter 133

EVENTS, SPECIAL

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick 5-12-2005 by Ord. No. 05-04. Amendments noted where applicable.]

§ 133-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

PERSONS — Individuals, partnerships, family groups, voluntary associations, municipal corporations and corporations.

SPECIAL EVENTS — A noteworthy happening, social occasion or activity which will expect to draw in excess of 250 people to attend. Special events shall not include weddings, family reunions or other events that do not require the use of public property or assistance from the Township. "Special events" shall include, but not be limited to, festivals, fairs, raves, carnivals, concerts and other similar events.

TOWNSHIP — Upper Frederick Township. **[Added 6-10-2010 by Ord. No. 2010-03]**

§ 133-2. Permit required. [Amended 6-10-2010 by Ord. No. 2010-03]

It shall be unlawful for any person to conduct a special event within the geographic boundaries of the Township without first obtaining a permit from the Township after filing an application containing the information therein specified. If an applicant intends to place any markings on, or post any signs along, the roads or streets of the Township in conjunction with the special event, approval of the Township shall first be obtained. All signs posted shall be removed within 24 hours of the scheduled event.

§ 133-3. Fees; bond.

There shall be a nonrefundable fee for any license issued as set by the Board of Supervisors pursuant to a resolution.¹⁰ The Board of Supervisors may require the applicant to post a bond to cover any damages and/or expenses incurred by the Township related to the special event.

§ 133-4. Enforcement; decorum.

- A. This chapter shall be enforced by the Township Code Enforcement Officer, and it shall be his/her duty to investigate and prosecute any violation of this chapter.
- B. If, after an investigation, a violation is found to exist, the Code Enforcement Officer shall prosecute a complaint before a District Justice pursuant to the provisions of this chapter.
- C. The person to whom the special event permit was issued, and the person conducting the special event and the owner, tenant or occupant of the premises where the special event is conducted, shall be jointly or severally responsible for the maintenance of good order and decorum on the premises during the hours of such special event.
 - (1) No such person shall permit any loud or boisterous conduct on such premises or street vehicles to impede the passage of the traffic on any roads or streets in the area of the premises where the special event is being conducted, unless otherwise authorized.
 - (2) In the event of an emergency, all such persons shall obey reasonable orders from any member of the Code Enforcement Office, Police Department or Fire Department in order to maintain the public health, safety and convenience.

10. Editor's Note: A copy of the current resolution is on file in the Township offices.

§ 133-5. Violations and penalties.

Any person, firm or corporation who shall violate any provision of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not more than \$600.

Chapter 140

FLOODPLAIN MANAGEMENT

HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick 2-11-2016 by Ord. No. 2016-02. Amendments noted where applicable.

GENERAL REFERENCES

Soil erosion, sedimentation and grading control — See Ch. 219.

Subdivision and land development — See Ch. 240.

Stormwater management — See Ch. 228.

Zoning — See Ch. 285.

ARTICLE I
Statutory Authorization

§ 140-1. Authorization by Pennsylvania Legislature.

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

ARTICLE II
General Provisions

§ 140-2. Intent.

The intent of this chapter is to:

- A. Protect areas of the floodplain necessary to contain floodwaters.
- B. To permit only those uses in the floodplain that are compatible with preserving natural conditions and stream flow.
- C. Promote the general health, welfare and safety of the community by preventing development in areas prone to flooding.
- D. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- E. Minimize danger to public health by protecting water supply and natural drainage.
- F. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
- G. Comply with federal and state floodplain management requirements.

§ 140-3. Applicability.

- A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within any identified floodplain area (as defined in Article IV herein) within the Township unless in strict conformance with the provisions of Chapter 285, Zoning, this chapter, and unless a permit has been obtained from the floodplain administrator.
- B. A permit shall not be required for minor repairs to existing buildings or structures.

§ 140-4. Abrogation and greater restrictions.

This chapter supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other provisions of this chapter 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 chapter, the more restrictive shall apply.

§ 140-5. Severability.

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

§ 140-6. Warning and disclaimer of liability.

- A. The degree of flood protection sought by the provisions of this chapter is considered reasonable for regulatory purposes and is based on acceptable 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 chapter does not imply that areas outside the identified floodplain area, or that land uses permitted within such areas will be free from flooding or flood damages.
- B. This chapter shall not create liability on the part of Upper Frederick Township or any officer or employee

thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made there under.

ARTICLE III
Definitions

§ 140-7. General.

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

§ 140-8. Specific Definitions.

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.

BASE FLOOD — A flood which has a one percent chance of being equaled or exceeded in any given year (also called the "one-hundred-year flood" or "one-percent annual chance flood").

BASE FLOOD ELEVATION (BFE) — The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a one-percent or greater chance of being equaled or exceeded in any given year. The BFE is also shown on the FIS profile, and can be determined for Zone A floodplains.

BASEMENT — Any area of the building having its floor below ground level on all sides.

BUILDING — A combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.

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

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.

EXISTING STRUCTURE — A structure for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975 for FIRMs effective before that date. "Existing Structure" may also be referred to as "existing construction."

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).

FLOOD — A temporary inundation of normally dry land areas.

FLOOD INSURANCE RATE MAP (FIRM) — The official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) — The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

FLOODPLAIN AREA — A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

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.

FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURES — Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Pennsylvania Historical and Museum Commission (PHMC) as meeting the criteria for individual listing on the National Register;
- B. Certified or preliminarily determined by the Pennsylvania Historical and Museum Commission (PHMC) as contributing to the historical significance of a National Register historic district or a district preliminarily determined by the PHMC to be eligible to qualify for listing in the National Register; or
- C. Designated as historic by a municipal ordinance:
 - (1) Identified individually or as part of a local historic district by a zoning ordinance under the authority of the Pennsylvania Municipalities Planning Code; or
 - (2) Located in a local historic district that has been certified by the Pennsylvania Historical and Museum Commission as meeting the requirements of the Pennsylvania Historic District Act.

IDENTIFIED FLOODPLAIN AREA — See Article IV.

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 nonelevation design requirements of this chapter.

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.

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MINOR REPAIR — The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after September 12, 1974, and includes any subsequent improvements thereto.

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.

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.

POST-FIRM STRUCTURE — A structure for which construction or substantial improvement occurred after December 31, 1974, or on or after the community's initial FIRM dated September 12, 1974, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

PRE-FIRM STRUCTURE — A structure for which construction or substantial improvement occurred on or before December 31, 1974, or before the community's initial FIRM dated September 12, 1974, and as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

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; and
- D. Not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REDEVELOPMENT AREA — A census tract or group of census tracts eligible for the Montgomery County Revitalization Program and identified in the adopted municipal revitalization plan.

REGULATORY FLOOD ELEVATION — The regulatory flood elevation is the elevation to which development is regulated for purposes of elevation and/or dry floodproofing. It is equal to the base flood elevation (BFE), plus a freeboard of 1 1/2 feet.

REPETITIVE LOSS — Flood related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25% of the market value of the structure before the damages occurred.

SPECIAL FLOOD HAZARD AREA (SFHA) — An area in the floodplain subject to a one-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.

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 from the date of the permit, and shall be completed within 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 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.

STRUCTURE — A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBDIVISION — The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall be

exempted.

SUBSTANTIAL DAMAGE — Damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% or more of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage (or repetitive loss when a repetitive loss provision is used) 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. For alteration of historic structures, see § 140-18E.

TOWNSHIP — The Township of Upper Frederick, Montgomery County, Pennsylvania.

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.

VIOLATION — 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.

ARTICLE IV
Identification of Floodplain Areas

§ 140-9. Identification.

- A. The identified floodplain area shall be:
- (1) Any areas of the Township classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated March 2, 2016, and issued by the Federal Emergency Management Agency (FEMA), or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.
 - (2) Areas with soils listed in § 140-10B.
 - (3) Any community identified flood hazard areas.
- B. The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Upper Frederick Township and declared to be a part of this chapter.

§ 140-10. Description of identified floodplain areas.

- A. Identified floodplain areas shall consist of the following specific areas as identified on the Township's FIRMs:
- (1) The floodway area shall be those areas identified as floodway on the FIRM, as well as those floodway areas which have been identified in other available studies or sources of information for those special floodplain areas where no floodway has been identified in the FIS. The floodway represents the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation by more than one foot at any point.
 - (a) Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - (b) No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection Regional Office.
 - (2) The AE Area/District without floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA and for which base flood elevations have been provided in the FIS, but no floodway has been delineated.
 - (a) In AE Area/District without floodway, no new development shall be permitted unless it can be demonstrated that the cumulative effect of all past and projected development will not increase the BFE by more than one foot.
 - (b) No permit shall be granted for any construction, development, use or activity within any AE Area/District without floodway unless it is demonstrated that the cumulative effect of the proposed development would not, together with all other existing and anticipated development, increase the BFE more than one foot at any point.
 - (3) The A Area/District shall be the areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no one-percent annual chance flood elevations have been provided. For these areas, elevation and floodway information from other federal, state or other acceptable source shall be used when available. Where other acceptable information is not available, the elevation shall be determined by using the elevation of a point on the boundary of identified floodplain area which is

nearest the construction site.

- (a) 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.

B. Requisite soil frequency.

- (1) Identified floodplain areas shall consist of soils with a frequency of flooding of 1% or greater per year, as delineated by the Natural Resources Conservation Service, United States Department of Agriculture Web-Based Soil Survey (available online at <http://websoilsurvey.nrcs.usda.gov/>), including the following:
 - (a) Bowmansville - Knauers (Bo).
 - (b) Gibraltar (Gc).
 - (c) Hatboro (Ha).
 - (d) Rowland (Rt).
 - (e) Rowland (RwA).
 - (f) Rowland (RwB).
 - (g) Urban land occasionally flooded (UrA).
- (2) In lieu of the above, the Township may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Township.

§ 140-11. Changes in identification of area.

The Identified Floodplain Area designated per § 140-10A may be revised or modified by the Board of Supervisors where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the FEMA. Additionally, as soon as practicable, but not later than six months after the date such information becomes available, a community shall notify FEMA of the changes by submitting technical or scientific data. Preparation and submittal of all studies and information required by FEMA for changes to the identified floodplain shall be the responsibility of the applicant.

§ 140-12. Boundary disputes.

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

§ 140-13. Corporate 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 44 CFR 60.3.

ARTICLE V
Uses in The Identified Floodplain Area

§ 140-14. Uses permitted by right.

Only those uses listed in the FPC Floodplain Conservation Overlay District of the Township Zoning Ordinance¹¹ as may be amended from time to time shall be allowed within the Identified Floodplain Area.

§ 140-15. Uses prohibited in identified floodplain area.

Those uses listed in the FPC Floodplain Conservation Overlay District of the Township Zoning Ordinance¹² as may be amended from time to time shall be prohibited within the Identified Floodplain Area.

§ 140-16. Conditional uses.

Only those uses listed in the FPC Floodplain Conservation Overlay District of the Township Zoning Ordinance as may be amended from time to time shall be allowed by conditional use within the Identified Floodplain Area.

§ 140-17. Nonconforming structures and uses in identified floodplain district.

The provisions of this chapter do not require any changes or improvements to be made to lawfully existing structures or uses. However, when an improvement is made to any existing structure, the provisions of § 140-18 of this chapter, and Article VI of the Township Zoning Ordinance¹³ shall apply.

§ 140-18. Improvements to existing structures in identified floodplain area.

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

- A. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the base flood elevation.
- B. No expansion or enlargement of an existing structure shall be allowed within any AE Area/District with floodway, as defined in § 140-10B, that would, together with all other existing and anticipated development, increase the BFE more than one foot at any point.
- C. No expansion or enlargement of an existing structure shall be undertaken in the direction of the streambank.
- D. Any modification, alteration, reconstruction or improvement of any kind to an existing structure, to an extent or amount of 50% or more of its market value, shall constitute a substantial improvement, and shall be undertaken only in full compliance with the provisions of this chapter.
- E. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this chapter must comply with all ordinance requirements that do not preclude the structure's continued designation as an 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 the ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.
- F. The above activity shall also address the requirements of the latest adopted Pennsylvania versions of the

11. Editor's Note: See Ch. 285, Zoning.

12. Editor's Note: See Ch. 285, Zoning.

13. Editor's Note: See Ch. 285, Zoning.

International Building Code and International Residential Code, as amended.

- G. Any modification, alteration, reconstruction or improvement of any kind that meets the definition of "repetitive loss" shall be undertaken only in full compliance with the provisions of this chapter.

§ 140-19. General.

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

§ 140-20. Variance procedures and conditions.

- A. For a use other than those permitted in Article V, an application seeking approval by variance shall be forwarded to the Zoning Hearing Board, along with required studies or information and the findings of the Zoning Officer.
- B. No variance shall be granted for any construction, development, use or activity within any floodway area that would cause any increase in the BFE.
- C. No variance shall be granted for any construction, development, use or activity within any AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE at any point.
- D. No variance shall be granted for the specifically prohibited uses contained in the following sections of the Township Zoning Ordinance: § 285-138C, § 285-138F, § 285-138G, § 285-138H and § 285-138I.

§ 140-21. Variance conditions.

- A. If granted, a variance shall involve only the least modification necessary to provide relief.
- B. In granting any variance, the Zoning Hearing Board shall attach the reasonable conditions and safeguards outlined herein. These conditions and safeguards are necessary in order to protect the public health, safety and welfare of the residents of the municipality.
- C. Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that:
 - (1) The granting of the variance may result in increased premium rates for flood insurance.
 - (2) Such variances may increase the risks to life and property.
- D. In reviewing any request for a variance, the Zoning Hearing Board shall consider, at a minimum, the following:
 - (1) That there is good and sufficient cause, including:
 - (a) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the Zoning Ordinance¹⁴ in the neighborhood or district in which the property is located.
 - (b) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance,¹⁵ and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

14. Editor's Note: See Ch. 285, Zoning.

15. Editor's Note: See Ch. 285, Zoning.

- (c) That such unnecessary hardship has not been created by the appellant.
 - (d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- (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.
- E. A complete record of all variance requests and related actions shall be maintained by the Township. In addition, a report of all variances granted during the year shall be included in the biennial report to FEMA.

ARTICLE VII
Technical Provisions

§ 140-22. General.

In granting any variance, the Township Zoning Hearing Board shall attach the following technical provisions to the proposal for which the variance has been granted. These conditions and safeguards are necessary in order to protect the public health, safety and welfare of the residents of the municipality.

- A. Pertaining to 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 been first 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, the FEMA and Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.
- B. The municipality shall require technical or scientific data to be submitted to FEMA for a Letter of Map Revision (LOMR) within six months of the completion of any new construction, development or other activity resulting in changes in the BFE. A LOMR or conditional letter of map revision (CLOMR) is required for:
- (1) Any development that causes a rise in the base flood elevations within the floodway; or
 - (2) Any development occurring in Zones A1-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or
 - (3) Alteration or relocation of a stream (including, but not limited to, installing culverts and bridges).
- C. Any new construction, development, uses or activities allowed by variance within any floodplain conservation district shall be undertaken in strict compliance with the provisions contained in this chapter and any other applicable codes, ordinances and regulations. In addition, when such development is proposed within the area measured 50 feet landward from the top of bank of any watercourse, a permit shall be obtained from the Department of Environmental Protection Regional Office.

§ 140-23. Elevation and floodproofing requirements.

- A. Residential structures.
- (1) In AE and A1-30 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 § 140-10A(3) of this chapter.
 - (3) The design and construction standards and specifications contained in the latest adopted Pennsylvania versions of the International Building Code and the International Residential Code, as amended, shall be utilized.
- B. Nonresidential structures.

- (1) In AE and A1-30 Zones, any new construction or substantial improvement of a nonresidential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that the space enclosed below the regulatory flood elevation:
 - (a) Is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water; and
 - (b) As 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 § 140-10A(3) of this chapter.
- (3) Any nonresidential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations," published by the United States 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.
- (4) The design and construction standards and specifications contained in the latest adopted Pennsylvania versions of the International Building Code and the International Residential Code, as amended, and ASCE 24 shall be utilized.

C. Space below 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 floodwaters 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) Minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space.
 - (b) The bottom of all openings shall be no higher than one foot above grade.
 - (c) Openings may be equipped with screens, louvers, etc. or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

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

- (1) The structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material and equipment related to the principal use or activity.
- (2) Floor area shall not exceed 100 square feet.
- (3) The structure will have a low damage potential.
- (4) The structure will be located on the site so as to cause the least obstruction to the flow of floodwaters.

- (5) Power lines, wiring and outlets will be elevated to 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 or movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - (a) A minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space.
 - (b) The bottom of all openings shall be no higher than one foot above grade.
 - (c) Openings may be equipped with screens, louvers, etc. or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

§ 140-24. Design and construction standards.

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

- A. Fill. If fill is used, it shall:
 - (1) Extend laterally at least 15 feet beyond the building line from all points;
 - (2) Consist of soil or small rock materials only: sanitary landfills shall not be permitted;
 - (3) Be compacted to provide the necessary permeability and resistance to erosion, scouring or settling;
 - (4) Be no steeper than one vertical to two horizontal feet unless substantiated data, justifying steeper slopes, are submitted to and approved by the floodplain administrator; and
 - (5) 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 insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.
- 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 floodwaters.
 - (2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
 - (3) No part of any on-site sewage system shall be located within any Floodplain Conservation District, 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 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 shall be stored at or above the regulatory flood elevation and/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 floodwater.
- 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.) 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 feet above the base flood elevation.
 - (2) Separate electrical circuits shall serve lower levels, and shall be dropped from above.
- L. Equipment. Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus, shall not be located below the regulatory flood elevation.
- M. Fuel supply systems. All gas and oil supply systems shall be designed to prevent the infiltration of floodwaters into the system and discharges from the system into floodwaters. Additional provisions shall be made for the drainage of these systems in the event that floodwater infiltration occurs.

- N. Uniform Construction Code coordination. The Standards and Specifications of the latest adopted Pennsylvania versions of the International Building Code and International Residential Code, as amended, shall apply to the above and other sections and subsections of this chapter, to the extent that they are more restrictive and supplement the requirements of this chapter.

§ 140-25. Special requirements for subdivisions and land developments.

All subdivision or land development proposals with area 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 when deemed necessary by the Township. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision.

§ 140-26. Special requirements for manufactured homes.

- A. Within identified floodplain areas, manufactured homes shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.
- B. Where permitted by variance within identified floodplain areas, 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 1 1/2 feet above the base flood elevation;
 - (3) Anchored to resist flotation, collapse or lateral movement.
- C. 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 the latest adopted Pennsylvania version of the International Residential Building Code or the United States Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing, 1984 Edition, draft or latest revision thereto, shall apply and 34 Pa. Code Chapters 401 through 405.
- D. Consideration shall be given to the installation requirements of the latest adopted Pennsylvania versions of the International Building Code and International Residential Code, as amended, where appropriate and applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the unit(s) proposed installation.

§ 140-27. Special requirements for recreational vehicles.

Recreational vehicles in Zones A1-30 and AE must either:

- A. Be on the site for fewer than 180 consecutive days; and
- B. Be fully licensed and ready for highway use; or
- C. Meet the permit requirements for manufactured homes in § 140-26.

ARTICLE VIII
Administration

§ 140-28. Designation of floodplain administrator.

The Building Code Official is hereby appointed to administer and enforce this chapter and is referred to herein as the floodplain administrator.

§ 140-29. Permits required.

A permit shall be required before any construction or development is undertaken within identified floodplain areas.

§ 140-30. Duties and responsibilities of floodplain administrator.

- A. 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.
- B. 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 United States Clean Water Act, § 404, 33 U.S.C. 1344. No permit shall be issued until this determination has been made.
- C. 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 repetitive loss issues can be addressed before the permit is issued.
- D. 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. The floodplain administrator shall make as many inspections during and upon completion of the work as are necessary.
- E. In the discharge of his/her duties, the floodplain administrator shall have the authority to enter any building, structure, premises or development in identified floodplain areas, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this chapter.
- F. In the event the floodplain administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the floodplain administrator shall revoke the permit and report such fact to the Board of Supervisors for whatever action it considers necessary.
- G. The floodplain administrator shall maintain all records associated with the requirements of this chapter, including, but not limited to, permitting, inspection and enforcement.
- H. The floodplain administrator shall consider the requirements of the latest adopted Pennsylvania versions of the International Building Code and the International Residential Code, as amended.

§ 140-31. Application procedures and requirements.

- A. Application for such a permit shall be made, in writing, to the floodplain administrator on forms supplied by the Township. Such application shall contain the following:
 - (1) Name and address of applicant.

- (2) Name and address of owner of land on which proposed construction is to occur.
 - (3) Name and address of contractor.
 - (4) Site location, including address.
 - (5) Listing of other permits or variances required.
 - (6) 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.
- B. If any proposed construction or development is located entirely or partially within any floodplain conservation district, applicants for permits shall provide all the necessary information in sufficient detail and clarity to enable the floodplain administrator to determine that:
- (1) All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
 - (2) All utilities and facilities, such as sewer, gas, electrical and water systems, are located and constructed to minimize or eliminate flood damage;
 - (3) Adequate drainage is provided so as to reduce exposure to flood hazards;
 - (4) Structures will be anchored to prevent flotation, collapse or lateral movement;
 - (5) Building materials are flood-resistant;
 - (6) Appropriate practices that minimize flood damage have been used; and
 - (7) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and/or located to prevent water entry or accumulation.
- C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the floodplain administrator to make the above determination:
- (1) A completed permit application form.
 - (2) A plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 100 feet or less, showing the following:
 - (a) North arrow, scale and date;
 - (b) Topographic contour lines, if available;
 - (c) The location of all existing and proposed buildings, structures and other improvements, including the location of any existing or proposed subdivision and development;
 - (d) The location of all existing streets, drives and other accessways; and
 - (e) 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.
 - (3) Plans of all proposed buildings, structures and other improvements, drawn at a scale of one inch being equal to 100 feet or less showing the following:
 - (a) The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;

- (b) The elevation of the base flood; and
 - (c) Supplemental information as may be necessary under the standards and specifications of the latest adopted Pennsylvania versions of the International Building Code and the International Residential Code, as amended.
- (4) The following data and documentation:
- (a) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood elevation; and detailed information concerning any proposed floodproofing measures and corresponding elevations.
 - (b) 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, when combined with all other existing and anticipated development, will not increase the base flood elevation more than one foot at any point.
 - (c) 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 elevation. Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.
 - (d) Detailed information needed to determine compliance with § 140-24F storage, including:
 - [1] The amount, location and purpose of any materials or substances referred to in § 140-24F which are intended to be used, produced, stored or otherwise maintained on site.
 - [2] A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances referred to in § 140-24F during a base flood.
 - (e) The appropriate component of the Department of Environmental Protection's Planning Module for Land Development.
 - (f) 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.
- (5) Applications for permits shall be accompanied by a fee, payable to the Township, as established by resolution from time to time.

§ 140-32. Review by County Conservation District.

A copy of all applications and plans for any proposed construction or development in any floodplain conservation district 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.

§ 140-33. Review of application by others.

A copy of all plans and applications for any proposed construction or development in any floodplain conservation district 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.

§ 140-34. 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 the floodplain administrator for consideration.

§ 140-35. Placards.

In addition to the permit, the floodplain administrator shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the permit, the date of its issuance and be signed by the floodplain administrator.

§ 140-36. Start of construction.

Work on the proposed construction shall begin within 180 days after the date of issuance, and shall be completed within 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 term, "start of construction" shall be understood as defined in § 140-8 of this chapter.

Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the floodplain administrator to approve such a request.

§ 140-37. 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 chapter, 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 30 days for the performance of any act it requires;
 - (4) Be served upon the property owner or his/her 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 action which, if taken, will effect compliance with the provisions of this chapter.
- B. Penalties. Any person who fails to comply with any or all of the requirements or provisions of this chapter, 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 pay a fine to the Township, of not less than \$200 nor more than \$600, plus costs of prosecution. In addition to the above penalties, all other actions are hereby reserved including an action in equity for the proper enforcement of this chapter. The imposition of a fine or penalty for any violation of, or noncompliance with, this chapter shall not excuse the violation or noncompliance, or permit it to continue, and all such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered or relocated, in noncompliance with this chapter may be declared by the Township to be a public nuisance and abatable as such.

§ 140-38. Appeals.

- A. Any person aggrieved by any action or decision of the floodplain administrator concerning the administration of the provisions of this chapter, may appeal to the Township Zoning Hearing Board. Such appeal must be filed, in writing, within 30 days after the decision, determination or action of the floodplain administrator.
- B. Any person aggrieved by any decision of the Township Zoning Hearing Board may seek relief therefrom by appeal to court, as provided by the laws of Pennsylvania, including the Pennsylvania Flood Plain Management Act.

Chapter 168

LITTERING

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick 1-11-2007 by Ord. No. 2007-01. Amendments noted where applicable.]

GENERAL REFERENCES

Parks — See Ch. 181.

Solid waste — See Ch. 224.

Property maintenance — See Ch. 194.

§ 168-1. Short title.

This chapter shall be known as and may be cited as the "Upper Frederick Township Anti-Litter Ordinance."

§ 168-2. Definitions and word usage.

For the purpose of this chapter, the following terms, phrases, words, and their derivations, shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

AUTHORIZED PRIVATE RECEPTACLE — A litter storage and collection receptacle as used by the citizens of Upper Frederick Township to convey litter to trash haulers for collection.

COMMERCIAL HANDBILL — Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature:

- A. Which advertises, for sale, any merchandise, product, commodity or thing; or
- B. Which directs attention to any business or mercantile or commercial establishment or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales; or
- C. Which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition or event of any kind when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition or event of any kind, without a license, where such license is or may be required by any law of this state, or under any ordinance of this Township; or
- D. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

GARBAGE — Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

LITTER — "Garbage," "refuse" and "rubbish," as defined herein, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

NEWSPAPER — Any newspaper of general circulation, as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

NONCOMMERCIAL HANDBILL — Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a "commercial handbill" or "newspaper."

PARK — A park, playground, recreation center or any other public area in the Township, owned or used by the Township and devoted to active and passive recreation.

PERSON — Any person, firm, partnership, association, corporation, company or organization of any kind.

PRIVATE PREMISES — Any dwelling, house, building or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

PUBLIC PLACE — Any and all streets, sidewalks, boulevards, alleys or other public ways, and any and all public parks, squares, spaces, grounds and buildings.

REFUSE — All putrescible and nonputrescible solid wastes (except body waste), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes.

RUBBISH — Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

TOWNSHIP — The Township of Upper Frederick, Montgomery County, Pennsylvania.

VEHICLE — Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rail or tracks.

§ 168-3. Litter in public places.

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the Township, except in public receptacles or in authorized private receptacles for collection.

§ 168-4. Placement of litter in receptacles so as to prevent scattering.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

§ 168-5. Sweeping litter into gutters prohibited.

No person shall sweep into or deposit in any gutter, street or other public place within the Township the accumulation of litter from any building or lot, or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep any sidewalk in front of their premises free of litter.

§ 168-6. Businesses' duty to keep sidewalks free of litter.

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the Township the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the Township shall keep any sidewalk in front

of their business premises free of litter.

§ 168-7. Litter thrown by persons in vehicles.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the Township, or upon private property.

§ 168-8. Truck loads causing litter.

No person shall drive or move any truck or other vehicle within the Township unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being deposited upon any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the Township, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

§ 168-9. Litter in parks.

No person shall throw or deposit litter in any park within the Township, except in public receptacles, and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

§ 168-10. Litter in lakes and fountains.

No person shall throw or deposit litter in any fountain, pond, lake, stream or any other body of water in a park or elsewhere within the Township.

§ 168-11. Throwing or distributing commercial handbills in public places.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the Township. Nor shall any person hand out or distribute or sell any commercial handbill in any public place; provided, however, that it shall not be unlawful on any sidewalk, street or other public place within the Township for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it.

§ 168-12. Placing commercial and noncommercial handbills on vehicles.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle; provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute, without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

§ 168-13. Depositing commercial and noncommercial handbills on uninhabited or vacant premises.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which is uninhabited or vacant.

§ 168-14. Prohibiting distribution of handbills where properly posted.

No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on said premises, in a conspicuous position near the entrance thereof, a sign bearing the words "No Trespassing," "No Peddlers or Agents," "No Advertisement" or any similar notice indicating, in any manner, that the occupants of said premises do desire to be molested or have their right of privacy disturbed or to have any such handbills left upon such premises.

§ 168-15. Distributing commercial and noncommercial handbills at inhabited private premises.

No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant or other person then present in or upon such private premises; provided, however, that in case of inhabited private premises which are not posted, as provided in this chapter, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulations.

- A. Exemption for mail and newspapers. The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers (as defined herein).

§ 168-16. Posting notices.

No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamppost, public utility poles or shade tree, or upon any public structure or building, except as may be authorized or required by law.

§ 168-17. Litter on occupied private property.

No person shall throw or deposit litter on any occupied private property within the Township, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

§ 168-18. Owner to maintain premises free of litter.

The owner or person in control of any private property shall, at all times, maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

§ 168-19. Litter on vacant lots.

No person shall throw or deposit litter on any open or vacant private property within the Township, whether owned by such person or not.

§ 168-20. Clearing of litter from open private property by Township.

- A. Notice to remove. The Township Supervisors are hereby authorized and empowered to notify the owner of any open or vacant private property within the Township, or the agent of such property, to dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. Such notice shall be by registered mail, addressed to said owner at his/her last known address.
- B. Action upon noncompliance. Upon the failure, neglect or refusal of any owner or agent so notified to properly dispose of litter dangerous to the public health, safety or welfare within 10 days after receipt of written notice provided for in Subsection A above, or within 10 days after the date of such notice in the event the same is returned to the Township Supervisors because of its inability to make delivery thereof; provided the same was properly addressed to the last known address of such owner or agent, the Township Supervisors are hereby authorized and empowered to pay for the disposing of such litter or to order its disposal by the Township.
- C. Charge for removal. When the Township has effected the removal of such dangerous litter, or has paid for its removal, the actual cost thereof, plus accrued interest at 6% per annum from the date of the completion of the work, if not paid by such owner prior thereto, shall be charged to the owner of such property and forwarded

to said owner at his/her last known address by registered mail.

- D. Lien for unpaid costs. Where the full amount due the Township is not paid by such owner within 10 days after the disposal of such litter, as provided for in Subsections A and B above, then, and in that case, the Township Supervisors may cause a lien to be filed in the Court of Common Pleas of Montgomery County, in accordance with the provisions of the Pennsylvania Municipal Claims and Tax Liens Act (53 P.S. § 7101 et seq.).

§ 168-21. Violations and penalties.

Any person, firm or corporation who shall violate any provision of this chapter, upon conviction thereof in an action brought before a District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000, plus costs; and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this chapter continues, or each section of this chapter which shall be found to have been violated, shall constitute a separate offense.

Chapter 181

PARKS; RECREATION BOARD

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick 2-11-1999 by Ord. No. 99-1. Amendments noted where applicable.]

GENERAL REFERENCES

Special events — See Ch. 133.

Littering — See Ch. 168.

§ 181-1. Definitions.

As used in chapter, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

BOARD — The Board of Supervisors of Upper Frederick Township, Montgomery Pennsylvania.

PARK or PARKS — Unless specifically limited, shall be deemed to include all parks, playgrounds, recreation areas, tennis courts, beaches, recreation structures and facilities, and also entrances and approaches thereto, and all other land or property or structures, now or hereafter owned or acquired by Upper Frederick Township for park or recreational purposes.

PERSON — Any natural person, corporation, organization of persons, company, association or partnership.

RECREATION BOARD — The Upper Frederick Township Recreation Board, as constituted and established by chapter.

RULES AND REGULATIONS — Any rules and regulations hereby or hereafter promulgated by the Recreation Board under the authority herein conferred.

§ 181-2. Establishment of Recreation Board; terms of office.

There is hereby created, constituted and established a Recreation Board consisting of five members, who shall be residents of Upper Frederick Township. The Board of Supervisors shall designate one such member to serve until the first day of January following the original effective date of chapter, and one each until the first day of January for the next four years; and, thereafter, shall reappoint or appoint five successors on the expiration of the respective terms to serve five years, and shall fill any vacancy for the unexpired term of any member whose term becomes vacant.

§ 181-3. Park hours; permit requirements.

- A. All parks, open spaces and recreation areas shall be open from sunrise to sunset, except for such activities and/or events which are specifically permitted in writing by the Board, upon application thereto.
- B. Camping and fires will be permitted in designated areas by permit only.
- C. All reservations and permits will be issued by the Township Secretary, and a registration fee will be required to ensure proper use and care of the park property. The fee will be returned, provided areas used are found in proper condition at the conclusion of the event or activity.
- D. In addition, a deposit in an amount, as established from time to time by resolution of the Board, will be charged for keys to any gates, structures or locked facilities, which deposit will be returned when the keys have been returned to the Township Office.

§ 181-4. Prohibited conduct.

No person in attendance at a park shall:

- A. Injure, deface, remove, cut or damage any of the trees, plants, shrubs, turf, buildings, structures, signs or fixtures, or any other property of Upper Frederick Township located within the park.
- B. Litter any area of the park with garbage, paper, bottles, cans or other waste material; nor dispose of the same in any way, except in receptacles designated for such purpose.
- C. Kindle or maintain any fire in the park, except in fireplaces or areas specially designated for that purpose and located by authority of the Recreation Board.
- D. Remove any bench, seat, table or other item without permission of the Recreation Board.
- E. Injure, deface, destroy or remove any notice, rule or regulation posted at any place within the park by authority of the Recreation Board; nor shall any notice or placard be posted within the park other than by authority of said Board.
- F. Set up any booth, table or stand for the sale of any article or service whatsoever within the limits of the park without permission of the Recreation Board; distribute, sell, service or rent any services or commodity or solicit for any purpose without permission of the Recreation Board.
- G. Operate, stop or park any vehicle, bicycle or other means of conveyance, except in areas where permitted or designated by proper authority of the Recreation Board or operate the same in a reckless or negligent manner or in excess of any posted speed limit or in such a manner as to become a nuisance to other area users.
- H. Operate commercial vehicles, unless providing authorized services.
- I. Bring onto the premises, possess or consume any alcoholic beverage or illegal drugs of any kind; no person shall enter the park in an intoxicated state or otherwise be under the influence of alcohol or illegal drugs.
- J. Carry or discharge any firearms, slingshots, firecrackers, fireworks or other missile propelling instruments or explosives or arrows, or other dangerous weapons which have such properties as to cause annoyance or injury to any person or property, unless permission has been granted by the Recreation Board in designated areas; police officers in the performance of their duties will be exempt from these provisions.
- K. Play ball, swim, golf, pitch horseshoes, engage in archery, camp or launch, dock or land any boat, engage in finding buried objects with special detectors, or participate in any other form of recreation, sporting endeavor or pastime, except in those areas which may be designated from time to time for that purpose by the Recreation Board.
- L. Disrobe or change clothing, except in buildings or facilities made available for that purpose.
- M. Disturb the peace by any conduct so as to annoy any other person using the park for recreational purposes.
- N. Operate a snowmobile, minibike, motorcycle or any vehicle, recreational or otherwise, except on designated roads, trails or areas set aside for their use.
- O. Use threatening, abusive, insulting, profane or obscene language or words.
- P. Commit any disorderly or immoral acts.
- Q. Hold any public meeting or rally with more than five persons or engage in any marching or driving as members of a military, political or other organization without permission of the Recreation Board, which requires a statement of information, including the name of the organization, its purpose, number of persons expected to be invited, expected duration and name(s) of person(s) in charge.

- R. Disobey a proper order of a police officer or Recreation Board member, or disobey or disregard or fail to comply with any rule or regulation, warning, prohibition, instruction or direction given by an authorized person and posted or displayed by sign, notice, bulletin, card, poster or when notified or informed as to its existence by the Recreation Board or an authorized person.
- S. Hunt for, capture or kill, or attempt to capture or kill, or aid or assist in the capturing or killing of, in any manner, any wild bird or wild animal of any description, either game or otherwise and, to that end, it is unlawful for any person to carry onto or possess in any park a shotgun or rifle or pistol or firearm of any make or kind unless specific permission is granted for a designated area by authority of the Recreation Board.
- T. Allow pets to run at large out of control.

§ 181-5. Fishing.

All laws pertaining to fishing in the commonwealth shall apply to fishing in parks and recreation areas and provisions thereof are hereby incorporated by reference.

§ 181-6. Reservation for specific uses.

The use of all parks shall be on a first come, first served basis unless otherwise reserved:

- A. By annual permission granted by the Recreation Board for the scheduling of various league games, etc.
- B. For school or college athletic games, practice, contests or exhibitions.
- C. For regularly scheduled school district or municipal recreation programs.
- D. By permission granted by the Recreation Board for a specific requested use.

§ 181-7. Authorization to promulgate additional rules.

The Recreation Board is authorized to establish such additional rules, regulations and restrictions as may be deemed necessary, from time to time, with the approval of the Board of Supervisors of Upper Frederick Township, which rules, regulations and restrictions shall, upon posting, be enforceable as part of chapter, with violations thereof punishable as hereinafter provided.

§ 181-8. Closing of public parks, recreation areas or open spaces.

Areas or facilities within the park, open space or recreation areas which become hazardous for public use due to weather, water, fire or other natural or unenforceable conditions may be closed, and public access thereto prohibited, at the discretion of the Recreation Board or the Board of Supervisors of Upper Frederick Township. Entry of any person or individual into, in or about such designated area or areas within the park, open space or recreational areas shall be prohibited and shall constitute a trespass on property owned by Upper Frederick Township and may be punishable under the terms of the Pennsylvania Crimes Code.

§ 181-9. Enforcement.

The Township Code Enforcement Officer, or other duly appointed official, as may be hereinafter designated by the Board, from time to time by resolution, are charged with the enforcement of the provisions of chapter, and of rules and regulations promulgated by the Recreation Board.

§ 181-10. Violations and penalties.

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of chapter, or any rules and regulations promulgated hereunder, shall, upon being found liable therefore in a civil

enforcement proceeding commenced by the Township, pay a judgment of not more than \$600, plus all court costs, including reasonable attorney's fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither timely pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues, or each section of chapter which shall be found to have been violated, shall constitute a separate violation.

Chapter 194

PROPERTY MAINTENANCE

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Code enforcement — See Ch. 112.

Solid waste — See Ch. 224.

Littering — See Ch. 168.

Abandoned vehicles — See Ch. 259.

ARTICLE I
Property Maintenance Standards
[Adopted 9-10-1992 by Ord. No. 92-10]

§ 194-1. Short title.

This article shall be known and cited as the "Upper Frederick Township Property Maintenance Ordinance."

§ 194-2. Preface.

Recognizing the need within Upper Frederick Township to establish certain minimum health and safety requirements for those buildings, structures or properties which are associated with human occupancy or use, this article hereby establishes standards which the Board of Supervisors considers to be fair and essential in meeting those minimum requirements.

§ 194-3. Authority.

This article, and the objectives leading to its enactment, are authorized by the Second Class Township Code.

§ 194-4. Definitions.

As used in this article, the following terms shall have the meanings indicated:

BUILDING — A roofed structure, enclosed by one or more walls, housing, storage or enclosure of persons, goods, materials, equipment or animals.

COURT — An open and unoccupied space on a lot enclosed on at least three sides by the walls of a building.

GARBAGE — Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

INFESTATION — The presence of insects, rodents, vermin and/or other pests which shall constitute a threat or potential threat to the health, safety or welfare of the citizens of Upper Frederick Township.

LOT — Plots, tracts, premises or parcels of land, with or without improvements thereto.

NUISANCE — Any condition, structure or improvement which shall constitute a threat or potential threat to the health, safety or welfare of the citizens of Upper Frederick Township.

OWNER — Any person or persons, jointly or severally, firm, corporation or other entity which, either by conveyance or inheritance or otherwise, is vested with the title to a lot and/or improvements thereto or who retains the exclusive control of such a lot and/or improvements thereto in his capacity as a legal representative, such as an administrator, trustee, executor, etc.

REFUSE — All putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, dead animals and market and industrial wastes.

UNOCCUPIED HAZARD — Any building, or part thereof, or man-made structure, which remains unoccupied for a period of more than six months, with either doors, windows or other openings broken, removed, boarded or sealed up, or any building under construction upon which little or no construction work has been performed for a period of more than six months.

YARD — Any open space on the same lot with a building and, for the most part unobstructed from the ground up.

§ 194-5. Application.

The provisions of this article shall supplement local laws, ordinances or regulations existing in Upper Frederick Township, or those of the Commonwealth of Pennsylvania. Where a provision of this article is found to be

in conflict with any provision of a local law, ordinance, code or regulation, or those of the Commonwealth of Pennsylvania, the provisions which are more restrictive or which establishes the higher standard shall prevail, unless preempted.

§ 194-6. Buildings and structures.

- A. No owner of any building or structure shall fail to take steps and perform such maintenance thereto, as may be required from time to time, to ensure the property is safe, sound, sanitary and secure and does not present a health and/or safety hazard to surrounding properties and to the general populace.
- B. No owner of any unoccupied building or structure shall fail to take such steps as may be required to insure that these are securely closed so as to prohibit and deter entry thereto and to insure that no health and/or safety hazard, or threat thereof, is precipitated due to a lack of maintenance or due to neglect.
- C. Owners of any and all unoccupied buildings and/or structures which, through neglect, have deteriorated to the point of being classified as unoccupied hazards, and therefore constitute a severe health and/or safety hazard shall, upon direction of the Board of Supervisors, remove, or cause the removal of, the building and/or structure.

§ 194-7. Yards, open lots, parking areas.

No person shall permit:

- A. Fences and/or minor structures to be constructed and maintained so as to present a safety or health hazard to persons and/or property.
- B. The development or accumulation of hazards, rodent harborage and/or infestation upon yards, courts, lots.
- C. Objectionable materials to accumulate and to be blown about the surrounding neighborhood.
- D. Wells, cesspools and cisterns to remain open without adequate fencing or barricades to prevent access thereto by the general public.

§ 194-8. Infestation, prevention and correction.

- A. Grounds, buildings and structures shall be maintained free of insect, vermin and rodent harborage and infestation, which shall constitute a threat or potential threat to the health, safety or welfare of the citizens of Upper Frederick Township.
- B. Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse.
- C. Where there exists rodent and vermin infestation, corrective measures shall be undertaken by the property owner and/or occupant to alleviate the existing problem(s), to include screening, extermination and/or garbage and refuse control. Methods employed for extermination shall conform with generally accepted practices.

§ 194-9. Storage of nuisances prohibited.

It shall be unlawful for any person to store or maintain abandoned, unused, stripped, damaged and generally unusable appliances, machinery or equipment, construction materials in the open, or toxic chemicals not maintained for personal use or actively used in the normal operation of a business, on private property. Such storage shall constitute a nuisance and/or health hazard if any of the following conditions exist:

- A. Broken glass or metal parts with sharp or protruding edges.

- B. Containers which are conducive to the harboring and growth of vermin or animals.
- C. Storage in any manner which would allow the equipment, machinery, material, or any parts thereof, to easily shift, tilt or fall from its original storage position.
- D. Containers of any liquid or material of a hazardous or potentially hazardous nature including, but not limited to, gasoline, oil, battery acids, explosives, refrigeration agents and poisons, which are not maintained for personal use or in association with the normal operation of a business.
- E. Refrigerators with the doors remaining attached.

§ 194-10. Responsibilities of occupants.

Any occupant of a premises shall be responsible for compliance with the provisions of this article with respect to the maintenance of that part of the premises which he occupies and/or controls in a safe, sound and/or sanitary condition pursuant to the terms of the contract/agreement under which he exercises occupancy and/or control thereof.

§ 194-11. Responsibilities of owners.

- A. Owner of premises shall comply with the provisions of this article, as well as operators and occupants, regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.
- B. In instances where an occupant is responsible, or shares responsibility with an owner, for the existence of one or more violations of this article, said occupant shall be deemed responsible and treated as if an owner within the true intent and meaning of this article.

§ 194-12. Inspection.

The Board of Supervisors may, or may cause, through an authorized representative of Upper Frederick Township, entry onto premises for the purpose of inspection of any and all premises, properties, buildings and/or structures located within Upper Frederick Township for ascertaining the existence of violations. No action shall be instituted on private complaint without the delivery of a signed written complaint to the Board of Supervisors of Upper Frederick Township by the complaining person or persons prior to the institution of any enforcement proceeding. In those matters where the nature of an alleged violation is such that an inspection of the interior of a building or structure is necessitated, prior arrangements must be made with the owner, or his agent, to secure access thereto.

§ 194-13. Notice to comply.

- A. If noncompliance with the provisions of this article constitutes a nuisance, or if any condition, structure or improvement poses a threat to the health, safety or welfare of the public, the Code Enforcement Officer shall issue a written notice to be served by registered or certified mail upon the owner of said premises, or, if the owner's whereabouts or identity be unknown, by posting the notice conspicuously upon the offending premises.
- B. Said notice shall specify the condition or structure or improvement complained of, and shall require the owner to commence to remove or otherwise rectify the condition or structure or improvement as set forth therein within 10 days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time.

§ 194-14. Hearing.

- A. Any person aggrieved by the decision of the Code Enforcement Officer may request and shall then be granted a hearing before the Board of Supervisors; provided he files with the Board of Supervisors, within 10 days

after notice of the Code Enforcement Officer's decision, a written petition requesting such hearing and setting forth a brief statement of the grounds therefor. The hearing shall commence not later than 30 days after the date on which the petition was filed, unless postponed for sufficient cause.

- B. After such hearing, the Board of Supervisors shall sustain, modify or overrule the action of the Code Enforcement Officer.

§ 194-15. Violations and penalties.

Any person, firm or corporation who shall violate any provision of this article, upon conviction thereof in an action brought before a District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this article continues or each section of this article which shall be found to have been violated shall constitute a separate offense.

§ 194-16. Owners severally responsible.

If the premises are owned by more than one owner, each owner shall severally be subject to prosecution for the violation of this article.

§ 194-17. Remedies not mutually exclusive.

The remedies provided herein for the enforcement of this article, or any remedy provided by law, shall not be deemed mutually exclusive; rather they may be employed simultaneously or consecutively, at the option of the Board of Supervisors.

ARTICLE II

International Property Maintenance Code**[Adopted 12-16-2004 by Ord. No. 04-17; amended 5-14-2020 by Ord. No. 2020-01]****§ 194-18. Adoption of International Property Maintenance Code, 2015 Edition.**

That a certain document, one copy of which is on file in the Office of the Township Secretary of Upper Frederick Township, being marked and designated as, "The International Property Maintenance Code, 2015 Edition", subject to the revisions below in § 194-19, and including Appendix A, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of Upper Frederick Township, in Montgomery County, Pennsylvania, for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said International Property Maintenance Code on file in the Office of Upper Frederick Township are hereby referred to, adopted and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed in § 194-19 of this article.

§ 194-19. Additions, insertions and changes.

The International Property Maintenance Code, 2015 Edition, as referenced in this article, shall be revised as follows:

- A. Deletions. The following subsections of the International Property Maintenance Code, 2015 Edition, are hereby deleted in their entirety:
- (1) Section 101.4. Severability.
 - (2) Section 106.3. Prosecution of Violation.
 - (3) Section 111.2.5. Compensation of Members.
- B. Amendments. The following subsections of the International Property Maintenance Code, 2015 Edition, are hereby amended to read as follows:
- (1) Substitute in all sections of the Code, the term "Code Enforcement Officer" for [THE CODE OFFICIAL].
 - (2) Substitute in all sections of the Code, "The Board of Supervisors" for [THE GOVERNING BODY].
 - (3) Substitute in all sections of the Code, "Code Appeals Board" for [BOARD OF APPEALS].
 - (4) Section 101.1. The name of the jurisdiction shall be "Upper Frederick Township."
 - (5) The title of Section 103 shall be amended to read as follows: "CODE ENFORCEMENT OFFICER AND DEPUTIES."
 - (6) Section 103.1 shall be amended to read as follows: "103.1 Creation of The Office of The Code Enforcement Officer. The office of the Code Enforcement Officer is hereby created, and the executive official(s) in charge thereof shall be known as the Code Enforcement Officer(s)."
 - (7) Section 103.2 shall be amended to read as follows: "103.2. Appointment. The Code Enforcement Officer(s) shall be appointed by the Board of Supervisors and shall serve at the pleasure of the Board of Supervisors."
 - (8) Section 103.5 shall be amended to read as follows: "103.5. Fees. The fees for all work, permits, charges, etc. shall be paid in accordance with the Fee Schedule Resolution in effect at the time application is made."
 - (9) The title of Section 104.6 shall be amended to read as follows: "104.6 Code Enforcement Officer's

Records."

- (10) Section 106.4 shall be amended to read as follows: "106.4. Penalties. Penalties for noncompliance with the provisions of these subsections shall be as set forth in § 112-5, Violations and Penalties; Unfit Buildings, of Chapter 112, Code Enforcement."
- (11) Section 111.2 shall be amended to read as follows: "111.2 Membership of Board. The Code Appeals Board shall consist of not less than three members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of Upper Frederick Township. The Code Appeals Board shall be appointed annually by the Board of Supervisors."
- (12) Section 112.4. Insert "\$100" for the first reference of [AMOUNT], and "\$1,000" for the second reference of [AMOUNT].
- (13) Section 202 is amended to include the following additional definitions:

CODE APPEALS BOARD — The Board appointed by the Board of Supervisors to hear appeals from the decision of the Code Enforcement Officer.

OCCUPIED — As applied to a building, or portion thereof, shall be construed as though followed by the words, "or intended, arranged or designed to be occupied, or having a certificate of use and occupancy."

SINGLE-FAMILY DWELLING — A building containing one dwelling unit.

TOWNSHIP — Upper Frederick Township.

TWO-FAMILY DWELLING — A building containing two dwelling units.
- (14) Section 302.4. The height limitation for weeds and plant growth shall be 10 inches.
- (15) Section 302.8 shall be amended to read as follows: "302.8 Motor Vehicles. Except as provided in other regulations, no unregistered and/or uninspected motor vehicle shall be parked on any property, and no such vehicle shall, at any time, be in a state of major disassembly for a period in excess of 30 days, or disrepair, nor shall it be in the process of being stripped or dismantled. A vehicle of any type shall not, at any time, undergo major overhaul, including body work, in a residential district, unless such work is performed inside a structure or similarly enclosed area designed and approved for such purposes."
- (16) Section 304.14. Insert "May 15" for the first reference of [DATE], and "October 15" for the second reference of [DATE].
- (17) Section 402.2 shall be amended to read as follows: "402.2 Common Halls and Stairways. Every common hall and stairway in every building other than a single-family dwelling shall be adequately lighted at all times. This would include emergency electrical service in the event of power failure, as provided for in the International Fire Prevention Code."
- (18) Section 502.2 shall be amended to read as follows: "502.2 Rooming Houses. At least one water closet, lavatory and bathtub or shower shall be provided for each four rooms, or maximum of six persons, within a rooming house."
- (19) Section 502.3 shall be amended to read as follows: "502.3 Hotels. Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower accessible from a public hallway shall be provided for each six occupants."
- (20) Section 602.3 shall be amended to read as follows: "602.3 Minimum Average Unit Temperature. Every person who shall rent or lease, as lessor, any building, apartment or room for residential purposes, and whose rental agreement or lease requires the supplying or furnishing of heat therefore, shall, from the hours of 6:00 a.m. to 11:00 p.m., furnish heat to every room so occupied to a minimum average unit temperature of 68° F., to be so furnished whenever the street or outdoor temperature shall fall below 50°

F., and from September 15 to May 15 regardless of the outdoor temperature.

Exceptions:

- (a) When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.
- (b) In areas where the average monthly temperature is above 30° F. (-1° C.), a minimum temperature of 65° F. (18° C.) shall be maintained."

(21) Section 602.4 shall be amended to read as follows: "602.4 Nonresidential Structures. Every enclosed occupied work space shall be supplied with sufficient heat during the period from September 15 through May 15 to maintain a temperature of not less than 68° F. (20° C.) during all working hours."

(22) Section 603.2 shall be amended to read as follows: "603.2 Flue. All fuel-burning equipment shall be connected to an approved chimney or vent."

(23) Section 604.2 shall be amended to read as follows: "604.2 Service. The size and usage of appliances and equipment shall be used as a basis for determining the need for additional facilities in accordance with NFPA 70 listed in Chapter 8. Every dwelling shall be served by a main with not less than 100 ampere service with "S" base for proper fusing."

C. Insertions. The following new subsections shall be added to the International Property Maintenance Code, 2015 Edition:

(1) Section 104.7. Property Transfers. In the Township, it shall be unlawful for any owner to transfer a property or an interest therein unless the owner shall first ensure that the property inspections required under the Property Maintenance Code have first occurred. Compliance with the results of that inspection need not yet have occurred at the time of transfer, but shall be completed with a reasonable time as determined by the Code Enforcement Officer.

(2) Section 104.7.1 Single-Family Dwelling Requirements. Upon transfer of title to a new owner, all corrections or repairs of the following enumerated items shall be made by the owner or purchaser in accordance with the requirements of the Municipal Code and Ordinance Compliance Act (68 P.S. §§ 1081-1083):

- (a) No accumulation of rubbish or garbage.
- (b) Decks, pools and other accessory structures conformed to zoning regulations and building codes.
- (c) Swimming pools must be enclosed with a minimum four-foot-high fence.
- (d) Cellar drains or sump pumps connected to a public sewer must be removed.
- (e) Broken windows must be repaired.
- (f) Egress from all bedrooms (windows must be operational and maintain an open position).
- (g) Roof drains must not be connected to a public sewer.
- (h) A smoke detector must be installed on each floor level, unfinished basement and in every bedroom.
- (i) Carbon monoxide detector must be installed near bedrooms (with fuel-fired appliances only).
- (j) A fire extinguisher equipped with a hose and nozzle and of a 2 1/2 pound BC dry powder rating must be supplied for the dwelling.

- (k) An existing acceptable 60 ampere service, or a minimum of 100 ampere three-wire electric service, must be installed for the dwelling.
 - (l) All breakers or fuses at panel must be properly labeled.
 - (m) All kitchens, bathrooms, powder rooms, laundry rooms and swimming pool receptacle, or any outlets within six feet of water source, must be supplied with a ground fault receptacle.
 - (n) All gas ranges must be supplied with shutoff valves installed behind the range.
 - (o) All electrical ranges must have an outlet installed at the rear of the range.
 - (p) Toilets, tub/shower units and lavatories must be properly functioning.
 - (q) Proper ventilation for dryers (must vent directly outside).
 - (r) Drip let on water heater relief valve (maximum of six inches from floor with a minimum one-inch air gap from floor, rigid pipe only).
 - (s) All properties must be supplied with three-inch numbers outside the property in clear view of the street designating the street number of the property.
 - (t) The property must be in clean and sanitary condition.
 - (u) A certificate of inspection must be provided by a Township authorized heat and oil burner service dealer for the heating unit.
 - (v) Before the issuance of the property transfer use and occupancy certificate, a full buyer notification inspection shall be conducted. The old owner must inform the new owner of all pending violations, and a letter of intent signed as to who will be responsible for the said violations. All violations must be corrected within 60 days upon transfer of title to new owner.
 - (w) In the event that the property transfer does not occur, the present owner must correct all listed violations within 60 days of the date on which the settlement on the property was to have occurred. Failure to abate said violation shall be subject to the penalties set forth in § 112-5B, Penalties, of Chapter 112, Code Enforcement.
- (3) Section 104.7.2 Two-Family and Multiple Dwelling Units. Upon transfer of title to a new owner, no single-family rental unit, no two-family dwelling and no multiple dwelling shall be occupied, in whole or in part, until the issuance of a property transfer certificate of occupancy by the Code Enforcement Officer that said structure conform in all respects to the requirements of this Code (International Property Maintenance Code, 2015 Edition) and International Fire Prevention Code. The following requirements must be met before a property transfer certificate of use and occupancy shall be issued:
- (a) Before the issuance of the said certificate of occupancy, a full code compliance inspection shall be conducted. The old owner must inform the new owner of all pending violations, and a letter of intent shall be signed as to who will be responsible for said violations. All violations must be corrected within 60 days upon transfer of the title to the new owner.
 - (b) In the event that the property transfer does not occur, the present owner must correct all listed violations within 60 days of the date on which the settlement on the property was to have occurred. Failure to abate such violation shall be subject to the penalties set forth in § 112-5B, Penalties, of Chapter 112, Code Enforcement.
 - (c) All hazardous building, safety, fire, plumbing and electrical violations cited at the time of inspection by the Code Enforcement Officer shall be corrected in the time specified by the Building Inspector and Fire Marshall.

- (4) Section 104.7.3 Commercial, Office, Manufacturing and Industrial Buildings. Upon transfer of title to a new owner, no commercial, office, manufacturing or industrial building shall be occupied, in whole or in part, until the issuance of a property transfer certificate of occupancy by the Code Enforcement Officer that said structure conforms in all respects to the requirements of this Code (International Property Maintenance Code, 2015 Edition) and the International Fire Prevention Code. The following requirements must be met before a property transfer certificate of use and occupancy shall be issued:
 - (a) Before the issuance of the said certificate of occupancy, a full code compliance inspection shall be conducted. The owner must inform the new owner of all pending violations, and a letter of intent shall be signed by whoever will be responsible for the correction of the violations, which must occur within 60 days of transfer of the deed to the new owner.
 - (b) In the event that the property transfer does not occur, the present owner must correct all listed violations within 60 days of the date on which the settlement on the property was to have occurred. Failure to abate such violation shall be subject to the penalties set forth in § 112-5B, Penalties, of Chapter 112, Code Enforcement.
 - (c) All hazardous building, safety, fire, plumbing and electrical violations cited at the time of inspection by the Code Enforcement Officer shall be corrected in the time specified by the Building Inspector and Fire Marshall.
- (5) Section 104.7.4 Transfer Only Permits. The Code Enforcement Officer shall have the power to issue permits for the transfer of ownership of single-family dwellings that are not intended for occupancy until all requirements of § 104.7.1 hereof, have been satisfied. The Township Supervisors, by resolution, shall establish the appropriate fee for the issuance of a transfer only permit.
- (6) Section 107.7. Written Approval Required. A dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall not again be used for human habitation until written approval is received from the Code Enforcement Officer.
- (7) Section 301.2.1 Maintenance Along Right-of-Way. Where properties abut a public right-of-way, the abutting property owner shall be responsible for the maintenance of the area between their property line and the cartway, including the curb, the sidewalk and grass areas between the curb and the property line.
- (8) Section 301.4 Caretaker. In every multiple dwelling in which the owner does not reside, there shall be a responsible person, designated by the owner, residing on the premises whose duties include maintaining the commonly used parts of the premises.
- (9) 302.3.1 Sidewalk Maintenance. Where sidewalks exist, those responsible (see Section 301.2.1, as amended) for the sidewalks shall have at least a two-foot-wide path cleared of snow and ice within 24 hours after the cessation of the snowfall.
 - (a) Exception: When more than 12 inches of snow has fallen, those responsible for the sidewalk shall have at least a two-foot-wide path cleared of snow and ice within 48 hours after the cessation of the snowfall.
- (10) Section 302.4.1 Grass and Weed Removal. The owner of any property, or the occupant of the property if occupied by other than the owner, shall remove, trim or cut all grass, weeds or other vegetation growing or remaining upon such property in violation of the provisions of Section 302.4.
- (11) Section 302.4.2 Grass and Weed Removal Notices. The Code Enforcement Officer, or any officer or employee of the Township designated thereby for this purpose, is hereby authorized to give notice, by personal service or United States mail, to the owner or occupant or any adult person in charge of the said premises, as the case may be, of any property wherein grass or other vegetation is in violation of Section 302.4 or Section 302.4.1, directing and requiring such occupant or owner to remove, trim or cut such grass, weeds or vegetation so as to conform to the requirements of this article, within five days after

issuance of such notice.

- (a) Whenever, in the judgment of the Code Enforcement Officer, it shall appear to be impracticable to give notice as above provided, either because the owner or occupant cannot readily be found, or because a search for the owner or occupant would entail unreasonable delay, the Township or any officer or employee of the Township designated thereby for that purpose, may give notice by posting, conspicuously on the property where such nuisance exists, a notice or order directing and requiring that such nuisance be abated within five days.
 - (b) In case any person, firm or corporation shall neglect, fail or refuse to comply with such notice within the period of time stated therein, the Township may order the removal, trimming or cutting of such grass, weeds or vegetation, and the cost thereof, together with a penalty of 10% of the cost thereof, shall be collected by the Township from such person, firm or corporation, in the manner provided by law, and may be entered as a municipal lien against the property and owner thereof for the abatement of the nuisance.
- (12) Section 302.8.1 Unregistered Vehicles. Registered motor vehicles are prohibited from parking on any nonpaved area in the front or side yards of a property for a period of greater than 12 hours. Motor vehicles may be parked on nonpaved areas in the rear yard providing that a solid fence, a minimum of six feet tall, is erected around the rear yard in order to screen the contents of the yard from surrounding neighbors.
- (13) Section 602.3.1 Responsibility of Owner or Agent. For the purpose of this article, whenever the heating apparatus, plant or system in places of residence is under the control of the owner or his agent, in the absence of any contract to the contrary, the owner, as lessor, shall be deemed to have contracted to furnish heat as set forth herein.
- (14) Section 602.3.2 Exceptions. The provisions of this article shall not apply in cases of emergency breakdowns or failures in the heating system, unit or plant; provided, that the lessor, owner or his employee or agent in such event shall promptly, upon notice or knowledge thereof, take such measures as are reasonably necessary and proper to repair or correct such breakdown or failure. (This will not apply to units that malfunction through negative maintenance or continuous inadequate fuel supply.)
- (15) Section 602.3.3 Enforcement, Investigation and Tests. The provisions of this article shall be enforced by the Code Enforcement Officer, or such other duly authorized person who, upon complaint, shall make tests of the residence, building, apartment or room, by placing three Mercury thermometers at least three different points or locations therein, near or adjacent to an inside wall, away from any window or obvious draft, and at least three feet above the floor. An accurate written record, in triplicate, shall be made at the time of the test, showing the date, time, property location, placement of the thermometers, period of time covered by the readings, and the temperatures found. One copy of said written report shall be given to the tenant, one copy shall be mailed or delivered to the owner or lessor, and one copy shall be returned to and permanently preserved by the Code Enforcement Officer, and shall be available for production into evidence on any hearing charging a violation of the provisions of this article. Each copy of the report shall be signed by the Code Enforcement Officer making the test.

§ 194-20. Unlawful lease by owner.

It shall be unlawful for any owner to occupy or lease for occupancy any dwelling or dwelling unit which violates the provisions of this article at the time of occupancy.

§ 194-21. Short title.

This article, together with the International Property Maintenance Code, 2015 Edition, adopted herein, shall be known and may be cited as the "Property Maintenance Code of the Township of Upper Frederick."

Chapter 202

RENTAL PROPERTY

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Rental licensing — See Ch. 112, Art. XII.

ARTICLE I
Landlord Report
[Adopted 8-13-2009 by Ord. No. 2009-06¹⁶]

§ 202-1. Purposes.

This article is enacted to provide for the uniform and equitable distribution of the tax levies in the Township of Upper Frederick and upon the inhabitants thereof and to promote the health, safety, morals and general welfare of the inhabitants of the Township of Upper Frederick.

§ 202-2. Definitions.

As used in this article, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

BUSINESS UNIT — A parcel of real estate, with or without improvements located thereon, utilized by any person or persons for any commercial activity or purpose.

DWELLING UNIT — One or more rooms used for living and sleeping purposes arranged for occupancy by one family or by one or more persons.

LANDLORD — A lessor, or person who acts as agent for the lessor, of any parcel of real estate located in the Township of Upper Frederick, or a lessor, or person who acts as agent for the lessor, of any improvements on real estate or any building located in the Township of Upper Frederick.

PERSON — Any individual, partnership, association, firm or corporation.

TENANT — A person who has the use, either by himself or with others, of a dwelling unit or a business unit owned by a person, other than himself, for a period exceeding 30 days.

§ 202-3. Report required; contents. [Amended 7-14-2011 by Ord. No. 2011-03]

Within 30 days from the effective date of this article, each landlord shall register with the Township Manager all rental units on a report form supplied by the Township Manager which includes the following information:

- A. Name, address and telephone number of the property owners, the owning partnership, if a partnership, and/or the corporate officers, if a corporation.
- B. Address and location of the rental unit or units.
- C. Name, address and telephone number of the rental agent (if applicable).
- D. The legal address of the dwelling or business unit.
- E. The type of structure (residential or commercial).
- F. Number of rental units located in the rental property.
- G. Identification and description of each rental unit.
- H. The number of occupants or tenants in each rental unit.
- I. Names of all occupants or tenants in each rental unit.
- J. Additional information deemed necessary by the Code Enforcement Officer to administer the registration process.

§ 202-4. Report by person upon becoming landlord.

After the effective date of this article, any person who becomes a landlord of any parcel of real estate or any improvement on real estate or building located in the Township of Upper Frederick by agreement of sale, by deed, or by any other means shall, within 30 days thereafter, report to the Township Manager the information and data set forth in § 202-3 above and on forms to be provided by the Township Manager.

§ 202-5. Report of change in use or occupancy.

After the effective date of this article, each and every landlord of property within the Township of Upper Frederick shall report to the Township Manager, on a report form to be supplied by the Township Manager, any change in the use or occupancy of any dwelling unit or business unit owned by such landlord. The reported change shall include the name or names of new tenants of such dwelling unit or business unit, the date when such change was effected, and the forwarding address of the old tenant or tenants if known. A landlord of a hotel, inn or boardinghouse shall not be required to report a person as a "tenant" until that person has resided in such landlord's establishment for a period exceeding 30 days. In the event that a dwelling unit or business unit was used or utilized by a tenant and then becomes vacant, this change shall also be reported to the Township Manager. All reports required by this section shall be made within 10 days after a landlord has knowledge that such a unit has had a change in occupancy or has become vacant.

§ 202-6. Duties of Township Manager.

The Township Manager, under the authority of this article, shall:

- A. Maintain on file, at the Upper Frederick Township Office, the names of the landlords owning dwelling units and business units in the Township of Upper Frederick, said list to include the names of the current tenants of said dwelling unit and business units.
- B. Maintain a supply of forms for landlords to use in making reports to the Township Manager, as required by §§ 202-3, 202-4 and 202-5 of this article.
- C. Notify the Fire Chief of the Township of Upper Frederick of the address and description of any dwelling unit or business unit that is vacant, unoccupied and not in use.

§ 202-7. Violations and penalties.

Any person who shall violate any provision of this article shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 and, in default of payment, to imprisonment for a term not to exceed 90 days.

Chapter 210

SEWERS AND SEWAGE DISPOSAL

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Sewage Sludge Disposal from Municipal or Private Treatment Plants
[Adopted 5-10-1983 by Ord. No. 83-1]

§ 210-1. Authorization.

This article is enacted pursuant to the authority granted to Upper Frederick Township by the legislature of the Commonwealth of Pennsylvania in the following duly enacted statutes:

- A. The sections of the Second Class Township Code, 53 P.S. § 65701 et seq., authorizing the Township to enact ordinances dealing with the protection of the health of the Township residents, refuse materials, nuisances and public safety.
- B. The applicable provisions of the Pennsylvania Solid Waste Management Act, 35 P.S. § 6018.101 et seq.

§ 210-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

DISPOSAL — The discharge, deposit, injecting; dumping, spilling, leaking or placing of any sewage sludge from a municipal or private treatment plant or pumpings from a private residential septic system into or on any land in the Township; provided, that the spreading of poultry and livestock manure generated from conventional agricultural activities on crop land or farm land for agricultural purposes shall not be included within this term, and such activity shall not be regulated by this article.

SEWAGE SLUDGE — As defined in 25 Pa. Code § 271.1.

TOWNSHIP — Whenever used in this article, the term "Township" shall refer to Upper Frederick Township.

§ 210-3. Procedure. [Amended 8-13-1998 by Ord. No. 98-4]

Any person, association, company or entity wishing to apply, dispose, spread or deposit municipal or private sewage sludge or private residential septic tank pumpings on any lands or property within the Township shall first submit an application to the Township containing the following information:

- A. A copy of its application to the Department of Environmental Protection (DEP) for a permit.
- B. Copies of any and all materials, documents or drawings submitted with said application to DEP.
- C. A description of the proposed application program including the sources of the sludge and how it is to be transported to the site, a time table for application, a description of any storage operations, the proposed utilization rate, the total acreage involved and the useful life of the proposed site.
- D. Topographical drawing, prepared by a registered engineer, to a scale no greater than one inch to 200 feet showing:
 - (1) Location of the site relative to public roads.
 - (2) Identity of owners of adjacent properties.
 - (3) Boundaries of the area to be used for land application.
 - (4) Location of public and private water supplies, wells, springs, streams, swamps or other bodies of water within 1/4 mile of the boundaries of the proposed land application site.
 - (5) Soil classifications of the land application area.
 - (6) Vegetation.

- E. 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 accompanied by field test analysis. Field tests shall include:
- (1) Soil borings by a soil scientist to confirm actual soil profile characteristics are consistent with published soil survey data.
 - (2) Groundwater monitoring well shall be established to test water quality prior to, during and after the application program. Groundwater composition shall be included in the application, along with subsequent quarterly monitoring during the application program. The location of the monitoring well shall be approved by the Township Engineer prior to drilling. In the event that groundwater is found to flow in several directions, a monitor well for each direction shall be required.
- F. A chemical analysis of the sludge from each proposed source. The analysis shall be done by an independent laboratory approved by the Township and shall involve a minimum of four samples. The analysis shall include the following items:
- (1) Total moisture content.
 - (2) Percent total nitrogen (wet and dry weight).
 - (3) Percent ammonia nitrogen (wet and dry weight).
 - (4) Percent organic nitrogen (wet and dry weight).
 - (5) Biochemical oxygen demand.
 - (6) pH.
 - (7) Percent on a dry weight basis of cyanide, sodium, cadmium, zinc, copper, nickel, lead, chromium, mercury, molybdenum and other toxic substances and enteric pathogens.
- G. A fee in an amount to be established from time to time by resolution of the Board of Supervisors shall be required with the application for all private residential septic tank pumpings. For all other applications, there shall be an application fee accompanying an application in the minimum nonrefundable amount to be established from time to time by resolution of the Board of Supervisors. Said application fee shall be used to offset all Township costs including Township engineering fees. As and when said costs exceed the payment, applicant shall pay as additional application fee the additional costs incurred upon presentation of statements by the Township to the applicant.
- H. A copy of the agreement between the generator of the sludge or the hauler and applicator and the landowner showing provisions as to the term of the agreement, the operation to be carried out in spreading sludge and the keeping of records.
- I. Where the proposed application of sludge involves a leasehold arrangement between the owner of the property and the party applying the sludge, a land development plan shall be prepared and filed in accordance with the provisions of the Pennsylvania Municipalities Planning Code.

§ 210-4. Planning Commission.

The Upper Frederick Township Planning Commission shall review the application together with all submissions made by the applicant and shall make recommendations thereon to the Board of Supervisors of Upper Frederick Township.

§ 210-5. Standards. [Amended 8-13-1998 by Ord. No. 98-4]

The standards for application of sludge to the land shall be in accordance with the currently adopted standards of

the Pennsylvania Department of Environmental Protection as set forth in 25 Pa. Code § 275C and D, except that the following additional requirements shall be imposed.

- A. Area. No site shall be approved which contains less than 20 contiguous acres.
- B. Setback requirements. Sludge shall not be applied within 250 feet of a stream, 500 feet of water supplies, 50 feet of property lines and 300 feet of occupied dwellings.
- C. Slope concentrations. Application shall not take place on the slopes exceeding 15%.
- D. Testing. Chemical analysis and laboratory testing of the sludge from each source may be required by the Township at applicant's expense by an independent laboratory selected or approved by the Township Supervisors to insure sludge content remains within the limits established by the Pennsylvania Department of Environmental Protection, but shall include a minimum of four samples a year as part of the monitoring program.
- E. Soil coverage. Waste materials so applied to the land shall be injected under the surface of the soil or, if spread on the surface, shall be plowed under within 24 hours.
- F. Soil analysis. The soil analysis at applicant's expense and performed by an independent laboratory selected and approved by the Township shall be performed semiannually and results shall be provided immediately to the Township.
- G. Waste material storage. Waste materials shall be applied to the land immediately upon delivery to the site and shall not under any circumstances be stored upon the site for any purpose or for any period of time.
- H. Waste accumulations. Any ponding or standing accumulations of said waste matter also is expressly prohibited.
- I. Weather conditions. Waste materials are not to be applied when the ground is saturated, snow covered, frozen or during periods of rain.
- J. Sources of sewage sludge. No sewage sludge shall be permitted to be applied anywhere within the Township unless its source is from a municipal or private treatment facility located within Montgomery County, Pennsylvania.
- K. Septic system wastes. No dumping from septic tank systems shall be permitted anywhere within the Township unless its source is from a private residential septic system located within the Township.
- L. Records. The applicant shall maintain records of quantities, dates, sources and location of the above described waste and shall furnish copies of said records to the Township upon request.

§ 210-6. Determination by the Board of Supervisors.

- A. The Board of Supervisors shall, within 90 days following the full submission of the application, render a final decision and shall by official written communication to the applicant, either:
 - (1) Approve the application as presented;
 - (2) Disapprove the application as presented; or
 - (3) Approve the application subject to specific conditions, the failure to comply with which shall provide grounds for revocation of such approval.
- B. Within said ninety-day period, the Board of Supervisors shall transmit copies of said application to the Planning Commission of the Township for their review and comment. Further, the Board of Supervisors may, in their discretion, schedule a public hearing pursuant to public notice for the purpose of reviewing said

application and receiving the comments of the public.

§ 210-7. Sludge Disposal Area Map.

Any land within the Township which has been used for the purposes hereinabove discussed shall be designated on map which shall be shown as the Upper Frederick Township Disposal Area Map, which shall be available for inspection through the Secretary of the Board of Supervisors. Any property owner whose land has been used as hereinabove discussed shall not at any time sell, transfer, convey or otherwise dispose of his/her said property without first informing any proposed purchaser, lessee, assignee or grantee, that his/her said land has been used for such purposes.

§ 210-8. Bonds.

- A. Performance bond. In order to assure the Township that the various tests and duties imposed upon, an applicant by this article are fully performed, sufficient surety for such performance shall be posted by an applicant before issuing any permit. The applicant shall assure the Township by means of a corporate bond or the deposit of funds or securities in escrow sufficient to cover the cost, as estimated by the Township Engineer, of performing the various tests and duties imposed upon him by this article over the expected useful life of the site plus five years. The bond shall be furnished under such conditions and form and with surety as shall be approved by the Township Solicitor to guarantee and secure that all such tests and duties are fully and adequately performed and are paid for by the applicant and that the Township shall, in no event, be held liable for the cost of any such duties or tests. In lieu of a bond, the applicant may deposit cash or securities with the Township or a bank or trust company to guarantee and secure the same requirements as set forth above. In the event that such cash or securities are deposited, said deposit must be made pursuant to an escrow agreement prepared and approved by the Township Solicitor. The escrow agent for the deposit of such cash or security shall be located in Montgomery County and shall be subject to approval by the Township Solicitor.
- B. Identification. In addition to the foregoing requirements, all applicants for permits to utilize sludge upon property within the Township of Upper Frederick shall, prior to the issuance of any permit for sludge application and/or storage, deliver to the Township a liability identification with bond good for the useful life of the proposed site plus five years, on a form to be prepared by or approved by the Township Solicitor, pursuant to the terms of which, the applicant, individually and with surety, specifically agrees to fully indemnify and hold harmless the Township and all of its officers, agents and employees from any and all liability, expense or damages whatsoever and litigation defense costs accruing to any of the same as a result of any use of any land in the Township pursuant to the provisions hereof. The amount of the indemnification bond shall be equal to the costs of removal and/or clean up of any site and any engineering or legal fees pertaining thereto as estimated by the Township Engineer and Township Solicitor at the time of issuance of any permit plus 15% per year thereof for the useful life of the site plus five years.

§ 210-9. Insurance.

The Board of Supervisors shall require the applicant to submit to the Township an insurance policy covering liability for any harm, to persons and/or damage to properties resulting from the aforesaid activities. Said insurance policy shall be in full force and effect for the entire duration of the above operations and for at least two years following the termination of said operations. The amount of said insurance coverage shall be specified by the Board of Supervisors based upon their judgment as to the potential for harm or damage.

§ 210-10. Conflicts. [Amended 8-13-1998 by Ord. No. 98-4]

Nothing in this article shall be construed so as to supersede or set aside any lawful requirement imposed by the Pennsylvania Department of Environmental Protection.

ARTICLE II
Sanitary Sewers and Wastewater Disposal
[Adopted 2-12-1998 by Ord. No. 98-2]

§ 210-11. Purpose.

- A. This article sets forth uniform requirements for contributors to the sanitary sewage facilities of Upper Frederick Township and enables the Township to comply with all applicable state and federal laws, including the Clean Water Act of 1977 and the general pretreatment regulations (40 CFR, Part 403). The objectives of this article are:
- (1) To prevent introduction of pollutants into the sanitary sewer facilities of Upper Frederick Township which will interfere, through inhibition and/or enhancement, with the operation of the Upper Frederick Township sanitary sewage facilities (hereinafter referred to as "Township facilities") or contaminate the resulting sludge.
 - (2) To prevent introduction of pollutants into the Township facilities which will pass through or cause to pass through the Township facilities inadequately treated wastes into receiving waters or the atmosphere, or otherwise be incompatible with the Township facilities.
 - (3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the Township facilities.
 - (4) To provide for equitable distribution of the cost of the Township facilities.
 - (5) To protect the environment, the general public and the Township personnel against the hazards associated with discharges of toxic or otherwise incompatible pollutants into the Township facilities.
 - (6) To help insure Township compliance with its National Pollutant Discharge Elimination System (NPDES) permit, biosolids use and disposal requirements and regulations, the Clean Water Act, the general pretreatment regulations and any other state or federal laws with which the Township must comply.
 - (7) To prevent or reduce stormwater, groundwater, roof runoff, subsurface drainage or cooling water from entering into the Township facilities.
 - (8) To allow the Township to operate and maintain its Township facilities in a safe and effective manner.
- B. This article provides for the regulation of contributors to the Township facilities through enforcement of specific requirements for users; authorizes monitoring and enforcement activities; requires user reporting; assumes that existing customer's capacity will not be preempted; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.
- C. This article shall apply to the Township of Upper Frederick and any persons outside the Township who are, or become, users of the Township facilities. Except as otherwise provided herein, the Township shall administer, implement and enforce the provisions of this article.

§ 210-12. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ACT or THE ACT — The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

APPROVAL AUTHORITY — The regional administrator of EPA.

BIOCHEMICAL OXYGEN DEMAND (BOD) — The quantity of oxygen utilized in the biochemical oxidation

of organic matter under standard laboratory procedure five days at 20° C., expressed in terms of weight and concentration (milligrams per liter [mg/l]).

BUILDING AND PLUMBING CODES — The applicable International Plumbing Code.¹⁷ [Amended 2-9-2012 by Ord. No. 2012-01]

BUILDING — Any structure having a roof or other covering and designed, used or intended for supporting or sheltering any use or occupancy. For the purposes of this article, each portion of a building which is completely separated for occupancy purposes from other portions by fire walls, dividing walls or any type of wall or separation structure shall be considered as a separate building.

BUILDING SANITARY DRAINAGE SYSTEM — All facilities owned, operated and/or constructed by the building owner which are used to convey wastewater from the building to the Township's sanitary sewer main. The building sanitary drainage system includes all piping, laterals and lateral connection points to the Township sanitary sewer main from public or private premises and shall exclude storm, surface and groundwater.

BUILDING TRAP — A premanufactured single component device (not an assembly of fittings) installed as part of the building sanitary drainage system to prevent circulation of air between the wastewater piping within a building and the building lateral.

BULK WASTEWATER DISCHARGE — A large volume of waste originating from holding tanks, which has not had its characteristics altered through treatment.

CLEANOUTS — An access opening in the building sanitary drainage system utilized for the removal of obstructions.

COMMERCIAL USER — A nonresidential establishment which discharges strictly domestic sewage.

COOLING WATER — The water discharge from any use, such as air conditioning, cooling or refrigeration, to which the only pollutant added is heat.

DIRECT DISCHARGE — The discharge of treated or untreated wastewater directly into the waters of the Commonwealth of Pennsylvania.

DOMESTIC SEWAGE — The normal water borne waste from a household, as well as toilet wastes from residences, business buildings, institutions, commercial and industrial establishments.

DWELLING UNIT — Any room, group of rooms, house trailer or other enclosure occupied or intended for occupancy as separate living quarters by a family or other group of persons living together or by persons living alone.

EDU — Equivalent dwelling unit with the following wastewater characteristics:

A. Residential user.

- (1) Flow rates: 75 gpd/cap to 100 gpd/cap. (Note: specific gpd/EDU flows will be defined in approved planning modules for each development.)
- (2) Ammonia-nitrogen: 40 mg/l as N.
- (3) BOD5: 0.20 lbs/day/cap. (Note: specific wastewater concentrations for BOD5 will be calculated using the following formula: $BOD5 = (0.20 \text{ lbs/day/cap}) / (\text{Flow Rate gpd/cap} \times 1 \times 10^{-6} \text{ mgd} \times 8.34 \text{ pounds/gal}) = \text{mg/l.}$)
- (4) Total suspended solids: 0.22 pounds/day/cap. (Note: Specific wastewater concentrations for TSS will be calculated using the following formula: $TSS = (0.22 \text{ pound/day/cap}) / (\text{Flow Rate gpd/cap} \times 1 \times 10^{-6} \text{ mgd/gpd} \times 8.34 \text{ pounds/gal}) = \text{mg/l.}$)

17. Editor's Note: See Ch. 112, Code Enforcement.

(5) TKN: 40 mg/l as N.

(6) Phosphate: 10 mg/l as P.

B. Industrial and commercial users.

(1) Flow rates: 250 gpd.

(2) Ammonia-nitrogen: 40 mg/l as N.

(3) BOD5: 250 mg/l.

(4) Total suspended solids: 250 mg/l.

(5) TKN: 40 mg/l.

(6) Phosphate: 10 mg/l.

(7) Oil and grease, total recoverable: 100 mg/l.

ENVIRONMENTAL PROTECTION AGENCY (EPA) — The US Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of said agency.

GRAB SAMPLE — A sample which is taken from a waste stream over a period of time not to exceed 15 minutes with no regard to the flow of the waste stream.

GROUNDWATER — The part of precipitation that infiltrates the ground and creates the zone of saturation.

IMPROVED PROPERTY — Any property upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure domestic sewage shall be or may be discharged.

INDUSTRIAL USER — A source which discharges wastewater that does not meet the definition of domestic sewage.

INHIBITORY SUBSTANCES — Material and/or chemicals that kill or restrict the abilities of organisms to treat waste.

INTERFERENCE — The inhibition, enhancement or disruption of Township facilities, treatment processes of operations or its sludge processes, use or disposal which alone, or in conjunction with a discharge or discharges from other sources, causes a violation of any requirements of the Township's NPDES permit (including an increase in the magnitude or duration of a violation). The term includes prevention of sewage sludge use or disposal by the Township facilities in accordance with § 405 of the Act, 33 U.S.C. § 1345, or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act and Toxic Substances Control Act, the Marine Protection, Research and Sanctuaries Act or more stringent state criteria, including those contained in the state sludge management plan prepared pursuant to Title IV of SWDA applicable to the method of disposal or use employed by the Township facilities.

LATERAL — A part of the building sanitary drainage system owned, operated and/or constructed by the building owner used to convey wastewater from the building to the Township's sanitary sewer main. The lateral includes all piping, vent, cleanouts, traps and connection points to the Township sanitary sewer main from public or private premises and shall exclude storm, surface and ground water.

MASS EMISSION RATE — The rate of discharge of a pollutant expressed as weight per unit of time, usually as pounds or kilograms per day.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM or NPDES PERMIT — A permit issued pursuant to § 402 of the Act (33 U.S.C. § 1342).

NEW SOURCE — Any building, structure, facility or installation, or any other qualifier found in 40 CFR

§ 403.3(k), from which there is or may be a discharge of pollutants, the construction of which commenced after publication of proposed treatment standards under § 307(c) of the Act.

OWNER — Any person vested with ownership, legal or equitable, sole or partial, of any property and/or building located in the Township.

PASS THROUGH — A discharge, alone or in connection with a discharge or discharges from other sources which exits the Township facilities into waters of the in quantities which may serve to cause a violation of the Township's NPDES permit or cause an increase in magnitude or duration of a violation of the Township's NPDES permit.

PERSON — Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity and any other legal entity or their legal representative, agents or assigns. The masculine gender shall include the feminine (the singular shall include the plural where indicated by context).

pH — The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in standard units of solution.

POLLUTANT — Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, industrial, municipal and agricultural waste and certain wastewater containing pollutants such as pH, temperature, BOD and so forth, discharged into the water.

POLLUTION — The man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

PRETREATMENT or TREATMENT — The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant property in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the Township facilities. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes by other means, except as prohibited by 40 CFR § 403.6(d).

PRETREATMENT REQUIREMENTS — Any substantive or procedural requirements related to pretreatment other than a national pretreatment standard imposed on an industrial user.

PROCESS WATER — Any water that has become wastewater due to the chemical or physical nature of the water; water used to manufacture or produce any product.

PROHIBITED DISCHARGE STANDARDS — Absolute prohibitions against the discharge of certain substances.

REMEDATION WASTEWATER — Groundwater or surface water that has become polluted and must be treated to standards as set forth by the Clean Water Act, Act 403.

SANITARY SEWER MAIN — A pipe or conduit owned by Upper Frederick Township which carries wastewater and to which storm, surface and ground waters are not intentionally admitted. The Township sanitary sewer main does not include lateral connection points from public or private premises.

SANITARY WASTEWATER — Any substance that contains any of the waste products of excrement or other discharge from the bodies of human beings and any noxious or deleterious substance being harmful to public health or to animal or aquatic life, or to the use of water from domestic water supply or for recreation, specifically excludes wastewater of industrial origins.

SEPTAGE — The material collected from an onsite sanitary wastewater treatment system.

SEWER — Any pipe or conduit constituting a part of the sewer system(s) and used for collection of domestic sewage.

SEWER SYSTEM(S) — All sewage collection, transportation, disposal and treatment facilities, pumping stations, interceptor lines, meter pits and appurtenant structures to be acquired and/or constructed, owned and operated by the Township for the purpose of receiving, conveying, treating and disposing of domestic sewage in and for the Township.

SLUG LOAD or SLUG — Any discharge of a nonroutine, episodic nature or at a flow rate or concentration which could cause a violation of the prohibited discharge standard set forth in this article.

STORMWATER — Any flow incurring during or following any form of natural precipitation and resulting therefrom.

SURFACE WATER — Precipitation that does not enter the ground through infiltration nor is returned to the atmosphere by evaporation; flow over the ground surface, includes man-made supplies of water.

TOTAL SUSPENDED SOLIDS — The total suspended matter that floats on the surface or is suspended in water, wastewater or other liquids and which is removable by laboratory filtering.

TOWNSHIP FACILITIES — Treatment works as defined by § 212 of the Act (33 U.S.C. § 1292), which includes the sanitary sewer mains, conduits, pipe lines, force mains, metering stations, interceptor sewers, pumping stations, lift stations, wastewater treatment facilities, disposal systems and other plants, structures, equipment, vessels, conveyances and works owned by the Township.

TOWNSHIP STANDARD CONSTRUCTION SPECIFICATIONS — The Township's standard technical specifications and requirements for the construction of sanitary sewers, sewer force mains, water mains and appurtenances.

TOWNSHIP — Upper Frederick Township, Obelisk, Montgomery County, Pennsylvania, and/or its duly authorized representatives.

TOXIC POLLUTANT — Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the EPA under the provisions of Clean Water Act, § 307(a), or other Acts.

USER — Any person who contributes, causes or permits the contribution of wastewater into the Township facilities.

WASTEWATER — The liquid and water-carried wastes from dwellings, commercial buildings, industrial facilities and institutions, whether treated or untreated, which is contributed into or permitted to enter the Township facilities.

WASTEWATER TREATMENT PLANT (TREATMENT PLANT) — That portion of the Township's facilities designed to provide treatment to wastewater.

§ 210-13. Regulations.

A. General regulations.

- (1) No user or industrial user shall contribute or cause to be contributed, directly or indirectly, stormwater, groundwater, roof runoff, subsurface drainage or cooling water to the Township facilities or any pollutant or wastewater which will interfere with the operation or performance of the Township facilities. This shall be deemed to include any interference or pass through as above defined in § 210-12 of this article. These general prohibitions apply to all such users of the Township facilities, whether the user is subject to National Categorical Pretreatment Standards or any other national, state or local pretreatment standards or requirements. A user or industrial user may not contribute the following substances into Township facilities:
 - (a) Any liquids, solids or gases which, by reason of their nature or quantity, are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the Township facilities or to the operation of the Township facilities, at no time shall two successive readings on an explosion hazard meter at the point of discharge into the system (or at any point in the system) be more than 5%, nor any single reading over 10% of the lower explosive limit (LEL) of the meter. At no time shall the effluent wastewater have a closed dup flash point of less than 140° F. Such pollutants includes, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, keytones, hydrides, sulfides and any

other substance with a fire, explosive or a health hazard.

- (b) Solid or viscous substances which may cause obstruction of the flow in a sanitary sewer or other interference with the operation of the wastewater treatment facilities, such as, but not limited to, grease, garbage with particles greater than 1/2 inch in any dimension, animal guts or tissues, paunch, manure, bones, hair, hides, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, glass grinding or polishing wastes.
- (c) Any wastewater having a pH less than 6.0 or greater than 9.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the Township facilities.
- (d) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure, to interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the Township facilities or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to § 307(a) of the Act.
- (e) Any noxious or malodorous liquids, gases or solids which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life, or are sufficient to prevent entry into the sanitary sewers for maintenance and repair.
- (f) Any substance which may cause the effluent or any other product of the Township facilities, such as residues, sludge or scums, to be unsuitable for reclamation and reuse, or to interfere with the reclamation process. In no case shall a substance discharged to the Township facilities cause the Township facilities to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under § 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act, 40 CFR, Part 503, regulations or state criteria applicable to the sludge management method being used.
- (g) Any substance which will cause the pass through to interference of the Township facilities, such as, but not limited to, oils and greases as specified in § 210-12 of this article and pollutants which will result in the presence of toxic gases, vapors or fumes, within the Township facilities in a quantity that may cause acute worker health and safety problems.
- (h) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (i) Any wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the Township facilities which exceeds 40° C. (104° F.).
- (j) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released as a flow rate and/or pollutant concentration which will cause interference to the Township facilities. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed, for any time period longer than 15 minutes, more than five times the average twenty-four-hour concentration, quantities or flow during normal concentration.
- (k) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Township in compliance with applicable state or federal regulations.
- (l) Any wastewater which causes a hazard to human life or creates a public nuisance.

- (m) Stormwater, groundwater (except groundwater resulting from Pennsylvania Department of Environmental Protection or Environmental Protection Agency directed remediation that is determined not to be harmful to the treatment plant), roof runoff, subsurface drainage or cooling water.
 - (n) Inhibitory substances, as defined in this article.
- (2) Grease, oil and sand interceptors or traps shall be provided at a new or existing facility where, in the opinion of the Township, they are necessary to prevent obstructions of flow in Township sanitary sewer mains, interference with operation of wastewater treatment facilities or for the proper handling of liquid wastes containing grease in excessive amounts, flammable wastes or any other harmful ingredients. All interceptors or traps shall be of the type and capacity acceptable to the Township, shall be so located as to be readily and easily accessible for cleaning and inspection and shall be cleaned as needed to maintain operating efficiency.

B. Building sanitary drainage systems and connections.

- (1) All sanitary sewage facilities and all related appurtenances to be constructed in Upper Frederick Township must be constructed in accordance with the standard construction specifications adopted by resolution of the Upper Frederick Township Board of Supervisors, the building and plumbing codes and any other applicable rules and regulations of the Township.
- (2) Every owner of property situated within the Township abutting on or adjoining any street or alley in which there is a Township sanitary sewer main shall connect the buildings erected upon such property to the said sanitary sewer main at the proper cost, expense and liability of the owner within a reasonable amount of time as specified by the Township after notice so to do and, upon failure to make such connection, the Township may make the same and collect the cost thereof from the owner by municipal claim or in an action of assumpsit as provided by law.
- (3) No unauthorized persons shall uncover, make any connections with or opening into, use, alter or disturb any Township sanitary sewer main or appurtenances thereof without first obtaining a written permit from the Township.
- (4) Permit classes.
 - (a) There shall be two classes of building sanitary drainage system permits:
 - [1] For residential and commercial service.
 - [2] For service to establishments producing significant waste contributions.
 - (b) In either case, the owner or his agent shall make application on a special form furnished by the Township. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Township. A permit and inspection fee for a residential or commercial building sanitary drainage system permit shall be paid to the Township at the time the application is filed. All building sanitary drainage system permit applications under Subsection B(4)(a)[2], above, shall be reviewed and approved in writing by the Township prior to permit issuance. Permit and inspection fees for permits shall be in such amounts as may be established from time to time by the Township. All permits shall be subject to the right of the Township to require the installation and maintenance of inspection and sampling facilities.
- (5) It shall be the owner's responsibility to maintain, repair and/or replace building sanitary drainage systems if the Township determines that they do not meet the requirements of this article. All costs and expenses incidental to the maintenance, repair, replacement, installation and connection of the building shall be borne by the owner. In the case where damages to the Township sanitary sewer main occur due to a building sanitary drainage system, it shall be the responsibility of the building sanitary system owner

to replace or repair (as directed by the Township) the length of pipe to which the building sanitary drainage system is connected. The owner shall indemnify the Township from any loss or damage that may, directly or indirectly, be occasioned by the installation of the building sanitary drainage system.

- (6) A separate and independent building sanitary drainage system shall be provided for every building.
- (7) Where existing building sanitary drainage systems connected to the Township sanitary sewer main are to be abandoned by reason of demolition of buildings and structures, or for any other reason, they shall be disconnected and permanently sealed at the Township sanitary sewer main. All costs and expenses incidental to this work shall be borne by the owner. Existing building sanitary drainage systems may be used in connection with new buildings only when they are found, after examination and testing as directed by the Township, to meet all requirements of this article.
- (8) The size, slope, alignment, materials or construction of a building sanitary drainage system and the methods to be used in excavating, placing of the pipe, joint testing and backfilling the trench shall all conform to the requirements of the building and plumbing codes and other applicable rules and regulations of the Township.
- (9) Sanitary drainage system.
 - (a) The building sanitary drainage system shall be brought to the building at an elevation below either the basement floor or the floor of the lowest level in the building to provide sewer service to either the basement or lowest level. In instances where gravity flow, in the building sanitary drainage system to the Township sanitary sewer main, is not possible or it is not possible to serve the basement or lowest level by gravity flow, the sanitary wastewater shall be lifted and discharged to the Township sanitary sewer main by means approved by the Township in accordance with the requirements of the building and plumbing codes, with all costs being borne by the owner.
 - (b) Floor drains in any new building shall not be connected to the building sanitary drainage system.
 - (c) When an existing building sanitary drainage system is connected to the Township's sanitary sewer main, all floor drains, area drains or similar drains shall be disconnected from the building sanitary drainage system.
- (10) No person shall make or provide for the connection of sump pumps, roof downspouts, foundation drains, areaway drains, floor drains or other sources of surface runoff or groundwater to a building sanitary drainage system or building drain which in turn is connected, directly or indirectly, to a Township sanitary sewer main, unless such connection is approved, in writing, by the Township for purposes of disposal or polluted surface drainage or for the prevention of potentially hazardous conditions. Such water or other unpolluted drainage shall be discharged to facilities that are specifically designed as storm sewers or to natural outlets approved by the Township and in accordance with the applicable regulations of the Pennsylvania Department of Environmental Protection. **[Amended 8-11-2011 by Ord. No. 2011-05]**
- (11) Connections.
 - (a) The connection of the building sanitary drainage system into the Township sanitary sewer main shall be made with either a wye type fitting or as directed by the Township and must conform to the requirements of the Township's standard construction specifications, the building and plumbing codes and other applicable rules and regulations of the Township. All such connections shall be made gas tight, water tight and must be inspected by the Township. Hydrostatic pressure testing of all new or replacement building sanitary drainage systems shall be required and testing procedures must conform to the requirements of the Township's standard construction specifications and the building and plumbing codes. Any deviation from the procedures and/or materials must be approved by the Township before installation.

- (b) Upon determination by the Township that a new or existing building sanitary drainage system connection is not properly discharging wastewater flow into the Township sanitary sewer main, the owner shall be required to repair or replace the existing sanitary sewer connection system. In the instance where the owner is not connected directly and separately to the Township sanitary sewer main, it shall be required, upon determination of improper discharge, that the owner connect separately to the Township sanitary sewer main. All costs and expenses incidental to this work shall be borne by the owner.
- (12) The applicant for the building sanitary drainage system permit shall notify the Township when the building sanitary drainage system is ready for inspection and connection to the Township sanitary sewer main. The connection to the Township sanitary sewer main and testing shall be made under the supervision of the Township or its representative.
- (13) All excavations for building sanitary drainage system installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Township.
- (14) No excavation shall be commenced to open any portion of a street until the owner, its agents and/or independent contractor shall have first obtained a permit from the Township Secretary as required by law.
- (15) No excavation, construction or connection work shall be commenced within the Township right-of-way until the owner, its agents and/or independent contractor shall have first filed either a bond or certified check in double the amount of the cost of the work to be performed as determined by the Township, agreeing to indemnify and save harmless the Township against any and all loss, damages, costs and expenses which the Township may thereafter suffer, incur, be put to or pay by reason of the failure to complete properly any of the aforesaid excavation, construction or connection work. The term "owner," as used herein, shall be deemed to include the owner or owners, in fee simple, lessees of the premises, occupiers of the premises and all other parties having a beneficial use or interest in the premises and occupying the same without the consent and permission of the owner of the fee title.
- (16) The Township shall have the power to close streets to traffic for the purpose of making connections, with due regard to the convenience of the public. The Township shall also have power to specify the time when the work in any block or district shall begin and when the same shall be suspended. Contractors and owners having begun the work of making connections will be required to complete the same expeditiously. All excess material shall be cared for by the owner or contractor.
- (17) From and after the effective date of this article, all sewers and building drainage systems of every kind, nature and description proposed to be constructed in building developments within the Township shall be completely constructed, built and installed at the sole cost, expense and liability of the person or persons, firm, association or corporation promoting, sponsoring, managing, constructing, developing or erecting such building development and/or the owners of property abutting on and benefitted by the line as installed, provided that the actual work of construction and installation may, at the option and discretion of the Township, be done either by the owners and developers under proper agreement and supervision or by the Township at the entire cost of the owner.
- (18) Any and all sewers or sections thereof hereafter constructed and installed in such building developments within the Township shall not be accepted, connected with or emptied into the Township facilities, nor become part of the Township facilities, until the shall have been completed, inspected, pressure tested, televised and approved and found to be in accordance with the provisions of this article and with all regulations and requirements of the Township, and shall have been certified by the Township.
- (19) The same formalities shall be required in cases of repairs, replacement, alterations and additions, as are required in making original connections. In the instance where an existing building sanitary drainage

system is repaired, it shall be modified to conform with the requirements of the current building and plumbing codes and other applicable rules and regulations of the Township.

- (20) Vent systems associated with new and existing building sanitary drainage systems shall conform to the requirements of the building and plumbing codes.
- (21) Building traps shall not be permitted on construction of new or existing building sanitary drainage systems. In the case of repairs of existing building sanitary drainage systems, no trap of any type will be allowed on the portion of the building sanitary drainage system which is located on the exterior of the building. If building traps cannot be eliminated as directed by the Township, they shall be relocated to the interior of the building and vented properly through the wall of the building.
- (22) Existing building sanitary drainage systems with curb vents shall have these vents either permanently sealed, as approved by the Township, or raised at least six inches above finished grade and capped with approved cap or relocated as directed by the Township. In the instance where an existing building sanitary drainage system is repaired, curb vents shall be eliminated or permanently sealed or relocated, as directed by the Township.
- (23) Cleanouts in building sanitary drainage systems shall be constructed in accordance with the Township's building and plumbing codes.

- C. Specific pollutant limitations. No industrial or commercial user of the Township facilities shall contribute or cause to be contributed, directly or indirectly, wastewater containing pollutant levels in excess of the wastewater characteristics levels specified in the definition for "EDU" in § 210-12 of this article.
- D. State requirements. State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations, or those in this article.
- E. Township's right of revision. The Township reserves the right to establish, by ordinance, more stringent limitations, numeric limitations for additional parameters or additional requirements on discharges to the Township facilities if deemed necessary to comply with the objectives presented in § 210-11 of this article.
- F. Excessive discharge. No user or industrial user shall ever increase the use or process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment, to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards or with any other pollutant specific limitation developed by the Township or state.
- G. Accidental discharge. As directed by the Township, users may be required to provide protection from accidental discharge of prohibited materials or other substances regulated by this article into the Township's facilities. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's cost and expense. If necessary, the Township will evaluate, at least once every two years, if the user requires spill prevent and sludge discharge measures to be implemented. If the Township deems it necessary, a slug discharge control plan may be required. The plan must contain certain minimal elements, such as a description of the user's chemical storage and discharge practices, procedures for notifying the Township of slug loading, measures of preventing and containing spills and emergency response and follow-up procedures as required by this article. No user who commences contribution to the Township facilities after the effective date of this section shall be permitted to introduce pollutants into the system until the accidental discharge procedures have been approved by the Township. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify its facility, as necessary, to meet the discharge; it is the responsibility of the user to immediately telephone and notify the Township of the incident. The notification shall include location of the discharge, type of waste, concentration and volume and corrective actions.
 - (1) Written report. Within five days following an accidental discharge, the user shall submit to the Township a detailed written report describing the cause of the discharge and the measures to be taken to mitigate

any expenses, loss, damage or other liability which may be incurred as a result of damage to the Township facilities or aquatic life or any other damage to person or property. Such report shall not relieve the user of any fines, civil penalties or other liability which may be imposed by this article or other applicable law.

- (2) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur advised of the emergency notification procedures.

H. Township's right of entry. The owner of any building with its sanitary drainage system connected to the Township facilities, after disclosure or proper credentials and identification, shall allow the Township to:

- (1) Enter, at reasonable times, all properties and facilities for the purpose of inspection, observation, measurement, sampling and testing to determine compliance with the provisions of these regulations and for the performance of other functions relating to service rendered by the Township in regard to the Township facilities.
- (2) Examine and copy any and all records required to be maintained by the owner for the purpose of determining compliance with the provisions of these regulations and any and all state or federal pretreatment standards and regulations.

I. Inspection; compliant. **[Added 8-11-2011 by Ord. No. 2011-05]**

- (1) To insure compliance with the provisions described in this § 210-13, the Township shall establish a program of periodic and systematic inspections of all properties, including laterals, connected to a sanitary sewage collection system operated by the Township.
- (2) All property owners will be notified of the Township's request to inspect their property and laterals by letter. Within 20 calendar days of receipt of the aforementioned notice, the property owner shall contact the Township office to schedule an appointment for the inspection. Said inspection shall be performed at no expense to the property owner.
- (3) The Township shall issue a report to the property owner with respect to the conclusions of said inspection. Any repairs or modifications to the connections of the property to the sanitary sewer lateral or to the laterals connecting to the main indicated therein shall be completed within 60 calendar days following said notice.
- (4) Property owners who fail to schedule an inspection within 30 calendar days, or make repairs or modifications within the appropriate time frames, as above outlined, will be subject to a surcharge of \$100 for the first billing quarter thereafter as a surcharge on their sewer bill for the property. For each quarter or part thereof, thereafter that the property owner does not respond to the request for inspection, or make the required repairs or modifications, said surcharge shall increase by \$25 per quarter. Said surcharge will continue from quarter to quarter until proper inspections have been done and/or all required work performed. **[Amended 5-12-2016 by Ord. No. 2016-04]**
- (5) In the event that a property owner does not cooperate with the scheduling of an inspection and/or perform the required corrective measures within a maximum 90 calendar days, the Township, may take all appropriate measures necessary to insure compliance, including seeking injunctive relief or other appropriate relief from the Court of Common Pleas of Montgomery County. In the event the Township incurs any costs to insure compliance with the terms of this subsection, the property owner shall be responsible for all costs of said proceedings, including reasonable attorney's fees and engineering fees. Any costs incurred by the Township may be filed as a lien against the property, in accordance with the provisions of the Pennsylvania Municipal Claims Act.¹⁸

§ 210-14. Fees, rates and other charges. [Amended 8-13-1998 by Ord. No. 98-4; 11-12-1998 by Ord. No. 98-6; 12-30-1998 by Ord. No. 98-8; 12-30-1999 by Ord. No. 99-4; 1-10-2002 by Ord. No. 02-2; 8-12-2004 by Ord. No. 04-13; 2-10-2005 by Ord. No. 05-01]

- A. Rates. Sewer rentals are fixed and imposed upon and shall be collected from the owner of each improved property which shall be connected to and/or served by the sewer system(s), for use of the sewer system(s), whether such use shall be direct or indirect, and for services rendered by this Township in connection therewith, which sewer rentals shall be payable at the times and in the amounts as provided by this article, in accordance with the following schedule of rates and classifications:
- (1) Residential. Rates charged for residential service shall be established by resolution which may be duly adopted and amended by the Board of Supervisors from time to time.
 - (2) Each dwelling unit in double house, in a row of connecting houses, in an apartment building or in any other multiple dwelling unit shall be billed as a separate entity. If two or more families use separate cooking and/or toilet facilities in an improved property, the sewer rentals payable hereunder shall be computed as though each such family was a separate user with a separate connection to a sewer.
 - (3) If two or more dwelling units shall be connected to the sewer system(s) through a single lateral, or if two or more types of use are made of the same improved property, the sewer rentals payable hereunder shall be computed as though each such dwelling unit and each such type of use were a separate improved property or user with a separate connection to the sewer.
 - (4) Additional classifications and sewer rentals or modifications of the fore going schedule of sewer rentals may be established by this Township, from time to time, as deemed necessary.
 - (5) Except for the dwelling units in the Perkiomen Crossing Development where there shall be no charge imposed for connection to the system(s), a connection charge is imposed upon and shall be collected from the owner of each improved property which physically shall connect such improved property to the sewer system(s) for the use of the sewer system(s), whether such use shall be direct or indirect, which connection charge shall be due and payable in a lump sum, as of the date such physical connection of such improved property shall be made to the sewer system(s). Such connection charge shall be in an amount as established from time to time by resolution of the Board of Supervisors.
- B. Times and methods of payment.
- (1) All bills for sewer rentals shall be rendered monthly on the first day of each month, or for such other period of time or other dates in such month as the Supervisors, by resolution, shall specify, and shall cover a month in advance of a completed month. **[Amended 3-13-2008 by Ord. No. 2008-04]**
 - (2) Connection charges shall be due and payable and shall be billed as of the date provided for in Subsection A(5), above, and the appropriate amount shall be deemed to be delinquent if such amount shall not be paid within 10 days after the date provided for in Subsection A(5).
 - (3) Sewer rentals shall be due and payable upon the applicable billing date as provided for in Subsection B(1), above, and the appropriate amount, computed in accordance with this article, shall constitute the net bill. If sewer rentals are not paid within 30 calendar days after each billing date, an additional sum of \$5 shall be added to such net bill for every thirty-day period that the bill remains due, which net bill, plus such additional sum, shall constitute the gross bill. Payment made or mailed and postmarked on or before the last day of such thirty-calendar-day period shall constitute payment within such period. If the end of such thirty-calendar-day period shall fall on a legal holiday or Sunday, payment made or mailed and postmarked on the next succeeding weekday which is not a legal holiday shall constitute payment within such period. Any bill not paid within a thirty-calendar-day period shall be deemed delinquent.

- (4) Each owner of an improved property which is connected to the sewer system(s) initially shall provide this Township with, and thereafter shall keep this Township advised of, his correct address. Failure of any person to receive any bill for sewer rentals and other charges shall not be considered an excuse for nonpayment, nor shall such failure result in an extension of the period of time during which the net bill, as appropriate, shall be payable.
- (5) Any and all receipts and payments made to Upper Frederick Township shall be applied first as against penalties, then as against interest accrued to date and lastly as against outstanding sewer rental charges until such payment is exhausted. In the event that such payment or receipt does not satisfy first any penalties, then any interest accrued to date and then finally the sewer rental charge as identified in Subsection B(3) hereof, then the remaining unsatisfied portion of said penalties, interest accrued or sewer rental shall be subject to additional penalties for late payment as provided in Subsection B(3), hereof.
- (6) Notwithstanding the provisions of this section imposing penalties or interest upon delinquent accounts, no delinquent account owing less than \$6 shall be subject to any interest or penalty authorized by this section, but such outstanding amount shall be added to the following bill. **[Amended 3-12-2009 by Ord. No. 2009-03]**

C. Enforcement of collection of sewer rentals and other charges: liens: filing and collection of liens.

- (1) Sewer rentals and other charges imposed by this article shall be a lien to the extent permitted by the laws of the commonwealth, on the improved property connected to and/or served by the sewer system(s); and any such sewer rentals and other charges which shall be delinquent shall be filed as a lien, to the extent permitted by the laws of the commonwealth, against the improved property so connected to and served by the sewer system(s), which lien shall be filed in the office of the Prothonotary of Montgomery County, Pennsylvania, and shall be collected in the manner and to the extent permitted by the laws of the commonwealth for the collection of municipal claims. In addition, any costs and/or reasonable attorneys' fees incurred by the Township, or its agent, shall be added to the unpaid sewer charges, along with penalties and interest, as set forth above, and the aggregate of the same shall be entered as a lien on the property served. The delinquent sewer charges, costs and reasonable legal fees incurred, as well as the penalty and interest, shall be collected by the designated agent of the Township.
- (2) Sewer rentals and other charges imposed by this article may be enforced or collected by this Township in any other manner which shall be appropriate, from time to time, pursuant to the laws of the commonwealth. The Township hereby approves the following schedule of attorneys' fees for services in connection with the collection of accounts, which is hereby determined to be fair and reasonable compensation for the services set forth below, all in accordance with the principles set forth in § 3 of the Municipal Claims Law, as amended by Act No. 1 of 1996: **[Amended 3-13-2008 by Ord. No. 2008-04; 5-16-2013 by Ord. No. 2013-01]**

Legal Services	Fee for Services
Filing of lien	\$250
Title search	\$250
Preparation and service of writ of scire facias	\$600
Alternative service of legal pleadings	\$250
Entry of judgment	\$150
Preparation of writ of execution and attendance at initial Sheriff's sale	\$750
Preparation of documents and attendance at second Sheriff's sale	\$600
Review schedule of distribution and resolve distribution issues	\$250

Legal Services	Fee for Services
Installment of payment agreement at taxpayer's request	\$100
Preparation and filing of civil complaint with District Justice	\$125
Attendance and representation at District Justice hearing	\$250
Preparation and filing of notice of execution/notice to defendant	\$80
Order and filing of notice of judgment/transcript of civil case	\$80
Services not covered above	Prevailing hourly rate of Township Solicitor

D. Adoption of additional rentals and charges, districts, rules and regulations. The Township reserves the right to adopt by resolution, from time to time, such additional rentals and other charges, districts, rules and/or regulations as it shall deem necessary and proper in connection with use and operation of the sewer system(s), which additional rentals and other charges, districts, rules and/or regulations shall be, shall become and shall be construed as part of this article.

§ 210-15. Administration.

It shall be unlawful to discharge or connect into any sanitary sewer within the Township without a Township permit, or in any area under the jurisdiction of said Township or to the Township facilities, any wastewater except as authorized in writing by the Township in accordance with the provisions of this article.

§ 210-16. Enforcement. [Amended 8-12-2004 by Ord. No. 04-13; 5-12-2005 by Ord. No. 05-05]

A. Actions against users.

- (1) Upon the procedures established by resolution adopted by the Board of Supervisors, which may be amended from time to time, for the compliance and enforcement of this article, the Township may discontinue potable water service to any building serviced by public sewers. The Township may perform inspections to ensure all work is completed in a manner which is satisfactory to the Township.
- (2) If the owner further refused to complete the required actions, the Township may cause to be made such maintenance or repairs as may be necessary to meet the requirements of this article and charge the owner for the costs thereof. If the owner does not meet the payment terms and conditions for such charges, a lien against the owner's building will be sought for unpaid charges. If any person discharges wastewater, stormwater or other wastes into the Township's facilities, contrary to the provisions of this article, federal or state requirements or any order of the Township, or is in violation of any other treatment standards and requirements of this article, the Township Solicitor may commence an action for appropriate legal and/or equitable relief in the Court of Common Pleas of Montgomery County.

B. The water usage shall be due and payable upon the applicable billing date as provided for in Subsection A of this section, and the appropriate amount, computed in accordance with this article, shall constitute the net bill. If the bills are not paid within 30 calendar days after each billing date, an additional sum of 1.50% of the principal due shall be added to such net bill every 30 days after the due date, which net bill, plus such additional sum, shall constitute the gross bill. Payment made or mailed and postmarked on or before the last day of such thirty-calendar-day period shall constitute payment within such period. If the end of such thirty-calendar-day period shall fall on a legal holiday or a Sunday, payment made on or mailed and postmarked on the next succeeding weekday which is not a legal holiday shall constitute payment within such period. Any bill not paid within said 30 calendar days shall be deemed delinquent. Notwithstanding the provisions of this section, no penalties or interest shall be added to any delinquent account owing less than \$1, but such delinquent amount shall be added to the following bill.

§ 210-17. Violations and penalties. [Amended 8-13-1998 by Ord. No. 98-4]

Any user who shall violate any provision of this article, upon conviction thereof in an action brought before a District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this article continues or each section of this article which shall be found to have been violated shall constitute a separate offense.

ARTICLE III
Community Sewage Disposal Systems
[Adopted 8-13-1998 by Ord. No. 98-4]

§ 210-18. Purpose.

- A. The purpose of this article is to establish procedures for the design, installation, use and maintenance of community sewage disposal systems (hereinafter referred to as "CSDS") designed to receive, treat and dispose of sewage from sanitary sources. It is hereby declared that the enactment of this article is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of this Township.
- B. This article is intended to provide a method of sewage treatment and disposal under circumstances where the Township does not have the capability to convey, treat and/or dispose of sewage via a Township or Township authorized agency's publicly held conveyance, treatment and/or disposal system, and where the construction, use and maintenance that are or may be associated with individual sewage disposal systems pose or may present potential health risks.

§ 210-19. Permit required.

- A. No person shall construct, own, operate or maintain, or suffer to be constructed, owned, operated or maintained, any CSDS on his lands, nor shall any person own, operate, erect or maintain any CSDS on lands of another unless a permit therefor has been issued by the Board of Supervisors of Upper Frederick Township, the Department of Environmental Protection (hereinafter referred to as "DEP") or the Montgomery County Health Department (hereinafter referred to as "Health Department"), and security has been posted with the Board of Supervisors, which permit and security shall remain unexpired, unsuspended and unrevoked.
- B. Any such permit or permission issued by the Board of Supervisors shall be limited to a maximum of three years, or such other time as the Board may deem proper under the circumstances. If construction has not commenced within three years of any permit to construct a CSDS is issued by the Board of Supervisors, said permit shall be considered null and void, unless extended by specific action of the Board.

§ 210-20. Scope.

As part of any zoning and subdivision approval proposing the use of a CSDS, compliance with the terms of this article shall be a condition of any such approval, including the condition that the system be subject to a continuing offer of dedication to the Township. All CSDS, as herein defined, to be constructed shall have, as the official permittee, the Township of Upper Frederick, as required by the Township's Act 537 plan. The provisions set forth in this section shall be memorialized in appropriate textual notes prominently set forth on the approved final subdivision and land development plan.

§ 210-21. Definitions.

As used herein, the following terms shall have the meanings herein described, unless otherwise provided:

BOARD — The Board of Supervisors of Upper Frederick Township.

CAPITAL RESERVE FUND — An interest bearing fund which is established for or by the Board with monies contributed by each CSDS developer for the purpose of financing major equipment and facility repair, replacement or upgrade. A separate capital reserve fund shall be established for each CSDS.

COMMUNITY SEWAGE DISPOSAL SYSTEMS (CSDS) — Any sanitary sewage treatment and disposal system which treats and disposes of sewage from two or more lots, and for the treatment or disposal of sewage on one or more lots or at any other site, utilizing subsurface absorption, stream discharge, spray irrigation or other method specifically authorized by the Department of Environmental Protection or the Montgomery County Department of

Health; specifically excluding any treatment or disposal system that serves only one lot.

DEP — The bureau or office of the Department of Environmental Protection of the Commonwealth of Pennsylvania which administers the issuance of permits and enforces regulations promulgated by the Environmental Quality Board governing the issuance of permits for CSDS.

DESIGN STANDARDS — Standards for CSDS established by DEP, as well as all relevant installation and locational standards established by this article.

ENGINEER — The Township's duly appointed engineer or engineering firm which provides the Board with technical and engineering consultation.

HEALTH DEPARTMENT — The Montgomery County Department of Health.

IMPROVED PROPERTY — Any property within the Township upon which there is erected a structure intended for continuous use by individuals and from which structure sanitary sewage shall or may be discharged.

PERSON — Any individual, partnership, company, association, corporation or other group or entity.

SANITARY SEWAGE — Any substance that contains the waste products or excrement or other discharge from the bodies of human beings, and any noxious or deleterious substance being harmful or inimical to the public health or to animal or aquatic life, or to the use of water from domestic water supply or for recreation. Specifically excludes wastewaters of industrial origin.

TOWNSHIP — Upper Frederick Township, Montgomery County, Pennsylvania.

§ 210-22. Rights and privileges of Board.

- A. The collection, treatment and disposal of all sewage from any improved property utilizing a CSDS shall be done solely by the Board, or its authorized representative.
- B. The Board is hereby empowered to undertake, within the Township, the control of methods of CSDS design, installation and operation.
- C. The Board may enter into or acquire escrow agreements, construction and performance bonds and engineering services to ensure CSDS are designed, constructed and operated in accordance with the terms of this article.
- D. The Board, or its assignee, is empowered to take ownership of all operating CSDS within the Township. Method and manner of possession of CSDS will be as dictated by the terms of this article and the laws of the Commonwealth of Pennsylvania.
- E. The Board may operate, maintain, improve and/or abandon any CSDS owned by the Board.

§ 210-23. Conditions precedent to the issuance of a CSDS construction permit.

Before any permit to construct a CSDS is issued to any person in Upper Frederick Township, the following conditions shall have occurred:

- A. The official sewage facilities plan of Upper Frederick Township has been revised, indicating the use of CSDS for the property, as approved by the Board and DEP.
- B. The owner has received approval from the Board, DEP and/or the Health Department of all applicable soil analysis and land planning modules.
- C. The owner has complied with all relevant sections of this article with regard to design specifications, applications and permitting procedures.

§ 210-24. Application procedures.

- A. Any person desiring to construct a CSDS on lands within Upper Frederick Township shall file a CSDS application (Part A) on a form supplied by the Board of Supervisors. The application shall include three copies of the plans and specifications of the proposed collection, treatment and disposal system sealed by a professional engineer licensed in the Commonwealth of Pennsylvania, with appropriate approved sewage planning module and other material necessary to demonstrate compliance with the terms of this article. The application fee shall be in an amount as determined from time to time by the Board of Supervisors. Said fee is nonrefundable.
- B. The owner shall make such changes to the design of the proposed CSDS as required by the design standards contained herein, and as determined by the Township's Engineer to be technically necessary for the safe, efficient and economical operation of the CSDS.
- C. Upon review and approval of the application by the Board of Supervisors, a Part A permit shall be issued and the application shall be forwarded to DEP, who shall process the application in accordance with the regulations administered by DEP. Any review by DEP shall only be preliminary to final (Part B) permit approval by the Upper Frederick Township Board of Supervisors.

§ 210-25. CSDS construction permit.

Upon approval of DEP, the owner shall file a CSDS construction permit (Part B) application on a form supplied by the Board. Said application shall include a Pennsylvania Department of Environmental Protection or Health Department sewerage permit (if applicable), plans and specifications of the CSDS and an application fee. The fee for the Part B permit shall be in an amount as established from time to time by the Board of Supervisors and must accompany the application. Said fee is nonrefundable. Before any permit to construct a CSDS is issued to any person in the Township, all of the following conditions shall have occurred:

- A. The owner has provided the Board of Supervisors with an adequate escrow account for the total construction cost, including inspection by the Township's Engineer and start-up costs. The amount of escrow shall be determined by the Township's Engineer.
- B. Any person desiring to construct a CSDS on lands within Upper Frederick Township shall establish a capital reserve fund in the name of Upper Frederick Board of Supervisors. Said fund shall be dedicated to the use of the Board, at its sole discretion, for the repair, replacement or upgrade of CSDS equipment and facilities. Said fund shall be initially established upon the first connection to the CSDS at an amount equal to, but not less than, 5% of the value, or as determined by the Township's Engineer, of the CSDS as installed. If the fund is diminished due to expenditures for the repair, replacement or upgrade of facilities, it shall be replenished by the users of the CSDS through the Board's rental billing in the year subsequent to the expense.
- C. The owner agrees to provide the Board with a maintenance bond equal to 15% of the construction cost and valid for a period of 18 months, from the date of acceptance of dedication to the Township.
- D. The owner has provided the Board of Supervisors with all financial documents and the proper documents for transfer of the CSDS to the Township. Transfer of ownership shall not occur until conditions specified in this article have been met.
- E. The owner has established compliance with any applicable conditions of any approved plan, or the terms and conditions of any approval issue, pursuant to Chapter 285, Zoning, or Chapter 240, Subdivision and Land Development.
- F. The construction permit shall be issued after approval by the Township Board of Supervisors.
- G. The owner shall have offered, subject to the favorable review of the Township, a declaration binding all lot owners to use, operate and contribute to the system.

§ 210-26. Revocation of permit.

A CSDS construction permit will be null and void at such time as any of the following occur:

- A. The DEP or Health Department permit expires or is revoked.
- B. The expiration date specified by permit occurs.
- C. The Board of Supervisors revokes the permit.
- D. The holder of the permit violates any of the conditions of the DEP or Health Department permit or Board of Supervisors permit, or violates any DEP or Township regulations for CSDS as established by this article.

§ 210-27. Specifications for design and construction of CSDS.

- A. Design of a CSDS shall be in accordance with specifications presented herein, and standard specifications as may be adopted by the Board prior or during design of the CSDS. Design criteria for onlot systems shall be based upon the results of subsurface soil investigations as required by 25 Pa. Code, Chapter 73. Conformance with aforementioned standards shall be so noted on the design drawings and specifications. The Board shall have final control over design standards.
- B. Design and installation of CSDS shall be subject to the approval of the Upper Frederick Township Board of Supervisors. All drawings and specifications shall be to the level of detail required for construction prior to the application for a Township Part B permit.
- C. In the case of onlot sewage disposal, a sufficient back-up absorption area shall be provided adjacent to the primary absorption area to accommodate 100% of the design flow of the treatment facility. Said back-up area shall be completely tested at the same time as the primary absorption area. Said back-up area shall be provided in property to be dedicated to the Board of Supervisors.
- D. Except upon the approval and recommendation of the Township's Engineer, an anaerobic treatment system with a tank volume greater than 1,200 gallons, or which is designed to accommodate other than two dwelling, commercial or industrial units, is not permitted unless approved by the Board of Supervisors.
- E. Except where disposal conditions would warrant the use of a normal septic system, a minimum level of aerobic secondary treatment shall be provided. Specific site environmental conditions, such as soil characteristics, groundwater, proximity of water supplies to discharge, proximity of dwellings to treatment facility and discharge, etc., may require more stringent treatment.
- F. All hydraulic process design criteria shall be based on peak hourly flow.
- G. Grinder pumps shall be permitted. Design and construction specifications, as well as inspection and monitoring standards, shall be approved by the Township's Engineer.
- H. Sewage lift stations shall be provided with a comminutor approved by the Township's Engineer and a bypass manual bar screen. All wastewater entering into the treatment plant shall pass through a screening device or comminutor prior to entering the wastewater treatment process.
- I. Grease interceptors shall be provided in restaurants, delis or other similar establishments. Such regulations shall be enforced by withholding issuance of occupancy permits until compliance with these regulations has been established.
- J. Emergency power transfer equipment shall be provided for smaller facilities to allow hookup of a portable generator. Where facilities are deemed sufficiently large by the Board, an emergency generator and automatic transfer switch shall be provided as backup power. In all cases, emergency standby power shall be in conformance with DEP permits.

- K. Sufficient redundancy of all necessary systems and subsystems shall be provided to eliminate downtime of facility.
- L. Except when a lagoon treatment is utilized, a separate aerated tank for wasting sludge shall be provide.
- M. Failure of any equipment necessary for basic operation of the CSDS shall be telemetered by an autodialer warning system. The autodialer shall send the signal to a central monitoring location at a location approved by the Township.
- N. Disposal of sludge shall be arranged with a licensed sludge hauler/disposer. Said hauler shall be subject to approval by the Board, DEP and/or the Health Department.
- O. Sufficient laboratory space and testing equipment shall be provided to efficiently operate the CSDS.
- P. Control and operation of CSDS shall be as automated as practical.
- Q. All equipment specified in the plans and specifications submitted for the Township Part A or Part B permits shall be subject to the approval of the Township's Engineer.
- R. The owner shall have the parcel for the proposed CSDS surveyed and provide a legal description and a continuing offer to dedicate without cost to the Township, all lands on which the sewage treatment system is located, together with any alternate absorption area, and any necessary easements in relation thereto including, without limitation, those easements for the sewage collection system and the disposal beds or areas and the easements for the provision of utilities and access to, as well as repair and maintenance of, the treatment collection systems.
- S. The owner shall provide a written agreement to furnish the Township with record plans (as-built) of the completed CSDS and any ancillary equipment or components. Also, a complete operation and maintenance manual shall be provided prior to the start-up of the facility.
- T. Easy access shall be provided for repairs and maintenance of the system. This would include a paved driveway and parking areas, as required. Proper safety enclosures (i.e., pumps, aeration tanks, etc.) shall be required.
- U. Permanent pins and concrete monuments shall be accurately placed at the intersection of all lines forming angles, and at changes in directions of lines in the boundary (perimeter) of the property on which the sewage treatment system is located. All pins and monuments shall be placed by a registered surveyor.

§ 210-28. Construction inspection.

- A. All CSDS shall be subject to inspection during construction by the Board of Supervisors or its authorized agent. Any noncompliance with the terms of this article, approved plans and specifications, safety standards or other agreements shall be grounds for suspension of permit and suspension of escrow fund releases.
- B. The Board of Supervisors or its authorized agent may inspect, as deemed necessary, any component of any sewage system to determine its compliance with the terms of this article.
- C. The Board of Supervisors or it authorized agent may sample any sewage (treated or untreated), soils, surface and/or ground waters in the disposal and/or treatment areas in all areas in and contiguous to any CSDS.
- D. The Township's Engineer shall receive and approve submittals (shop drawings) approved by the owner's engineer prior to the installation of any equipment.

§ 210-29. Release of escrow.

- A. The owner may request a draw down of CSDS construction escrow account according to a payment schedule agreed upon with the Township. Draw down or release from said escrow account shall, at all times, leave

remaining in the said account a fund equal to not less than 110% of the installation cost of all uncompleted items designated in the escrow agreement.

- B. Prior to dedication, the owner shall allow the Board of Supervisors or its authorized agent access for inspection of CSDS operation at any reasonable time.

§ 210-30. CSDS start-up and operation.

The owner shall, from the date of system start-up, and until acceptance of dedication by the Township:

- A. Contract with a licensed sewage treatment plant operator acceptable to the Board of Supervisors for the day to day operation of its system. The day to day operation of the system shall be governed by a Board document detailing specific operation activities for the system.
- B. Contract with an acceptable sewage treatment plant contractor for required maintenance.
- C. Provide the Board with copies of operation and maintenance contracts and records of all operation and maintenance activities performed.
- D. Provide the Board with copies of all reports with regard to plant operation and testing on a timely basis.
- E. Prior to start-up, provide the record (as-built) drawings, as specified in § 210-27S.
- F. Prior to dedication, provide all financial records pertaining to construction, operation and maintenance of CSDS to the Board of Supervisors.

§ 210-31. Dedication to Township.

- A. After CSDS has been operating successfully within permit parameters for two successive quarters, with operating costs having been completely offset by revenues derived from customers being serviced, or at such earlier time as the Township deems appropriate, owner shall offer said system for dedication to Township or its assignee for the sum of \$1.
- B. Immediately prior to such time as the Township or its assignee accepts ownership of the CSDS, a facility audit shall be conducted by the Township's Engineer. Any faulty equipment or processes shall be corrected at this time by the owner at no additional cost to the Township. If the owner fails or complete these corrective actions, the Board may, at its discretion, draw monies from the escrow account to pay for the cost of such corrections, including administrative, legal and engineering costs.
- C. Prior to acceptance by the Township or its assignee of ownership of the CSDS, the owner shall provide adequate training, including operation and maintenance manuals, to the Board or the Board's authorized representative.
- D. Prior to acceptance by the Township or its assignee, the capital reserve fund shall be shown to have been established and adequately funded.
- E. Prior to acceptance by the Township or its assignee of ownership of the CSDS, the owner shall provide the Board or its assignee, with the maintenance bond as set forth in § 210-25C.

§ 210-32. Applicability.

- A. Any person who is the owner of any existing or proposed CSDS serving as means of sewage disposal within the Township is subject to all requirements of this article.
- B. The owner of any proposed CSDS shall be responsible for obtaining all required permits from the Township and DEP, and any other agencies requiring permits for such installation. The owner of any proposed CSDS shall be responsible for its construction and start-up in accordance with the requirements of this article.

§ 210-33. Violations and penalties.

Any person, firm or corporation who shall violate any provision of this article, upon conviction thereof in an action brought before a District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this article continues or each section of this article which shall be found to have been violated shall constitute a separate offense.

§ 210-34. Appeals.

Any person who considers himself aggrieved by any action of the Board with respect to such permit application, whether the same is based upon alleged noncompliance with the terms of this article, may appeal the denial of such permit in accordance with the rules and regulations established by the Board. The appeal shall be subject to the Local Agency Law.

§ 210-35. Remedies.

In addition to the penalties provided in § 210-33, the Board is authorized to file appropriate actions, at law or in equity, in the Court of Common Pleas in and for Montgomery County, or before any other body having jurisdiction over the persons and activities herein regulated, to abate any violation and remove any CSDS not owned, operated, maintained or constructed in accordance with the provisions of this article. Violations of this article are declared to be public nuisances, abatable as such.

§ 210-36. Rights of entry and inspection.

The Township and its agents and employees shall have the right of access to and may enter any building, property, land, premises or places as may be necessary to carry out the provisions of this article. In connection with such inspection or investigation, samples may be taken of any solid, semisolid, liquid or contained gaseous material for analysis.

ARTICLE IV
Sewage Facilities
[Adopted 8-13-1998 by Ord. No. 98-4]

§ 210-37. Definitions.

As used in this article, the following terms shall have the meanings indicated:

DEPARTMENT — Department of Environmental Protection of the Commonwealth of Pennsylvania.

INDIVIDUAL SEWAGE SYSTEM — Single system of piping, tanks or other facilities serving one or two lots and collecting and disposing of sewage in whole or in part into the soil of the property or into any waters of the commonwealth.

LOT — A part of a subdivision or a parcel of land used as a building site or intended to be used for building purposes, whether immediate or future, which would not be further subdivided.

PERSON — Any natural person, partnership, association or corporation. Whenever used in any clause prescribing and imposing a penalty, or imposing a fine or imprisonment, or both, the term "person" shall include the members of an association and the officers of a corporation.

PUBLIC SEWAGE SYSTEM — Sewer system and the treatment facility owned, operated or maintained by a municipality or authority approved by the Department under a permit issued pursuant to the Clean Streams Law, Act of June 22, 1937, P.L. 1987, No. 394, 35 P.S. § 691.1, et seq.

SEWAGE ENFORCEMENT OFFICER — A person or agency appointed to perform inspections and issue permits in connection with individual sewage systems.

§ 210-38. Sewage Facilities Act implemented.

This article shall be construed as implementing for the Township the provisions of the Pennsylvania Sewage Facilities Act, P.L. 1535, No. 537, January 24, 1966, 35 P.S. §§ 750.1-750.20.

§ 210-39. Connections with individual sewage systems.

Where public sewage services are not available to a property owner, the building sewer shall be connected to an individual sewage system complying with the provisions of this article.

§ 210-40. Permit required for installation; systems subject to approval by DEP.

A permit shall be required for the installation of an individual sewage system and building sewer prior to the construction of any building for which such system will be installed and, prior to the alteration, replacement, repair or extension of any such existing sewage system; provided, every such sewage system shall be subject to approval by the Pennsylvania Department of Environmental Protection. A permit shall be required for the installation of an individual onlot system for a residential structure occupied or intended to be occupied by the property owner or a member of his immediate family on a contiguous tract of land 10 acres or more, as provided in § 7 of the Sewage Facilities Act, 35 P.S. § 750.7.

§ 210-41. Application for permit; conditions of issuance.

Application for such permit to install an individual sewage system and building sewer shall be made prior to the expected date of commencement of construction of such facilities, on forms provided by the Township, which the applicant shall submit with any plans, specification or other information deemed necessary by the Sewage Enforcement Officer. No person shall commence any construction requiring a written permit until such permit has been issued by the Sewage Enforcement Officer and the fee for issuing such permit has been paid in full.

§ 210-42. Permit fee.

A permit and inspection fee is established by resolution of the Board of Supervisors and shall be paid at the time the application is filed.

§ 210-43. Effective date of permit contingent upon satisfactory completion of work.

A permit for an individual sewage system and building sewer shall not become effective until the installation is completed to the satisfaction of the Sewage Enforcement Officer. He shall be permitted to inspect the work at any stage of construction and the applicant shall notify him when the work is ready for final inspection, and before any underground portion are covered.

§ 210-44. Conformity to all regulations.

The type, capacities, location and layout of a community sewage system or an individual sewage system and building sewer shall comply with the recommendations of the Sewage Enforcement Officer, rules and regulations of the Township and of the Department, and applicable statutes of the Commonwealth of Pennsylvania.

§ 210-45. Violations and penalties.

Any person, firm or corporation who shall violate any provision of this article, upon conviction thereof in an action brought before a District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this article continues or each section of this article which shall be found to have been violated shall constitute a separate offense.

ARTICLE V
Spray Irrigation Systems
[Adopted 8-13-1998 by Ord. No. 98-4]

§ 210-46. Purpose.

The purpose of this article is to establish Township regulations for individual residential spray irrigation systems and small flow treatment facilities (which shall include, but not be limited to, dry stream channel discharge and overland flow systems, and spray irrigation systems for other than a single-family dwelling). It is hereby declared that the enactment of this article is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of this Township. Furthermore, this article is intended to satisfy the additional requirements imposed upon a municipality in the amendments to the Pennsylvania Sewage Facilities Act, 53 P.S. § 750.1 et seq., which require a municipality to assure compliance of the onsite treatment system with the regulations of said Act, as amended, that establish standards for the operation and maintenance of these systems.

§ 210-47. Scope.

As part of any zoning and subdivision approval proposing the use of an individual residential spray irrigation system or small flow treatment facility, compliance with the requirements hereinafter set forth shall be a condition of any such approval. All individual residential spray irrigation systems or small flow treatment facilities to be constructed in Upper Frederick Township must be issued a permit either by the Sewage Enforcement Officer for Upper Frederick Township pursuant to the amendments to the Pennsylvania Sewage Facilities Act, 35 P.S. § 750.1 et seq., or the Pennsylvania Department of Environmental Protection. In addition, the property owner and/or developer must execute an approved maintenance agreement with the Township which, along with the issuance of the permit, must be memorialized in appropriate textual notes prominently set forth on any approved final subdivision and land development plan.

§ 210-48. Definitions.

As used herein, the following terms shall have the meanings herein described, unless otherwise provided:

BOARD — The Board of Supervisors of Upper Frederick Township.

DEP — The Department of Environmental Protection of the Commonwealth of Pennsylvania.

HEALTH DEPARTMENT — The Health Department of the County of Montgomery.

INDIVIDUAL RESIDENTIAL SPRAY IRRIGATION SYSTEM — An individual onlot sewage system which serves a single-family dwelling and which treats and disposes of sewage using a system of piping, treatment tanks and soil renovation through spray irrigation.

SANITARY SEWAGE — A substance that contains the waste products or excrement or other discharge from the bodies of human beings or animals and noxious or deleterious substances being harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation, or any substance which constitutes pollution under the Clean Streams Law.

SMALL FLOW TREATMENT FACILITY — An individual or community sewerage system designed to adequately treat sewage flows not greater than 2,000 gallons per day for final disposal using a stream discharge or discharge to the surface of the ground.

SPRAY IRRIGATION SYSTEM — Any sanitary sewage treatment and disposal system which treats and disposes of sewage utilizing a spray irrigation and surface absorption or land application.

TOWNSHIP — Upper Frederick Township, Montgomery County, Pennsylvania.

§ 210-49. Township regulation.

- A. All subdivision and land development plans utilizing an individual residential spray irrigation system or small flow treatment facility hereafter installed in Upper Frederick Township shall not be approved within the Township unless and until the property owner and/or developer executes a maintenance agreement approved by the Township for purposes of providing security in a form acceptable to the Township sufficient to cover the costs of future operation and maintenance of the system over its design life. For individual residential spray irrigation systems, the security shall be up to a maximum of 50% of the construction costs for each of the first two years of operation and no more than 10% each year thereafter, of the equipment and installation costs of the system, establishment of properly chartered associations, trusts or other private legal entities to manage the systems, municipal ownership of the systems or any combination of the above. The security for small flow treatment facilities shall be as determined by the Township based on the recommendation of the Township Engineer.
- B. In addition, prior to plan approval, the Township must receive the permit issued by DEP and/or the Health Department for the construction and use of the individual residential spray irrigation system or small flow treatment facility, and must receive any and all escrows required by the approved maintenance agreement.

§ 210-50. Fees.

All fees for the Township's review, approval, use and maintenance of a spray irrigation system or small flow treatment facility shall be established and set forth in the maintenance agreement approved by the Township.

§ 210-51. Plan review process.

All subdivision and land development plans utilizing an individual residential spray irrigation system or small flow treatment facility within Upper Frederick Township shall be reviewed by the Upper Frederick Township Engineer to determine compatibility with the intent and requirements of the building and/or plumbing codes adopted by Upper Frederick Township.

ARTICLE VI
Holding Tanks
[Adopted 8-9-2001 by Ord. No. 01-2]

§ 210-52. Purpose.

The purpose of this article is to establish procedures for the use and maintenance of existing and new holding tanks designed to receive and retain sewage, whether from residential or commercial uses. It is hereby declared that the enactment of this article is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants, of this Township.

§ 210-53. Definitions.

- A. Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this article shall be as follows:

BOARD — The Board of Supervisors of Upper Frederick Township, Montgomery County, Pennsylvania.

DEPARTMENT — The Department of Environmental Protection of the Commonwealth of Pennsylvania ("DEP").

HOLDING TANK — A watertight receptacle, either permanent or temporary, designed and constructed to facilitate the ultimate disposal of the sewage at another site, which receives and retains sewage conveyed by a water carrying system. Receptacles designated for agricultural use are not included in this definition.

IMPROVED PROPERTY — Any property within the Township upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sewage shall or may be discharged.

MUNICIPALITY — Upper Frederick Township, Montgomery County, Pennsylvania.

OWNER — Any person vested with ownership, legal or equitable, sole or partial, of any property located in the Township.

PERSON — Any individual, association, public or private corporation, for profit or not for profit, partnership, firm, trust, estate, department, board, bureau or agency of the , political subdivision, municipality, district, authority or any other legal entity whatsoever which is recognized by law as the subject of rights and duties, Whenever used in any clause prescribing and imposing a penalty or imposing a fine or imprisonment, the term "person" shall include the members of an association, partnership or firm and the officers of any local agency or municipal, public or private corporation for profit or not for profit.

SEWAGE — Any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals, and any noxious or deleterious substances being harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation or which constitutes pollution under the Clean Streams Law (Act of June 22, 1937, P.L. 1987, No. 394, as amended, 35 P.S. §§ 691.1 to 691.1001).

SEWAGE ENFORCEMENT OFFICER — A person certified by DEP who is employed by the Township or County Health Department. Such person is authorized to conduct investigations and inspections, review permit applications and do all other activities as may be provided for such person in the Sewage Facilities Act, the rules and regulations promulgated thereunder and this or any other ordinance adopted by the Township or County Health Department. Only the Sewage Enforcement Officer employed by the County Health Department is authorized to administrate the sewage facilities permitting program under Chapter 72 of the regulations.

SUBDIVISION — The division or redivision of a lot, tract or other parcel of land into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines. The enumerating of lots shall include, as a lot, that portion of the original tract or tracts remaining after other lots have been subdivided

therefrom.

TOWNSHIP — Upper Frederick Township, Montgomery County, Pennsylvania.

- B. For the purposes of this article, any term which is not defined herein shall have that meaning attributed to it under the Sewage Facilities Act and the regulations promulgated thereto.

§ 210-54. Permit requirements.

- A. No building permit shall be issued for a new or expanded building which will contain sewage generating facilities until Act 537 planning approval has been issued by the Department and an appropriate holding tank permit issued by Montgomery County Health Department's Sewage Enforcement Officer.
- B. No occupancy permit shall be issued for a new building which will contain sewage generating facilities until installation is approved by the Montgomery County Health Department's Sewage Enforcement Officer.
- C. No building or occupancy permit shall be issued, and no work shall begin on any alteration or conversion of any existing structure, if said alteration or conversion will result in the increase or potential increase in sewage flows from the structure, until either the structure's owner receives a permit from the Montgomery County Health Department's Sewage Enforcement Officer for alteration or replacement of the existing sewage disposal system or until the structure's owner and the appropriate officials or the county or Township receive written notification from the Montgomery County Health Department's Sewage Enforcement Officer that such a permit will not be required. The Montgomery County Health Department's Sewage Enforcement Officer shall determine whether the proposed alteration or conversion of the structure will result in increased sewage flows.
- D. Sewage permits may be issued only by a Sewage Enforcement Officer employed by the Montgomery County Health Department.
- E. In situations where the regulations of the Department do not allow for the issuance of a permit for a holding tank by either the Department or the Montgomery County Health Department, the Township may grant approval for a holding tank subject to the applicant entering into an installation and maintenance agreement with the Township which shall include the following: **[Added 2-9-2012 by Ord. No. 2012-01]**
 - (1) Proof of a contract with a licensed hauler to collect, transport and dispose of the contents of the holding tank, and notice to the Township of any cancellation.
 - (2) Proof that the hauler and the dumping site for the contents of the holding tank are both licensed by the Department of Environmental Protection or other appropriate government agency.
 - (3) Provide the Township, through its Code Enforcement Officer, with receipts indicating that the holding tank has been pumped on a regular basis.
 - (4) Annual inspections by the Township Code Enforcement Officer.
 - (5) Indemnification of the Township for any liability arising from the operation and maintenance of the holding tank.
 - (6) An escrow deposit in an amount as established by the Fee Schedule of Upper Frederick Township, to guarantee the proper maintenance and operation of the holding tank and reimbursement for annual inspection fees by the Township.

§ 210-55. Rights and privileges granted.

The Board is hereby authorized and empowered to undertake within the Township the control and methods of holding tank use, sewage disposal and sewage collection and transportation thereof.

§ 210-56. Rules and regulations.

The Board is hereby authorized and empowered to adopt such rules and regulations concerning sewage which it may deem necessary from time to time to effect the purpose herein.

§ 210-57. Rules and regulations to be in conformity with applicable law.

All such rules and regulations adopted by the Board shall be in conformity with the provisions herein, all other ordinances of the Township and all applicable laws and applicable rules and regulations of administrative agencies of the Commonwealth of Pennsylvania.

§ 210-58. Rates and charges.

The Board shall have the right and power to fix, charge and collect rates, assessments and other charges in the area served by its facilities at reasonable and uniform rates as authorized by applicable law.

§ 210-59. Exclusiveness of rights and privileges.

- A. The collection and transportation of all sewage from an improved property utilizing a holding tank shall be done solely by a sewage hauler licensed by DEP and authorized by the Board or its agent, and the disposal thereof shall be made only at such site or sites as may be approved by DEP.
- B. The Board will receive, review and retain pumping receipts from permitted holding tanks.
- C. The Board will complete and retain annual inspection reports for each permitted holding tank.

§ 210-60. Duties of improved property owner.

The owner of an improved property that utilizes a holding tank shall:

- A. Maintain the holding tank in conformance with this and any ordinance of the Township, the provisions of any applicable law, the rules and regulations of the Board and any administrative agency of the Commonwealth of Pennsylvania.
- B. Permit only the Board or its agent to inspect holding tanks on an annual basis.
- C. Permit only a sewage hauler licensed by DEP and authorized by the Board or its agent to collect, transport and dispose of the contents therein.

§ 210-61. Violations and penalties.

Any person who violates any provisions of § 210-60 shall, upon conviction thereof by summary proceedings, be subject to a fine of not less than \$500 and costs, and not more than \$5,000 and costs or, in default thereof, shall be confined in the county jail for a period of not more than 30 days.

§ 210-62. Abatement of nuisances.

In addition to any other remedies provided in this article, any violation of § 210-60 above shall constitute a nuisance and shall be abated by the Township or the Board by either seeking mitigation of the nuisance or appropriate equitable or legal relief from a Court of competent jurisdiction.

ARTICLE VII
Onlot Sewage Disposal Systems
[Adopted 8-9-2001 by Ord. No. 01-3]

§ 210-63. Title; purpose.

- A. This article shall be known and may be cited as "An ordinance providing for a Sewage Management Program for Upper Frederick Township."
- B. In accordance with Municipal Codes, the Clean Streams Law (Act of June 22, 1937, P.L. 1987, No. 394, as amended, 35 P.S. §§ 691.1 to 691.1001), and the Pennsylvania Sewage Facilities Act (Act of January 24, 1966, P.L. 1535, as amended, 35 P.S. § 750.1, et seq., known as Act 537), it is the power and the duty of Upper Frederick Township to provide for adequate sewage treatment facilities and for the protection of the public health by preventing the discharge of untreated or inadequately treated sewage. The Official Sewage Facilities Plan for Upper Frederick Township indicates that it is necessary to formulate and implement a Sewage Management Program to effectively prevent and abate water pollution and hazards to the public health caused by improper treatment and disposal of sewage.
- C. The purpose of this article is to provide for the regulation, inspection, maintenance and rehabilitation of onlot sewage disposal systems; to further permit intervention in situations which may constitute a public nuisance or hazard to the public health; and to establish penalties and appeal procedures necessary for the proper administration of a Sewage Management Program.

§ 210-64. Definitions.

- A. Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this article shall be as follows:

AUTHORIZED AGENT — An employee of the Township, Professional Engineer, Plumbing Inspector, Sewage Enforcement Officer or any other qualified or licensed person who is authorized to function within specified limits as an agent of Upper Frederick Township to administer or enforce the provisions of this article.

BOARD — The Board of Supervisors of Upper Frederick Township, Montgomery County, Pennsylvania.

COMMUNITY SEWAGE SYSTEM — A sewage system, whether publicly or privately owned, for the collection of sewage from two or more lots, or two or more equivalent dwelling units, and the treatment of disposal, or both, of the sewage on one or more of the lots or at another site.

DEPARTMENT — The Department of Environmental Protection of the Commonwealth of Pennsylvania ("DEP").

INDIVIDUAL SEWAGE SYSTEM — A system of piping, tanks or other facilities serving a single lot and collecting and disposing of sewage, in whole or in part, into the soil or into waters of this commonwealth, or by means of conveyance to another site for final disposal.

LOT — A part of a subdivision or a parcel of land used as a building site or intended to be used for building purposes, whether immediate or future, which would not be further subdivided. Whenever a lot is used for a multiple-family dwelling or for commercial, institutional or industrial purposes, the lot shall be deemed to have been subdivided into an equivalent number of single-family residential lots as determined by estimated sewage flows.

MALFUNCTION — A condition which occurs when an onlot sewage disposal system discharges sewage onto the surface of the ground, into groundwaters of this commonwealth, into surface waters of this commonwealth, backs up into a building connected to the system or in any manner causes a nuisance or hazard to the public health or pollution of ground or surface water or contamination of public or private drinking water wells. Systems shall be considered to be malfunctioning if any condition noted above occurs

for any length of time during any period of the year.

MUNICIPALITY — Upper Frederick Township, Montgomery County, Pennsylvania.

OFFICIAL SEWAGE FACILITIES PLANS — A comprehensive plan for the provisions of adequate sewage disposal systems, adopted by the Board and approved by the Pennsylvania Department of Environmental Protection, pursuant to the Pennsylvania Sewage Facilities Act.

ONLOT SEWAGE DISPOSAL SYSTEM — Any sewage system which uses a system of piping, tanks or other facilities for collecting, treating or disposing of sewage into a soil absorption area or spray field, or by retention in a retaining tank; this term includes both individual sewage systems and community sewage systems.

OWNER — Any person vested with ownership, legal or equitable, sole or partial, of any property located in the Township.

PERSON — Any individual, association, public or private corporation for profit or not for profit, partnership, firm, trust, estate, department, board, bureau or agency of the commonwealth, political subdivision, municipality, district, authority or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. Whenever used in any clause prescribing and imposing a penalty or imposing a fine or imprisonment, the term "person" shall include the members of an association, partnership or firm and the officers of any local agency or municipal, public or private corporation for profit or not for profit.

REHABILITATION — Work done to modify, alter, repair, enlarge or replace an existing onlot sewage disposal system.

SEWAGE — Any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals and any noxious or deleterious substances being harmful or inimical to the public health, or to animal or aquatic life or to the use of water for domestic water supply or for recreation or which constitutes pollution under the Clean Streams Law (Act of June 22, 1937, P.L. 1987, No. 394, as amended, 35 P.S. §§ 691.1 to 691.1001).

SEWAGE ENFORCEMENT OFFICER (SEO) — A person certified by DEP who is employed by the Township or County Health Department. Such person is authorized to conduct investigations and inspections, review permit applications and do all other activities as may be provided for such person in the Sewage Facilities Act, the rules and regulations promulgated thereunder, and this or any other ordinance adopted by the Township or County Health Department. Only the Sewage Enforcement Officer employed by the County Health Department is authorized to administrate the sewage facilities permitting program under Chapter 72 of the regulations.

SEWAGE MANAGEMENT DISTRICT — Any area or areas of the Township designated in the Official Sewage Facilities Plan, adopted by the Board as an area for which a Sewage Management Program is to be implemented.

SEWAGE MANAGEMENT PROGRAM — A comprehensive set of legal and administrative requirements encompassing the requirements of this article, the Sewage Facilities Act, the Clean Streams Law, the regulations promulgated thereunder, and such other requirements adopted by the Board to effectively enforce and administer this article.

SUBDIVISION — The division or redivision of a lot, tract or other parcel of land into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines. The enumerating of lots shall include, as a lot, that portion of the original tract or tracts remaining after other lots have been subdivided therefrom.

TOWNSHIP — Upper Frederick Township, Montgomery County, Pennsylvania.

- B. For the purposes of this article, any term which is not defined herein shall have that meaning attributed to it under the Sewage Facilities Act and the regulations promulgated thereto.

§ 210-65. Applicability.

From the effective date of this article, its provisions shall apply in any portion of the Township identified in the Official Sewage Facilities Plan as a Sewage Management District. Within such an area or areas, the provisions of this article shall apply to all persons owning any property serviced by an onlot sewage disposal system and to all persons installing or rehabilitating onlot sewage disposal systems.

§ 210-66. Permit requirements.

- A. No building permit shall be issued for a new or expanded building which will contain sewage generating facilities until Act 537 Planning approval has been issued by the Department and appropriate OLDS permit issued by Montgomery County Health Department's Sewage Enforcement Officer.
- B. No occupancy permit shall be issued for a new building which will contain sewage generating facilities until installation is approved by the Montgomery County Health Department's Sewage Enforcement Officer.
- C. No building or occupancy permit shall be issued and no work shall begin on any alteration or conversion of any existing structure, if said alteration or conversion will result in the increase or potential increase in sewage flows from the structure, until either the structure's owner receives a permit from the Montgomery County Health Department's Sewage Enforcement Officer for alteration or replacement of the existing sewage disposal system or until the structure's owner and the appropriate officials of the county or Township receive written notification from the Montgomery County Health Department's Sewage Enforcement Officer that such a permit will not be required. The Montgomery County Health Department's Sewage Enforcement Officer shall determine whether the proposed alteration or conversion of the structure will result in increased sewage flows.
- D. Sewage permits may be issued only by a Sewage Enforcement Officer employed by the Montgomery County Health Department.

§ 210-67. Inspections.

- A. Any onlot sewage disposal system may be inspected by the Township's authorized agent at any reasonable time as of the effective date of this article.
- B. Such inspection may include a physical tour of the property, the taking of samples from surface water, wells, other groundwater sources, the sampling of the contents of the sewage disposal system itself and/or the introduction of a traceable substance into the interior plumbing of the structure served to ascertain the path and ultimate destination of wastewater generated in the structure.
- C. An authorized agent shall have the right to enter upon land for the purposes of inspections described in this section.
- D. An initial inspection shall be conducted by an authorized agent within one year of the effective date of this article for the purpose of determining the type and functional status of each sewage disposal system in the Sewage Management District. A written report shall be furnished to the owner of each property inspected, and a copy of said report shall be maintained in the Township records. The report may contain recommendations for improved operation and maintenance of the system.
- E. A schedule of routine inspections may be established to assure the proper functioning of the sewage systems in the Sewage Management District.
- F. An authorized agent shall inspect systems known to be, or alleged to be, malfunctioning. Should said inspections reveal that the system is indeed malfunctioning, the authorized agent shall notify the Montgomery County Health Department's Sewage Enforcement Officer and shall order action to be taken to correct the malfunction. If total correction cannot be done in accordance with the regulations of DEP including, but not

limited to, those outlined in Chapters 71 and 73 of Title 25 of Pennsylvania Code, or is not technically or financially feasible in the opinion of the authorized agent and Montgomery County Health Department's Sewage Enforcement Officer, then action by the property owner to mitigate the malfunction shall be required.

- G. There may arise geographic areas where numerous onlot sewage disposal systems are malfunctioning. A resolution of these area-wide problems may necessitate detailed planning and a revision to the portion of the Sewage Facilities Plan pertaining to areas affected by such malfunctions. When a DEP authorized Official Sewage Facilities Plan Revision has been undertaken, mandatory repair or replacement of individual malfunctioning sewage disposal systems within the area affected by the revision may be delayed, pending the outcome of the plan revision process. However, immediate corrective action may be compelled whenever a malfunction, as determined by Township officials, the Montgomery County Health Department and/or the Department, represents a serious public health or environmental threat.

§ 210-68. Operation.

Only normal domestic wastes shall be discharged into any onlot sewage disposal system. The following shall not be discharged into the system:

- A. Industrial waste.
- B. Automobile oil and other nondomestic oil.
- C. Toxic or hazardous substances or chemicals including, but not limited to, pesticides, disinfectants (excluding household cleaners), acids, paints, paint thinners, herbicides, gasoline and other solvents.
- D. Clean surface or ground water, including water from roof or cellar drains, springs, basement sump pumps and french drains.
- E. Wastewater resulting from hair treatment at a multichaired beauty shop.

§ 210-69. Maintenance.

- A. Each person owning a building served by an onlot sewage disposal system which contains a septic tank shall have the septic tank pumped within six months of the effective date of this article by a sewage pumper/hauler licensed by DEP and authorized by the Board or its agent. Thereafter, that person shall have the tank pumped at least once every three years or whenever an inspection reveals that the septic tank is filled with solids or with scum in excess of ___ of the liquid depth of the tank. Receipts from the pumper/hauler shall be submitted to the Township within the prescribed six months and three-year pumping periods.
- B. The required pumping frequency may be increased at the discretion of an authorized agent if the septic tank is undersized, if solids buildup in the tank is above average, if the hydraulic load on the system increases significantly above average, if a garbage grinder is used in the building, if the system malfunctions or for other good cause shown. If any person can prove that such person's septic tank had been pumped within three years of the six-month anniversary of the effective date of this article, then that person's initial required pumping may be delayed to conform to the general three-year frequency requirement, except where an inspection reveals a need for more frequent pumping frequencies.
- C. Any person owning a property served by a septic tank shall submit, with each required pumping receipt, a written statement from the pumper/hauler or from any other qualified individual acceptable to the Township, that the baffles in the septic tank have been inspected and found to be in good working order. Any person whose septic tank baffles are determined to require repair or replacement shall first contact the Montgomery County Health Department's Sewage Enforcement Officer for approval of the necessary repair.
- D. Any person owning a building served by an onlot sewage disposal system which contains an aerobic treatment tank shall follow the operation and maintenance recommendations of the equipment manufacturer. A copy of

the manufacturer's recommendations and a copy of the service agreement shall be submitted to the Township within six months of the effective date of this article. Thereafter, service receipts shall be submitted to the Township at the intervals specified by the manufacturer's recommendations. In no case may the service or pumping intervals for aerobic treatment tanks exceed those required for septic tanks.

- E. Additional maintenance activity may be required as needed including, but not necessarily limited to, cleaning and unclogging of piping, servicing and the repair of mechanical equipment, leveling of distribution boxes, tanks and lines, removal of obstructing roots or trees, the diversion of surface water away from the disposal area, etc.

§ 210-70. System rehabilitation.

- A. No person shall operate or maintain an onlot sewage disposal system in such a manner that it malfunctions. All liquid wastes, including kitchen and laundry wastes and water softener backwash, shall be discharged to a treatment tank. No sewage system shall discharge untreated or partially treated sewage to the surface of the ground or into the waters of the commonwealth unless a permit for such discharge has been obtained from DEP.
- B. A written notice of violation shall be issued to any person who is the owner of any property which is found to be served by a malfunctioning onlot sewage disposal system or which is discharging sewage without a permit.
- C. Within seven days of notification by the Township that a malfunction has been identified, the property owner shall make application to the Montgomery County Health Department's Sewage Enforcement Officer for a permit to repair or replace the malfunctioning system. Within 30 days of initial notification by the Township, construction of the permitted repair or replacement shall commence. Within 60 days of the original notification by the Township, the construction shall be completed unless seasonal or unique conditions mandate a longer period, in which case the Township shall set an extended completion date.
- D. The Montgomery County Health Department's Sewage Enforcement Officer and the municipality's authorized agent shall both have the authority to require the repair of any malfunction by the following methods, cleaning, repair or replacement of components of the existing system, adding capacity or otherwise altering or replacing the system's treatment tank, expanding the existing disposal areas, replacing the existing disposal area, replacing a gravity distribution system with a pressurized system, replacing the system with a holding tank, or any other alternative appropriate for the specific site.
- E. In lieu of, or in combination with, the remedies described in Subsection D above, the Montgomery County Health Department's Sewage Enforcement Officer and the municipality's authorized agent may require the installation of water conservation equipment and the institution of water conservation practices in structures served. Water using devices and appliances in the structure may be required to be retrofitted with water saving appurtenances, or they may be required to be replaced by water conserving devices.
- F. In the event that the rehabilitation measures in Subsections A through E are not feasible or effective, the owner may be required to apply for a permit to DEP for a single residence treatment and discharge system. Upon receipt of said permit, the owner shall complete construction of the system within 30 days.
- G. Should none of the remedies described in this section be totally effective in eliminating the malfunction of an existing onlot sewage disposal system, the property owner is not absolved of responsibility for that malfunction. The Township and the Montgomery County Health Department may require whatever action is necessary to lessen or mitigate the malfunction to the extent necessary.

§ 210-71. Liens.

The Township, upon written notice from the authorized agent or from the Montgomery County Health Department's Sewage Enforcement Officer that an imminent health hazard exists due to failure of property owner to maintain, repair or replace an onlot sewage disposal system, as provided under the terms of this article, shall

have the authority to perform, or contract to have performed, the work required by the authorized agent or the Montgomery County Health Department's Sewage Enforcement Officer. The owner shall be charged for the work performed and, if necessary, a Lien shall be entered therefore in accordance with law.

§ 210-72. Disposal of septage.

- A. All septage originating within the Sewage Management District shall be disposed of in accordance with the requirements of the Solid Waste Management Act (Act 97 of 1980, 35 P.S. §§ 6018.101 et seq.) and all other applicable laws and at sites or facilities approved by DEP. Approved sites or facilities shall include the following: septage treatment facilities, wastewater treatment plants, composting sites and approved farm lands.
- B. Pumper/haulers of septage operating within the Sewage Management District shall operate in a manner consistent with the provisions of the Pennsylvania Solid Waste Management Act (Act 97 of 1980, 35 P.S. §§ 6018.101-6018.1003) and all other applicable laws.

§ 210-73. Administration.

- A. The Township shall fully utilize those powers it possesses through enabling statutes and ordinances to effect the purposes of this article.
- B. The Township shall employ qualified individuals to carry out the provisions of this article. Those employees shall include an authorized agent and may include an administrator and such other persons as may be necessary. The Township may also contract with private qualified persons or firms as necessary to carry out the provisions of this article.
- C. All records, reports, files and other written materials relating to the operation and maintenance and malfunction of onlot sewage disposal systems in the Sewage Management District shall become the property of, and be maintained by, the Township. Existing and future records shall be available for public inspection during regular business hours at the official office of the Township. All records pertaining to sewage permits, building permits, occupancy permits and all other aspects of the Sewage Management Program shall be made available, upon request, for inspection by representatives of the Pennsylvania Department of Environmental Protection.
- D. The Township Board shall establish all administrative procedures necessary to properly carry out the provisions of this article.
- E. The Township Board may establish a fee schedule and authorize the collection of fees to cover the cost to the Township of administering this program, consistent with local Municipal Code.

§ 210-74. Appeals.

- A. Appeals from final decisions of the Township, or any of its authorized agents, under this article shall be made to the Board of Supervisors in writing within 30 days from the date of written notification of the decision in question.
- B. The appellant shall be entitled to a hearing before the Board of Supervisors at its next regularly scheduled meeting if a written appeal is received at least 14 days prior to that meeting. If the appeal is received within 14 days of the next regularly scheduled meeting, the appeal shall be heard at the next regularly scheduled meeting. The municipality shall thereafter affirm, modify or reverse the aforesaid decision. The hearing may be postponed for a good cause shown by the appellant or the Township. Additional evidence may be introduced at the hearing provided that it is submitted with the written notice of appeal.
- C. A decision shall be rendered in writing within 30 days of the date of the hearing.

D. Hearings under this subsection shall be conducted pursuant to the Act of December 2, 1968, P.L. 1133, No. 353, known as the "Local Agency Law."

§ 210-75. Violations and penalties.

Any person failing to comply with any provision of this article shall be subject to a fine of not less than \$100 and costs, and not more than \$300 and costs or, in default thereof, shall be confined in the county jail for a period of not more than 30 days. Each day of noncompliance shall constitute a separate offense.

Chapter 219

SOIL EROSION, SEDIMENTATION AND GRADING CONTROL

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick 4-14-1988 by Ord. No. 88-2. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision and land development — See Ch. 240.

Zoning — See Ch. 285.

§ 219-1. Short title. [Amended 8-13-1998 by Ord. No. 98-4]

This chapter shall be known and may be cited as the "Soil Erosion, Sedimentation and Grading Control Ordinance," implementing Title 25, Rules and Regulations, Pt. I, Commonwealth of Pennsylvania, Department of Environmental Protection, Subpart C, Protection of Natural Resources, Article II, Water Resources, Chapter 102, Erosion Control.

§ 219-2. Purposes.

The purposes of this chapter are to regulate the modification of the natural terrain, the alteration of drainage, and to provide for certain erosion and sediment control measures within the Township of Upper Frederick, to assure and safeguard health, safety, ecology and the general welfare in Upper Frederick Township.

§ 219-3. Scope.

From and after the effective date of this chapter, any subdivision and/or land development approved under the Chapter 240, Subdivision and Land Development or Chapter 285, Zoning, any new construction or installation of a new structure, any change in use, or activity qualified under §§ 219-6 and 219-7 herein, shall be in conformity with this chapter, subject to compliance with and in conjunction with the Montgomery County soil and erosion control regulations. In the event of a conflict between this chapter and the floodplain regulations, the floodplain regulations shall take precedent.

§ 219-4. Definitions.

As used in this chapter, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

ALLUVIAL SOILS — An azonal great group of soils developed from transported and relatively recently deposited material (alluvium), characterized by a weak modification (or none) of the original material by soil-forming processes.

CUT AND/OR FILL — Process of earth moving by excavating part of an area and/or using excavated material from embankment or fill areas.

EROSION —

- A. The wearing away of land surface by running water, wind, ice, chemical or other geological agents.
- B. Detachment and movement of silt or rock fragments by water, wind, ice or gravity.

GRADE —

- A. The slope of a road, channel or natural ground.

B. The finished surface of a canal bed, roadbed, top of embankment or bottom of excavating; any surface prepared for the support of construction-like paving or laying a conduit.

C. To finish the surface of a canal bed, roadbed, top of embankment or bottom of excavation.

RUNOFF (HYDRAULICS) — That portion of the precipitation and a drainage area or watershed that is discharged from the area in stream channels; types include surface runoff, groundwater runoff or seepage.

SEDIMENT — Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity or ice and has come to rest on the earth's surface, either above or below sea level.

SLOPE — Degree of deviation of a surface from the horizontal usually expressed in percent or degrees.

SOIL DRAINAGE — A condition of the soil, referring to the frequency and duration of periods when the soil is free of saturation.

SUBSOIL — Material immediately underlying topsoil consisting of, but not limited to, either singly or in combination, clay, sand, gravel or crushed rock, but not including bedrock or other impervious surface, as more fully defined and set forth in the most recently adopted and approved Montgomery County Soil Survey exclusive of the "A" Horizon.

TOPSOIL — The topmost layer of ground cover containing humus in some concentration capable of supporting plant growth, as more fully defined and set forth in the most recently adopted and approved Montgomery County Soil Survey under the designation of the A Horizon, but not including subsoil as heretofore defined.

WATERCOURSE — A natural drainage route or channel for the flow of water.

§ 219-5. General requirements.

Whenever any subdivision or land development is proposed, any new construction or installation of a new structure or other activity which results in application to the Montgomery County Soil Conservation District and submission of a soil and erosion control plan, a copy of said plan and final approval and/or permits as may be granted shall be submitted to the Township prior to any activity, construction, grading or relandscaping if the affected tract is undertaken. The Township Engineer shall also be provided with a copy of said application, final approval and/or permit, such as will allow full and complete review of the proposal as completed. The Township Engineer shall have full and complete authority to inspect the activities undertaken at said site, including the full right of ingress and egress to the property, and shall have the authority to terminate, stop or suspend activities or conduct not in compliance with such approvals and/or permits as may be issued.

§ 219-6. Plan submission.

- A. A plan is required showing how resulting erosion and sediment shall be controlled whenever:
- (1) Any subdivision and/or land development approved under Chapter 240, Subdivision and Land Development.
 - (2) Any new construction or installation of a new structure.
 - (3) Any change in use which causes the landscape to be permanently disturbed as to either or contours, soil or slope characteristics or vegetation.
 - (4) Any ground cover that is to be permanently removed.
- B. A plan shall not be required if hereinafter excluded under §§ 219-7 and 219-8, or if such use is subject to review and approval by the Montgomery County Soil Conservation District as provided under § 219-5. The required plan shall include the following:
- (1) The amount of site alteration proposed.

- (2) Development of schedule.
- (3) Erosion and sediment control practices (both temporary and permanent) and the operation and maintenance arrangements.

§ 219-7. Activities requiring grading permit.

Except for those situations which have been approved by issuance of a permit by the Montgomery County Soil Conservation District, as set forth in § 219-5, and those activities exempted by § 219-8, the following activities require a grading permit:

- A. Modifying, disturbing, blocking, diverting or otherwise adversely affecting the natural overland or subsurface flow of stormwater.
- B. Construction, erection or installation of any drainage dam, ditch, culvert, drain pipe, bridge or any other structure or obstruction affecting the drainage of any premises.
- C. Paving, filling, stripping, excavating, grading or regrading of any land.
- D. Disturbing the landscape, vegetation or any ground cover by any proposal involving an area in excess of 25,000 square feet.

§ 219-8. Activities requiring no grading permit.

The following activities require no grading permit:

- A. Improvements, such as erection of retaining walls, driveway paving, minor regrading or activities on a property which do not adversely affect the natural overland or subsurface flow of stormwater, drainage of any premises or adversely disturb the landscape.
- B. Farming, gardening, lawn installation or lawn restoration, but not including sod farming.
- C. Work within the ultimate right-of-way of a public street or alleyway to be offered for dedication or previously ordained by the Township, county or commonwealth, or any park, playground, recreation area or open space dedicated to and accepted by the Township, county or commonwealth.

§ 219-9. Application for permit.

- A. Any person, firm or corporation proposing to engage in an activity requiring a grading permit hereunder shall apply by the submission of a plan.
- B. The applicant should, before submitting a preliminary plan for review, consult Chapter 285, Zoning, and Chapter 240, Subdivision and Land Development, which regulate the development of the land in Upper Frederick Township.
- C. A separate plan shall be required for each grading permit.
- D. Five copies of the proposed plan, including specifications and development schedules, shall be submitted to the Zoning Officer for a grading permit. The Zoning Officer shall forward one copy of the plan to the Planning Commission, and one copy to the Upper Frederick Township Engineer.
- E. The plan for a grading permit shall be accompanied by a fee established in Upper Frederick's schedule of fees and collection procedure for all applications and other matters pertaining to Chapter 240, Subdivision and Land Development, and this chapter.

§ 219-10. Data required on plan.

- A. The plan for a grading permit shall include:
- (1) A map or maps describing the topography of the area, the proposed alternation to the area, and the erosion and sedimentation control measures and facilities.
 - (2) A narrative report describing the project and giving the purpose and the engineering assumptions and calculations for control measures and facilities.
- B. The maps and narrative shall include, but not be limited to, a general description of the project noting stormwater handling, sedimentation control, anticipated for the project, and the training accelerated erosion control, beginning and ending dates and experience of the person preparing the plan, along with the method of calculation of runoff, the factors considered in such calculations and provisions for safe disposal. The map should describe and locate topographic features including boundary lines of the project area, acreage, contours at appropriate intervals to adequately describe the topography, location of the project relative to highways or other identifiable landmarks and streams, lakes, ponds or other bodies of water within/or in the vicinity of the project, and any other physical features, including scale and north arrow. The map shall also specify soil types as would be noted in a soil survey by name, depth, textural or areal extent, along with proposed changes to land surface and vegetative cover which will note contours of finished areas, types of temporary and permanent control measures and facilities, their location and dimensions. The narrative shall include a description of the maintenance program for the control facilities and appropriate design considerations and calculations for both temporary and permanent control measures and facilities.

§ 219-11. Special requirements.

In addition to the requirements of § 219-10, and where deemed necessary by the Township Engineer and the Board of Supervisors, the applicant shall submit with the plan a detailed drainage study prepared by a registered professional engineer or land surveyor licensed in the commonwealth. This study shall include:

- A. A plan of the property showing the location of all present and proposed ditches, streams, pipes and other drainage structures and proposed cuts and/or fills. In addition to showing present elevations and dimensions, and location and extent of all proposed grading and/or drainage, the plan shall clearly indicate all woodlands, buildings, parking areas and driveways. Further, the plan shall indicate the present and proposed sources, storage and disposition of water being channeled through or across the premises, together with elevations, gradients and maximum flow rates. The plan shall describe the work to be performed and the disposition of cut and/or fill, the materials to be used and the manner or method of performance, including provisions for protecting and maintaining existing drainage facilities, whether on public or private property. The applicant shall also supply the supporting data for the plan as developed by the engineer.
- B. Calculations to determine runoff, which shall be based on the Soil-Cover Complex Method, a description of which is available from the U.S.D.A. Soil Conservation Service and outlined in the "Erosion and Sediment Control Handbook," Montgomery County, Pennsylvania.
- (1) The design criteria for storm systems within a subdivision shall be designed for a twenty-five-year frequency storm; culverts across roadways shall be designed for a fifty-year storm; open watercourse or swales shall be designed for a one-hundred-year frequency storm, as prescribed in accordance with the following:
 - (a) The coefficient of runoff used for all areas upstream of any drainage structure shall be computed on the basis of existing land use and the projected land use for the site in question.
 - (b) The following provisions apply to the carryings and disposal of stormwater runoff:
 - [1] All drainage facilities shall be designed to carry surface water in such a manner as to prevent erosion or overflow.

- [2] The applicant shall agree to the granting and recording of easements covering the installation and maintenance of drainage facilities.
 - [3] The rate of runoff shall be no greater during and after a two- , five- , ten- , twenty-five- and fifty-year frequency storm when the development is completed than that which existed before the development began, and appropriate measurements of calculations shall be provided to verify such provisions.
- C. A soils investigation report, if load-bearing fill is proposed, which shall consist of test borings, laboratory testing and engineering analysis to correlate surface and subsurface conditions with the proposed grading plan. The results of the investigation shall be presented in a report by a registered professional soils engineer and shall include data regarding the nature, distribution and supporting ability of existing soils and rocks on the site, conclusions and recommendations to insure stable soil conditions and ground water control, as applicable. The Township of Upper Frederick may require such supplemental reports and data as is deemed necessary by the Township Engineer. Recommendations included in such reports and approved by the Township Engineer shall be incorporated in the plan or specifications. In addition:
- (1) Fills toeing out on natural slopes steeper than four horizontal to one vertical shall not be made unless a report is received which is deemed acceptable by the Township Engineer and approved by the Board of Supervisors. The report shall be made by a registered professional soils engineer certifying that he has investigated the property, made soils tests and that, in his opinion, such steeper slopes will safely support the proposed fill.
 - (2) Natural and/or existing slopes exceeding five horizontal to one vertical shall be benched or continuously stepped into competent materials prior to placing all classes of fill.

§ 219-12. Approval; issuance of permit.

Upon the approval of the plan by the Township Engineer, the Code Enforcement Officer shall issue the necessary grading permit.

§ 219-13. Standards for grading activities.

Except for those activities exempted by § 219-8, the following standards shall apply to all activities permitted or allowed under §§ 219-5 and 219-7 of this chapter:

- A. Notwithstanding any provision of this chapter, or any condition of the grading permit, the permittee is responsible for the prevention of damage to other property or personal injury, which may be affected by the activity requiring a grading permit.
- B. No person, firm or corporation shall modify, fill, excavate, pave, grade or regrade land in any manner so close to a property line as to endanger or damage any adjoining street, alley or any other public or private property without supporting and protecting such property from settling, cracking, erosion, sediment, flooding or any damage or personal injury which might result.
- C. Notwithstanding any other term or provision of this chapter, no person, firm or corporation shall cause or allow to be removed greater than 50% of the existing topsoil from any site, and in no event shall the topsoil existing on any site be reduced to less than a depth of six inches, as measured from the underlying subsoil, except as may be modified by the Township Engineer by issuance of a conditional permit, which permit shall be issued to modify the terms of this chapter only based upon sound engineering practices and subject to appeal by any party in interest, including the applicant, the Township, by and through the Planning Commission, or any other interested or affected party filing an appeal, to be heard by the Township Board of Supervisors in the same manner as an application or petition to rezone. Further, it is the intention of this chapter to achieve conservation of both topsoil and subsoil in such a manner that disturbance of the subsoil will achieve a balance on each and every disturbed site resulting in the removal of no subsoil; however, no

more than 800 cubic yards of subsoil per disturbed acre may be removed from any site to be relocated on a site or area not part of the proposed development and in single and common deed with the disturbed area, except as this section may be modified by the Township Engineer by issuance of a conditional permit, which permit shall be issued to modify the terms of this chapter only based upon sound engineering practices and subject to appeal by any party in interest, including the applicant, the Township, by and through the Planning Commission or any other interested or affected party filing an appeal, to be heard by the Township Board of Supervisors in the same manner as an application or petition to rezone.

- D. No person, firm or corporation shall deposit or place any debris or any other material whatsoever, or cause such to be thrown or placed in any drainage ditch or drainage structure, in such a manner as to obstruct free flow.
- E. No person, firm or corporation shall fail to adequately maintain, in good operating order, any drainage facility on his premises. All drainage ditches, culverts, drain pipes and drainage structures shall be kept open and free-flowing at all times.
- F. The owner of any property on which any work has been done pursuant to a grading permit granted under this chapter shall continuously maintain and repair all graded surfaces and anti-erosion devices, retaining walls, drainage structures or means and other protective devices, plantings and ground cover, installed or completed. The Township of Upper Frederick is responsible for maintenance and repair within the right-of-way of municipal roads.
- G. All graded surfaces shall be permanently seeded, sodded and/or planted or otherwise protected from erosion within 30 days, weather permitting, and shall be tended and/or maintained until growth is well established. The disturbed area and duration of exposure shall be kept to a minimum using temporary erosion and sediment control measures immediately, as outlined in the "Erosion and Sediment Control Handbook," Montgomery County, Pennsylvania.
- H. All trees in an area of extreme grade change shall be protected with suitable tree wells, unless the necessity for removal is established. Precautions shall be taken to prevent the unnecessary removal of trees.
- I. When required, adequate provisions shall be made for dust control measures as are deemed acceptable by the Township Engineer.
- J. All plans and specifications submitted for a grading permit shall include provisions for both interim (temporary) and ultimate permanent erosion and sediment control. The design, installation and maintenance of erosion and sediment control measures shall be accomplished in accordance with standards and specifications established by the County Soil Conservation District, as adopted from standards and specifications of the United States Soil Conservation Service, and as outlined in the then applicable and current handbook of administrative regulations or guidelines, as may be adopted and enacted by the County Soil Conservation District.
 - (1) Technical standards for the design and installation of erosion and sediment control measures are on file with the Township of Upper Frederick, the Office of the County Conservation District and other governmental agency offices.
 - (2) Standards and specifications adopted for the purposes of this chapter and by the County Conservation District include, but are not limited to, the following basic conservation measures:
 - (a) Temporary cover critical areas.
 - (b) Permanent grass and legume cover for critical areas on prepared seedbed.
 - (c) Permanent grass and legume cover for critical areas on unprepared seedbed.
 - (d) Sodding.

- (e) Mulching.
 - (f) Temporary diversion.
 - (g) Permanent diversion.
 - (h) Grassed waterway or outlet.
 - (i) Grade stabilization structure.
 - (j) Debris basin.
 - (k) Drain.
 - (l) Drainage — mains or laterals.
- K. A quality control program is critical for fills; therefore, wherever fill material is to be used, the person, firm or corporation shall be responsible for testing to determine its dry density as per ASTM D1556. It is recommended that the density of any load-bearing layer supporting or to be incorporated in a road surface, detention basin or erosion swale shall be not less than 90% of maximum density.
- (1) Inspection procedure shall follow the general procedure as stated in § 219-14.
 - (2) Compaction test reports shall be kept on file at the site and be subject to review at all times.
 - (3) Degree of compaction required shall be determined by the Township Engineer following the guidelines in this section.

§ 219-14. Inspection procedures.

Except for those situations requiring approval by the Montgomery County Soil Conservation District, as set forth in § 219-5, and those activities exempted by § 219-8, the following standards shall apply:

- A. All inspections shall be the responsibility of the Township Engineer or, in his absence, a qualified person acceptable to the Township Engineer and Upper Frederick Township.
- B. Inspections will be carried out on a random basis, except as stated below. However, a set of "as built" plans shall be on file at the site and authenticated by a registered professional engineer. When it is deemed acceptable to the Township Engineer, a designated qualified person may authenticate the "as built" plans, and will assume full responsibility for the quality of work.
- C. Any and all as-built plans shall be available on the site at all times and be subject to inspection and inquiry.
- D. Engineering check notes shall accompany all as-built plans which involve structural or mechanical measures, and shall serve as supporting evidence that structures meet design standards and specifications specified herein.
- E. A final inspection shall be conducted by the Township Engineer to certify compliance with this chapter. Satisfactory compliance with this chapter shall be necessary before issuance of an occupancy or use permit.

§ 219-15. Costs of inspection.

Permittees shall bear all costs of inspections required or permitted hereunder, and shall deposit with Upper Frederick Township such sums as the Board of Supervisors shall determine to guarantee payment of the costs of such inspections. The costs of inspections shall be in accordance with the established schedule of fees and collection procedure for matters pertaining to this chapter.

§ 219-16. Fee.

The fee for a grading permit shall be fixed by resolution of the Board of Supervisors from time to time.

§ 219-17. Violations and penalties. [Amended 8-13-1998 by Ord. No. 98-4]

Any person, firm or corporation who shall violate any provision of this chapter, upon conviction thereof in an action brought before a District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this chapter continues or each section of this chapter which shall be found to have been violated shall constitute a separate offense.

§ 219-18. Remedy of violation.

In addition to the penalties as set forth in § 219-17, any movement of the landscape, vegetation or any ground cover performed in violation of this chapter shall be restored to its previous condition, including replacement of excavated earth, removal of illegally placed fill and restoration of grades and planting.

Chapter 224

SOLID WASTE

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Littering — See Ch. 168.

Property maintenance — See Ch. 194.

ARTICLE I
Waste Management
[Adopted 10-11-1990 by Ord. No. 90-5]

§ 224-1. Definitions. [Amended 8-13-1998 by Ord. No. 98-4]

A. The following terms shall have the following meanings in this article:

ACCEPTABLE WASTE — Municipal waste which is not unacceptable waste or nonprocessable waste.

COUNTY — County of Montgomery, Pennsylvania.

COUNTY ORDINANCE or COUNTY WASTE FLOW ORDINANCE — An ordinance enacted by the county creating the Western County System in the Western District, providing for the licensure of various persons, regulating waste flow and setting forth certain related provisions.

DATE OF WESTERN COUNTY SYSTEM OPERATION — That date on which the Western County System shall be declared by the county to be ready to commence the disposal of acceptable waste on a sustained basis.

HAZARDOUS WASTE —

(1) Any material or substance which, by reason of its composition or characteristics, is:

(a) Toxic or hazardous waste as defined:

[1] In the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq.;

[2] In § 6(e) of the Toxic Substances Control Act, 15 U.S.C. § 2605(e);

[3] Under Act 97; or

[4] Under any other applicable laws of similar purpose of effect, including, but not limited to, with respect to each of such items in Subsection A(1)(a) through (d) of this definition, any replacement, amendment, expansion or supplement thereto and any rules, regulations or policies thereunder; or

(b) Special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, 42 U.S.C. § 2001 et seq., and any replacement, amendment, expansion or supplement thereto and any rules, regulations or policies thereunder; and

(2) Any other material that any governmental agency or unit having appropriate jurisdiction shall determined from time to time is harmful, toxic or dangerous, or otherwise ineligible for disposal in the landfill.

LANDFILL — A landfill with which the waste authority has contracted to dispose of acceptable waste.

MUNICIPALITY — The Township of Upper Frederick, a Township of the second class, located within the County of Montgomery, Commonwealth of Pennsylvania.

MUNICIPAL WASTE — Municipal waste as defined in § 103 of Act 97 and § 103 of Act 101, and any rules, regulations or policies promulgated thereunder.

NONPROCESSIBLE WASTE —

(1) White goods;

(2) Automobile tires in quantity;

(3) Noncombustible items, sumps, logs, brush and other waste which either:

- (a) Weighs in excess of 25 pounds; or
 - (b) Exceeds one of the following dimensions: four feet in length, four inches in diameter or four inches in thickness;
- (4) Sludges;
 - (5) Construction and demolition debris; or
 - (6) Leaf waste beyond that permitted by Act 101.

PERSON — Any individual, firm, partnership, corporation, association, institution, cooperative enterprise, trust, municipal authority, federal institution or agency, state institution or agency, municipality, other governmental agency or any other legal entity or any group of such persons whatsoever which is recognized by law as the subject of rights and duties. In any provision of this article prescribing a fine, penalty, imprisonment or denial or grant of any license or any combination of the foregoing, the term "person" shall include the officers and directors of any corporation or other legal entity having officers and directors.

PLAN — The county-wide municipal waste management plan developed by the county and approved by DEP, as such has been and may hereafter be amended or revised in compliance with law.

PLAN REVISION — The revision dated June, 1990, to the County Municipal Waste Management Plan developed by the county, to be submitted to DEP and approved by a majority of the affected municipalities within the county representing a majority of the county's population.

POINT OF ENTRY INTO THE WESTERN COUNTY SYSTEM — Any delivery point within the Western County System designated by the Waste Authority for delivery of acceptable waste.

PROCESSIBLE WASTE — That portion of acceptable waste which is not nonprocessable waste.

RECYCLING or RECYCLED — The collection, separation, recovery and sale or reuse of metals, glass, paper, leaf waste, plastics and other materials which would otherwise be disposed or processed as Township waste or the mechanized separation and treatment of municipal waste (other than through combustion) and creation and recovery of reusable materials other than a fuel for the operation of energy.

SOURCE SEPARATION — The segregation and collection, prior to the point of entry into the Western County System for the purpose of recycling of individual components of acceptable waste, such as (without limitation) bottles, cans and other materials in accordance with Act 101.

UNACCEPTABLE WASTE —

- (1) Any materials that by reason of its composition, characteristics or quantity is ineligible for disposal at the landfill pursuant to the provisions of:
 - (a) The Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., and the regulations thereunder; or
 - (b) Except for trace amounts normally found in household or commercial solid waste, any other similarly applicable law, including, but not limited to, the following laws and the regulations, if any, promulgated under each: the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136 et seq.; the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.; Act 97; the Hazardous Cleanup Act, Act 108, enacted October 18, 1988; and any similar or substituted legislation or regulations or amendments to the foregoing, as well as any other laws coextensive with the foregoing;
- (2) Any other materials that any governmental body or unit having or claiming appropriate jurisdiction shall determine from time to time to be harmful, toxic, dangerous or otherwise ineligible for disposal at the landfill;

- (3) Any waste that a landfill or other applicable facility is precluded from accepting pursuant to any permit or governmental plan governing such landfill or other applicable facility;
- (4) Hazardous waste;
- (5) Residual waste as defined in Act 101 (except as otherwise provided in any landfill agreement to which the Waste Authority is a party);
- (6) Special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, 42 U.S.C. § 2011 et seq., and any similar or substituted legislation or regulation or amendments to the foregoing including, but not limited to, any other laws coextensive with the foregoing;
- (7) Asbestos, sludge, infectious waste, chemotherapeutic waste and incinerator ash (except as otherwise provided in any landfill agreement to which the Waste Authority is a party);
- (8) White goods in quantity and/or automobile tires in quantity; and
- (9) Any other material that the Waste Authority reasonably concludes would require special handling or present an endangerment to a disposal facility, the public health or safety, or the environment.

WASTE AUTHORITY — The Waste System Authority of Western Montgomery County created by the county for purposes relating to municipal waste disposal and/or the IMA and the County Waste Flow Ordinance.

WESTERN COUNTY SYSTEM or SYSTEM — The solid waste management and disposal system created by the county for the Western District and every aspect thereof including, but not limited to, equipment, transfer stations and resource recovery facilities, residue disposal sites, contractual arrangements or other rights, owned, acquired, leased, placed under contract, constructed, or assumed, operated, or to be owned, acquired, leased placed under contract, constructed, operated or assumed by the Waste Authority, the county or any agent, designee or contractor of either in connection with the plan or the plan revision.

WHITE GOODS — Refrigerators, washing machines, dryers, window air conditioners, hot water heaters and other major home appliances.

- B. All other words and phrases shall have the same meaning as set forth in Act 97 or Act 101 as they may hereinafter be amended or supplemented by legislation regarding municipal waste management or planning, or as set forth in the IMA shall control.

§ 224-2. Operation by licensed collectors and transporters.

- A. Licensing. No person who is not duly licensed or deemed to be licensed by the Waste Authority may collect or transport municipal waste located or generated within the Township. This waste collection or transportation license shall be a county license issued by the Waste Authority.
- B. Compliance with rules, regulations and ordinances. In carrying on activities related to solid waste collection or transportation within this Township, all municipal waste collectors and all municipal waste transporters shall comply with the county ordinance, this article and the other municipal waste flow ordinances and all rules and regulations pertaining to the collection, transportation, processing and disposal of solid waste as may be hereafter promulgated by the Waste Authority. Delivery by such collectors or transporters to the Western County System of unacceptable waste, nonprocessable waste (except for white goods) and waste from unapproved sources is prohibited.
- C. Administration. Licenses hereunder shall be issued and revoked by the Waste Authority, and administered by it. Any collectors or transporters who fail to comply with the provisions of this article shall be subject to any applicable sanctions in addition to the revocation of their licenses.

§ 224-3. Disposal of municipal waste.

- A. Delivery to Western County System. Except as provided Subsections B and C, below, all acceptable waste generated within this Township shall be delivered to the Western County System and, all acceptable waste collectors and transporters shall deliver to and dispose of all acceptable waste collected or generated within Township to solid waste facilities designated in the plan or plan revision at one or more points of entry into the Western County System as designated from time to time by the Waste Authority.
- B. Disposal at other sites. Disposal of municipal waste collected or generated within the Township may occur at other sites only as permitted by rule, regulation, ordinance or order duly issued by the Waste Authority or by the written agreement of the Waste Authority.
- C. Recycling. Nothing herein shall be deemed to prohibit source separation or recycling or to affect any sites at which source separation or recycling may take place.

§ 224-4. Regulations. [Amended 8-13-1998 by Ord. No. 98-4]

- A. Compliance with waste authority regulations. The collection, transportation, processing and disposal of municipal waste present or generated within the Township shall be subject to such further reasonable rules and regulations as may from time to time be promulgated by the Waste Authority including, without limitation, regulations related to the operation, management and administration of the Western County System, application and standards for licensing requirements for payment bonds or other payment security including, but not limited to, meeting liability insurance requirements, fees to be charged for such licensing, the terms of licenses, procedures, record keeping, transportation routes, payment for services, billing for shortfalls, sanctions for nonpayment and other matters.
- B. Adoption of regulations. Rules and regulations adopted by the Waste Authority, for the Western County System shall be deemed rules and regulations adopted under this article.
- C. Consistency of regulations with ordinance and other laws. No rules or regulations adopted by the Township pursuant to this article shall be in violation of or inconsistent with the provisions of this article, the other municipal waste flow ordinances, the County Waste Flow Ordinance, the plan, the plan revision, the provisions and purposes of Act 97, Act 101 or regulations adopted thereunder, or such other laws, regulations or requirements as may be enacted by the United States of America, the Commonwealth of Pennsylvania, the Pennsylvania Department of Environmental Protection or the Pennsylvania Environmental Quality Board governing municipal waste planning, collection, storage, transportation, processing or disposal.
- D. Enforcement of waste flow control. Enforcement of waste flow control and the terms of and any duties established pursuant to the County Waste Flow Ordinance, the other municipal waste flow ordinances and this article will be the responsibility of the county or the Waste Authority and, if requested by the county or the Waste Authority, with the cooperation of the municipalities.

§ 224-5. Annual survey.

All generators of municipal waste, and all municipal waste collectors and municipal waste transporters, any landfill operators, any transfer station operators or any other parties involved in the collection, transportation, processing or disposal of municipal waste of the Township shall cooperate in the taking and preparation of an annual survey to be conducted by an engineering consultant designated by the Waste Authority.

§ 224-6. Certain prohibitions and requirements.

- A. No person shall enter into any contract or conduct any other activity concerning the collection, transportation, processing or disposal of municipal waste in the Township in contravention of the terms of the County Waste Flow Ordinance, this article or any rules and regulations issued thereunder.
- B. Recycling. Nothing contained in this article shall interfere with the operation of any program for recycling.

C. This article shall be construed consistently with Act 97 and Act 101.

§ 224-7. Creation of authority.

The county has created the Waste Authority to administer the terms of the County Waste Flow Ordinance and to operate and administer the Western County system.

§ 224-8. Unlawful activities; nuisance.

A. Unlawful conduct. It shall be unlawful for any person to:

- (1) Violate, cause or assist in the violation of any provision of this article, any rule, regulation or order promulgated hereunder, or any rule, regulation or order promulgated by the Waste Authority or the county consistent with this article.
- (2) Transport, process, treat, transfer or dispose of or cause to be processed, treated, transferred or disposed municipal waste generated within the Township except as provided for in this article.
- (3) Collect or transport municipal waste present or generated within the Township without a valid license for collection or transportation issued by the Waste Authority.
- (4) Hinder, obstruct, prevent or interfere with the Township, the Waste Authority or the county or their personnel in the performance of any duty under this article or in the enforcement of this article.
- (5) Act in a manner that is contrary to Act 97 or Act 101, regulations promulgated thereunder, the plan, the plan revision, this article, the county ordinance, rules or regulations promulgated under this article, the county ordinance, or the terms of licenses issued thereunder.

B. Public nuisance. Any unlawful conduct set forth in § 224-8A hereof shall constitute a public nuisance.

§ 224-9. Violations and penalties. [Amended 8-13-1998 by Ord. No. 98-4]

Any person, firm or corporation who shall violate any provision of this article, upon conviction thereof in an action brought before a District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$500 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this article continues or each section of this article which shall be found to have been violated shall constitute a separate offense.

§ 224-10. Revocation of license.

Upon finding that any person has engaged in unlawful conduct as defined in this article:

- A. The Waste Authority may revoke any license issued to that person in accordance with § 224-2 of this article; and
- B. The Waste Authority may deny any subsequent application by that person for a license pursuant to § 224-2 hereof.

§ 224-11. Injunctions; concurrent remedies.

A. Restraining violations. In addition to any other remedy provided in this article, the Waste Authority or the county may institute a suit in equity where unlawful conduct or public nuisance exists as defined in this article for an injunction to restrain a violation of this article or rules, regulations, orders or the terms of license promulgated or issued pursuant to this article. In addition to an injunction, the court may impose penalties as authorized by § 224-9, hereof.

- B. Concurrent remedies. The penalties and remedies prescribed by this article shall be deemed concurrent. The existence or exercise of any remedy shall not prevent the Waste Authority or the county from exercising any other remedy provided by this article or otherwise provided at law or equity.

§ 224-12. Intermunicipal agreement.

- A. Entry into IMA. In order to implement the intent and terms of this article, the Township, pursuant to the authority of the Intergovernmental Cooperation Act, Act of July 12, 1972, No. 180, 53, P.S. §§ 481-490 and Article IX, § 5, of the Constitution of the Commonwealth of Pennsylvania, has determined to enter into the IMA between the Township, the county, the Waste Authority and other municipalities within the Western District, together with such changes consistent with this article, if any, as may be approved by the officials of the parties executing the same, such execution to be conclusive evidence of such approval.
- B. Terms and implementation of the IMA. As more fully set forth in the IMA and this article:
 - (1) Terms of IMA. In the IMA.
 - (a) The Waste Authority agrees to arrange through the Western County System for the provision of municipal waste disposal facilities for the economical and environmentally sound disposal of acceptable waste generated within the municipalities.
 - (b) The municipalities state that they have enacted a municipal waste flow ordinance in a form substantially similar to this article which requires that all acceptable waste be delivered to the Western County System.
 - (c) The county and the Waste Authority agree:
 - [1] To enact or cause to be enacted rules and regulations; and
 - [2] To enforce or cause to be enforced this article and the County Waste Flow Ordinance and the parallel municipal waste flow ordinances.
 - (d) The municipalities agree to cooperate with the Waste Authority in the enforcement of the IMA and all ordinances enacted pursuant to the IMA (provided, however, that to the extent the enforcement of such ordinances can properly be delegated to it, the Waste Authority shall undertake the primary responsibility for such enforcement) and the municipalities thereby agree cooperatively to exercise their powers to accomplish the objectives of the IMA.
 - (2) Duration of term of IMA. The term of the IMA shall commence on the date thereof and shall terminate on the 10th anniversary of the date the Western County System becomes operational.
 - (3) Purpose and objectives of IMA. The purpose of the IMA is to provide a mechanism to implement and operate the Western County System.
 - (4) Financial obligations under the IMA. During the term of the IMA, municipalities (to the extent that they engaged in the collection or transportation of municipal waste or contract with other persons for the collection or disposal of municipal waste) and other persons using the Western County System shall pay to the Waste Authority on a monthly basis the appropriate per ton tipping fees plus any other charges payable, as specified by the Waste Authority, for all tonnage delivered or caused to be delivered to the Western County System, in accordance with Article III of the IMA. Municipalities shall provide certain monies for operating expenses of the Authority to the extent not paid for through tipping fees on the basis of adjusted population data.
- C. Execution. Appropriate officers of this Township are authorized and directed to execute the IMA on behalf of this Township.

D. Findings under intergovernmental cooperation act. As required by the Intergovernmental Cooperation Act of July 12, 1972, P.L. 762, No. 180, as amended, the following matters are specifically found and determined:

- (1) The conditions of agreement are set forth in the IMA;
- (2) The duration of the terms of this agreement are set forth in § 801 of the IMA;
- (3) The purpose of the IMA is to cooperate with the county or Waste Authority and other municipalities in implementing the plan and the plan revision;
- (4) The agreement will be financed through tipping fees imposed on users of the Western County System and through the budgeting and appropriation of funds by the Township as necessary to meet the expense of the Waste Authority;
- (5) The organization structure necessary to implement the agreement is set forth in the IMA with which the current officers of the Township shall cooperate;
- (6) The manner in which property, real or personal, shall be acquired, managed, licensed or disposed of is as set forth in the IMA; and
- (7) The agreement contemplates cooperation with the county or Waste Authority, which entities are empowered to enter into contracts for policies of group insurance and employee benefits, including social security, for their employees.

§ 224-13. Construction.

The terms and provisions of this article are to be liberally constructed, so as best to achieve and to effectuate the goals and purposes hereof. This article shall be construed in pari materia with Act 97 and Act 101.

§ 224-14. Compliance with IMA.

The Township will take such actions as are necessary to comply with the terms of the IMA and to fulfill its obligations thereunder.

ARTICLE II
Recycling
[Adopted 7-24-2008 by Ord. No. 2008-07]

§ 224-15. Title.

This article shall be known as the "Upper Frederick Township Recycling Ordinance."

§ 224-16. Definitions.

As used herein, the following terms shall have the meanings herein described, unless otherwise provided:

ALUMINUM — Empty aluminum beverage and food containers, commonly known as "aluminum cans."

BIMETAL CANS — Empty food or beverage containers constructed of a mixture of ferrous metal, usually tin or steel, and nonferrous metal, usually aluminum.

BULK ITEMS — Any large, durable goods, such as refrigerators, washing machines, window air conditioners, hot-water heaters, dishwashers and any other major home appliances, in addition to other large bulk items such as dressers, beds, mattresses, sofas, television sets and other large household items.

COMMERCIAL ESTABLISHMENT — Any establishment which engages in nonmanufacturing or nonprocessing business, including, but not limited to, stores, markets, office buildings, restaurants, shopping centers and theaters.

COMMUNITY ACTIVITIES — Events sponsored, in whole or in part, by Upper Frederick Township, or conducted within Upper Frederick Township, and sponsored privately, which include, but are not limited to, fairs, bazaars, socials, picnics and organized sporting events that will be attended by 250 or more individuals per day.

CORRUGATED PAPER — Paper products made of a stiff, moderately thick paper board, containing folds or alternating ridges, commonly known as "cardboard."

COUNTY — County of Montgomery, Pennsylvania.

GLASS — Products made from silica or sand, soda ash and limestone; the product may be transparent (clear) or colored (e.g., brown or green) and used as a container for packaging (e.g., jars) or bottling of various matter. Expressly excluded are noncontainer glass, window or plate glass, light bulbs, blue glass and porcelain and ceramic products.

GRASS CLIPPINGS — The material bagged or raked during or after cutting of a lawn, field or similar grassed area.

HAZARDOUS WASTE —

A. Any material or substance which, by reason of its composition or characteristics, is:

(1) Toxic or hazardous waste:

(a) As defined in the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq.;

(b) As defined in Section 6(e) of the Toxic Substances Control Act, 15 U. S.C. § 2605(e);

(c) Under Act 97 (Solid Waste Management Act of July 7, 1980, P.L. 380)¹⁹; or

(d) Under any other applicable laws of similar purpose or effect, including, but not limited to, with respect to each of such items in Subsection A(1)(a) through (d), any replacement, amendment, expansion or supplement thereto, and any rules, regulations, or policies thereunder; or

(2) Special nuclear or byproduct materials within the meaning of the Atomic Energy Act of 1954, 42 U.S.C.

19. Editor's Note: See 35 P.S. § 6018.101 et seq.

§ 2011 et seq., and any replacement, amendment, expansion or Supplement thereto, and any rules, regulations or policies thereunder; and

B. Any other material that any governmental agency or unit having appropriate jurisdiction shall determine, from time to time, is harmful, toxic or dangerous, or otherwise ineligible for disposal in the landfill.

HIGH-GRADE OFFICE PAPER — All types of white paper, bond paper and computer paper used in residential, office, commercial, institutional and municipal establishments.

HOUSEHOLD HAZARDOUS WASTE — As defined in the Solid Waste Management Act of July 7, 1980 (P.L. 380, No. 97),²⁰ including, but not limited to, pesticides, certain paints, cleaning agents and automotive products.

INDUSTRIAL ESTABLISHMENTS — Any establishment engaged in manufacturing or processing, including, but not limited to, factories, foundries, mills, processing plants, refineries, mines and slaughterhouses.

INSTITUTIONAL ESTABLISHMENT — Any establishment engaged in service, including, but not limited to, municipal buildings, hospitals, nursing homes, orphanages, schools and universities.

LANDLORD — Any individual or organizational owner who rents and/or leases residential units, commercial space or industrial complex(es). Landlords own the property in question and deal directly or through rental agents with their tenants or lessees.

LEAF WASTE — Leaves, garden residue, shrubbery and tree trimmings and similar materials, but not including grass clippings.

MAGAZINES AND PERIODICALS — Printed matter containing miscellaneous written pieces published at fixed or varying intervals. Such matter typically has a gloss or shine added to the paper. Expressly excluded are all other paper products of any nature whatsoever.

MIXED PAPER — All types of paper combinations, such as colored paper, carbonless forms, ledger paper, envelopes, mixtures of high-grade office paper and the like.

MUNICIPALITY — The Township of Upper Frederick, Montgomery County, Pennsylvania.

MUNICIPAL WASTE — Any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material, resulting from operation of residential, municipal, commercial or institutional establishments and from community activities and any sludge not meeting the definition of residual or hazardous waste in the Solid Waste Management Act²¹ from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. The term does not include source-separated recyclable materials.

MUNICIPAL WASTE COLLECTOR — Any person collecting, removing or transporting municipal waste and/or recyclable materials for owners or occupants of property in Upper Frederick Township, and any commercial, industrial or institutional property within Upper Frederick Township that generates municipal waste or recyclable materials. All municipal waste collectors shall be registered in Upper Frederick Township.

NEWSPAPER — Paper of the type commonly referred to as "newsprint" and distributed at stated intervals, usually daily or weekly, having printed thereon news and opinions and containing advertisements and other matters of public interest.

PERSON — Any individual, partnership, corporation, association, institution, cooperative enterprise, municipality, municipal authority, federal government or agency, state institution or agency (including, but not limited to, the Department of General Services and the State Public School Building Authority), or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. The term "person" shall include the officers and directors of any corporation or other legal entity having officers and directors.

PLASTIC CONTAINERS — Empty plastic food and beverage containers.

20. Editor's Note: See 35 P.S. § 6018.101 et seq.

21. Editor's Note: See 35 P.S. § 6018.101.

RECYCLABLE MATERIALS — Those materials specified by Upper Frederick Township for collection in accordance with this article, and any recycling regulations which may be promulgated from time to time. Such material may include, but shall not be limited to, aluminum cans, clear and colored glass containers, tin, steel and bimetal cans, clear and colored No. 1 and No. 2 plastic containers, high-grade office paper, mixed paper and newspaper, magazines and corrugated paper. The list of recyclable materials may be changed, from time to time, by resolution of the Board of Supervisors of Upper Frederick Township.

RECYCLING CONTAINERS — A container provided by the municipal waste collector, made of rigid plastic construction and identified as such. All such containers shall also have the municipality's name, i.e., "Upper Frederick Township," prominently displayed.

RENTAL AGENT — Any individual or organization who or which assumes the owner's responsibility in renting and/or leasing residential units, commercial space or industrial complexes. Agents do not own the properties in question and deal directly with tenants or lessees on behalf of the owner.

RESIDENT — Any person who owns, leases or occupies a property located in Upper Frederick Township and is used as a residence.

RESIDUAL WASTE — Any garbage, refuse, other discarded material or other waste, including solid, liquid, semisolid or contained gaseous materials, resulting from industrial, mining and agricultural operations, and any sludge from an industrial, mining or agricultural water supply treatment facility, wastewater treatment facility or air pollution control facility, provided that it is not hazardous. The term shall not include coal refuse as defined in the Act of September 24, 1968 (P.L. 1040, No. 318), known as the "Coal Refuse Disposal Control Act."²² The term shall not include treatment sludges from coal mine drainage treatment plants, disposal of which is being carried on pursuant to and in compliance with a valid permit issued pursuant to the Act of June 22, 1937 (P.L. 1987, No. 394), known as the "Clean Streams Law."²³

SOURCE-SEPARATED RECYCLABLE MATERIAL — Materials that are separated from municipal waste at the point of origin for the purpose of recycling.

§ 224-17. Registration of municipal waste collectors; revocation of registration.

- A. It shall be unlawful for any person, persons or company to collect, remove and/or transport municipal waste or recyclable materials within Upper Frederick Township without first registering with the Township.
- B. All municipal waste collectors shall register for a period of one year from the date of issuance of the registration or until January 31 of the next calendar year. Each registrant shall renew its registration no later than January 31 of each calendar year. Registered municipal waste collectors shall comply with all the requirements of this article in order to remain in good standing.
- C. At the time of registration, the municipal waste collector shall provide the following information:
 - (1) Submit an annual registration application. This application shall indicate the name of the municipal waste collector, business address and telephone number of the business office.
- D. Upon finding and determining that any person, persons or business has violated this article, the Township may revoke its registration to conduct business in Upper Frederick Township. Such revoking of said registration shall continue until the person, persons or business is found to be in compliance with the article.

§ 224-18. Requirements of municipal waste collectors.

- A. All municipal waste collectors shall, in addition to providing refuse collection and disposal services, also provide for the curbside collection of recyclable materials. The municipal waste collector shall provide recyclable collection no less often than once every two weeks.

22. Editor's Note: See 52 P.S. § 30.57 et seq.

23. Editor's Note: See 35 P.S. § 691.1 et seq.

- B. All municipal waste collectors shall submit a schedule to be approved by Upper Frederick Township. This schedule shall be submitted at the time of registration. Any changes made to the schedule during the year shall be submitted to the Township.
- C. All municipal waste collectors shall keep records of the quantities of recyclable materials collected in Upper Frederick Township. The records shall include the weight (in tons) of each recyclable material and should be separated by residential and commercial collection.
- D. All municipal waste collectors shall complete and submit an annual municipal waste and recycling report on or before the 15th day of January each year.
- E. All municipal waste collectors shall record and annually report the amount of leaf waste collected.
- F. All municipal waste collectors shall maintain all records regarding recycling. These records shall be used to complete a municipal waste and recycling report. This report shall be completed and due by January 15 of each year. Renewal of the municipal waste collector's registration may be withheld pending receipt of this information.

§ 224-19. Residential recycling.

- A. All residents in Upper Frederick Township shall separate recyclable materials from all municipal waste generated at their properties. The recyclable materials shall be placed in separate reusable recyclable containers provided by the municipal waste collector.
- B. All residents in Upper Frederick Township shall recycle the following items from municipal waste generated at the property:
 - (1) Clear glass;
 - (2) Colored glass;
 - (3) Newspaper;
 - (4) Magazines;
 - (5) Corrugated paper;
 - (6) Aluminum, steel and bimetallic cans; and
 - (7) No. 1 PET and No. 2 HDPE plastics.
- C. All residents shall place their recyclable materials in containers provided by the municipal waste collector. A municipal waste collector shall also provide containers or dumpsters for recyclable materials where individual residential refuse collection does not occur (e.g., multifamily residential units, such as apartments or condominiums). The preparation for collection of municipal waste and recyclable materials shall be made in accordance with the instructions provided by the municipal waste collector.
- D. All residents shall separate leaf waste from all municipal waste and recyclable materials.
- E. Collection of recyclable materials from the residents shall be no less than once every two weeks on a schedule approved by Upper Frederick Township. Whenever possible and practical, the collection of recyclables shall be on a regular trash pickup day. All recyclable containers shall be placed at the curb or the edge of the front yard and the edge of the road at the front of the property. Newspapers, magazines and corrugated paper shall be bundled and tied with rope or a cord. Newspapers and magazines may be placed in paper bags (not plastic bags). No recyclable container, including bundles of newspaper, shall exceed 50 pounds.
- F. All residents shall be responsible for separating household hazardous waste from the recyclable materials and

other municipal waste. It is the responsibility of the resident to dispose of household hazardous waste in accordance with the PADEP regulations. Such hazardous waste shall not be commingled or otherwise included with any municipal waste or recyclable materials.

- G. Owners or landlords of any multifamily residential unit with four or more units, such as apartments or condominiums where individual residential refuse collection does not occur, shall be responsible for providing suitable containers or dumpsters for recyclable materials. Such containers or dumpsters shall be provided through arrangements with a municipal waste collector. Owners or landlords of multifamily residential units shall provide written instructions to the occupants concerning the use and availability of such containers and dumpsters. Owners and landlords of multifamily residential units who comply with these requirements shall not be held liable for the noncompliance of any person or entity occupying their buildings as such noncompliance relates to separation of materials. All tenants or lessees of multifamily residential units shall be responsible for separating materials and placing them in the containers or dumpsters provided for such purposes.

§ 224-20. Commercial, institutional and municipal recycling; recycling following large events.

- A. All persons occupying commercial, institutional and municipal establishments within Upper Frederick Township shall separate the following: high-grade office paper, newspaper, magazines and corrugated paper, aluminum cans, leaf waste, and such other materials that may be changed, from time to time, by resolution of the Board of Supervisors of Upper Frederick Township. Written documentation and certification of the amounts recycled shall be submitted to Upper Frederick Township. Such person may comply with the reporting requirements by requiring their municipal waste collector to provide said documentation and certification directly to the Township.
- B. Organizers of any activity, event or function in Upper Frederick Township that draws 250 persons or more shall also be required to recycle the following: aluminum cans, No. 1 PET and No. 2 HDPE plastics, clear glass and colored glass. Written documentation and certification of the amounts recycled shall be submitted to Upper Frederick Township. The reporting requirements may be complied with by requiring their municipal waste collector to provide said documents and certification directly to the Township.
- C. Restaurants and taverns shall recycle the following: newspaper, corrugated paper, aluminum cans, steel and bimetallic cans, clear glass, colored glass, No. 1 PET and No. 2 HDPE plastics. Written documentation and certification of the amounts recycled shall be submitted to Upper Frederick Township. The reporting requirements may be complied with by requiring their municipal waste collector to provide said documents and certification directly to the Township.

§ 224-21. Prohibited acts.

- A. No person shall place municipal waste or any hazardous waste in the containers intended for separation and collection of recyclable materials.
- B. No person shall place recyclable materials or any hazardous waste in any container intended for the separation and collection of municipal waste.
- C. No person shall place containers for municipal waste or recyclable materials at the curb or in the front yard of any lot, except during the period beginning at 6:00 p.m., prevailing time, on the day prior to a scheduled collection and ending at 12:00 midnight on the day of a scheduled collection.
- D. No municipal waste collector shall mix any municipal waste with the required separated recyclable material or leaf waste collected. Failure to provide lawful disposition of any municipal waste, recyclable materials or leaf waste collected in accordance with this article and any federal, state or local law and/or regulation may be grounds for the suspension and revocation of the municipal waste collector's registration or denial of its registration renewal.

§ 224-22. Enforcement; violations and penalties.

- A. It shall be unlawful for any person to violate, cause or assist in a violation of any provision of this article or violate, cause or assist in the violation of any rule, regulation or resolution promulgated by the Board of Supervisors pursuant to this article. Such conduct shall also constitute a public nuisance.
- B. Any person who violates any provision of this article shall receive an official written warning of noncompliance from Upper Frederick Township for the first offense. Thereafter, any violation of any provision of this article shall, upon being adjudicated liable therefor in an action brought before a District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, be sentenced to pay a fine of not more than \$1,000, plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each such violation of this article, or each day that a violation of this article continues, shall constitute a separate offense.
- C. The provisions of this article shall be enforced by the Code Enforcement Officer of Upper Frederick Township or other party so designated by the Board of Supervisors.

§ 224-23. Severability.

In the event that any provision, section, sentence, clause or part of this article shall be held invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this article. It is the intent of the Board of Supervisors of Upper Frederick Township that such remainder shall be and shall remain in full force and effect.

§ 224-24. When effective.

This article shall become effective five days following the date of adoption.

Chapter 228

STORMWATER MANAGEMENT

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick 10-11-2007 by Ord. No. 2007-08. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision and land development — See Ch. 240.

Zoning — See Ch. 285.

ARTICLE I
General Provisions

§ 228-1. Short title.

This chapter shall be known as the "Stormwater Management Ordinance."

§ 228-2. Statement of findings.

The governing body of the municipality finds that:

- A. Inadequate management of accelerated stormwater runoff resulting from development throughout a watershed increases flood flows and velocities, contributes to erosion and sedimentation, overtaxes the carrying capacity of existing streams and storm sewers, greatly increases the cost of public facilities to convey and manage stormwater, undermines floodplain management and flood reduction efforts in upstream and downstream communities, reduces groundwater recharge, and threatens public health and safety.
- B. Inadequate planning and management of stormwater runoff resulting from land development throughout a watershed can also harm surface water resources by changing the natural hydrologic patterns, accelerating stream flows (which increase scour and erosion of stream beds and stream banks, thereby elevating sedimentation), destroying aquatic habitat, and elevating aquatic pollutant concentrations and loadings such as sediments, nutrients, heavy metals, and pathogens. Groundwater resources are also impacted through loss of recharge.
- C. A comprehensive program of stormwater management, including minimization of impacts of development, redevelopment, and activities causing accelerated erosion and loss of natural infiltration, is fundamental to the public health, safety, welfare, and the protection of the people of the municipality and all of the people of the commonwealth, their resources, and the environment.
- D. Stormwater can be an important water resource by providing groundwater recharge for water supplies and baseflow of streams, which also protects and maintains surface water quality.
- E. Impacts from stormwater runoff can be minimized by using project designs that maintain the natural hydrologic regime and sustain high water quality, groundwater recharge, stream baseflow, and aquatic ecosystems. The most cost effective and environmentally advantageous way to manage stormwater runoff is through nonstructural project design that minimizes impervious surfaces and sprawl, avoids sensitive areas (i.e., stream buffers, floodplains, steep slopes), and considers topography and soils to maintain the natural hydrologic regime.
- F. Public education on the control of pollution from stormwater is an essential component in successfully addressing stormwater.
- G. Federal and state regulations require certain municipalities to implement a program of stormwater controls. These municipalities are required to obtain a permit for stormwater discharges from their separate storm sewer systems under the National Pollutant Discharge Elimination System (NPDES).
- H. Nonstormwater discharges to municipal separate storm sewer systems can contribute to pollution of waters of the commonwealth by the municipality.

§ 228-3. Purpose.

The purpose of this chapter is to promote the public health, safety, and welfare within the municipality by maintaining the natural hydrologic regime and minimizing the impacts described in § 228-2 of this chapter through provisions designed to:

- A. Promote alternative project designs and layouts that minimize the impacts on surface and ground water.

- B. Promote nonstructural best management practices (BMPs).
- C. Minimize increases in runoff stormwater volume.
- D. Minimize impervious surfaces.
- E. Manage accelerated stormwater runoff and erosion and sedimentation problems and stormwater runoff impacts at their source by regulating activities that cause these problems.
- F. Provide review procedures and performance standards for stormwater planning and management.
- G. Utilize and preserve existing natural drainage systems as much as possible.
- H. Manage stormwater impacts close to the runoff source, requiring a minimum of structures and relying on natural processes.
- I. Focus on infiltration of stormwater to maintain groundwater recharge, to prevent degradation of surface and ground water quality, and to otherwise protect water resources.
- J. Maintain existing baseflows and quality of streams and watercourses, where possible.
- K. Meet legal water quality requirements under state law, including regulations at 25 Pennsylvania Code Chapter 93.4.a requiring protection and maintenance of "existing uses" and maintenance of the level of water quality to support those uses in all streams, and the protection and maintenance of water quality in "special protection" streams.
- L. Address the quality and quantity of stormwater discharges from the development site.
- M. Provide a mechanism to identify stormwater controls necessary to meet NPDES permit requirements.
- N. Implement an illegal discharge detection and elimination program that addresses nonstormwater discharges into the municipality's separate storm sewer system.
- O. Preserve the flood-carrying capacity of streams.
- P. Prevent scour and erosion of stream banks and stream beds.
- Q. Provide performance standards and design criteria for watershed-wide stormwater management and planning.
- R. Provide proper operation and maintenance of all permanent stormwater management facilities and BMPs that are implemented in the municipality.

§ 228-4. Statutory authority.

The municipality is empowered to regulate land use activities that affect runoff and surface and ground water quality and quantity by the authority of:

- A. Act of October 4, 1978, P.L. 864 (Act 167), 32 P.S. § 680.1 et seq., as amended, the "Stormwater Management Act" (hereinafter referred to as "the Act");
- B. Water Resources Management Act of 2002, as amended;
- C. Second Class Township Code, 53 P.S. §§ 66501 et seq., 66601 et seq.;
- D. Pennsylvania Municipalities Planning Code, Act 247, as amended.²⁴

§ 228-5. Applicability; regulated activities.

²⁴ Editor's Note: See 53 P.S. § 10101 et seq.

- A. This chapter shall apply to all areas of the municipality.
- B. The following activities are defined as "regulated activities" and shall be regulated by this chapter unless exempted by § 228-6:
 - (1) Land development.
 - (2) Subdivisions.
 - (3) Alteration of the natural hydrologic regime.
 - (4) Construction or reconstruction of or addition of new impervious or semipervious surfaces (i.e., driveways, parking lots, roads, etc.).
 - (5) Construction of new buildings or additions to existing buildings.
 - (6) Redevelopment.
 - (7) Diversion piping or encroachments in any natural or man-made channel.
 - (8) Nonstructural and structural stormwater management BMPs or appurtenances thereto.
 - (9) Each disturbance activity of greater than 1,000 square feet. [NOTE: This chapter applies to any earth disturbance activity greater than or equal to 5,000 square feet that is associated with a development or redevelopment project. Earth disturbance activities of less than one acre that are associated with redevelopment projects are exempt from the § 228-22 stream bank erosion requirements. Earth disturbance activities and associated stormwater management controls are also regulated under existing state law and implementing regulations. This chapter shall operate in coordination with those parallel requirements; the requirements of this chapter shall be no less restrictive in meeting the purposes of this chapter than state law.] [Amended 7-12-2012 by Ord. No. 2012-03]
 - (10) Any of the above regulated activities that were approved more than five years prior to the effective date of this chapter and resubmitted for municipal approval.
 - (11) Prohibited or polluted discharges.
 - (12) Any other activities that may affect stormwater runoff.
- C. Table 1, Applicability Requirements, summarizes the applicability requirements of this chapter.²⁵ "Proposed Impervious Surface" in Table 1 includes new, additional, or replacement impervious surface/cover. Repaving existing surfaces without reconstruction does not constitute "replacement."

§ 228-6. Exemptions.

- A. Exemptions for land use activities. The following land use activities are exempt from the drainage plan submission requirements of this chapter:
 - (1) Use of land for gardening for home consumption.
 - (2) Agriculture when operated in accordance with a conservation plan, nutrient management plan, or erosion and sedimentation control plan approved by the County Conservation District, including activities such as growing crops, rotating crops, tilling of soil, and grazing animals.
 - (3) Forest management operations that are following the Department of Environmental Protection's (DEP) management practices contained in its publication "Soil Erosion and Sedimentation Control Guidelines for Forestry" and are operating under an approved erosion and sedimentation plan and must comply with

25. Editor's Note: Table 1, Applicability Requirements, is included at the end of this chapter.
228:5

the stream buffer requirements in § 228-21G.

- (4) Road replacement, development, or redevelopment that has less than 1,000 square feet of new, additional, or replaced impervious surface/cover, or in the case of earth disturbance only, less than 5,000 square feet of disturbance, is exempt from this chapter.

B. Exemptions for land development activities.

- (1) The following land development and earthmoving activities are exempt from the drainage plan submission requirements of this chapter:
 - (a) A maximum of 1,000 square feet of new, additional, or replacement proposed impervious surface. Or in the case of earth disturbance resulting in less than 1,000 square feet of impervious cover (as noted above).
 - (b) Up to a maximum of 5,000 square feet of disturbed earth. These criteria shall apply to the total development even if the development is to take place in phases. The date of the municipal ordinance adoption shall be the starting point from which to consider tracts as "parent tracts" upon which future subdivisions and respective earth disturbance computations shall be cumulatively considered.
- (2) The activities exempted above are still encouraged to implement the voluntary stormwater management practices as indicated in Appendix B.²⁶

C. Additional exemption criteria.

- (1) Exemption responsibilities. An exemption shall not relieve the applicant from implementing such measures as are necessary to protect public health, safety, and property.
- (2) HQ and EV streams. An exemption shall not relieve the applicant from meeting the special requirements for watersheds draining to identified high quality (HQ) or exceptional value (EV) waters and Source Water Protection Areas (SWPA) and requirements for nonstructural project design sequencing (§ 228-19).
- (3) Drainage problems. If a drainage problem is documented or known to exist downstream of or is expected from the proposed activity, then the municipality may require the applicant to comply with this chapter.
- (4) Emergency exemption. Emergency maintenance work performed for the protection of public health, safety, and welfare. A written description of the scope and extent of any emergency work performed shall be submitted to the municipality within two calendar days of the commencement of the activity. If the municipality finds that the work is not an emergency, then the work shall cease immediately, and the requirements of this chapter shall be addressed as applicable.
- (5) Maintenance exemption. Any maintenance to an existing stormwater management system made in accordance with plans and specifications approved by the Municipal Engineer or the municipality.
- (6) Even though the developer is exempt, he is not relieved from complying with other regulations.
- (7) The Board of Supervisors may, in its sole discretion, grant a modification of the requirements of one or more provisions of this chapter if the literal enforcement would exact an undue hardship because of peculiar conditions pertaining to the land in question, or if an alternative standard can be demonstrated to provide equal or better results, provided that such modification will not be contrary to the public interest, and that the purpose and intent of this chapter is observed.

26. Editor's Note: Appendix B is included at the end of this chapter.

§ 228-7. Compatibility with other ordinances or legal requirements.

- A. Approvals issued pursuant to this chapter do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance.
- B. To the extent that this chapter imposes more rigorous or stringent requirements for stormwater management, the specific requirements contained in this chapter shall be followed.
- C. Nothing in this chapter shall be construed to affect any of the municipality's requirements regarding stormwater matters that do not conflict with the provisions of this chapter. Conflicting provisions in other municipal ordinances or regulations shall be construed to retain the requirements of this chapter addressing state water quality requirements.

ARTICLE II
Definitions and Word Usage

§ 228-8. Interpretation.

For the purposes of this chapter, certain terms and words used herein shall be interpreted as follows:

- A. Words used in the present tense include the future tense; the singular number includes the plural, and the plural number includes the singular; words of masculine gender include feminine gender; and words of feminine gender include masculine gender.
- B. The word "includes" or "including" shall not limit the term to the specific example, but is intended to extend its meaning to all other instances of like kind and character.
- C. The word "person" includes an individual, firm, association, organization, partnership, trust, company, corporation, unit of government, or any other similar entity.
- D. The words "shall" and "must" are mandatory; the words "may" and "should" are permissive.
- E. The words "used" or "occupied" include the words "intended, designed, maintained, or arranged to be used, occupied, or maintained."

§ 228-9. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACCELERATED EROSION — The removal of the surface of the land through the combined action of man's activity and the natural processes of a rate greater than would occur because of the natural process alone.

AGRICULTURAL ACTIVITIES — The work of producing crops and raising livestock, including tillage, plowing, disking, harrowing, pasturing, mushroom growing, nursery, and sod operations and installation of conservation measures. Construction of new buildings or impervious area is not considered an "agricultural activity."

ALTERATION — As applied to land, a change in topography as a result of the moving of soil and rock from one location or position to another; also the changing of surface conditions by causing the surface to be more or less impervious; land disturbance.

APPLICANT — A person who has filed an application for approval to engage in any regulated activity defined in § 228-5 of this chapter.

AS-BUILT DRAWINGS — Engineering or site drawings maintained by the contractor as he constructs the project and upon which he documents the actual locations of the building components and changes to the original contract documents. These documents, or a copy of same, are turned over to the Municipal Engineer at the completion of the project.

BANKFULL — The channel at the top-of-bank or point from where water begins to overflow onto a floodplain.

BASEFLOW — Portion of stream discharge derived from groundwater; the sustained discharge that does not result from direct runoff or from water diversions, reservoir releases, piped discharges, or other human activities.

BIORETENTION — A stormwater retention area that utilizes woody and herbaceous plants and soils to remove pollutants before infiltration occurs.

BMP (BEST MANAGEMENT PRACTICE) — Methods, measures, or practices used to prevent or reduce surface runoff and/or water pollution, including, but not limited to, structural and nonstructural stormwater management practices and operation and maintenance procedures. See also "nonstructural best management practice (BMP)."

BUFFER — The area of land immediately adjacent to any stream, measured perpendicular to and horizontally from the top-of-bank on both sides of a stream (see "top-of-bank").

CHANNEL — An open drainage feature through which stormwater flows. Channels include, but shall not be limited to, natural and man-made drainageways, swales, streams, ditches, canals, and pipes flowing partly full.

CHANNEL EROSION — The widening, deepening, or headward cutting of channels and waterways caused by stormwater runoff or bankfull flows.

CISTERN — An underground reservoir or tank for storing rainwater.

CONSERVATION DISTRICT — The Montgomery County Conservation District.

CONVEYANCE — A facility or structure used for the transportation or transmission of something from one place to another.

CULVERT — A structure with its appurtenant works that carries water under or through an embankment or fill.

DAM — A man-made barrier, together with its appurtenant works, constructed for the purpose of impounding or storing water or another fluid or semifluid. A dam may include a refuse bank, fill, or structure for highway, railroad, or other purposes which impounds or may impound water or another fluid or semifluid.

DEPARTMENT — The Pennsylvania Department of Environmental Protection.

DESIGNEE — The agent of the Montgomery County Planning Commission, Montgomery County Conservation District, and/or agent of the governing body involved with the administration, review, or enforcement of any provisions of this chapter by contract or memorandum of understanding.

DESIGN PROFESSIONAL (QUALIFIED) — A Pennsylvania registered professional engineer, registered landscape architect, or registered professional land surveyor trained to develop stormwater management plans.

DESIGN STORM — The magnitude and temporal distribution of precipitation from a storm event measured in probability of occurrence (e.g., a five-year storm) and duration (e.g., 24 hours), used in the design and evaluation of stormwater management systems.

DETENTION BASIN — An impoundment designed to collect and retard stormwater runoff by temporarily storing the runoff and releasing it at a predetermined rate. Detention basins are designed to drain completely soon after a rainfall event and become dry until the next rainfall event.

DEVELOPER — A person who seeks to undertake any regulated earth disturbance activities at a project site in the municipality.

DEVELOPMENT — Any human-induced change to improved or unimproved real estate, whether public or private, including, but not limited to, land development, construction, installation, or expansion of a building or other structure, land division, street construction, drilling, and site alteration such as embankments, dredging, grubbing, grading, paving, parking or storage facilities, excavation, filling, stockpiling, or clearing. As used in this chapter, "development" encompasses both new development and redevelopment.

DEVELOPMENT SITE — The specific tract or parcel of land where any regulated activity set forth in § 228-5 is planned, conducted, or maintained.

DIAMETER AT BREAST HEIGHT (DBH) — The outside bark diameter at breast height which is defined as 4.5 feet (1.37m) above the forest floor on the uphill side of the tree.

DIFFUSED DRAINAGE DISCHARGE — Drainage discharge that is not confined to a single point location or channel, including sheet flow or shallow concentrated flow.

DISCHARGE —

- A. To release water from a project, site, aquifer, drainage basin, or other point of interest (verb);
- B. The rate and volume of flow of water such as in a stream, generally expressed in cubic feet per second (see "peak discharge") (noun).

DISCHARGE POINT — The point of discharge for a stormwater facility.

DISTURBED AREAS — Unstabilized land area where an earth disturbance activity is occurring or has occurred.

DITCH — A man-made waterway constructed for irrigation or stormwater conveyance purposes.

DOWNSLOPE PROPERTY LINE — That portion of the property line of the lot, tract, or parcels of land being developed, located such that overland or pipe flow from the project site would be directed towards it by gravity.

DRAINAGE CONVEYANCE FACILITY — A stormwater management facility designed to transport stormwater runoff that includes channels, swales, pipes, conduits, culverts, and storm sewers.

DRAINAGE EASEMENT — A right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

DRAINAGE PERMIT — A permit issued by the municipality after the drainage plan has been approved.

DRAINAGE PLAN — The documentation of the stormwater management system, if any, to be used for a given development site, the contents of which are established in § 228-11.

EARTH DISTURBANCE ACTIVITY — A construction or other human activity which disturbs the surface of land, including, but not limited to, clearing and grubbing, grading, excavations, embankments, land development, agricultural plowing or tilling, timber harvesting activities, road maintenance activities, mineral extraction, and the moving, depositing, stockpiling, or storing of soil, rock, or earth materials.

EMERGENCY SPILLWAY — A conveyance area that is used to pass peak discharge greater than the maximum design storm controlled by the stormwater facility.

ENCROACHMENT — A structure or activity that changes, expands, or diminishes the course, current, or cross-section of a watercourse, floodway, or body of water.

EROSION — The process by which the surface of the land, including water/stream channels, is worn away by water, wind, or chemical action.

EROSION AND SEDIMENT CONTROL PLAN — A plan that is designed to minimize accelerated erosion and sedimentation. Said plan must be submitted to and approved by the appropriate Conservation District before construction can begin.

EXCEPTIONAL VALUE WATERS — Surface waters of high quality that satisfy Pennsylvania Code Title 25 Environmental Protection, Chapter 93, Water Quality Standards, § 93.4b(b) (relating to antidegradation).

EXISTING CONDITIONS — The initial condition of a project site prior to the proposed alteration. If the initial condition of the site is undeveloped land, the land use shall be considered as "meadow" unless the natural land cover is proven to generate a lower curve number or Rational "c" value, such as forested lands.

FLOOD — A temporary condition of partial or complete inundation of land areas from the overflow of streams, rivers, and other waters of this commonwealth.

FLOODPLAIN — Any land area susceptible to inundation by water from any natural source or as delineated by the applicable Department of Housing and Urban Development, Federal Insurance Administration Flood Hazard Boundary Map as being a special flood hazard area.

FLOODWAY — The channel of a watercourse and those portions of the adjoining floodplains that are reasonably required to carry and discharge the one-hundred-year frequency flood. Unless otherwise specified, the boundary of the floodway is as indicated on maps and flood insurance studies provided by the Federal Emergency Management Agency (FEMA). In an area where no FEMA maps or studies have defined the boundary of the one-hundred-year frequency floodway, it is assumed, absent evidence to the contrary, that the floodway extends from the stream to 50 feet from the top-of-bank.

FLUVIAL GEOMORPHOLOGY — The study of landforms associated with river channels and the processes that form them.

FOREST MANAGEMENT/TIMBER OPERATIONS — Planning and associated activities necessary for the management of forest lands. These include timber inventory and preparation of forest management plans,

silvicultural treatment, cutting budgets, logging road design and construction, timber harvesting, and reforestation.

FREEBOARD — A vertical distance between the elevation of the design high-water and the top of a dam, levee, tank, basin, swale, or diversion berm. The space is required as a safety margin in a pond or basin.

GRADE —

A. A slope, usually of a road, channel, or natural ground specified in percent and shown on plans as specified herein (noun).

B. To finish the surface of a roadbed, the top of an embankment, or the bottom of an excavation (verb).

GRASSED WATERWAY — A natural or man-made waterway, usually broad and shallow, covered with erosion-resistant grasses used to convey surface water.

GROUNDWATER — Water beneath the earth's surface that supplies wells and springs and is often between saturated soil and rock.

GROUNDWATER RECHARGE — The replenishment of existing natural underground water supplies from rain or overland flow.

HIGH QUALITY WATERS — Surface waters having quality which exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water by satisfying Pennsylvania Code Title 25 Environmental Protection, Chapter 93, Water Quality Standards, § 93.4b(a).

HOTSPOTS — Areas where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

HYDROGRAPH — A graph representing the discharge of water versus time for a selected point in the drainage system.

HYDROLOGIC REGIME — The hydrologic cycle or balance that sustains quality and quantity of stormwater, baseflow, storage, and groundwater supplies under natural conditions.

HYDROLOGIC SOIL GROUP — A classification of soils by the Natural Resources Conservation Service (NRCS), formerly the Soil Conservation Service (SCS), into four runoff potential groups. The groups range from A soils, which are very permeable and produce little runoff, to D soils, which are not very permeable and produce much more runoff.

IMPERVIOUS SURFACE — A surface that prevents the infiltration of water into the ground. Impervious surfaces include, but are not limited to, streets, sidewalks, pavements, driveway areas, or roofs. Any surface areas designed to be gravel or crushed stone shall be regarded as impervious surfaces.

IMPOUNDMENT — A retention or detention basin designed to retain stormwater runoff and release it at a controlled rate.

INFILL — Development that occurs on smaller parcels that remain undeveloped but are within or in very close proximity to urban or densely developed areas. Infill development usually relies on existing infrastructure and does not require an extension of water, sewer, or other public utilities.

INFILTRATION — Movement of surface water into the soil, where it is absorbed by plant roots, evaporated into the atmosphere, or percolated downward to recharge groundwater.

INFILTRATION STRUCTURES — A structure designed to direct runoff into the underground water (e.g., French drains, seepage pits, or seepage trenches).

INFLOW — The flow entering the stormwater management facility and/or BMP.

INLET — The upstream end of any structure through which water may flow.

INTERMITTENT STREAM — A stream that flows only part of the time. Flow generally occurs for several weeks or months in response to seasonal precipitation or groundwater discharge.

INVERT — The lowest surface, the floor or bottom of a culvert, drain, sewer, channel, basin, BMP, or orifice.

LAND DEVELOPMENT — Any of the following activities:

- A. The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:
 - (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
 - (2) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups, or other features;
- B. A subdivision of land;
- C. Development in accordance with Section 503(1.1) of the PA Municipalities Planning Code.

LETTER OF CONSISTENCY — A representation by an applicant that a proposed stormwater control and BMP operations and maintenance plan is consistent with all DEP permits issued.

LIMITING ZONE — A soil horizon or condition in the soil profile or underlying strata that includes one of the following:

- A. A seasonal high water table, whether perched or regional, determined by direct observation of the water table or indicated by soil mottling.
- B. A rock with open joints, fracture or solution channels, or masses of loose rock fragments, including gravel, with insufficient fine soil to fill the voids between the fragments.
- C. A rock formation, other stratum, or soil condition that is so slowly permeable that it effectively limits downward passage of water.

LOT — A designated parcel, tract, or area of land established by a plat or otherwise as permitted by law and to be used, developed, or built upon as a unit.

MAIN STEM (MAIN CHANNEL) — Any stream segment or other runoff conveyance used as a reach in watershed-specific hydrologic models.

MANNING EQUATION (MANNING FORMULA) — A method for calculation of velocity of flow (e.g., feet per second) and flow rate (e.g., cubic feet per second) in open channels based upon channel shape, roughness, depth of flow, and slope. "Open channels" may include closed conduits so long as the flow is not under pressure.

MAXIMUM DESIGN STORM — The maximum (largest) design storm that is controlled by the stormwater facility.

MUNICIPAL ENGINEER — A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the Engineer for a municipality, planning agency, or joint planning commission.

MUNICIPALITY — Upper Frederick Township, Montgomery County, Pennsylvania.

NATURAL CONDITION — Pre-development condition.

NATURAL HYDROLOGIC REGIME — See "hydrologic regime."

NATURAL RECHARGE AREA — Undisturbed surface area or depression where stormwater collects and a portion of which infiltrates and replenishes the underground and groundwater.

NONPOINT SOURCE POLLUTION — Pollution that enters a waterbody from diffuse origins in the watershed and does not result from discernible, confined, or discrete conveyances.

NONSTORMWATER DISCHARGES — Water flowing in stormwater collection facilities, such as pipes or swales, which is not the result of a rainfall event or snowmelt.

NONSTRUCTURAL BEST MANAGEMENT PRACTICE (BMPs) — Methods of controlling stormwater runoff quantity and quality, such as innovative site planning, impervious area and grading reduction, protection of natural depression areas, temporary ponding on site, and other techniques.

NPDES — National Pollutant Discharge Elimination System, the federal government's system for issuance of permits under the Clean Water Act, which is delegated to DEP in Pennsylvania.

NRCS — Natural Resource Conservation Service (previously SCS).

OPEN CHANNEL — A conveyance channel that is not enclosed.

OUTFALL — "Point source" as described in 40 CFR § 122.2 at the point where the municipality's storm sewer system discharges to surface waters of the commonwealth.

OUTFLOW — The flow exiting the stormwater management facility and/or BMP.

OUTLET — Points of water disposal to a stream, river, lake, tidewater, or artificial drain.

PARENT TRACT — The parcel of land from which a land development or subdivision originates, determined from the date of municipal adoption of this chapter.

PARKING LOT STORAGE — Involves the use of parking areas as temporary impoundments with controlled release rates during rainstorms.

PEAK DISCHARGE — The maximum rate of stormwater runoff from a specific storm event.

PENN STATE RUNOFF MODEL — The computer-based hydrologic model developed at Pennsylvania State University.

PIPE — A culvert, closed conduit, or similar structure (including appurtenances) that conveys stormwater.

PLANNING COMMISSION — The Planning Commission of Upper Frederick Township.

POINT SOURCE — Any discernible, confined, and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, or conduit from which stormwater is or may be discharged, as defined in state regulations at 25 Pennsylvania Code § 92.1.

POST-CONSTRUCTION — Period after construction during which disturbed areas are stabilized, stormwater controls are in place and functioning, and all proposed improvements in the approved land development plan are completed.

PRE-CONSTRUCTION — Prior to commencing construction activities.

PRE-DEVELOPMENT CONDITION — Undeveloped/natural condition.

PRETREATMENT — Techniques employed in stormwater BMPs to provide storage or filtering to trap coarse materials and other pollutants before they enter the system, but not necessarily designed to meet the water quality volume requirements of § 228-21.

PROJECT SITE — The specific area of land where any regulated activities in the municipality are planned, conducted, or maintained.

RATIONAL FORMULA — A rainfall-runoff relation used to estimate peak flow.

REACH — Any stream segment or other runoff conveyance used in the watershed-specific hydrologic models.

RECHARGE — The replenishment of groundwater through the infiltration of rainfall, other surface waters, or land application of water or treated wastewater.

RECONSTRUCTION — Demolition and subsequent rebuilding of impervious surface.

RECORD DRAWINGS — Original documents revised to suit the as-built conditions and subsequently provided

by the Engineer to the client. The Engineer reviews the contractor's as-builts against his/her own records for completeness, then either turns these over to the client or transfers the information to a set of reproducible, in both cases for the client's permanent records.

REDEVELOPMENT — Any development that requires demolition or removal of existing structures or impervious surfaces at a site and replacement with new impervious surfaces. Maintenance activities such as top-layer grinding and repaving are not considered to be redevelopment. Interior remodeling projects and tenant improvements are also not considered to be redevelopment.

REGULATED ACTIVITIES — Actions or proposed actions that have an impact on stormwater runoff quality or quantity and that are specified in § 228-5 of this chapter.

REGULATED EARTH DISTURBANCE ACTIVITY — Defined under NPDES Phase II regulations as earth disturbance activity of one acre or more with a point source discharge to surface waters or the municipality's storm sewer system or five acres or more regardless of the planned runoff. This includes earth disturbance on any portion of, part, or during any stage of a larger common plan of development.

RELEASE RATE — The percentage of existing conditions peak rate of runoff from a site or subarea to which the proposed conditions peak rate of runoff must be reduced to protect downstream areas.

REPAVING — Replacement of the impervious surface that does not involve reconstruction of an existing paved (impervious) surface.

REPLACEMENT PAVING — Reconstruction of and full replacement of an existing paved (impervious) surface.

RETENTION BASIN — A structure in which stormwater is stored and not released during the storm event. Retention basins are designed for infiltration purposes and do not have an outlet. The retention basin must infiltrate stored water in four days or less.

RETURN PERIOD — The average interval, in years, within which a storm event of a given magnitude can be expected to recur. For example, the twenty-five-year return period rainfall would be expected to reoccur on the average of once every 25 years.

RISER — A vertical pipe extending from the bottom of a pond that is used to control the discharge rate from the pond for a specified design storm.

ROAD MAINTENANCE — Earth disturbance activities within the existing road cross-section, such as grading and repairing existing unpaved road surfaces, cutting road banks, cleaning or clearing drainage ditches, and other similar activities.

ROOF DRAIN — A drainage conduit or pipe that collects water runoff from a roof and leads it away from the structure.

ROOFTOP DETENTION — The temporary ponding and gradual release of stormwater falling directly onto flat roof surfaces using controlled-flow roof drains in building designs.

RUNOFF — Any part of precipitation that flows over the land surface.

SALDO — Subdivision and Land Development Ordinance.²⁷

SEDIMENT BASIN — A barrier, dam, or retention or detention basin located and designed in such a way as to retain rock, sand, gravel, silt, or other material transported by water during construction.

SEDIMENT POLLUTION — The placement, discharge, or any other introduction of sediment into the waters of the commonwealth.

SEDIMENTATION — The process by which mineral or organic matter is accumulated or deposited by the movement of water or air.

SEEPAGE PIT/SEEPAGE TRENCH — An area of excavated earth filled with loose stone or similar coarse

27. Editor's Note: See Ch. 240, Subdivision and Land Development.

material into which surface water is directed for infiltration into the underground water.

SEPARATE STORM SEWER SYSTEM — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) primarily used for collecting and conveying stormwater runoff.

SHALLOW CONCENTRATED FLOW — Stormwater runoff flowing in shallow, defined ruts prior to entering a defined channel or waterway.

SHEET FLOW — A flow process associated with broad, shallow water movement on sloping ground surfaces that is not channelized or concentrated.

SOIL COVER COMPLEX METHOD — A method of runoff computation developed by NRCS that is based on relating soil type and land use/cover to a runoff parameter called "curve number (CN)."

SOURCE WATER PROTECTION AREAS (SWPA) — The zone through which contaminants, if present, are likely to migrate and reach a drinking water well or surface water intake.

SPECIAL PROTECTION SUBWATERSHEDS — Watersheds that have been designated by DEP as EV or HQ waters.

SPILLWAY — A conveyance that is used to pass the peak discharge of the maximum design storm that is controlled by the stormwater facility.

STATE WATER QUALITY REQUIREMENTS — The regulatory requirements to protect, maintain, reclaim, and restore water quality under Pennsylvania Code Title 25 and the Clean Streams Law.

STORAGE INDICATION METHOD — A reservoir routing procedure based on solution of the continuity equation (inflow minus outflow equals the change in storage) with outflow defined as a function of storage volume and depth.

STORM FREQUENCY — The number of times that a given storm "event" occurs or is exceeded on the average in a stated period of years (see "return period").

STORM SEWER — A system of pipes and/or open channels that conveys intercepted runoff and stormwater from other sources but excludes domestic sewage and industrial wastes.

STORMWATER — The surface runoff generated by precipitation reaching the ground surface.

STORMWATER MANAGEMENT DISTRICT — Those subareas of a watershed in which some type of detention is required to meet the plan requirements and the goals of Act 167.

STORMWATER MANAGEMENT FACILITY — Any structure, natural or man-made, that, due to its condition, design, or construction, conveys, stores, or otherwise affects stormwater runoff quality, rate, or quantity. Typical stormwater management facilities include, but are not limited to, detention and retention basins, open channels, storm sewers, pipes, and infiltration structures.

STORMWATER MANAGEMENT PLAN — The watershed plan, known as the "Swamp Creek Watershed Act 167 Stormwater Management Plan," for managing those land use activities that will influence stormwater runoff quality and quantity and that would impact the Swamp Creek watershed adopted by Berks County and Montgomery County as required by the Act of October 4, 1978, P.L. 864 (Act 167).

STORMWATER MANAGEMENT SITE PLAN — The plan prepared by the applicant or his representative indicating how stormwater runoff will be managed at the particular site of interest according to this chapter.

STREAM — A natural watercourse.

STREAM BUFFER — The land area adjacent to each side of a stream essential to maintaining water quality (see "buffer").

STREAM ENCLOSURE — A bridge, culvert, or other structure in excess of 100 feet in length upstream to downstream which encloses a regulated water of the commonwealth.

SUBAREA (SUBWATERSHED) — The smallest drainage unit of a watershed for which stormwater management criteria have been established in the stormwater management plan.

SUBDIVISION — The division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership, or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres not involving any new street or easement of access or any residential dwelling shall be exempted.

SURFACE WATERS OF THE COMMONWEALTH — Any and all rivers, streams, creeks, rivulets, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs, and all other bodies or channels of conveyance of surface waters, or parts thereof, whether natural or artificial, within or on the boundaries of the commonwealth.

SWALE — A low-lying stretch of land that gathers or carries surface water runoff.

TIMBER OPERATIONS — See "forest management."

TIME-OF-CONCENTRATION (TC) — The time required for surface runoff to travel from the hydraulically most distant point of the watershed to a point of interest within the watershed. This time is the combined total of overland flow time and flow time in pipes or channels, if any.

TOP-OF-BANK — Highest point of elevation in a stream channel cross-section at which a rising water level just begins to flow out of the channel and over the floodplain.

UNDEVELOPED CONDITION — Natural condition (see also "pre-development condition").

VERNAL POND — Seasonal depression wetlands that are covered by shallow water for variable periods from winter to spring but may be completely dry for most of the summer and fall.

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

WATERS OF THE COMMONWEALTH — Any and all rivers, streams, creeks, rivulets, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs, and all other bodies or channels of conveyance of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of the commonwealth.

WATERSHED — Region or area drained by a river, watercourse, or other body of water, whether natural or artificial.

WELLHEAD —

A. A structure built over a well.

B. The source of water for a well.

WELLHEAD PROTECTION AREA — The surface and subsurface area surrounding a water supply well, well field, or spring supplying a public water system through which contaminants are reasonably likely to move toward and reach the water source.

WET BASIN — Pond for urban runoff management that is designed to detain urban runoff and always contains water.

WETLAND — Those areas that are inundated or saturated by surface 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. Wetlands generally include swamps, marshes, bogs, fens, and similar areas.

WOODS — A natural groundcover with more than one viable tree of a DBH of six inches or greater per 1,500 square feet which existed within three years of application; a cover condition for which SCS curve numbers have

been assigned or to which equivalent Rational Method runoff coefficients have been assigned.

ARTICLE III
Drainage Plan Requirements

§ 228-10. General requirements. [Amended 7-12-2012 by Ord. No. 2012-03]

For any of the activities regulated by this chapter, the preliminary or final approval of subdivision and/or land development plans, the issuance of any building or occupancy permit, or the commencement of any earth disturbance activity may not proceed until the property owner or applicant or his/her agent has received written approval of a drainage plan from the municipality, obtained an NPDES permit for stormwater discharges associated with construction activities, if greater than one acre of land disturbance, from the local Conservation District and/or DEP, and an adequate erosion and sediment control plan review by the Conservation District. Application for approval of a drainage plan shall be submitted on a form supplied by the Township.

§ 228-11. Drainage plan contents.

The drainage plan shall consist of a general description of the project, including sequencing items described in § 228-19, calculations, maps, and plans. All drainage plan materials shall be submitted to the municipality in a format that is clear, concise, legible, neat, and well organized; otherwise, the drainage plan shall not be accepted for review and shall be returned to the applicant. The following items shall be included in the drainage plan:

A. General.

- (1) General description of the project, including those areas described in § 228-19B.
- (2) General description of proposed permanent stormwater management techniques, including construction specifications of the materials to be used for stormwater management facilities.
- (3) Complete hydrologic, hydraulic, and structural computations for all stormwater management facilities.
- (4) An erosion and sediment control plan, including all reviews and letters of adequacy from the Conservation District.
- (5) A general description of proposed nonpoint source pollution controls.

B. Maps. Map(s) of the project area shall be submitted on twenty-four-inch by thirty-six-inch sheets and/or shall be prepared in a form that meets the requirements for recording at the offices of the Recorder of Deeds of Montgomery County. If the SALDO has more stringent criteria than this chapter, then the more stringent criteria shall apply. The contents of the map(s) shall include, but not be limited to:

- (1) The location of the project relative to highways, municipal boundaries, or other identifiable landmarks.
- (2) Existing contours at intervals of two feet. In areas of slopes greater than 25%, five-foot contour intervals may be used.
- (3) Existing streams, lakes, ponds, or other waters of the commonwealth within the project area.
- (4) Other physical features, including flood hazard boundaries, stream buffers, existing drainage courses, areas of natural vegetation to be preserved, and the total extent of the upstream area draining through the site.
- (5) The locations of all existing and proposed utilities, sanitary sewers, and water lines within 50 feet of property lines.
- (6) An overlay showing soil names, boundaries and limitations (in tabular format).
- (7) Limits of earth disturbance, including the type and amount of impervious area that would be added.

- (8) Proposed structures, roads, paved areas, and buildings.
- (9) Final contours at intervals of two feet. In areas of steep slopes (greater than 25%), five-foot-contour intervals may be used.
- (10) The name of the development, the name and address of the owner of the property, and the name of the individual or firm preparing the plan.
- (11) The date of submission.
- (12) A graphic and written scale of one inch equals no more than 50 feet; for tracts of 100 acres or more, the scale shall be one inch equals no more than 100 feet.
- (13) A North arrow.
- (14) The total tract boundary and size with distances marked to the nearest foot and bearings to the nearest degree.
- (15) Existing and proposed land use(s).
- (16) A key map showing all existing man-made features beyond the property boundary that would be affected by the project.
- (17) Location of all open channels, as well as indicating where they are draining after they leave the site (storm sewer, defined drainage swale, stream channel, waters of the commonwealth, etc.).
- (18) Overland drainage patterns and swales.
- (19) A twenty-foot-wide access easement around all stormwater management facilities that would provide ingress to and egress from a public right-of-way.
- (20) The location of all erosion and sediment control facilities and all post-construction stormwater management facilities, BMPs, systems, etc.
- (21) A note on the plan indicating the location and responsibility for maintenance of stormwater management facilities that would be located off site. All offsite facilities shall meet the performance standards and design criteria specified in this chapter.
- (22) A statement, signed by the applicant, acknowledging that any revision to the approved post-construction stormwater management plan must be approved by the municipality and the Conservation District and/or DEP (if greater than one acre of land disturbance), and that a revised erosion and sediment control plan must be submitted to the Conservation District for a determination of adequacy.
- (23) The following signature block for the design engineer:

"I, (Design Engineer), on this date (date of signature), hereby certify that the drainage plan meets all design standards and criteria of the Upper Frederick Township Stormwater Management Ordinance."

C. Supplemental information to be submitted to the municipality.

- (1) A written description of the following information shall be submitted by the applicant and shall include:
 - (a) The overall stormwater management concept for the project designed in accordance with § 228-19.
 - (b) Stormwater runoff computations as specified in this chapter.
 - (c) Stormwater management techniques to be applied both during and after development.
 - (d) Expected project time schedule.

- (e) Development stages or project phases, if so proposed.
- (f) An operations and maintenance plan in accordance with § 228-33 of this chapter.

- (2) An erosion and sediment control plan.
- (3) A description of the effect of the project (in terms of runoff volumes and peak flows) on adjacent properties and on any existing municipal stormwater collection system that may receive runoff from the project site.
- (4) A declaration of adequacy and highway occupancy permit from the Pennsylvania Department of Transportation (PennDOT) District office when utilization of a PennDOT storm drainage system is proposed.

D. Stormwater management facilities.

- (1) All PCSWM BMP facilities must be located on a plan and described in detail. The PCSWM plan package should include at a minimum pre- and post-drainage area plans, an overall PCSWM plan, PCSWM details sheets, landscaping or conservation plans, etc.
- (2) When infiltration measures such as seepage pits, beds, or trenches are used, the locations of existing and proposed septic tank, infiltration areas and wells must be shown. Minimum setback distances should be identified from water supply wells, septic areas, and any adjacent or downgradient buildings and/or structures with below grade floors or inhabitable space.
- (3) All calculations, assumptions, and criteria used in the design of the stormwater management facilities must be shown.

§ 228-12. Plan submission.

The municipality shall require receipt of a complete drainage plan, as specified in this chapter.

- A. Proof of application or documentation of required permit(s) or approvals for the programs listed below shall be part of the plan:
 - (1) NPDES permit for stormwater discharges from construction activities.
 - (2) DEP joint permit application.
 - (3) PennDOT highway occupancy permit.
 - (4) Chapter 105 (Dam Safety and Waterway Management).
 - (5) Chapter 106 (Floodplain Management).
 - (6) Any other permit under applicable state or federal regulations.
- B. The plan shall be coordinated with the state and federal permit process and the municipal SALDO review process.
- C. For projects that require SALDO approval, the drainage plan shall be submitted by the applicant as part of the preliminary plan submission where applicable for the regulated activity.
- D. For regulated activities that do not require SALDO approval, see § 228-10, General requirements.
- E. Any submissions to the agencies listed above that are found to be incomplete shall not be accepted for review and shall be returned to the applicant with a notification in writing of the specific manner in which the submission is incomplete.

§ 228-13. Drainage plan review.

- A. The Municipal Engineer shall review the drainage plan for consistency with this chapter.
- B. The Municipal Engineer shall review the drainage plan for any subdivision or land development against the municipal SALDO provisions not otherwise superseded by this chapter.
- C. The Conservation District, in accordance with established criteria and procedures, shall review the drainage plan for consistency with stormwater management and erosion and sediment pollution control requirements and provide comments to the municipality. Such comments shall be considered by the municipality prior to final approval of the drainage plan.
- D. For activities regulated by this chapter, the Municipal Engineer shall notify the applicant and the municipality in writing, within 45 calendar days, whether the drainage plan is consistent with this chapter.
 - (1) If the Municipal Engineer determines that the drainage plan is consistent with this chapter, the Municipal Engineer shall forward a letter of consistency to the Municipal Secretary who will then forward a copy to the applicant.
 - (2) If the Municipal Engineer determines that the drainage plan is inconsistent or noncompliant with this chapter, the Municipal Engineer shall forward a letter to the Municipal Secretary with a copy to the applicant citing the reason(s) and specific sections of this chapter for the inconsistency or noncompliance. Inconsistency or noncompliance may be due to inadequate information to make a reasonable judgment as to compliance with this chapter. Any drainage plans that are inconsistent or noncompliant may be revised by the applicant and resubmitted when consistent with this chapter. The Municipal Secretary shall then notify the applicant of the Municipal Engineer's findings. Any inconsistent or noncompliant drainage plans may be revised by the applicant and resubmitted consistent with this chapter.
- E. For regulated activities specified in § 228-5 of this chapter that require a building permit, the Municipal Engineer shall notify the Municipal Building Permit Officer in writing, within a time frame consistent with the municipal Building Code and/or municipal SALDO, whether the drainage plan is consistent with this chapter. The Municipal Building Permit Officer shall forward a copy of the consistency/inconsistency letter to the applicant. Any drainage plan deemed inconsistent may be revised by the applicant and resubmitted consistent with this chapter.
- F. For regulated activities under this chapter that require an NPDES permit application, the applicant shall forward a copy of the Municipal Engineer's letter stating that the drainage plan is consistent with this chapter to the Conservation District and/or DEP. In addition, a short summary of the proposed post-construction stormwater management design and proposed BMPs should also be forwarded to the Conservation District and/or DEP. DEP and the Conservation District may consider the Municipal Engineer's review comments in determining whether to issue a permit.
- G. The municipality shall not grant preliminary or final approval to any subdivision or land development for regulated activities specified in § 228-5 of this chapter if the drainage plan has been found by the Municipal Engineer to be inconsistent with this chapter. All required permits from DEP must be obtained prior to approval of any subdivision or land development.
- H. No building permits for any regulated activity specified in § 228-5 of this chapter shall be approved by the municipality if the drainage plan has been found to be inconsistent with this chapter, as determined by the Municipal Engineer and Conservation District, or without considering the comments of the Municipal Engineer and Conservation District. All required permits from DEP must be obtained prior to issuance of a building permit.
- I. The applicant shall be responsible for completing record drawings of all stormwater management facilities included in the approved drainage plan. The record drawings and an explanation of any discrepancies with

the design plans shall be submitted to the Municipal Engineer for final approval. In no case shall the municipality approve the record drawings until the municipality receives a copy of an approved declaration of adequacy and/or highway occupancy permit from the PennDOT District office, NPDES permit, and any other applicable permits or approvals from DEP or the Conservation District. The above permits and approvals must be based on the record drawings.

- J. The municipality's approval of a drainage plan shall be valid for a period not to exceed two years commencing on the date that the municipality signs the approved drainage plan. If stormwater management facilities included in the approved drainage plan have not been constructed, or if constructed, record drawings of these facilities have not been approved within this two-year time period, then the municipality may consider the drainage plan inconsistent or noncompliant and may revoke any and all permits. Drainage plans that are determined to be inconsistent or noncompliant by the municipality shall be resubmitted in accordance with § 228-15 of this chapter.

§ 228-14. Modification of plans.

- A. A modification to a submitted drainage plan under review by the municipality for a development site that involves the following shall require a resubmission to the municipality of a modified drainage plan consistent with § 228-12 of this chapter and be subject to review as specified in § 228-13 of this chapter:
 - (1) Change in stormwater management facilities or techniques;
 - (2) Relocation or redesign of stormwater management facilities; or
 - (3) Is necessary because soil or other conditions are not as stated on the drainage plan as determined by the Municipal Engineer.
- B. A modification to an already approved or inconsistent or noncompliant drainage plan shall be submitted to the municipality, accompanied by the applicable municipal review and inspection fee. A modification to a drainage plan for which a formal action has not been taken by the municipality shall be submitted to the municipality accompanied by the applicable municipal review and inspection fee.

§ 228-15. Resubmission of inconsistent or noncompliant drainage plans.

An inconsistent or noncompliant drainage plan may be resubmitted with the revisions addressing the Municipal Engineer's concerns documented in writing. It must be addressed to the Municipal Secretary in accordance with § 228-12 of this chapter, distributed accordingly, and be subject to review as specified in § 228-13 of this chapter. The applicable municipal review and inspection fee must accompany a resubmission of an inconsistent or noncompliant drainage plan.

ARTICLE IV
Stormwater Management

§ 228-16. General requirements.

- A. Applicants proposing regulated activities in the municipality that do not fall under the exemption criteria shown in § 228-6 shall submit a drainage plan consistent with this chapter and the respective Act 167 Stormwater Management Plan to the municipality for review. The stormwater management criteria of this chapter shall apply to the total proposed development even if development is to take place in stages.
- B. The applicant is required to find practicable alternatives to the surface discharge of stormwater, the creation of impervious surfaces, and the degradation of waters of the commonwealth and must maintain as much as possible the natural hydrologic regime.
- C. The drainage plan must be designed consistent with the sequencing provisions of § 228-19 to ensure maintenance of the natural hydrologic regime, to promote groundwater recharge, and to protect groundwater and surface water quality and quantity. The drainage plan designer must proceed sequentially in accordance with Article IV of this chapter.
- D. Stormwater drainage systems shall be designed in order to permit unimpeded flow along natural watercourses, except as modified by stormwater management facilities or open channels consistent with this chapter.
- E. Existing points of concentrated drainage that discharge onto adjacent property shall not be altered in any manner which could cause property damage without permission of the affected property owner(s) and shall be subject to any applicable discharge criteria specified in this chapter.
- F. Areas of existing diffused drainage discharge, whether proposed to be concentrated or maintained as diffused drainage areas, shall be subject to any applicable discharge criteria in the general direction of existing discharge, except as otherwise provided by this chapter. If diffused drainage discharge is proposed to be concentrated and discharged onto adjacent property, the applicant must document that adequate downstream conveyance facilities exist to safely transport the concentrated discharge or otherwise prove that no erosion, sedimentation, flooding, or other impacts will result from the concentrated discharge.
- G. Where a development site is traversed by existing streams, drainage easements shall be provided conforming to the line of such streams. The terms of the easement shall conform to the stream buffer requirements contained in § 228-21G of this chapter.
- H. Any stormwater management facilities regulated by this chapter that would be located in or adjacent to waters of the commonwealth or delineated wetlands shall be subject to approval by DEP through the joint permit application or the environmental assessment approval process, or where deemed appropriate, by the DEP general permit process. When there is a question as to whether wetlands may be involved, it is the responsibility of the applicant or his agent to show that the land in question cannot be classified as wetlands; otherwise, approval to work in the area must be obtained from DEP.
- I. Any proposed stormwater management facilities regulated by this chapter that would be located on state highway rights-of-way shall be subject to approval by PennDOT.
- J. Minimization of impervious surfaces and infiltration of runoff through seepage beds, infiltration trenches, etc., is encouraged where soil conditions permit in order to reduce the size or eliminate the need for detention facilities or other structural BMPs.
- K. All stormwater runoff shall be pretreated for water quality prior to discharge to surface or ground water.
- L. All regulated activities within the municipality shall be designed, implemented, operated, and maintained to meet the purposes of this chapter, through these two elements:

- (1) Erosion and sediment control during earth disturbance activities (e.g., during construction); and
 - (2) Water quality protection measures after completion of earth disturbance activities (i.e., after construction), including operations and maintenance.
- M. No regulated earth disturbance activities within the municipality shall commence until the requirements of this chapter are met.
- N. Post-construction water quality protection shall be addressed as required by § 228-21.
- O. Operations and maintenance of permanent stormwater BMPs shall be addressed as required by Article VII.
- P. All BMPs used to meet the requirements of this chapter shall conform to the state water quality requirements and any more stringent requirements as set forth by the municipality.
- Q. Techniques described in Appendix D, Low Impact Development Practices, of this chapter²⁸ shall be considered because they reduce the costs of complying with the requirements of this chapter and the state water quality requirements.
- R. In selecting the appropriate BMPs or combinations thereof, the applicant shall consider the following:
- (1) Total contributing area.
 - (2) Permeability and infiltration rate of the site's soils.
 - (3) Slope and depth to bedrock.
 - (4) Seasonal high water table.
 - (5) Proximity to building foundations and wellheads.
 - (6) Erodibility of soils.
 - (7) Land availability and configuration of the topography.
 - (8) Peak discharge and required volume control.
 - (9) Stream bank erosion.
 - (10) Effectiveness of the BMPs to mitigate potential water quality problems.
 - (11) The volume of runoff that will be effectively treated.
 - (12) The nature of the pollutant being removed.
 - (13) Maintenance requirements.
 - (14) Creation/protection of aquatic and wildlife habitat.
 - (15) Recreational value.

§ 228-17. Permit requirements by other governmental entities.

The following permit requirements may apply to certain regulated earth disturbance activities and must be met prior to commencement of regulated earth disturbance activities, as applicable:

- A. All regulated earth disturbance activities subject to permit requirements by DEP under regulations at 25

28. Editor's Note: Appendix D is included at the end of this chapter.

Pennsylvania Code Chapter 102.

- B. Work within natural drainageways subject to permit by DEP under 25 Pennsylvania Code Chapter 105.
- C. Any stormwater management facility that would be located in or adjacent to surface waters of the commonwealth, including wetlands, subject to permit by DEP under 25 Pennsylvania Code Chapter 105.
- D. Any stormwater management facility that would be located on a state highway right-of-way or require access from a state highway shall be subject to approval by PennDOT.
- E. Culverts, bridges, storm sewers, or any other facilities which must pass or convey flows from the tributary area and any facility which may constitute a dam subject to permit by DEP under 25 Pennsylvania Code Chapter 105.

§ 228-18. Erosion and sediment control during regulated earth disturbance activities.

- A. No regulated earth disturbance activities within the municipality shall commence until the municipality receives an approval from the Conservation District of an erosion and sediment control plan for construction activities.
- B. DEP has regulations that require an erosion and sediment control plan for any earth disturbance activity of 5,000 square feet or more, under 25 Pennsylvania Code § 102.4(b).
- C. In addition, under 25 Pennsylvania Code Chapter 92, a DEP permit for stormwater discharges associated with construction activities is required for land disturbances greater than one acre.
- D. Evidence of any necessary permit(s) for regulated earth disturbance activities from the appropriate DEP regional office or County Conservation District must be provided to the municipality.
- E. A copy of the erosion and sediment control plan and any required permit, as required by DEP regulations, shall be available on the project site at all times.
- F. Additional erosion and sediment control design standards and criteria are recommended to be applied where infiltration BMPs are proposed. They shall include the following:
 - (1) Areas proposed for infiltration BMPs shall be protected from sedimentation and compaction during the construction phase to maintain maximum infiltration capacity. Additional measures, such as placement of orange construction fencing around proposed infiltration BMPs during construction to minimize or eliminate traffic overtop of these areas, and temporary sealing off of pipes and inlet connections to infiltration BMPs to prevent sediment clogging should be given consideration.
 - (2) Infiltration BMPs shall not be constructed nor receive runoff until the entire drainage area contributory to the infiltration BMP has achieved final stabilization.

§ 228-19. Nonstructural project design (sequencing to minimize stormwater impacts).

- A. The design of all regulated activities shall include the following to minimize stormwater impacts:
 - (1) The applicant shall find practicable alternatives to the surface discharge of stormwater, such as those listed in Appendix E, Table E-4,²⁹ the creation of impervious surfaces, and the degradation of waters of the commonwealth and must maintain as much as possible the natural hydrologic regime of the site.
 - (2) An alternative is practicable if it is available and capable of implementation after taking into consideration existing technology and logistics in light of overall project purposes and other municipal requirements.

29. Editor's Note: Appendix E is included at the end of this chapter.

- (3) All practicable alternatives to the discharge of stormwater are presumed to have less adverse impact on quantity and quality of waters of the commonwealth unless otherwise demonstrated.
- B. The applicant shall demonstrate that the regulated activities were designed in the following sequence. The goal of the sequence is to minimize the increases in stormwater runoff and impacts to water quality resulting from the proposed regulated activity:
- (1) Prepare an existing resource and site analysis map (ERSAM) showing environmentally sensitive areas, including, but not limited to, steep slopes, ponds, lakes, streams, wetlands, hydric soils, vernal pools, stream buffers, hydrologic soil groups, wooded areas, and potential infiltration areas. Land development, any existing recharge areas, and other requirements outlined in the municipal SALDO shall also be included.
 - (2) Establish a stream buffer according to § 228-21G.
 - (3) Prepare a draft project layout avoiding sensitive areas identified in § 228-19B(1).
 - (4) Identify site-specific existing conditions drainage areas, discharge points, recharge areas, and hydrologic soil groups A and B (areas conducive to infiltration). Infiltration should still be considered in well draining soils listed as hydrologic soil group C, but additional soils testing should be performed to verify onsite conditions and placement of these BMPs.
 - (5) Evaluate nonstructural stormwater management alternatives:
 - (a) Minimize earth disturbance.
 - (b) Minimize impervious surfaces.
 - (c) Break up large impervious surfaces.
 - (6) Satisfy the groundwater recharge (infiltration) objective (§ 228-20) and provide for stormwater pretreatment prior to infiltration.
 - (7) Provide for water quality protection in accordance with § 228-21, Water quality requirements.
 - (8) Provide stream bank erosion protection in accordance with § 228-22, Stream bank erosion requirements.
 - (9) Conduct an existing conditions runoff analysis.
 - (10) Prepare final project design to maintain existing conditions drainage areas and discharge points, to minimize earth disturbance and impervious surfaces, and, to the maximum extent possible, to ensure that the remaining site development has no surface or point discharge.
 - (11) Conduct a proposed conditions runoff analysis based on the final design that meets the management district requirements (§ 228-23).
 - (12) Manage any remaining runoff prior to discharge through detention, bioretention, direct discharge, or other structural control.

§ 228-20. Groundwater recharge.

Maximizing the groundwater recharge capacity of the area being developed is required. Design of the infiltration facilities shall consider groundwater recharge to compensate for the reduction in the recharge that occurs when the ground surface is disturbed or impervious surface is created. It is recommended that roof runoff be directed to infiltration BMPs that may be designed to compensate for the runoff from parking areas. These measures are required to be consistent with § 228-3 and to take advantage of utilizing any existing recharge areas. Infiltration may not be feasible on every site due to site-specific limitations such as soil type. If it cannot be physically

accomplished, then the design professional shall be responsible to show that this cannot be physically accomplished, to the satisfaction of the Municipal Engineer. Appropriate soils testing and/or geotechnical evaluation should be included as part of any documentation for infiltration BMPs. If it can be physically accomplished, the volume of runoff to be infiltrated shall be determined from § 228-20A(2).

A. Infiltration BMPs shall meet the following minimum requirements:

- (1) Infiltration BMPs intended to receive runoff from developed areas shall be selected based on suitability of soils and site conditions and shall be constructed on soils that have the following characteristics:
 - (a) A minimum depth of 24 inches, between the bottom of the BMP and the top of the limiting zone (e.g., SHWT, groundwater, bedrock, etc.).
 - (b) An infiltration rate sufficient to accept the additional stormwater load and dewater completely as determined by field tests conducted by the applicant's design professional.
 - (c) The infiltration facility shall be capable of completely infiltrating the recharge (infiltration) volume (Rev) within three days (72 hours) or less.
 - (d) Pretreatment shall be provided prior to infiltration.
- (2) The size of the infiltration facility shall be based upon the net two-year volume approach, where the recharge (infiltration) volume (Rev) to be captured and infiltrated shall be the volume difference between the pre-development two-year, twenty-four-hour storm event and post-development two-year, twenty-four-hour storm event. The recharge volume calculated using this section is the minimum volume the applicant must control through an infiltration BMP facility. However, if a site has areas of soils where additional volume of recharge can be achieved, the applicant is encouraged to infiltrate as much of the stormwater runoff from the site as possible.

B. Soil testing. If on-lot infiltration is proposed as part of a project, the applicant's design professional must demonstrate to the satisfaction of the municipality that the soils are conducive to infiltration at the proposed location of the infiltration facilities. Soil testing shall be completed as follows:

- (1) Soil testing must be conducted by a qualified design professional and at a minimum shall address depth to limiting zone, soil permeability, and subgrade stability. Soil testing must be observed by the Municipal Engineer or a municipal representative. The Municipal Engineer shall be provided a minimum of 48 hours' notice prior to the start of soil testing to arrange for proper inspection.
- (2) Analyze hydrologic soil groups as well as natural and man-made features within the site to determine general areas of suitability for infiltration practices. In areas where development on fill material is under consideration, conduct geotechnical investigations of subgrade stability; infiltration may not be ruled out without conducting these tests.
- (3) Conduct field testing, including test pits to determine soil horizons and depth to limiting zone and permeability tests, at the elevation of the proposed infiltration facility surface, to determine the appropriate hydraulic conductivity rate. Double ring infiltrometer or hydraulic conductivity tests should be used to determine soil permeability (percolation tests are not permitted for design purposes). Site evaluation and soils testing should be conducted in accordance with Appendix C of the Pennsylvania Stormwater Best Management Practices Manual.
- (4) The proposed infiltration facilities shall be designed for the required recharge (Rev) volume based on the field determined capacity at the surface elevation of the proposed infiltration facility. The applicant should incorporate design guidelines from the Pennsylvania Stormwater Best Management Practices Manual as required by the Municipal Engineer.

C. Stormwater hotspots. Below is a list of examples of designated hotspots. If a site is designated as a hotspot, it

has important implications for how stormwater is managed. First and foremost, untreated stormwater runoff from hotspots shall not be allowed to recharge into groundwater where it may contaminate water supplies. Therefore, the Rev requirement shall NOT be applied to development sites that fit into the hotspot category (the entire WQv must still be treated). Second, a greater level of stormwater treatment shall be considered at hotspot sites to prevent pollutant washoff after construction. The Environmental Protection Agency's (EPA) NPDES stormwater program requires some industrial sites to prepare and implement a stormwater pollution prevention plan.

(1) Examples of hotspots:

- (a) Vehicle salvage yards and recycling facilities.
- (b) Vehicle fueling stations.
- (c) Vehicle service and maintenance facilities.
- (d) Vehicle and equipment cleaning facilities.
- (e) Fleet storage areas (bus, truck, etc.)
- (f) Industrial sites based on Standard Industrial Codes.
- (g) Marinas (service and maintenance).
- (h) Outdoor liquid container storage.
- (i) Outdoor loading/unloading facilities.
- (j) Public works storage areas.
- (k) Facilities that generate or store hazardous materials.
- (l) Commercial container nursery.
- (m) Other land uses and activities as designated by an appropriate review authority.

(2) The following land uses and activities are not normally considered hotspots:

- (a) Residential streets and rural highways.
- (b) Residential development.
- (c) Institutional development.
- (d) Office developments.
- (e) Nonindustrial rooftops.
- (f) Pervious areas, except golf courses and nurseries [which may need an integrated pest management (IPM) plan].

(3) While large highways [average daily traffic volume (ADT) greater than 30,000] are not designated as stormwater hotspots, it is important to ensure that highway stormwater management plans adequately protect groundwater.

- D. Extreme caution shall be exercised where infiltration is proposed in SWPAs as defined by the local municipality or water authority.
- E. Infiltration facilities shall be used in conjunction with other innovative or traditional BMPs, stormwater control facilities, and nonstructural stormwater management alternatives.

- F. Extreme caution shall be exercised where salt or chloride (municipal salt storage) would be a pollutant since soils do little to filter this pollutant, and it may contaminate the groundwater. The qualified design professional shall evaluate the possibility of groundwater contamination from the proposed infiltration facility and perform a hydrogeologic justification study if necessary. Specific consideration should be given to the particular type of salt or deicing material to be used within this watershed in regards to its potential long-term effects on the soils, especially in areas that contain clay soil.
- G. The infiltration requirement in HQ or EV waters shall be subject to the Department's Chapter 93 Antidegradation Regulations.
- H. An impermeable liner will be required in detention basins where the possibility of groundwater contamination exists. A detailed hydrogeologic investigation may be required by the municipality.
- I. The municipality shall require the applicant to provide safeguards against groundwater contamination for land uses that may cause groundwater contamination should there be a mishap or spill.
- J. Infiltration design criteria.
- (1) All infiltration systems shall have appropriate positive overflow controls to prevent storage within one foot of the finished surface or grade.
 - (2) All infiltration systems shall have a minimum setback of 20 feet from principal structures, 10 feet from property lines, 100 feet from wells, and 50 feet from septic system drain fields. Care should be taken to prevent any seepage into subgrade structures.
 - (3) Surface inflows shall be treated to prevent the direct discharge of sediment and pollutants into the infiltration system; accumulated sediment reduces stormwater storage capacity and ultimately clogs the infiltration mechanism.
 - (4) During site construction, all recharge system components shall be protected from compaction due to heavy equipment operation or storage of fill or construction material. Recharge areas shall be protected from sedimentation. All areas designated for recharge shall not receive runoff until the contributory drainage area has achieved final stabilization. Construction fencing shall be installed around recharge areas during construction activities.
 - (5) The following procedures and materials shall be required during the construction of all subsurface facilities:
 - (a) Excavation for the infiltration facility shall be performed with equipment which will not compact the bottom of the seepage bed/trench, or like facility.
 - (b) The bottom of the bed and/or trench shall be scarified prior to the placement of aggregate.
 - (c) Only clean aggregate, free of fines, shall be allowed.
 - (d) The top and sides of all seepage beds, trenches, or like facilities shall be covered with drainage filtration fabric. Fabric shall meet the specifications of PennDOT Publication 408, Section 735 Construction Class 1.
 - (e) Perforated distribution pipes connected to centralized catch basins and/or manholes with provision for the collection of debris shall be provided in all facilities. The perforated pipes shall distribute stormwater throughout the entire seepage bed/trench, or like facility.
 - (6) All infiltration facilities which service more than one lot and are considered a common facility shall have an easement provided to the Township for future access if necessary.
 - (7) No more than 50% of the required infiltration volume may be provided in detention basin bottoms. The

remaining 50% of infiltration volumes shall be provided at or near the proposed impervious coverage.

§ 228-21. Water quality requirements.

The applicant shall comply with the following water quality requirements of this article:

- A. No regulated earth disturbance activities within the municipality shall commence until approval by the municipality of a plan that demonstrates compliance with post-construction state water quality requirements.
- B. The BMPs shall be designed, implemented, and maintained to meet state water quality requirements and any other more stringent requirements as determined by the municipality.
- C. To control post-construction stormwater impacts from regulated earth disturbance activities, state water quality requirements can be met by BMPs, including site design, which provide for replication of pre-construction stormwater infiltration and runoff conditions so that post-construction stormwater discharges do not degrade the physical, chemical, or biological characteristics of the receiving waters. As described in the DEP Comprehensive Stormwater Management Policy (#392-0300-002, September 28, 2002), this may be achieved by the following:
 - (1) Infiltration: replication of pre-construction stormwater infiltration conditions;
 - (2) Treatment: use of water quality treatment BMPs to ensure filtering out of the chemical and physical pollutants from the stormwater runoff; and
 - (3) Stream bank and stream bed protection: management of volume and rate of post-construction stormwater discharges to prevent physical degradation of receiving waters (e.g., from scouring).
- D. Developed areas shall provide adequate storage and treatment facilities necessary to capture and treat stormwater runoff. If site conditions allow for infiltration, the water quality volume and the recharge volume are the same volume and may be managed in a single facility. If infiltration cannot be physically accomplished, the water quality volume should be calculated using the net two-year volume approach described in § 228-20A(2). In this case, the water quality volume may be captured and treated by methods other than infiltration BMPs.
 - (1) This volume requirement can be accomplished by the detained volume of wet basins and other BMPs. Only the detained volume of water above the permanent pool elevation in a wet basin can be utilized. Where appropriate, wet basins shall be utilized for water quality control and shall follow the guidelines of the BMP manuals referenced in Appendix F.³⁰
 - (2) The water quality volume shall take a minimum of 24 hours to be discharged from a BMP facility. Release of the water quality volume can begin at the start of the storm (i.e., the invert of the water quality orifice is at the invert of the facility). The design of the facility shall provide for protection from clogging and unwanted sedimentation.
- E. For areas within defined special protection subwatersheds that include EV and HQ waters, the temperature and quality of water and streams shall be maintained through the use of temperature sensitive BMPs and stormwater conveyance systems.
- F. To accomplish the above, the applicant shall submit original and innovative designs to the Municipal Engineer for review and approval. Such designs may achieve the water quality objectives through a combination of different BMPs.
- G. If a perennial or intermittent stream passes through the site, the applicant shall create a stream buffer extending a minimum of 50 feet to either side of the top-of-bank of the channel. The buffer area shall be

30. Editor's Note: Appendix F is included at the end of this chapter.

maintained with and encouraged to use appropriate native vegetation (refer to Appendix B of the Pennsylvania Stormwater Best Management Practices Manual, latest version, for plant lists). If an existing buffer is legally prescribed (i.e., deed, covenant, easement, etc.) and it exceeds the requirements of this chapter, the existing buffer shall be maintained. This does not include lakes or wetlands.

- H. Evidence of any necessary permit(s) for regulated earth disturbance activities from the appropriate DEP regional office must be provided to the municipality. The issuance of an NPDES construction permit [or permit coverage under the statewide general permit (PAG-2)] satisfies the requirements of § 228-21A.

§ 228-22. Stream bank erosion requirements.

- A. In addition to the control of water quality volume (in order to minimize the impact of stormwater runoff on downstream stream bank erosion), the primary requirement is to design a BMP to detain the proposed conditions two-year, twenty-four-hour design storm to the existing conditions one-year flow using the SCS Type II distribution. Additionally, provisions shall be made (such as adding a small orifice at the bottom of the outlet structure) so that the proposed conditions one-year storm takes a minimum of 24 hours to drain from the facility from a point where the maximum volume of water from the one-year storm is captured (i.e., the maximum water surface elevation is achieved in the facility). Release of water can begin at the start of the storm (i.e., the invert of the water quality orifice is at the invert of the facility).
- B. The minimum orifice size in the outlet structure to the BMP shall be three inches in diameter where possible, and a trash rack shall be installed to prevent clogging. On sites with small drainage areas contributing to this BMP that do not provide enough runoff volume to allow a twenty-four-hour attenuation with the three-inch orifice, the calculations shall be submitted showing this condition. Orifice sizes less than three inches can be utilized, provided that the design will prevent clogging of the intake.

§ 228-23. Stormwater peak rate control.

- A. Peak runoff control shall be designed to reduce the post-development peak flow to 50% of the pre-development peak flow. Development sites must control proposed conditions runoff rates to 50% of the existing conditions runoff rates for the two-, five-, ten-, twenty-five-, fifty- and one-hundred-year storm events.
- B. The calculated peak discharges shall apply regardless of whether the grading plan changes the drainage area by subarea.
- C. Off-site areas. Off-site areas that drain through a proposed development site are not subject to release rate criteria when determining allowable peak runoff rates. However, on-site drainage facilities shall be designed to safely convey off-site flows through the development site.
- D. Site areas. Where the site area to be impacted by a proposed development activity is less than 50% of the total site area, only the proposed impact area utilizing stormwater management measures shall be subject to the peak rate control standards noted above.
- E. Alternate criteria for redevelopment sites. For redevelopment sites, one of the following minimum design parameters shall be accomplished, whichever is most appropriate for the given site conditions as determined by the municipality:
 - (1) Meet the full requirements specified by Subsections A through D.
 - (2) Reduce the total impervious surface on the site by at least 20%, based upon a comparison of existing impervious surface to proposed impervious surface.

§ 228-24. Calculation methodology.

- A. Stormwater runoff from all development sites with a drainage area of greater than five acres shall be calculated using a generally accepted calculation technique that is based on the NRCS Soil Cover Complex Method. Table 2 summarizes acceptable computation methods, and the method selected by the design professional shall be based on the individual limitations and suitability of each method for a particular site. The municipality may allow the use of the Rational Method to estimate peak discharges from drainage areas that contain less than five acres.

Table 2
Acceptable Computation Methodologies for Stormwater Management Plans

Method	Developed By	Applicability
TR-55 (or commercial computer package based on TR-55)	USDA NRCS	Applicable for land development plans within limitations described in TR-55
Rational Method (or commercial computer package based on Rational Method)	Emil Kuichling (1889)	For sites less than 5 acres, or as approved by the municipality and/or Municipal Engineer
Other methods	Varies	Other computation methodologies approved by the municipality and/or Municipal Engineer

- B. All calculations consistent with this chapter using the Soil Cover Complex Method shall use the appropriate design rainfall depths for the various return period storms according to the region in which they are located as presented in Table E-1 in Appendix E of this chapter.³¹
- C. The following criteria shall be used for runoff calculations:
- (1) For development sites not considered redevelopment, the ground cover used in determining the existing conditions flow rates shall be as follows:
 - (a) Wooded sites shall use a ground cover of "woods in good condition." A site shall be considered to be a wooded site where a biological community dominated by trees and other woody plants exists that covers an area of 10,000 square feet or more, and contains at least 100 trees with at least 50% of those trees having a dbh of two inches or greater. (Duerksen, Christopher J., with Suzanne Richman, Tree Conservation Ordinances, Planning Advisory Service Report Number 446, American Planning Association, Chicago, Illinois, and Scenic America, Washington, D.C., August, 1993.)
 - (b) The undeveloped portion of the site, including agriculture, bare earth, and fallow ground, shall be considered as "meadow in good condition," unless the natural ground cover generates a lower curve (CN) number or Rational "c" value (i.e., woods) as listed in Tables E-2 or E-3 in Appendix E of this chapter.³²
 - (c) Offsite land use conditions used to determine storm flows for designing storm facilities shall be based on existing land uses assuming winter or poor land cover conditions.
 - (2) For development considered redevelopment sites, the ground cover used in determining the existing conditions flow rates for the developed portion of the site shall be based upon actual land cover conditions.
- D. All calculations using the Rational Method shall use rainfall intensities consistent with appropriate times-of-concentration for overland flow and return periods presented in the appropriate curves from the PennDOT

31. Editor's Note: Appendix E is included at the end of this chapter.

32. Editor's Note: Appendix E is included at the end of this chapter.

Storm-Duration-Frequency Chart (Region 4 is included as Figure E-3-A. The user should refer to the Atlas 14, Volume 2, Storm-Duration-Frequency Chart). Times-of-concentration for overland flow shall be calculated using the methodology presented in Chapter 3 of Urban Hydrology for Small Watersheds, NRCS, TR-55 (as amended or replaced from time to time by NRCS). Times-of-concentration for channel and pipe flow shall be computed using Manning's equation.

- E. Runoff curve numbers (CN) for both existing and proposed conditions to be used in the Soil Cover Complex Method shall be obtained from Table E-2 in Appendix E of this chapter.
- F. Runoff coefficients (c) for both existing and proposed conditions for use in the Rational Method shall be obtained from Table E-3 in Appendix E of this chapter.
- G. Where uniform flow is anticipated, the Manning equation shall be used for hydraulic computations and to determine the capacity of open channels, pipes, and storm sewers. Values for Manning's roughness coefficient (n) shall be in accordance with Table E-5 in Appendix E.
- H. Outlet structures for stormwater management facilities shall be designed to meet the performance standards of this chapter using any generally accepted hydraulic analysis technique or method.
- I. The design of any stormwater detention facilities intended to meet the performance standards of this chapter shall be verified by routing the design storm hydrograph through these facilities. The design storm hydrograph shall be computed using a calculation method that produces a full hydrograph. The municipality may approve the use of any generally accepted full hydrograph approximation technique that shall use a total runoff volume that is consistent with the volume from a method that produces a full hydrograph.

§ 228-25. Other requirements.

- A. All wet basin designs shall incorporate biologic controls consistent with the West Nile Guidance found in Appendix G.³³
- B. Any stormwater management facility (i.e., detention basin) required or regulated by this chapter designed to store runoff and requiring a berm or earthen embankment shall be designed to provide an emergency spillway to handle flow up to and including the one-hundred-year proposed conditions. The emergency spillway shall be designed assuming no storage volume is available below the emergency spillway crest elevation. The height of embankment must provide a minimum one foot of freeboard above the maximum elevation computed when the flow is passing over the emergency spillway. Should any stormwater management facility require a dam safety permit under DEP Chapter 105, the facility shall be designed in accordance with Chapter 105 and meet the regulations of Chapter 105 concerning dam safety. Chapter 105 may be required to pass storms larger than the one-hundred-year event.
- C. Any facilities that constitute water obstructions (e.g., culverts, bridges, outfalls, or stream enclosures) and any work involving wetlands governed by DEP Chapter 105 regulations (as amended or replaced from time to time by DEP) shall be designed in accordance with Chapter 105 and will require a permit from DEP.
- D. Any other drainage conveyance facility that does not fall under Chapter 105 regulations must be able to convey, without damage to the drainage structure or roadway, runoff from the one-hundred-year design storm with a minimum one foot of freeboard measured below the lowest point along the top of the roadway. Any facility that constitutes a dam as defined in DEP Chapter 105 regulations may require a permit under dam safety regulations. Any facility located within a PennDOT right-of-way must meet PennDOT minimum design standards and permit submission requirements.
- E. Any drainage conveyance facility and/or channel not governed by Chapter 105 regulations must be able to convey, without damage to the drainage structure or roadway, runoff from the one-hundred-year design storm.

33. Editor's Note: Appendix G is included at the end of this chapter.

Conveyance facilities to or exiting from stormwater management facilities (i.e., detention basins) shall be designed to convey the design flow to or from that structure. Roadway crossings must be able to convey runoff from a one-hundred-year design storm, while providing a minimum one foot of freeboard measured below the lowest point along the top of the roadway. Any facility located within a PennDOT right-of-way must meet PennDOT minimum design standards and permit submission requirements.

- F. Storm sewers must be able to convey proposed conditions runoff from a one-hundred-year design storm without surcharging inlets.
- G. Adequate erosion protection shall be provided along all open channels and at all points of discharge.
- H. The design of all stormwater management facilities shall incorporate sound engineering principles and practices. The municipality reserves the right to disapprove any design that would result in construction in or continuation of a stormwater problem area.

§ 228-26. Standards for detention basins.

The following criteria shall be used for the design of detention and wet basins. Any reference to a "detention basin" shall also include a "wet basin."

- A. Basin setback. Basin setback is to be measured from the elevation of the one-hundred-year routed water surface elevation. The following basin setbacks are to be considered minimums. Any basin setback criteria outlined in other sections and considered to be more restrictive than the information mentioned below shall govern. The following setbacks are required for stormwater management facilities:
 - (1) Stormwater retention or detention basins shall be located at least 50 feet from any structure, whether existing or proposed.
 - (2) Stormwater retention or detention basins shall be located at least 50 feet from any property line or right-of-way.
 - (3) Stormwater retention or detention basins shall be located at least 50 feet from existing wetlands, or the banks of existing streams.
- B. Outlet structure. An outlet structure shall be utilized to regulate water flow at all detention basin locations. The outlet structure shall be constructed of precast or poured in place concrete with controlled orifices. The outlet structure shall be constructed to provide a minimum of two feet between the top of the outlet structure and the crest elevation of the emergency spillway. The height of the outlet structure shall be designed such that no flow enters the top of the structure for the one-hundred-year storm event. A trash rack shall be provided to prevent debris from entering the outlet structure. All outlet structures shall have a concrete base attached with a watertight connection. The base shall extend three feet below the bottom of the basin elevation. All outlet structure connections are to be watertight. All outlet structures are to be one-piece units with low-flow channels installed.
- C. Emergency spillway. Whenever possible, the emergency spillway for detention basins shall be constructed on undisturbed ground. Emergency spillways shall be constructed of reinforced concrete checker blocks or other permanent material, if approved by the Township Engineer. All emergency spillways shall be constructed so that the detention basin berm is protected against erosion. Emergency spillway erosion protection shall extend along the upstream and downstream berm embankment slopes. The protection for the upstream edge of the emergency spillway shall be installed a minimum of two feet below the spillway crest elevation. The protection for the downstream edge of the spillway shall, at a minimum, extend to the toe of the berm embankment slope. The emergency spillway shall not discharge over earthen fill and/or easily erodible material. The design depth across the emergency spillway shall not exceed six inches. The minimum capacity of the emergency spillway shall be designed to equal the peak flow rate from the one-hundred-year basin captured design storm. The capacity of the emergency spillway must consider the outlet structure to be

blocked as well as no volume being available below the emergency spillway crest elevation.

- D. Antiseep collars. Antiseep collars shall be installed around the basin outfall pipe barrel within the normal saturation zone of the detention basin berm. The antiseep collars and their connections to the pipe barrel shall be watertight. The antiseep collars shall extend a minimum of two feet beyond the outside of the basin outfall pipe barrel. The maximum spacing between collars shall be 14 times the minimum projection of the collar measured perpendicular to the pipe. A minimum of two antiseep collars shall be installed on each pipe outlet. The antiseep collars shall be a minimum of eight inches in thickness.
- E. Freeboard. Freeboard is the difference between the design flow elevation over top of the emergency spillway and the top of the detention basin berm. The minimum freeboard shall be one foot.
- F. Width of berm. The minimum top width of detention basin berms shall be 10 feet.
- G. Slope of basin bottom. In order to insure proper drainage of the detention basin, a minimum grade of 2% shall be maintained for all sheet flow. A minimum grade of 1% shall be maintained for all channel flow. Under certain circumstances, such as continuous seasonal flow, the Township may require a low flow channel to be constructed. These standards do not apply, if approved by the Township Engineer, if the basin is to be utilized for infiltration or as a biofiltration device.
- H. Energy dissipaters. Energy dissipating devices (rip-rap aprons, impact stilling basins, etc.) shall be placed at all basin outlet locations. Any pipe or other component which discharges directly into the basin shall be equipped with an energy dissipating device and shall outlet into the bottom of the basin. Impact stilling basins shall be utilized in all applicable areas unless approved otherwise by the Township Engineer.
- I. Landscaping and grading of detention basins. All landscaping and grading standards shall be as follows:
 - (1) Cuts. No excavation shall be made with a cut face steeper than three horizontal to one vertical. Retaining walls are permitted in basin cut areas. Retaining wall designs must be approved by the Township Engineer. The top of the slope or headwall of any cut must be located a minimum of 25 feet from property lines.
 - (2) Fills. No fills shall be made which create any exposed surfaces steeper in slope than three horizontal to one vertical. Retaining walls are not permitted in basin fill areas. The top of any fill or toe of the slope of any fill shall be located 25 feet from any property line with the exception of a downstream property line where the toe of the embankment shall be placed a sufficient distance, as determined by the Township Engineer, to allow for energy dissipating devices, but in no case less than 25 feet.
 - (3) Planting requirements. All areas proposed for recreational use, whether active or passive, shall be planted to effectively naturalize the areas to become an integral and harmonious element in the natural landscape. Whenever possible, the side slopes and basin shape shall be amendable to the natural topography. Straight side slopes and rectangular basins shall be avoided. The planting of trees in basin embankment areas is prohibited.
 - (4) Drainage channels and retention areas. All storm drainage channels and retention areas, whether existing or proposed, shall be graded and planted to effectively naturalize areas so as to become an integral and harmonious part of the landscape by contour and type of plant material employed.
 - (5) Fence or screening. A fence or suitable vegetation screen shall be provided around all detention basins as required by the Township. Fencing and gates shall be a type approved by the Township, a minimum of four feet in height with locking gates. Each basin shall be provided with a minimum of two gates, one wide enough for maintenance vehicles and a second gate for pedestrian access. All vegetative screening shall be at least 3 1/2 feet in height and shall be composed of the following shrubs: Barberry (Barberis species); Eleagnus (Eleagnus species); Firethorn (Pyracantha species); or Rose (Rose species). All vegetative screening shall provide a barrier to prevent entrance to the detention basin area and planted in such a way as to gain the approval of the Township. The fencing or vegetative screening requirement

shall be waived only upon Township approval.

J. Basin location.

- (1) Whenever a basin will be located in an area underlain by limestone, a geological evaluation of the proposed location shall be conducted to determine susceptibility to sinkhole formations. The design of all facilities over limestone formations shall include measures to prevent groundwater contamination and, where necessary, sinkhole formation. The Township may require the installation of an impermeable liner in detention basins. The Township may require a detailed hydrogeologic investigation.
- (2) The municipality may require the developer to provide safeguards against groundwater contamination for uses, which may cause groundwater contamination, should there be a mishap or spill.
- (3) It shall be the developer's responsibility to verify if the site is underlain by limestone. The following note shall be attached to all drainage plans and signed and sealed by the developer's engineer/surveyor/landscape architect/geologist:

_____, represents that the proposed detention basin is/is not (circle one) underlain by limestone.

K. Basin outfall pipe. All basin outfall pipes shall contain rubber-gasketed-style joints as utilized and meeting the requirements of the Pennsylvania Department of Transportation.

L. Embankment placement. All detention basin embankments shall be placed at a maximum of eight-inch lifts to a minimum of 95% of maximum dry density as established by ASTM D-1557. Prior to proceeding to the next lift, the compaction shall be checked by the Township Engineer or the Soils Engineer. The developer's contractor shall obtain the services of a qualified laboratory technician to conduct compaction tests on the leading and the trailing edge of the berm along with the top of berm. All tests shall be furnished to the Township for review.

M. Key trench. A key trench (cutoff trench) of impervious material shall be provided under all embankments that require fill material. The key trench shall be a minimum of eight feet wide, two feet below existing grade, a minimum of two feet above the top of the pipe and have side slopes of 1:1. The key trench must be constructed with soils suitable for this application and found to be acceptable by the Township Engineer. Proper compaction techniques acceptable to the Township Engineer are to be utilized during construction.

N. Trash rack. A trash rack shall be installed on all outlet structures. Trash racks are to be constructed of #5 rebar with a 3/8 inch by 1.5 inch flat steel anchoring frame. The rebar is to be constructed at six inches on center in either direction. All rebar crossings are to be welded. The trash rack is to be mounted to the outlet structure using four-inch bolts with concrete anchors at a maximum of twelve-inch spacing. The trash rack is to be triple coated with a rust-prohibitive coating. All hardware is to be stainless steel. The trash rack is to be sized to allow a minimum of six inches of clearance around any orifice located on the outlet structure. Trash racks are to be a minimum of 18 inches in depth.

O. Wet basins. Permanent plantings for wet ponds shall be designed by a wetland biologist to have a mixture of plants that thrive in wet areas.

P. Easements. Easements for all basins and storm pipes not located within the public street right-of-way shall be provided.

Q. Miscellaneous. The following items listed below shall be submitted to the Township for review. Any reference to a "detention basin" shall also include a "wet basin."

- (1) Design computations for the sizing of the outlet structure.
- (2) A stage-storage discharge curve for the detention/wet basin.

- (3) Flood routing and/or storage requirement calculations.
- (4) A cross-section through the basin embankment berm. The detail shall indicate top of berm elevations, top of berm width, emergency spillway and lining, side slopes, outlet structure, trash rack, routed one-hundred-year water surface elevation, outfall pipe, key trench, antiseep collars, energy dissipater, basin bottom and other information found to be necessary by the Township Engineer.
- (5) A separate detail illustrating all necessary outlet structure information.
- (6) A separate detail illustrating all necessary emergency spillway information.
- (7) A separate detail illustrating all necessary trash rack information.
- (8) Any other calculations or details determined to be necessary by the Township Engineer.

§ 228-27. Stormwater drainage system design requirements.

The following criteria shall be used for the design of stormwater drainage systems:

- A. Design flow rate. The storm drain system as well as sump conditions shall be designed to carry a one-hundred-year peak flow rate without surcharging the structure. The design one-hundred-year peak flow rate for each inlet shall be indicated on the stormwater management plan. The flow rate shall be determined by the rational formula:

$$Q = CIA$$

Where:

- Q = Peak runoff rate, cubic feet per second (cfs)
- C = Runoff coefficient equal to the ratio of the runoff rate to the average rate of rainfall over a time period equal to the time of concentration
- I = Average rainfall intensity to inches per hour for a time equivalent to the time of concentration
- A = Drainage area in acres

Appropriate values for runoff coefficients and rainfall intensities are found in Appendix E, Table E-3 entitled "Rational Runoff Coefficients."³⁴

- B. Overflow system. An overflow system shall be provided to carry flow to the detention basin when the capacity of the storm drainpipe system is exceeded or structures become blocked. The overflow system shall be of sufficient capacity to carry the one-hundred-year peak flow rates.
- C. Inlet capacity. All inlets must be designed to accommodate the one-hundred-year peak flow rate. Inlets shall be spaced to limit the gutter spread to no more than 1/2 of the width of the travel lane during the ten-year storm. Inlets shall be sumped no more than one inch in depth at gutter face. The capacity of all C, M, or S type inlets shall be determined from the following source:

Commonwealth of Pennsylvania
 Department of Transportation
 Design Manual, Part 2
 Highway Design

- D. Straight pipe selections. Wherever possible, all storm drainpipes shall be designed to follow straight courses.

34. Editor's Note: Appendix E is included at the end of this chapter.

No angular deflections of stormwater pipe sections shall be permitted. No vertical curves shall be permitted in the storm drainpipe system.

- E. Minimum grade and size. All storm drainpipes shall be designed to maintain a minimum grade of 1/2%. All storm pipes shall have a minimum inside diameter of 15 inches, except that pipes under a twenty-five-foot or greater fill shall not be less than 24 inches.
- F. Pipe material. All storm sewers shall be a Class III reinforced concrete pipe material with rubber-gasketed joints, which meets the one-hundred-year life expectancy criteria as defined by the Pennsylvania Department of Transportation.
- G. Pipe capacity. The capacity of all pipe culverts shall be calculated as outlined by the following source:
 - United States Department of Commerce
 - Bureau of Public Roads
 - Hydraulic Engineering Circular No. 5
 - Hydraulic Charts for the Selection of Highway Culverts
- H. Elliptical pipe/pipe arches. Where headroom is restricted, elliptical pipe or equivalent pipe arches may be used in lieu of circular pipes. If elliptical pipe or pipe arches are chosen, appropriate structural information and/or calculations must be submitted to the Township Engineer to gain approval.
- I. Allowable headwater depth. At all inlets or manholes, the maximum allowable headwater depth shall be six inches below the top of the inlet grate or manhole cover.
- J. Horizontal pipe deflections. A manhole or inlet shall be provided at all horizontal deflections in the storm pipe system. In order to maximize hydraulic efficiency in inlets, the angle between inflow and out flow pipes shall not be less than 90°, unless approved by the Township Engineer.
- K. Minimum and maximum cover. A minimum of 24 inches of cover shall be maintained over all storm drainpipes. The top of storm drainpipes shall be at least six inches below subgrade elevation.
- L. Pipe discharge into basins. Storm pipe systems shall be designed to discharge at the basin's bottom or at the permanent pool elevation for wet basins. No discharge at the top or side of basin embankments is permitted.
- M. Energy dissipaters. Energy dissipating devices (rip-rap aprons, impact stilling basins, etc.) shall be placed at all pipe end treatments. Impact stilling basins shall be utilized in all applicable areas unless approved otherwise by the Township Engineer.
- N. Drainage easements. Drainage easements shall be provided to accommodate all storm drainage systems and shall be a minimum of 20 feet in width. Easements shall be provided for all watercourses and storm drainage piping that are not located within street rights-of-way. Storm drainage pipes are not permitted under buildings or structures.
- O. Culverts and drainage channels.
 - (1) Design flow standards. All culverts and drainage channels shall be designed to carry a flow rate equal to a one-hundred-year, twenty-four-hour storm (NRCS, Soil Conservation Service, Technical Release No. 55).
 - (2) Erosion prevention.
 - (a) All drainage channels shall be designed to prevent the erosion of the bed and bank areas. The flow velocity in all vegetated drainage channels shall not exceed three feet per second to prevent erosion unless special provisions are made to protect banks and channel bottoms against erosion. Suitable

bank stabilization shall be provided where required to prevent erosion of the drainage channels.

- (b) Where storm sewers discharge into existing drainage channels at an angle greater than 30° from parallel with the downstream channel flow, the far side bank shall be stabilized by the use of rip-rap, masonry and/or concrete walls. The stabilization shall be designed to prevent erosion and frost heave under and behind the stabilizing media.
 - (3) Maximum side slope. Any vegetated drainage channel requiring mowing of the vegetation shall have a maximum grade of three horizontal to one vertical of those areas to be mowed.
 - (4) Design standard. Because of the critical nature of the vegetated drainage channels, the design of all vegetated channels shall, at a minimum, conform to the design procedures outlines in the PADEP manuals. Several acceptable sources outline procedures for nonvegetated drainage channels, including the following:
 - (a) Bureau of Public Roads.
 - (b) Hydraulic Engineering Circular No. 5.
 - (c) Hydraulic Charts for the Selection of Highway Culverts.
 - (d) Federal Highway Administration.
 - (e) Hydraulic Engineering Circular No. 13.
 - (f) Hydraulic Design of Improved Inlets for Culverts.
 - (5) Reference to publications and source documents in this section shall be deemed to include any amendments and revisions thereof.
- P. Manholes, inlets and endwalls. Manholes, inlets, and endwalls shall be constructed to the requirements of PennDOT Specifications, Publication 408, Section 605 and the latest details of the PennDOT standards for roadway construction, these specifications and the Township Standard Construction Details. All stormwater management structures must be supplied by a PaDOT Bulletin 15 approved supplier. These requirements must be stated on the approved plans.
- (1) Concrete structures.
 - (a) Manholes, inlets and endwalls shall be constructed of concrete, built on prepared foundations, conforming to the dimensions and form indicated on the plans. The construction shall conform to the methods, forms, mixture, placement, and curing, as specified in PennDOT Specifications, Publication 408, Section 704, unless Township procedures are provided. Any reinforcement required shall be of the kind, type, and size, and shall be furnished, located, spaced, bent, and fastened as indicated on the plans or mentioned in Publication 408, and shall be reviewed by the Engineer before the concrete is poured. Inlet tops shall contain a warning that no dumping is permitted, and that the structure drains to a waterway, in accordance with applicable NPDES Stormwater Permit requirements. Type "C" inlet tops must contain a thirty-six-inch by five-inch cast aluminum plate containing the following language "NO DUMPING . . . DRAINS TO WATERWAY". The text is to be black with the entire plate being clear-coated for protection. The plate should be attached to the inlet hood with an appropriate epoxy.
 - (b) All low-flow channels shall be installed and shaped accurately so as to be smooth, uniform, and cause minimum resistance to flow. The sides of the low-flow channel shall extend up the side of the inlet a minimum of 12 inches. The surface of the bottom slab shall be sloped downward toward the outlet.
 - (2) Manholes.

- (a) All manholes, which are less than seven feet from top of manhole to invert, shall be constructed with "flat slab" top sections in lieu of the standard conical-shaped top sections.
 - (b) The base slab shall consist of reinforced concrete mixed prepared, and placed in accordance with the requirements of the PennDOT Specifications as set forth in Publication 408, unless Township procedures are provided. It shall be built to the correct elevation, and shall be finished to cause the least possible resistance to flow. The invert may be formed directly in the concrete of the manhole base, or be constructed by laying half sections of pipe through the manhole and casting the concrete base around the pipe. The base slab shall be a minimum of 12 inches thick below the pipe.
 - (c) All castings shall be true to form and dimensions, and shall be free from inclusions of foreign material, casting faults, injurious blow holes, cracks, sponginess, and other defects rendering them unsuitable.
 - (d) The finished frame and cover or grate shall have the surfaces machined or ground so that there will be no variation that will permit rocking or rattling, and the diameter of the cover or grate shall be such as to fit the frame without wedging: All castings shall be thoroughly cleaned and given one coat of Hydrocide 648 or equal. The words "UPPER FREDERICK TOWNSHIP" and the word "STORM" in two-inch letters shall be cast into the manhole cover. Manhole covers shall also contain a warning in one-inch (minimum) lettering that no dumping is permitted, and that the structure drains to waterways, in accordance with applicable NPDES Stormwater Permit requirements. The following language shall be used: "NO DUMPING . . . DRAINS TO WATERWAY".
 - (e) Manhole castings shall have a lid with a diameter of 24 3/4 inches placed in a frame opening diameter of 25 inches.
 - (f) Grates for inlets shall be bicycle safe as detailed in PennDOT Standard for Roadway Construction Steel Grate - Bicycle Safe.
- (3) Inlets. At street intersections, inlets shall be placed to prevent the flow of water across intersections. When there is a change in pipe size in the inlet, the elevation of the top of pipes shall be the same or the smaller pipe higher. A minimum drop of 0.2 of one foot shall be provided between the inlet pipe invert elevation and the outlet pipe invert elevation.
- (4) Endwalls. Pipe end sections and/or headwalls shall be utilized at all terminated pipe segments.
- (5) Manhole, inlet and endwall spacing. When proposed, manholes, inlets and endwalls shall not be spaced more than 400 feet apart for pipes of less than or equal to 24 inches in diameter and 500 feet apart for pipes of greater than 24 inches in diameter. Additionally, manholes or inlets shall be placed at all changes in alignment, grade or pipe size, and at all points of convergence of two or more influent storm sewer lines. Inlets may be substituted for manholes where they will serve a useful purpose.
- (6) Steps. All manholes and inlets greater than four feet in depth shall be provided with steps. Steps shall conform to PennDOT Publication 408, Section 605 and be made of aluminum, nondeterioration material, or galvanized steel. Steps of aluminum shall be protected from galvanic reaction between the aluminum and the concrete.
- Q. Swales. Properly designed, graded and lined drainage swales may be permitted in lieu of storm sewers in commercial, industrial and residential areas where approved by the Township. Swales are to be designed to carry the one-hundred-year peak flow rate. Swale lining must meet the County Soil Conservation design standards. All drainage channels shall have a maximum side slope grade of three horizontal to one vertical. All drainage swales shall be provided with a minimum of 12 inches of freeboard, measured from the top of the design storm flow to the top of the swale.
- R. Pavement base drain. Pavement base drains shall be provided in areas delineated as having a "seasonal high

water table" or in areas deemed necessary by the Township Engineer during the design or construction phase of the project. The installation of the underdrain system shall be approved by the Township Engineer and paid for by the developer. Pavement base drains shall be constructed in accordance with PennDOT Pub. 408, Section 610, as amended. Appropriate construction details must be provided on the construction detail sheet to gain Township Engineer approval.

- S. PennDOT right-of-way. All drainage structures located within a state highway right-of-way shall be reviewed and approved by the Pennsylvania Department of Transportation (PennDOT). A letter from PennDOT indicating such approval shall be submitted to the Township prior to municipal approval.
- T. Other requirements. At the direction of the Township, in situations where the design standards or ordinance requirements contained within this section do not adequately address stormwater management concerns for the given site conditions, the Township may require the applicant provide additional and/or alternative design methods to meet the objectives of this chapter as determined by the Township.

ARTICLE V
Inspections

§ 228-28. Inspections; revocation of permits; revised plans; final inspection.

- A. The Municipal Engineer or his municipal designee shall inspect all phases of the installation of the permanent BMPs and/or stormwater management facilities as deemed appropriate by the Municipal Engineer.
- B. During any stage of the work, if the Municipal Engineer or his municipal designee determines that the permanent BMPs and/or stormwater management facilities are not being installed in accordance with the approved stormwater management plan, the municipality shall revoke any existing permits or other approvals and issue a cease and desist order until a revised drainage plan is submitted and approved, as specified in this chapter, and until the deficiencies are corrected.
- C. A final inspection of all BMPs and/or stormwater management facilities shall be conducted by the Municipal Engineer or his municipal designee to confirm compliance with the approved drainage plan prior to the issuance of any occupancy permit.

ARTICLE VI
Fees and Expenses

§ 228-29. Municipality drainage plan review and inspection fee.

The municipality shall, by resolution, establish all fees to defray plan review and construction inspection costs incurred by the municipality. All fees shall be paid by the applicant at the time of drainage plan submission. For drainage plans that are part of a subdivision or land development plan, reviewed inspection fees shall be reimbursed as part of the subdivision or land development process as established in the SALDO.³⁵ The municipality shall periodically update the review and inspection fee schedule to ensure that review costs are adequately reimbursed.

§ 228-30. Expenses covered by fees.

The fees required by this chapter shall at a minimum cover:

- A. Administrative costs.
- B. The review of the drainage plan by the municipality and the Municipal Engineer.
- C. The site inspections.
- D. The inspection of stormwater management facilities and drainage improvements during construction.
- E. The final inspection upon completion of the stormwater management facilities and drainage improvements presented in the drainage plan.
- F. Any additional work required to enforce any permit provisions regulated by this chapter, correct violations, and assure proper completion of stipulated remedial actions.
- G. Legal costs incurred by the municipality.

35. Editor's Note: See Ch. 240, Subdivision and Land Development.

ARTICLE VII
Maintenance Responsibilities

§ 228-31. Performance guarantee.

- A. For subdivisions and land developments, the applicant shall provide a financial guarantee to the municipality for the timely installation and proper construction of all stormwater management controls as:
- (1) Required by the approved drainage plan equal to or greater than the full construction cost of the required controls; or
 - (2) The amount and method of payment provided for in the SALDO.
- B. For other regulated activities, the municipality may require a financial guarantee from the applicant.

§ 228-32. Responsibilities for operations and maintenance of stormwater controls and BMPs.

- A. No regulated earth disturbance activities within the municipality shall commence until approval by the municipality of a stormwater control and BMP operations and maintenance plan that describes how the permanent (e.g., post-construction) stormwater controls and BMPs will be properly operated and maintained.
- B. The following items shall be included in the stormwater control and BMP operations and maintenance plan:
- (1) Map(s) of the project area, in a form that meets the requirements for recording at the offices of the Recorder of Deeds of Montgomery County, shall be submitted on twenty-four-inch by thirty-six-inch sheets. The contents of the map(s) shall include, but not be limited to:
 - (a) Clear identification of the location and nature of permanent stormwater controls and BMPs;
 - (b) The location of the project site relative to highways, municipal boundaries, or other identifiable landmarks;
 - (c) Existing and final contours at intervals of two feet, or others as appropriate;
 - (d) Existing streams, lakes, ponds, or other bodies of water within the project site area;
 - (e) Other physical features, including flood hazard boundaries, sinkholes, streams, existing drainage courses, and areas of natural vegetation to be preserved;
 - (f) The locations of all existing and proposed utilities, sanitary sewers, and water lines within 50 feet of property lines of the project site;
 - (g) Proposed final changes to the land surface and vegetative cover, including the type and amount of impervious area that would be added;
 - (h) Proposed final structures, roads, paved areas, and buildings; and
 - (i) A twenty-foot-wide access easement around all stormwater controls and BMPs that would provide ingress to and egress from a public right-of way;
 - (2) A description of how each permanent stormwater control and BMP will be operated and maintained, and the identity and contact information associated with the person(s) responsible for operations and maintenance;
 - (3) The name of the project site, the name and address of the owner of the property, and the name of the individual or firm preparing the plan; and
 - (4) A statement, signed by the landowner, acknowledging that the stormwater controls and BMPs are

fixtures that can be altered or removed only after approval by the municipality.

- C. The stormwater control and BMP operations and maintenance plan for the project site shall establish responsibilities for the continuing operation and maintenance of all permanent stormwater controls and BMPs, as follows:
 - (1) If a plan includes structures or lots that are to be separately owned and in which streets, sewers, and other public improvements are to be dedicated to the municipality, stormwater controls and BMPs may also be dedicated to and maintained by the municipality;
 - (2) If a plan includes operations and maintenance by a single ownership or if sewers and other public improvements are to be privately owned and maintained, then the operation and maintenance of stormwater controls and BMPs shall be the responsibility of the owner or private management entity.
- D. The municipality shall make the final determination on the continuing operations and maintenance responsibilities. The municipality reserves the right to accept or reject the operations and maintenance responsibility for any or all of the stormwater controls and BMPs.
- E. Letter of consistency that the plan is consistent with all DEP permits issued.

§ 228-33. Municipal review of stormwater control and BMP operations and maintenance plan.

- A. The municipality shall review the stormwater control and BMP operations and maintenance plan for consistency with the purposes and requirements of this chapter and any permits issued by DEP.
- B. The municipality may require a "record drawing" of all stormwater controls and BMPs and an explanation of any discrepancies with the operations and maintenance plan.

§ 228-34. Adherence to approved stormwater control and BMP operations and maintenance plan.

It shall be unlawful to alter or remove any permanent stormwater control and BMP required by an approved stormwater control and BMP operations and maintenance plan or to allow the property to remain in a condition which does not conform to an approved stormwater control and BMP operations and maintenance plan.

§ 228-35. Operations and maintenance agreement for privately owned stormwater controls and BMPs.

- A. The applicant shall sign an operations and maintenance agreement with the municipality covering all stormwater controls and BMPs that are to be privately owned. The maintenance agreement shall be transferred with transfer of ownership. The Agreement shall be in a form approved by the Township Solicitor. **[Amended 7-12-2012 by Ord. No. 2012-03]**
- B. Other items may be included in the agreement where determined necessary to guarantee the satisfactory operation and maintenance of all permanent stormwater controls and BMPs. The agreement shall be subject to the review and approval of the municipality.

§ 228-36. Stormwater management easements.

- A. Stormwater management easements are required for all areas used for off-site stormwater control.
- B. Stormwater management easements shall be provided by the applicant or property owner if necessary for access for inspections and maintenance or the preservation of stormwater runoff conveyance, infiltration, and detention areas and other stormwater controls and BMPs by persons other than the property owner. The purpose of the easement shall be specified in any agreement under § 228-35.

§ 228-37. Maintenance agreement for privately owned stormwater facilities.

- A. Prior to final approval of the site's drainage plan, the applicant shall sign and record the maintenance agreement contained in Appendix H which is attached and made part hereof³⁶ covering all stormwater control facilities that are to be privately owned.
- B. Other items may be included in the agreement where determined necessary to guarantee the satisfactory maintenance of all facilities. The maintenance agreement shall be subject to the review and approval of the Municipal Solicitor and the municipality.

§ 228-38. Recording of approved stormwater control and BMP operations and maintenance plan and related agreements.

- A. The owner of any land upon which permanent stormwater controls and BMPs will be placed, constructed, or implemented, as described in the stormwater control and BMP operations and maintenance plan, shall record the following documents in the Office of the Recorder of Deeds for Montgomery County, within 90 days of approval of the stormwater control and BMP operations and maintenance plan by the municipality:
 - (1) The operations and maintenance plan, or a summary thereof;
 - (2) Operations and maintenance agreements under § 228-35; and
 - (3) Easements under § 228-36.
- B. The municipality may suspend or revoke any approvals granted for the project site upon discovery of failure on the part of the owner to comply with this section.

§ 228-39. Municipal Stormwater Control and BMP Operation and Maintenance Fund.

Persons installing stormwater controls or BMPs shall be required to pay a specified amount to the Municipal Stormwater Control and BMP Operation and Maintenance Fund to help defray costs of periodic inspections and maintenance expenses. The amount of the deposit shall be determined as follows:

- A. If the stormwater control or BMP is to be privately owned and maintained, the deposit shall cover the cost of periodic inspections performed by the municipality for a period of 10 years, as estimated by the Municipal Engineer. After that period of time, inspections will be performed at the expense of the municipality.
- B. If the stormwater control or BMP is to be owned and maintained by the municipality, the deposit shall cover the estimated costs for maintenance and inspections for 10 years. The Municipal Engineer will establish the estimated costs utilizing information submitted by the applicant.

36. Editor's Note: Appendix H is included at the end of this chapter.

§ 228-40. Prohibited discharges; exceptions.

- A. No person in the municipality shall allow, or cause to allow, stormwater discharges into the municipality's separate storm sewer system which are not composed entirely of stormwater, except:
- (1) As provided in Subsection B below; and
 - (2) Discharges allowed under a state or federal permit.
- B. Discharges that may be allowed based on a finding by the municipality that the discharge(s) do not significantly contribute to pollution to surface waters of the commonwealth are:
- (1) Discharges from fire-fighting activities.
 - (2) Potable water sources, including dechlorinated water line and fire hydrant flushings.
 - (3) Irrigation drainage.
 - (4) Routine external building washdown (which does not use detergents or other compounds).
 - (5) Air conditioning condensate.
 - (6) Water from individual residential car washing.
 - (7) Spring water from crawl space pumps.
 - (8) Uncontaminated water from foundation or from footing drains.
 - (9) Flows from riparian habitats and wetlands.
 - (10) Lawn watering.
 - (11) Pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used.
 - (12) Dechlorinated swimming pool discharges.
 - (13) Uncontaminated groundwater.
- C. In the event that the municipality determines that any of the discharges identified in Subsection B significantly contribute to pollution of waters of the commonwealth, or is so notified by DEP, the municipality will notify the responsible person to cease the discharge.
- D. Upon notice provided by the municipality under Subsection C, the discharger will have a reasonable time, as determined by the municipality, to cease the discharge consistent with the degree of pollution caused by the discharge.
- E. Nothing in this section shall affect a discharger's responsibilities under state law.

§ 228-41. Prohibited connections.

The following connections are prohibited, except as provided in § 228-40B above:

- A. Any drain or conveyance, whether on the surface or subsurface, which allows any nonstormwater discharge, including sewage, process wastewater, and wash water to enter the separate storm sewer system and any connections to the storm drain system from indoor drains and sinks; and

- B. Any drain or conveyance connected from a commercial or industrial land use to the separate storm sewer system that has not been documented in plans, maps, or equivalent records and approved by the municipality.

§ 228-42. Roof drains.

- A. Roof drains shall not be connected to streets, sanitary or storm sewers, or roadside ditches in order to promote overland flow and infiltration/percolation of stormwater, where advantageous to do so.
- B. When it is more advantageous to connect roof drains directly to streets or storm sewers, connections of roof drains to streets or roadside ditches may be required by the municipality.
- C. Roof drains shall discharge to infiltration areas or vegetative BMPs to the maximum extent possible.
- D. When considered advantageous to do so, sump pump systems shall be connected to storm sewer or roof drain systems as required by the municipality.

§ 228-43. Alteration of BMPs.

- A. No person shall modify, remove, fill, landscape, or alter any existing stormwater control or BMP unless it is part of an approved maintenance program without the written approval of the municipality.
- B. No person shall place any structure, fill, landscaping, or vegetation into a stormwater control or BMP or within a drainage easement that would limit or alter the functioning of the stormwater control or BMP without the written approval of the municipality.

ARTICLE IX
Enforcement and Penalties

§ 228-44. Right of entry.

- A. Upon presentation of proper credentials, duly authorized representatives of the municipality may enter at reasonable times upon any property within the municipality to inspect the implementation, condition, or operation and maintenance of the stormwater controls or BMPs in regard to any aspect governed by this chapter.
- B. Stormwater control and BMP owners and operators shall allow persons working on behalf of the municipality ready access to all parts of the premises for the purposes of determining compliance with this chapter.
- C. Persons working on behalf of the municipality shall have the right to temporarily locate on any stormwater control or BMP in the municipality such devices as are necessary to conduct monitoring and/or sampling of the discharges from such stormwater control or BMP.
- D. Unreasonable delays in allowing the municipality access to a stormwater control or BMP is a violation of this article.

§ 228-45. Public nuisance.

- A. The violation of any provision of this chapter is hereby deemed a public nuisance.
- B. Each day that a violation continues shall constitute a separate violation.

§ 228-46. Enforcement generally; notice of violation.

- A. Whenever the municipality finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the municipality may order compliance by written notice to the responsible person. Such notice may, without limitation, require the following remedies:
 - (1) Performance of monitoring, analyses, and reporting;
 - (2) Elimination of prohibited connections or discharges;
 - (3) Cessation of any violating discharges, practices, or operations;
 - (4) Abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - (5) Payment of a fine to cover administrative and remediation costs;
 - (6) Implementation of stormwater controls and BMPs; and
 - (7) Operation and maintenance of stormwater controls and BMPs.
- B. Such notification shall set forth the nature of the violation(s) and establish a time limit for correction of these violation(s). Said notice may further advise that, if applicable, should the violator fail to take the required action within the established deadline, the work will be done by the municipality or designee, and the expense thereof shall be charged to the violator.
- C. Failure to comply within the time specified shall also subject such person to the penalty provisions of this chapter. All such penalties shall be deemed cumulative and shall not prevent the municipality from pursuing any and all other remedies available in law or equity.

§ 228-47. Suspension and revocation of permits and approvals; reinstatement.

- A. Any building, land development, or other permit or approval issued by the municipality may be suspended or revoked by the municipality for:
 - (1) Noncompliance with or failure to implement any provision of the permit;
 - (2) A violation of any provision of this chapter; or
 - (3) The creation of any condition or the commission of any act during construction or development which constitutes or creates a hazard or nuisance, pollution, or which endangers the life, health, or property of others.
- B. A suspended permit or approval shall be reinstated by the municipality when:
 - (1) The Municipal Engineer or designee has inspected and approved the corrections to the stormwater controls and BMPs or the elimination of the hazard or nuisance; and/or
 - (2) The municipality is satisfied that the violation of this chapter, law, or rule and regulation has been corrected.
- C. A permit or approval that has been revoked by the municipality cannot be reinstated. The applicant may apply for a new permit under the procedures outlined in this chapter.

§ 228-48. Violations and penalties.

- A. Enforcement against violations of the provisions of this chapter shall be by action brought before a District Justice in the same manner provided for the enforcement of summary offenses under Pennsylvania Rules of Criminal Procedure. Upon conviction, a violator shall be subject to a fine of not more than \$1,000 for each violation, recoverable with costs, or imprisonment to the extent allowed by law for the punishment of summary offenses, or both. Each day that a violation continues shall be a separate offense.
- B. In addition, the municipality, through its Solicitor, may institute injunctive, mandamus, or any other appropriate action or proceeding at law or in equity for the enforcement of this chapter. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus, or other appropriate forms of remedy or relief.

§ 228-49. Notification.

In the event that a person fails to comply with the requirements of this chapter or fails to conform to the requirements of any permit issued hereunder, the municipality shall provide written notification of the violation. Such notification shall state the nature of the violation(s) and establish a time limit for correction of these violation(s). Failure to comply within the time specified shall subject such person to the penalty provisions of this chapter. All such penalties shall be deemed cumulative and shall not prevent the municipality from pursuing any and all remedies. It shall be the responsibility of the owner of the real property on which any regulated activity is proposed to occur, is occurring, or has occurred to comply with the terms and conditions of this chapter.

§ 228-50. Enforcement.

The municipal governing body is hereby authorized and directed to enforce all of the provisions of this chapter. All inspections regarding compliance with the drainage plan shall be the responsibility of the Municipal Engineer or other qualified persons designated by the municipality.

- A. A set of design plans approved by the municipality shall be on file at the site throughout the duration of the construction activity. Periodic inspections may be made by the municipality or designee during construction.
- B. It shall be unlawful for any person, firm, or corporation to undertake any regulated activity under § 228-5 on any property except as provided for in the approved drainage plan and pursuant to the requirements of this

chapter. It shall be unlawful to alter or remove any control structure required by the drainage plan pursuant to this chapter or to allow the property to remain in a condition that does not conform to the approved drainage plan.

- C. At the completion of the project and as a prerequisite for the release of the performance guarantee, the owner or his representatives shall:
 - (1) Provide a certification of completion from an engineer, architect, surveyor, or other qualified person verifying that all permanent facilities have been constructed according to the plans and specifications and approved revisions thereto.
 - (2) Provide a set of as-built (record) drawings.
- D. After receipt of the certification by the municipality, a final inspection shall be conducted by the Municipal Engineer or designated representative to certify compliance with this chapter.
- E. Prior to revocation or suspension of a permit and at the request of the applicant, the municipality will schedule a hearing to discuss the noncompliance if there is no immediate danger to life, public health, or property. The expense of a hearing shall be the applicant's responsibility.
- F. Occupancy permit. An occupancy permit shall not be issued unless the certification of completion pursuant to Subsection C(1) has been secured. The occupancy permit shall be required for each lot owner and/or applicant for all subdivisions and land developments in the municipality.

§ 228-51. Appeals.

- A. Any person aggrieved by any action of the municipality or its designee may appeal to the municipality's Board of Supervisors within 30 days of that action.
- B. Any person aggrieved by any decision of the municipality's Board of Supervisors may appeal to the County Court of Common Pleas in the county where the activity has taken place within 30 days of the municipal decision.

Chapter 235

STREETS AND SIDEWALKS

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Soil erosion, sedimentation and grading control — See Ch. 219.

Subdivision and land development — See Ch. 240.

ARTICLE I

Street Openings and Excavations

[Adopted 10-10-1974 by Ord. No. 74-4; amended in its entirety 12-14-2006 by Ord. No. 2006-01]

§ 235-1. Title.

This article shall be cited to as the "Upper Frederick Township Street Opening and Excavation Regulations."

§ 235-2. Permit required.

No opening, cutting, excavating, boring or disturbance of any kind upon, in or under any portion of a road or any road right-of-way; no gas pipe, water pipe, electric conduits, cable conduits or other piping, nor any railroad or street railway crossing, shall be laid upon or in; nor shall any drain, culvert, footpath, drive or driveway or other means of ingress or egress be graded, constructed, installed or erected onto or in; nor shall any telephone, telegraph or electric light or power poles or any other obstruction be erected upon or in, nor shall any railroad or street railway hereafter be constructed upon any portion of a road or within any road right-of-way located in the Township; except under such conditions, restrictions and regulations relating to the installation and maintenance thereof, as may be prescribed in the ordinances, rules and regulations of the Township, and permits granted by the Township for such purposes.

§ 235-3. Application for permit; fee.

The application for a permit shall be on a form prescribed by the Township and submitted to the Township in triplicate. The Township Engineer shall be responsible for review and administration of the permit. The application shall be accompanied by a fee in accordance with the Schedule of Fees set forth by the Township of Upper Frederick for street opening permits; charges shall be made payable to "Upper Frederick Township." In addition, the applicant shall submit three copies of a sketch showing the location of the intended facility, width of the traveled roadway, right-of-way lines, an address, and a dimension to the nearest intersecting road or other nearby landmark, so as to be able to easily ascertain the location of the work.

§ 235-4. Decision on permit application. [Amended 11-18-2010 by Ord. No. 2010-05]

The permit application shall be approved or denied within 10 calendar days of submission of the application to the Township. If the application and required documents do not conform to the requirements of this article and applicable ordinances, rules and regulations, the Township Road Foreman shall deny the application, in writing, stating the reasons therefor. If the Township Road Foreman is satisfied that the proposed work conforms to the aforesaid requirements, the Township Road Foreman shall issue a permit.

§ 235-5. PA One-Call.

At least three working days prior to the proposed start of work, the applicant, or its representative, shall contact the PA One-Call System at 1-800-242-1776, report the proposed work, obtain a serial number and provide such serial number to the Township. No work shall begin until such date and time as authorized by PA One-Call.

§ 235-6. Maintenance of traffic.

At least one lane of traffic shall be maintained at all times. The applicant shall comply with the provisions of PennDOT Publication 203, "Work Zone Traffic Control."

§ 235-7. Detours.

Under extremely unusual circumstances, the Township may allow a road to be closed and traffic to be detoured. No road shall be closed without giving the Township at least 72 hours' prior notice to allow time to notify 911, police, fire departments, emergency services and school districts. No road shall be closed without the applicant submitting

a detour plan to the Township Engineer and having it approved by the Township. No road shall be closed without proper detour signs, as approved by the Township Engineer, having been installed by the applicant. All detour signs shall be maintained for the entire work period.

§ 235-8. Erosion control.

All proper erosion control measures shall be taken to ensure compliance with applicable laws. If necessary, the applicant shall obtain erosion and sedimentation control plan approval from the Montgomery County Conservation District prior to starting work.

§ 235-9. OSHA requirements.

The applicant shall comply with all OSHA safety requirements and procedures, including, without limitation, all enclosed space requirements. All trenches over five feet in depth shall be shored or protected with a trench box.

§ 235-10. Notification.

The applicant shall notify the Township 24 hours in advance of starting work and upon completion of temporary restoration and permanent restoration.

§ 235-11. Backfill.

All backfill within the Township right-of-way shall be 2A crushed stone of optimum moisture content. There shall be a minimum six inches of bedding under the pipe or utility line. Crushed stone backfill shall be mechanically compacted in maximum six-inch lifts. Where work is done outside the paved cartway or shoulder, the last six inches of backfill shall be topsoil.

§ 235-12. Overnight requirements.

If the work cannot be completed in one workday, proper barricades, flashing lights, steel plates or other methods shall be used to secure the site and insure the safety of travelers on the roads in the Township until the next work day.

§ 235-13. Clean-up.

The work area shall be swept clean, cleaned of debris and otherwise policed at the end of each workday and at the end of the project. Mud shall not be tracked onto the streets at any time. All mud shall be cleaned up within one hour of verbal or written notice from the Township or its agents. All loads shall be tarped.

§ 235-14. Installation.

Conduits and pipes shall be installed with a minimum of 18 inches of cover. In no case shall conduits or pipes be allowed to be placed in or be permitted to bond to asphalt pavement.

§ 235-15. Temporary restoration.

The last two inches of the excavation shall be backfilled with compacted "cold patch" or similar permeable asphalt material to allow percolation of water into the excavation while preventing dust and stone chip nuisances. All excavations shall be temporarily restored prior to allowing traffic on them. All settlement shall be brought back to grade within four hours of verbal or written notice from the Township or its agents. The temporary restoration shall remain in place for a minimum of two months to allow for final settlement to occur through the actions of rain and traffic, but, in no case, shall it remain in place more than four months. The person who was issued the permit shall send a postcard to the Township indicating the date of completion of the temporary restoration.

§ 235-16. Permanent restoration.

All ragged or broken edges and undermined areas shall be saw-cut straight; the minimum cutback shall be one foot, and the minimum depth shall be 8 1/2 inches. Permanent restoration shall match existing thicknesses and materials, except in the case of asphalt paving, where the minimum requirements shall be five inches of Superpave Base Course, two inches of Superpave Binder Course and 1 1/2 inches of Superpave Wearing Course. All edges shall be sealed a minimum of 12 inches wide with PG64-22 liquid asphalt. All nonpaved areas shall be restored with six inches of topsoil, seeded and strawed. The person who was issued the permit shall send a postcard to the Township indicating the date of completion of the permanent restoration.

§ 235-17. Identification.

All excavations shall be marked after temporary restoration. The following information shall be included on the permit application: name of applicant, exact date of restoration, and emergency telephone number to be called in case of problems, day or night.

§ 235-18. Guarantee. [Amended 11-18-2010 by Ord. No. 2010-05]

All work shall be guaranteed for a period of one year from the date of final inspection and certification by the Township Road Foreman that the work has been completed in accordance with the permit. All defects shall be corrected by the applicant within 30 days of verbal or written notice from the Township or its agents.

§ 235-19. Security deposit.

At the time of permit application, the applicant shall provide the Township with a security deposit or performance bond for the full cost of the work. The amount of the security deposit or performance bond must be reviewed and approved by the Township Engineer and the Township Solicitor prior to being accepted by the Township. This security shall be held by the Township until the end of the one-year guarantee period, and shall be used by the Township as liquidated damages in case of default or nonperformance by the applicant.

§ 235-20. Prohibited locations.

No utilities, except for transverse laterals, shall be placed in the planting area between the face of the curb and the sidewalk, or within five feet of the edge of cartway or paved shoulders. This area is reserved for Township use for storm sewers, traffic signs, streetlights, etc.

§ 235-21. Paved streets.

In the case of longitudinal openings, excavation will not be permitted in streets unless the applicant agrees to overlay the full width of the side of the street being excavated with 1 1/2 inches of wearing course. In the case of transverse crossings, the overlay shall extend a distance of 100 feet on either side of the excavation. Overlays shall be placed within one week of permanent restoration of the excavation. The applicant shall contact the Township Engineer for complete requirements and associated construction details.

§ 235-22. Hazardous utilities.

Potentially hazardous combinations of utilities, such as water/sewer and gas/electric, shall be separated by a horizontal distance of 10 feet.

§ 235-23. Insurance.

As part of the permit application, the applicant shall provide the Township with an insurance certificate in a minimum amount of \$1,000,000. The certificate shall name the Township and Township Engineer as additional insureds. In addition, the applicant shall indemnify and hold harmless the Township, and shall assume the defense

and all costs of lawsuits and awards.

§ 235-24. Emergencies.

In the case of emergencies threatening property or lives, the applicant may proceed with the work after notifying the Township, the Fire Company and 911. The applicant shall still be responsible for applying and obtaining the permit and satisfying all requirements as outlined in this article. The application shall be made within 24 hours of the verbal or written notice to the Township, the Fire Company and 911. If the emergency occurs over a holiday, a weekend or at night, the application shall be filed the morning of the next working day.

§ 235-25. Other regulations.

In addition to the requirements of this article, all work is subject to all applicable federal, state and local laws, ordinances and regulations. While the Township has made every effort to be comprehensive with the requirements of this article, those areas not covered in this article, but outlined in PennDOT "Chapter 459, Occupancy of Highways By Utilities," most recently revised, are required with the issuance of a street opening permit.

§ 235-26. Violations and penalties.

Any person or utility which shall violate or permit the violation of the provisions of this article shall, upon being found liable therefor in a criminal enforcement proceeding, pay a fine of not more than \$1,000, nor less than \$25, together with court costs and reasonable attorney fees, and may be incarcerated for a period not exceeding 90 days. Such fines, costs, attorney fees and incarceration, after being reduced to a final, unappealed judgment, shall be enforced by the Township pursuant to the applicable rules of criminal procedure. Each day of violation shall constitute a separate violation.

§ 235-27. Definitions.

As used in this article, the following terms shall have the meanings indicated:

PERSON — Any natural person, municipal authority, corporation, partnership, joint venture, sole proprietorship, firm, association and any other entity of whatever type.

ARTICLE II
Use of Construction Vehicles
[Adopted 12-15-1979 by Ord. No. 79-4]

§ 235-28. Word usage.

As used in this article, words in the singular shall include the plural; and those in the plural shall include the singular. The words "shall" and "will" for the purpose of this article are defined as mandatory.

§ 235-29. Definitions.

As uses in these regulations, additional specific terms or words shall be defined as follows, and any pertinent word or term not a part of this listing but vital to the interpretation of these regulations shall be construed to have its legal definition:

BUILDER — A person, who is not necessarily the owner of the land or agent of the same, who, by contract or other agreement, is charged with the responsibility of construction of buildings or other structures, or of making any construction improvements on any parcel of land.

CONSTRUCTION EQUIPMENT — All equipment and products used in the construction industry.

MUNICIPALITY — The Township of Upper Frederick.

PERSON — Any person, firm, partnership, association, corporation, governmental unit, company or organization of any kind.

TRUCK — Any vehicle or piece of heavy equipment used, designated or operated for the transportation of property or materials.

ZONING OFFICER — The Zoning Officer of Upper Frederick Township.

§ 235-30. List of construction vehicles used on Township roads.

At the time a builder makes application to the Zoning Officer for the issuance of a building permit, he shall file with the Township the names and addresses of all individuals who will be transporting construction equipment to and from the building site.

§ 235-31. Damages to roads.

Any person who shall damage the Township roads while transporting construction equipment to and from a building site shall be responsible for the repair of the said damage and shall be further responsible for the removal of all mud, gravel or other debris deposited on the Township roads by said construction equipment.

§ 235-32. Notice.

The Board of Supervisors, or any officer or employee of the Township designated thereby for the purpose, is hereby authorized to give notice, by personal service or by United States mail, to the builder or person responsible for the damage caused to any Township road of the provisions of § 235-31 of this article, directing and requiring such person to repair said damage or remove such debris; so as to conform to the requirements of this article within five days after receipt of such notice. In any case any person who shall neglect, fail or refuse to comply with such notice, within the period of time stated therein, Township authorities may repair the said damage or remove such debris; and the cost thereof, together with any additional penalty authorized by law, may be collected by the Township from such person, firm or corporation, in the manner provided by law.

§ 235-33. Violations and penalties. [Amended 8-13-1998 by Ord. No. 98-4]

Any person, firm or corporation who shall violate any provision of this article, upon conviction thereof in an

action brought before a District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this article continues or each section of this article which shall be found to have been violated shall constitute a separate offense.

ARTICLE III
Driveway Construction

[Adopted 2-5-1998 by Ord. No. 98-1; amended in its entirety 1-8-2009 by Ord. No. 2009-01]

§ 235-34. Purpose.

The purpose of this article is to establish regulations and procedures for the design, installation and use of driveways accessing roads or streets owned and controlled by Upper Frederick Township. This article is intended to govern the construction of new driveways which are not otherwise governed by the provisions of Chapter 240, Subdivision and Land Development, of the Code of the Township of Upper Frederick, and is also specifically intended to apply to the resurfacing of existing gravel driveways which are to be converted to macadam or concrete. It is hereby declared that the enactment of this article is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of Upper Frederick Township.

§ 235-35. Scope.

No driveway having an outlet or access to any Township street or road shall hereafter be laid out or opened unless it complies with the provisions of this article and any other applicable ordinances or regulations of the Township of Upper Frederick which are not inconsistent herewith.

§ 235-36. Permit required.

- A. Prior to the construction of any driveway opening or access to a Township street or road, a property owner must file a driveway permit application with Upper Frederick Township, including a driveway sketch, profile plan and location map which must be approved by the Upper Frederick Township Road Foreman or other official designated by the Upper Frederick Township Board of Supervisors. A driveway permit must be issued prior to construction of the driveway opening or access. **[Amended 11-18-2010 by Ord. No. 2010-05]**
- B. The issuance of a driveway permit by the Township or by PennDOT shall be required prior to the issuance of a permit for new construction or other use that would require driveway access. No building permit shall be issued, nor any occupancy permit shall be issued as to any improvement or improvements in any district in this Township, until the application for a driveway permit shall have been made in writing and a permit approved by the Township authorities or other authority which may have jurisdiction over the road.
- C. Following the issuance of the driveway permit and the use and occupancy permit by the Township, the property owner shall comply with all specifications and requirements of this article, including the minimum pavement distance, within eight months of the issuance of the use and occupancy permit. Failure to comply with the eight-month period will result in the Township drawing upon the escrow established in § 235-39B of this article to complete the required driveway improvements.

§ 235-37. Driveway specifications.

- A. The driveway shall have a minimum width of 12 feet with twenty-two-foot width used at the entrance and over the pipe or swale, if necessary. A radius turn of five feet minimum shall be used at the driveway entrance. Where curb is involved, the curb depression shall be two feet wider than the driveway and depressed 1 1/2 inches above the gutter line.
- B. The driveway profile shall not exceed 4% within 20 feet of the edge of payment and be no less than 1%. Beyond this point, the driveway slope shall not exceed 13%. The pavement cross slope shall be 3/8 inch per foot.
- C. All drives shall be paved for a minimum distance of 20 feet from the edge of the pavement. This may be extended by the Township for long drives and areas with drainage problems. Any portion of a driveway with a slope in excess of 7% shall be paved. Paved driveways shall consist of two inches minimum depth

Superpave wearing course material on a four-inch-minimum-depth, PennDOT-approved subbase material.

- D. The Township Road Foreman or other official designated by the Board of Supervisors, upon field inspection, shall determine whether a pipe shall be used under the drive. The pipe, when required, shall be determined by drainage computations using five-year storm frequency. The minimum pipe size shall be 15 inches in diameter, or as otherwise recommended by the Township Road Foreman, and can be either corrugated galvanized metal or HDPE corrugated plastic pipe. The pipe shall be located at least six feet from the edge of pavement unless field conditions, upon Township inspection, indicate modification of this criteria. The minimum length of pipe shall be 20 feet or extend at least two feet on each end beyond the edges of the driveway pavement. **[Amended 11-18-2010 by Ord. No. 2010-05]**
- E. When swales are used, the gutter shall be at least six inches lower than the edge of pavement and six feet from the edge of roadway. This criteria may be modified by the Township if field conditions dictate such.
- F. Driveways for other than single-family residential use shall be designed in accordance with all criteria for residential streets with the exception of right-of-way requirements.
- G. Properties with frontages of 400 feet or less shall be limited to one driveway. Not more than two driveways shall be provided to any single property tract or business establishment. Agricultural uses may be exempt from this requirement as permitted by the Township.
- H. Sight distance. A minimum safe sight distance shall be provided and maintained at all times pursuant to PennDOT Title 67, Chapter 441.8(h)(1).
- I. All driveways on corner lots shall be located at least 75 feet from the nearest curblines of local roads and 100 feet from the nearest curblines of collector roads. Additional distance may be required based on classification of the streets and/or volume of traffic on the streets. Where no curbs are in place, the edge of pavement shall be used. Exceptions can be made where zoning requirements permit lot widths less the minimum.
- J. Driveways shall intersect streets as nearly as possible at right angles and, in no case, at an angle of less than 70° or more than 110°.
- K. Where a driveway contains a curve, a minimum radius of 50 feet shall be maintained.
- L. Nothing shall be allowed within the road right-of-way in association with the construction of the driveway (or otherwise), including, but not limited to, gates, landscaping rocks, pillars or trees/shrubs. Any lockable gated driveway shall contain a Knox-Box approved by the Township to assure emergency access can be maintained.

§ 235-38. Construction criteria.

- A. The permittee/contractor shall comply with Pennsylvania Act 172 by calling three days prior to any open excavation and/or boring.
- B. Tire scrubber (No. 4 ballast or equivalent) shall be installed and maintained at all times during all phases of construction. Permittee/contractor shall keep all dirt, mud, stone and other debris cleaned off the road on a daily basis or as needed, whichever shall first occur. The area over which tire scrubber shall be installed must be a minimum of 12 inches in depth from the roadway and 12 feet in length. The tire scrubber shall be filled to approximately two inches below the existing road level.
- C. No "track equipment" shall be loaded on Township paved roadway. If conditions require the same, street pads must be used. Note: Permittee/contractor shall be responsible for repairing of any/all road surface and/or shoulder area damaged during construction.
- D. For newly constructed driveways, resurfaced driveways and driveways converting to macadam, the permittee/contractor shall notify the Public Works Department 48 hours prior to installation of blacktop for inspection of stone grade and cross section. Note: Failure to notify may require removal and replacement of bituminous

materials.

§ 235-39. Permit fees and escrow; inspection fee.

- A. The fee for a driveway access permit shall be established by resolution adopted by the Board of Supervisors and shall be part of the Upper Frederick Township Fee Schedule.
- B. A driveway construction escrow shall be established by a permittee/contractor for a driveway permit to access a Township street or road, and the amount of the escrow shall be in accordance with the Township's Fee Schedule. The escrow must be paid to the Township prior to the issuance of a driveway permit. The amount of the required escrow in excess of the amount indicated within the Township's Fee Schedule, if any, will be determined by the Township Road Foreman or other official designated by the Board of Supervisors upon final inspection and approval of the proposed location. This fee is to cover the completion of improvements should the permittee fail to do so as required by § 235-36C. Any moneys remaining in the escrow account will be refunded to the permittee once construction is complete and a final inspection is made. **[Amended 11-18-2010 by Ord. No. 2010-05]**
- C. Upon completion of construction, the permittee shall notify the Township Road Foreman, or other official designated by the Board of Supervisors, and request a final inspection. An inspection fee, in an amount as established from time to time by resolution of the Board of Supervisors, will be assessed against the permittee/contractor. **[Amended 11-18-2010 by Ord. No. 2010-05]**

§ 235-40. Maintenance.

- A. Except when the Township undertakes a major road or drainage improvement project that involves existing driveways, all driveways shall be maintained by the property owner in such a manner as not to interfere with the design, maintenance and drainage of local streets or the safe and convenient passage of traffic upon the streets. The Township shall, at its option, be responsible for the cost of any driveway improvements made as part of a road or a drainage improvement project. **[Amended 11-14-2013 by Ord. No. 2013-04]**
- B. All driveways shall be maintained in such a manner so as to comply with the requirements under which they were permitted.
- C. Driveways shall be maintained clear of debris, vegetation or other obstructions that would compromise the passage of vehicles, including emergency services vehicles, over the driveway. Such clear area shall be 15 feet wide and 15 feet high centered on the driveway.

§ 235-41. Waivers.

The provisions of this article are intended as a minimum standard for the protection of public health, safety and welfare. Any person desiring a waiver of the requirements of this article shall make application for such waiver in writing, identifying the section of the article from which a waiver is requested, the reasons for the waiver, and the alternative proposed. If the literal compliance with any mandatory provision of this article is shown by the applicant, to the satisfaction of the Board of Supervisors, to be unreasonable or to cause undue hardship as it applies to a particular property, or if the applicant shows that an alternative proposal will allow for equal or better results, the Board of Supervisors may grant a waiver from such mandatory provisions so that the intent of the article can be achieved and the public interest secured while permitting the reasonable utilization of the property; however, the granting of a waiver shall not have the effect of making null and void the intent and purpose of this article. In granting waivers, the Board of Supervisors may impose such conditions as will, in its judgment, secure substantially the objectives of the standards and requirements of this article.

§ 235-42. Violations and penalties.

- A. It shall be a violation of this article to commit or to permit any other person to commit any of the following

acts:

- (1) To commence activities for which this article requires a permit before obtaining a permit or in violation of the terms or conditions of any permit issued under this article;
 - (2) To misuse or fail to maintain any driveway installed upon a property;
 - (3) To place intentionally false information on or intentionally omit information from an application for a permit under this article; or
 - (4) To fail to comply with any other provision of this article.
- B. Any person, firm or corporation who shall violate any provision of this article, upon conviction thereof in an action brought before a District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000, plus costs, including attorney fees, and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this article continues or each section of this article which shall be found to have been violated shall constitute a separate offense.
- C. In addition or in lieu of the penalties provided in § 235-42B, the Township may proceed against the violator in a court of equity to obtain injunctive or other relief to abate the violation.
- D. In addition or in lieu of the penalties provided in § 235-42B, the Township Road Foreman or other official designated by the Board of Supervisors may revoke any permit issued under this article when the permit holder has violated the provisions of this article. **[Amended 11-18-2010 by Ord. No. 2010-05]**

§ 235-43. Appeals.

Any property owner affected by a decision of any official of the Township may file an appeal to the Board of Appeals, as established by § 12-10 of the Code of the Township of Upper Frederick. The notice of appeal shall:

- A. Be in writing.
- B. Be submitted with the applicable appeal application fee.
- C. Be submitted within 10 calendar days of the decision being appealed.
- D. State the reasons for the appeal, with reasonable particularity, including, but not limited to, the sections of the article that are applicable.

Chapter 240

SUBDIVISION AND LAND DEVELOPMENT

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick 11-9-1983 by Ord. No. 83-3. Amendments noted where applicable.]

GENERAL REFERENCES

Appeals proceedings — See Ch. 5.

Planning Commission — See Ch. 41.

Numbering of buildings — See Ch. 99.

Code enforcement — See Ch. 112.

Rental property — See Ch. 202.

Soil erosion, sedimentation and grading control — See Ch. 219.

Stormwater management — See Ch. 228.

Zoning — See Ch. 285.

ARTICLE I

Title; Purpose; Interpretation; Subdivision and Land Development Control**§ 240-1. Title and purpose. [Amended 4-2-1992 by Ord. No. 92-1]**

- A. Short title. This chapter shall be known and may be cited as the "Upper Frederick Township Subdivision and Land Development Ordinance, as amended."
- B. Purpose. This chapter is adopted for the following purposes:
- (1) To assist the orderly, efficient, integrated and harmonious development of the Township.
 - (2) To assure sites suitable for building purposes and human habitation.
 - (3) To coordinate proposed roads with existing roads, parks and features of the Township Road Map, including all amendments.
 - (4) To provide adequate open spaces for traffic, recreation, light and air, and for proper distribution of population, thereby creating conditions favorable to the health, safety and general welfare of the citizens of the Township.
 - (5) To ensure conformance of subdivision and land development plans with the development of public facilities in Upper Frederick Township.
 - (6) To secure equitable handling of all subdivision and land development plans by providing uniform procedures and standards:
 - (7) To ensure that the layout and arrangement of the subdivision or land development plan is in conformance with the Township's adopted Comprehensive Plan and Chapter 285, Zoning, and to any regulations or maps adopted in furtherance thereof.

§ 240-2. Interpretation.

The provisions of this chapter shall be held to be minimum requirements to meet the above-stated purposes. Where the provisions of this chapter impose greater restrictions than those of any other statute, ordinance or regulation, the provisions of this chapter shall prevail. Where the provisions of any other statute, ordinance or regulation impose greater restrictions than those of this chapter, the provisions of such statute, ordinance or regulation shall prevail.

§ 240-3. Subdivision and land development control.

- A. Subdivision of a lot or construction, opening or dedication of a tract. No subdivision of a lot or construction, opening or dedication of a road, or land development of any lot, tract or parcel of land shall be made, and no road, sanitary sewer, storm drain, water main, gas, oil and electric transmission line or other improvements in connection therewith, shall be laid out, constructed or dedicated for public use, or for the common use of occupants of a buildings abutting thereon, except in strict accordance with this chapter.
- B. Sale of lots, issuance of building permits or erection of structures. No lot in a subdivision or land development may be sold, and no permit to erect, alter or repair any structure in a subdivision or land development may be issued until the following conditions have been met:
- (1) A subdivision plan has received final approval from the Township and has been recorded by the county.
 - (2) Either the required improvements from the lot or structure to an existing dedicated road have been constructed.
 - (3) The Township has received a proper completion guarantee in the form of a bond, or the deposit of funds or securities in escrow sufficient to cover the cost as estimated by the Township Engineer.

- C. Condominiums. The sale of dwelling or commercial units as condominiums under the Pennsylvania Uniform Condominium Act shall be permitted in accordance with this chapter, and no regulations within this chapter shall be construed to prohibit the condominium form of ownership.
- (1) The declarant shall submit the proposed declaration, declaration plan or when appropriate, amended declaration, to the Township for informational purposes only. These documents shall be submitted for new condominiums and for conversions of existing real estate to the condominium form of ownership.
 - (a) These documents shall be submitted at least 30 days prior to recording.
 - (b) The Township Secretary shall transmit these documents to the Township Planning Commission, Engineer and Solicitor and to the Montgomery County Planning Commission for information purposes only.
 - (2) In addition to the documents required under Subsection C(1), herein, the offering statement required under the Uniform Condominium Act for conversions shall be submitted to the Township for information purposes only.
 - (a) This document shall be submitted within 10 days of its issuance to the residents/lessees of the rental units to be converted.
 - (b) The Township Secretary shall transmit this document to the Township Solicitor for information purposes only.

ARTICLE II
Definitions

§ 240-4. General usage.

Words used in the singular include the plural, and words in the plural include the singular; words used in the masculine gender include the feminine, and words in the feminine gender include the masculine. The word "person" includes natural persons, corporations, associations and partnerships. The word "building" includes the word "structure," and both shall always be construed as if followed by the words "or part thereof." The word "occupied" includes the words "arranged," "designed" or "intended to be used." The word "may" is permissive, and the words "shall" and "will" are always mandatory.

§ 240-5. Definition of terms. [Amended 4-2-1992 by Ord. No. 92-1; 8-13-1998 by Ord. No. 98-4]

Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter have the meanings indicated:

ACCEPTED ENGINEERING PRACTICE — That which conforms to accepted principles, tests or standards of nationally recognized technical or scientific authorities.

ACCESSORY BUILDING — A building subordinated to the principal building on a lot, and used for purposes customarily incidental to those of the principal building.

AGENT — Any person, other than subdivider or developer, who, acting as legally empowered representative for the subdivider, submits subdivision or land development plans for the purpose of obtaining approval thereof.

ALTERATION — As applied to a building, any change or rearrangement in the structural parts or in the exit facilities; or any enlargement, whether by extension on any side or by increase in height, or the moving from one location or position to another.

ANCHORING — The fastening of a mobile home to its mobile home stand in order to prevent upset or damage due to wind, erosion, flooding or other natural forces.

APPLICANT — A landowner or developer, as hereinafter defined, who has filed an application for approval of a subdivision or land development plan, including his heirs, successors and assigns.

APPLICATION FOR SUBDIVISION OR DEVELOPMENT — Every application for subdivision or land development, tentative, preliminary or final, required to be filed and approved prior to start of construction or development, including application for all permits.³⁷

BUFFER — An area designed and functioning to separate the elements and uses of land which abut it and to ease the transition between them. Unless otherwise specified, buffers may be included as part of the required setbacks and yard areas. Buffers are divided into two types:

- A. **BUFFER, OPEN** — A buffer normally comprised of grass, ground cover and/or possibly other landscaping material having a specified depth, but not necessarily having significant vertical components to achieve a certain height or density, the purpose of which is to achieve adequate spacing and attractive landscaping between two or more areas.
- B. **BUFFER, SCREEN** — A buffer comprised of natural and/or man-made material arranged in a certain specified depth, height and density to effectively block the view from one side to another during all seasons of the year, and to reduce the transmittal of noise, odors, glare, etc., between the sides.

BUILDER — A person who is charged with the responsibility of construction of buildings or other structures, or of making any construction improvements on any parcel of land.

37. Editor's Note: The former definitions of "base flood" and "base flood elevation," which immediately followed, were repealed 2-11-2016 by Ord. No. 2016-03.

BUILDING — A combination of materials to form a permanent structure having walls and a roof.

BUILDING COVERAGE — The maximum horizontal area covered by buildings at or above grade expressed as a percentage of the lot area.

BUILDING SETBACK LINE — A line within a lot, so designated on a subdivision plan or land development plan between which line and the ultimate right-of-way line, no building or other structure or portion thereof, except as provided in Chapter 285, Zoning, may be erected above ground level. For a rear (interior) lot the building setback line shall be measured from the lot line nearest and most parallel to the ultimate right-of-way line.

CARTWAY — The portion of a road intended for vehicular use.

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

COMMON PARKING — Any parking area used by three or more dwelling units and having space for six or more motor vehicles.

COMPREHENSIVE PLAN — The Upper Frederick Township Comprehensive Plan, consisting of maps, charts, written and graphic materials, as well as any revisions thereto.

CONDOMINIUM — Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. "Dispose" or "disposition" of a unit is a voluntary transfer of any legal or equitable interest in that unit, other than as security for an obligation.

CONSTRUCTION — The construction, reconstruction, renovation, repair, extension, expansion, alteration or relocation of a building or structure, including the placement of mobile homes.

CONTINUING CARE RETIREMENT COMMUNITY (CCRC) — See "continuing care retirement community (CCRC)," as defined in Chapter 285, Zoning. **[Added 6-13-2013 by Ord. No. 2013-03]**

CULVERT — Any enclosed structure which has the purpose of carrying stormwater and intermittent or constant surface drainage water flow.

CUL-DE-SAC — A road with access at one end and terminated at the other by a paved vehicular turnaround.

CUT — An excavation; the difference between a point on the original ground and a designated point of lower elevation on the final grade. Also, the material removed in an excavation.

DECLARANT —

A. If the condominium has been created, "declarant" means:

- (1) Any person who has executed a declaration, or an amendment to a declaration to add additional real estate, other than persons holding interests in real estate solely as security for an obligation, persons whose interests in the real estate will not be conveyed to unit owners, or, in the case of a leasehold condominium, a lessor who possesses no special declarant rights and who is not an affiliate of a declarant who possesses special declarant rights.
- (2) Any person who succeeds under § 3304 of the Uniform Condominium Act of 1980 (relating to transfer of special declarant rights) to any special declarant rights.

B. If the condominium has not yet been created, "declarant" means any person who offers to dispose of or disposes of his interest in a unit not previously disposed of.

C. If a declaration is executed by a trustee of a land trust, "declarant" means the beneficiary of the trust.

DENSITY — The number of dwelling units per developable acre.

DEVELOPER — Any landowner or agent of such landowner who makes or causes to be made a subdivision of land or land development.

DEVELOPMENT — Any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, the placement of mobile homes, roads and other paving, utilities, dredging, filling, grading, excavation or drilling operations.

DEVELOPMENT BLOCK — An area bounded by roads, and natural or man-made features.

DEVELOPMENT PLAN — The provisions for guiding development, including a plan of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, roads, parking facilities, pedestrian ways, 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.

DRAINAGE FACILITIES — The natural or man-made features of the land that are specifically designed to store or carry surface water runoff.

DRIVEWAY — A private way providing for vehicular and pedestrian access between a public road and a parking area within a lot or property.

DWELLING — A building in which people reside.

DWELLING UNIT — One or more rooms arranged for the use of one or more individuals living together as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.

EASEMENT — A right-of-way or other right granted by a property owner for the use of a designated part of his property for certain public or quasi-public purposes.

ENGINEER — A professional engineer licensed as such in the Commonwealth of Pennsylvania.

EROSION — The removal of surface materials by the action of natural elements.

EXCAVATION — Any act by which natural materials are dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed, as well as, the conditions resulting therefrom.

FILL — Any act by which natural materials are placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface, as well as the conditions resulting therefrom.

FLAG LOT — See "rear lot."³⁸

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 usual and rapid accumulation of surface waters from any source. **[Added 2-11-2016 by Ord. No. 2016-03]**

FLOODPLAIN-RELATED TERMS — All floodplain-related terms shall be as defined in Chapter 140, Floodplain Management; the definitions contained therein are made part of this chapter by reference. **[Added 2-11-2016 by Ord. No. 2016-03]**

FRONTAGE — The length of the lot line abutting a public right-of-way.

GRADE — A slope of a street or parcel of land specified in percent and shown on plans as specified herein. (See "slope.")

GROSS FLOOR AREA — The total area included within the exterior walls of a building, exclusive of open courts.

GROUND COVER — Natural mulch or nondeciduous or low-growing plants installed or planted in such a manner as to provide a continuous cover over the ground.

HEIGHT — The height of a building shall be measured from the mean level of the ground surrounding the building

38. Editor's Note: The former definitions of "flood," "floodplain" and "floodproofing," which immediately followed, were repealed 2-11-2016 by Ord. No. 2016-03.

to a point midway between the highest and the lowest points of the roof; provided, that chimneys, spires, towers, elevator penthouses, tanks and similar projections shall not be included in calculating the height.

HITCH — A device which is part of the frame or attaches to the frame of a mobile home and connects it to a motorized vehicle for the purpose of transporting.

IMPROVEMENT — Grading, paving, curbing, streetlights and signs, fire hydrants, wells, water mains, sanitary sewers, storm drains, sidewalks, parking areas, landscaping or recreation area.

LAND DEVELOPMENT —

- A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
 - (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
 - (2) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, buildings or building groups or other features.
- B. A subdivision of land.
- C. The following activities are specifically excluded from the definition of land development: (i) the conversion of an existing single-family detached or single-family semidetached dwelling into not more than three residential units, unless such units are intended to be a condominium; and (ii) the addition of an accessory building including, but not limited to, farm buildings, sheds and garages, on a lot or lots subordinate to an existing principal building; however, in those instances where the area of the accessory building exceeds 1,000 square feet, the proposed construction shall be reviewed by the Township Engineer and Board of Supervisors for the purpose of determining that the construction will comply with all zoning requirements and will not result in any adverse impact to the lot or adjacent properties including, but not limited to, drainage runoff and traffic patterns and circulations. Any recommendation of the Township Engineer and/or Board of Supervisors shall be complied with as a condition of the building permit. All costs of review by the Township Engineer shall be paid by the applicant. Nothing herein shall preclude the Township from requiring the submission of a land development plan where the accessory building exceeds 1,000 square feet, and it is deemed necessary by the Board of Supervisors.

LANDOWNER — The legal owner or owners of land, or a building thereon, or a portion of either.

LOT — A designated parcel, tract or area of land established by a plat or otherwise, as permitted by law, and to be used, developed and/or built as a unit.

LOT AREA — The total horizontal area of the lot lying within the lot lines; provided, that for the area of any lot abutting a road the area shall be measured to the ultimate right-of-way line. Lot area shall exclude any public right-of-way but include the area within any easement. Lots shall be measured in square feet in lots up to three acres in size and for lots over three acres it shall be measured in acres.

MOBILE HOME — A transportable, single-family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

MOBILE HOME DEVELOPMENT/PARK — A parcel, or contiguous parcels of land, which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes.

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

MOBILE HOME STAND — That part of an individual lot which has been reserved and prepared for the placement of the mobile home.

MODULAR HOME — Any structure designed as a single-family or multifamily dwelling (except mobile home) which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation, or assembly and installation, on the building site in such a manner that all concealed parts or processes of manufacture cannot be inspected at the site without disassembly damage or destruction. The construction materials and specifications must conform to those of conventionally built homes.³⁹

OFFERING — Any advertisement, inducement, solicitation or attempt to encourage any person to acquire any interest in a unit, other than as security for an obligation. An advertisement in a newspaper or other periodical of general circulation, or in any broadcast medium to the general public, of a condominium not located in this commonwealth, is not an offering if the advertisement states that an offering may be made only in compliance with the law of the jurisdiction in which the condominium is located.⁴⁰

PARKING SPACE — A reasonably level area outside a street right-of-way, available for the parking of one motor vehicle, and consisting of an all-weather surface, either covered garage space or uncovered parking lot space, which has direct access from a street, alley or driveway, exclusive of passageways, driveways, or other means of circulation or access. **[Amended 1-14-2010 by Ord. No. 2010-02]**

PLAN — A graphic or written representation or document.

PLAN, IMPROVEMENT CONSTRUCTION — A plan showing the construction details of streets, drains, sewers, bridges, culverts and other improvements as required by this chapter showing the details required by Article III of this chapter.

PLAN, LAND DEVELOPMENT — A tentative, preliminary or final plan including written and graphic material showing the provision for development of a tract.

PLAN, MINOR SUBDIVISION — The division of a single lot, tract or parcel of land, not a part of a prior subdivision within the last three years, into no more than four lots, tracts or parcels of land for the purpose, whether immediate or future, of lease, transfer of ownership or the act of building structures and installing site improvements for residential use; such lots shall front on a physically improved road that is legally open to the public, not involve any new road or the extension of Township facilities or the creation of any public improvements and requires a variance(s) from Chapter 285, Zoning, for no more than one of the proposed lots on which new construction will or may occur, and is in general conformance with the Township Comprehensive Plan and other plans.

PLAN, PRELIMINARY — A plan prepared for discussion with the Planning Commission showing the proposed road and lot layout, the deed restrictions, easements and all other items required under Article III of this chapter, for the entire parcel of land being subdivided.

PLAN, RECORD — A plan prepared for recording showing all rights-of-way of roads, the lot lines, easements and all other items required under Article III of this chapter.

PLAN, TENTATIVE SKETCH — A draft showing proposed roads, lots, buildings and topography, that is to be used as the basis for informal discussion between the representatives of the Township Planning Commission and the owner or agent.

PLANNED RESIDENTIAL DEVELOPMENT — An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling or use, density or intensity, lot coverage and required open space to the regulations established in any one district created, from time to time, under the provisions of Chapter 285, Zoning.

PLANTING AREA — Any area designated for landscaping purposes.

39. Editor's Note: The former definition of "new construction," which immediately followed, was repealed 2-11-2016 by Ord. No. 2016-03.

40. Editor's Note: The former definition of "one-hundred-year flood," which immediately followed, was repealed 2-11-2016 by Ord. No. 2016-03.

PUBLIC HEARING — A formal meeting held pursuant to public notice by the Board of Supervisors or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with this chapter.

PUBLIC NOTICE — Notice published once each week for two successive weeks in a newspaper of general circulation in the Township. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall be not more than 30 days, and the second publication shall not be less than seven days from the date of the hearing.

REAR LOT — Also known as "interior" or "flag lot." A lot which conforms in all respects to the dimensional requirements of the district in which it is located, except that road frontage and access is limited to an access strip.

RESERVE STRIP — A parcel of land separating a road from adjacent properties.

RIGHT-OF-WAY — A strip of land, over which are provided access rights for various purposes, including vehicular travel, storm drainage and utility lines. "Rights-of-way" are further defined as follows:

- A. **LEGAL RIGHT-OF-WAY** — The road right-of-way legally in the public domain. Generally, an old, legal right-of-way will be substandard by comparison with current requirements, may overlap the lot as described by deed description and shall be superseded by the ultimate right-of-way.
- B. **ULTIMATE RIGHT-OF-WAY** — The road right-of-way projected as necessary for adequate handling of current or future traffic volume, as defined in the Township's Official Map Summary and upon approval of a plan in compliance with this chapter, the ultimate right-of-way shall become the legal right-of-way.

ROAD — A right-of-way, publicly owned, serving primarily as means of vehicular and pedestrian travel, furnishing access to abutting properties, which may also be used to provide space for sewers, public utilities, shade trees and sidewalks. Classifications of roads are defined in § 240-19D.

ROAD, COLLECTOR — A road connecting local residential roads to primary arterials and which carries a lesser volume of traffic than a primary arterial. Roads in industrial and commercial subdivisions shall generally be considered collector roads.

RUNOFF — The surface water discharge or rate of discharge of a given watershed after a fall or rain or snow that does not enter the soil but runs off the surface of land.

RUNOFF FROM A FULLY DEVELOPED AREA UPSTREAM — The surface water runoff that can be reasonably anticipated upon maximum development of that area of the watershed located upstream from the subject tract, as permitted by prevailing zoning or the Township Comprehensive Plan.

SEDIMENTATION — The process by which mineral or organic matter is accumulated or deposited by moving wind, water or gravity. Once this matter is deposited (or remains suspended in water), it is usually referred to as "sediment."

SHRUB — A woody perennial plant having persistent woody stems, branching from the base.

SIGHT DISTANCE — The distance of unobstructed view along the center line of a street from four feet above the road surface to the farthest visible point four inches above the road surface.

SIGHT TRIANGLE — The area of a triangle, whose legs are the sides of the cartway and an accessway which intersects with it, each being not less than 10 feet long from the point of intersection and whose hypotenuse connects the two legs.

SKIRTS — Panels specifically designed for the purpose of screening the underside of a mobile home by forming an extension of the vertical exterior walls of the mobile home and covering the entire distance between the bottom of the exterior walls and the ground elevation below.

SLOPE — The face of an embankment of cut section; any ground whose surface makes an angle with the plane of the horizon. Slopes are usually expressed in a percentage based upon vertical difference in feet per 100 feet of horizontal distance.

SOIL STABILIZATION — Chemical or structural treatment of a mass of soil to increase or maintain its stability

or otherwise improve its physical properties.

SOIL SURVEY — A report entitled, Soil Survey of Montgomery County, Pennsylvania, published April, 1967, by the Soil Conservation Service, United States Department of Agriculture which is available through the Extension Service, Agricultural Agent, the Pennsylvania State University.⁴¹

STREET LINE — See "ultimate right-of-way line."

STRUCTURE — Any man-made object, constructed or erected, having an ascertainable stationary location on or in land or water, whether or not affixed to the land (ground improvements excepted).

SUBDIVISION — The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.⁴²

SUBSTANTIALLY COMPLETED — Where, in the judgment of the Engineer, at least 90% of those improvements required as a condition for final approval have been completed in accordance with the approved plan, so that the project will be able to be used, occupied or operated for its intended use.

SWALE — A low lying stretch of land which gathers or carries surface water runoff.

TOPSOIL — Surface soils and subsurface soils which presumably are fertile soils and soil material, ordinarily rich in organic matter or humus debris. Topsoil is usually found in the uppermost soil layer called the "A Horizon."

TRADITIONAL NEIGHBORHOOD DESIGN (TND) OPTION WITHIN A CONTINUING CARE RETIREMENT COMMUNITY (CCRC) — See "traditional neighborhood design (TND) option within a continuing care retirement community (CCRC)," as defined in Chapter 285, Zoning. **[Added 6-13-2013 by Ord. No. 2013-03]**

TREE — Any woody plant with a well defined stem bearing leaves or needles; deciduous or evergreen.

ULTIMATE RIGHT-OF-WAY LINE — The line parallel to the center line of any public or existing private road which defines the boundary of the ultimate right-of-way.

USE AREA — Any area of land that is given to one category of land use and is used to compute the net density of that use.

VEHICULAR USE AREA — Any paved ground surface, except a road, used by any type of vehicle whether moving or at rest.

VISUAL SCREEN — See "buffer, screen."

WATERCOURSE — A permanent or intermittent stream, river, brook, creek, channel, or canal, or ditch for water, whether natural or man-made.

YARD — The area(s) of a lot which must remain free of buildings or other structures, and may be used as lawn or planted area, parking or driveway space, in compliance with the provisions of this chapter. Yard is further defined as follows:

- A. FRONT YARD — A yard which extends across the full width of a lot, for a depth equal to the minimum front yard setback distance required by the specific regulations of this chapter, measured from the ultimate right-of-way line.
- B. REAR YARD — A yard which extends across the full width of a lot, for a depth equal to the minimum rear yard setback distance required by the specific regulations of this chapter, measured from the rear lot line.

41. Editor's Note: The former definition of "start of construction," which immediately followed, was repealed 2-11-2016 by Ord. No. 2016-03.

42. Editor's Note: The former definition of "substantial improvement," which immediately followed, was repealed 2-11-2016 by Ord. No. 2016-03.

C. **SIDE YARD** — A yard which extends along a side lot line from the required front yard to the required rear yard, the minimum width of which shall be the minimum specified by the regulations of this chapter, measured from the side lot line.

YARD LINE — A line which locates and delineates the minimum yard setback requirements, measured from the front, rear and side lot lines.

ARTICLE III

Plan Submission Requirements and Processing Procedures**§ 240-6. Applicability.**

The procedures set forth in this chapter shall be followed by all applicants proposing to subdivide or develop land in Upper Frederick Township.

§ 240-7. General requirements applicable to all subdivision and land development plans.

A. Drafting standards.

- (1) The plan shall be clearly and legibly drawn to a scale not in excess of one inch equals 50 feet, except if the parcel being subdivided is five acres or larger, the plan may be drawn to a scale not in excess of one inch equals 100 feet.
- (2) Contour lines shall be at vertical intervals of five feet except for floodplains which shall be shown at intervals of two feet. Where reasonably practicable, data shall refer to known established elevations or to the USGS datum. One hundred feet shall be the largest horizontal distance between intervals.
- (3) Dimensions shall be in feet and decimals and bearings in degrees, minutes and seconds.
- (4) The plan shall show the courses and distances of the boundary line survey of the entire land to be subdivided.
- (5) The sheet or sheets shall be one of the following sizes: 15 inches by 18 inches, 18 inches by 30 inches, or 24 inches by 36 inches.
- (6) If more than one sheet is necessary, each sheet shall use the same scale, shall be the same size and consecutively numbered to show its relation to the total number of sheets comprising the plan, i.e., Sheet No. 1 of 5 Sheets, etc. A key map shall be provided to show the relationship of all sheets together.

B. Location and identification. Each plan shall provide:

- (1) The name of the subdivision or land development.
- (2) A key map relating the subdivision or land development to at least three existing intersections in the Township.
- (3) The name and address of the owner(s) and if applicable the name and address of the agent. Some proof showing agent's relationship to owner shall also be submitted with the plan.
- (4) Name address, professional seal and signature of the registered engineer, surveyor or other qualified person who developed the plan.
- (5) A statement of total tract size.
- (6) The date of preparation (or revision) of the plan, the scale and a north point.
- (7) Layout and dimensions of all lots showing gross and net lot area of each in square feet and/or acres, as applicable.
- (8) A legend sufficient to clearly differentiate between existing and proposed conditions.
- (9) The plan shall include a note setting forth the present land use and the zoning requirements, including the applicable lot size and yard requirements. The plan also shall show the requirements of any other Township ordinance, if any, on both the land to be subdivided and the adjacent land.

C. Existing and proposed features.

- (1) For a distance of 100 feet outside the boundary of the tract being subdivided or developed, the plan shall show the following information:
 - (a) Property lines, present land use, zoning district and current owners.
 - (b) The location, names and width (both cartway and right-of-way) of existing and proposed roads.
 - (c) The location of private wells and onsite sewage disposal systems.
 - (d) Location and size of existing and proposed sanitary sewers, manholes, storm sewers and inlets.
 - (e) The location and size of all watercourses and the boundaries of floodplains as defined by Chapter 285, Zoning, Article XVI, Floodplain Conservation District, of the Code of the Township of Upper Frederick.
 - (f) Man-made structures.
 - (g) Natural features, including topography. Steep slopes over 15% shall be delineated.
 - (h) Areas subject to covenants, deed restriction or easements.
 - (i) Other information deemed necessary by the Township.
- (2) Within the tract to be subdivided or developed the plan shall show all the information required in § 240-7C(1) plus the following:
 - (a) Location, nature and use of all structure(s) located on the land, including the structures to be demolished, as well as those to be retained and/or preserved.
 - (b) If applicable, the locations, names and dimensions of existing and proposed roads including paving widths, curblines, legal and ultimate rights-of-way, curbline radii at intersections and road location tie-ins by courses and distances to the nearest road intersection.
 - (c) The location of private wells and sanitary sewer systems.
 - (d) The location and size of all watercourses, boundaries of all applicable Riparian Corridor Conservation zones, and the boundaries of floodplain, as defined by Chapter 285, Zoning, Article XVI, Floodplain Conservation District, of the Code of the Township of Upper Frederick. **[Amended 9-10-2009 by Ord. No. 2009-08]**
 - (e) Man-made structures and natural features, including topography, woodland cover, riparian conservation corridor, wetlands and prime farmland and farmland of statewide importance. Steep slopes over 15% shall be delineated. **[Amended 1-14-2010 by Ord. No. 2010-02]**
 - (f) Areas subject to deed restrictions or easements.
 - (g) Other information deemed necessary by the Township.
- (3) Within the land to be subdivided or developed the plan shall show the following information:
 - (a) Location, nature and use of structure located on the land, including the structures to be demolished, as well as those to be retained and/or preserved.
 - (b) If applicable, the location, names, widths and other dimensions of existing roads including paving widths, curblines, rights-of-way, curbline radii at intersections and street location tie-ins by courses and distances to the nearest road intersection.

- (c) The location of existing and proposed private wells and sewage disposal systems. Documentation of approval of proposed sewerage systems by the Township Sewage Enforcement Officer.
- (d) The plan shall reference any land to be dedicated or reserved for future road widening or other public or common use.
- (e) The location and boundary of all soil types.
- (f) Building setback lines (front yard lines) side and rear yard lines on all proposed lots with distances from the ultimate right-of-way line.
- (g) Total building coverage and the area of the total tract devoted to each use or group of uses.
- (h) Location of accessory structures and facilities.
- (i) Tentative sketch of future road and lot layout for remaining land not proposed for subdivision or development.
- (j) Other information deemed necessary by the Township.

§ 240-8. Types of plans for subdivision and land development.

- A. Tentative sketch plan. Applicants are encouraged to submit tentative sketch plans for subdivisions and/or land developments, although this type of plan submission is optional.
 - (1) Tentative sketch plans should be presented to the Township Planning Commission for informal discussion at a regularly scheduled Planning Commission meeting.
 - (2) The purpose of a tentative sketch plan submission is to provide informal advice and guidance to an applicant prior to preparation of preliminary plans, and, therefore, it does not constitute a formal plan submission and is not subject to a time limit.
 - (3) The Township Planning Commission may make nonbinding suggestions and recommendations to the applicant during the meeting at which the plan is discussed. These need not be presented in writing to the applicant, however, they should be summarized in the minutes of the Township Planning Commission for reference.
 - (4) If a proposal is large or complex, the Township Planning Commission may defer completing its comments and recommendations until it has consulted its technical advisors. However, the Planning Commission will try to expedite this informal review process.
- B. A preliminary plan, as described in § 240-11, is required for all applicable subdivisions and land developments proposed within the Township.
- C. A final plan, as described in § 240-12 is required for all applicable subdivisions and land developments proposed within the Township.
 - (1) A final plan shall consist of two parts:
 - (a) Record plan, as described in § 240-12A.
 - (b) Improvement construction plan, where applicable, as described in § 240-12B.
 - (2) A plan showing all information required for a final plan, with has been submitted as a preliminary plan and for which no changes have been required by the Township, may be approved as a final plan.
- D. A land development plan, as described in § 240-13, is required for all applicable land developments proposed within the Township. A land development plan may be required in conjunction with a subdivision plan or in

lieu of a subdivision plan when review of a plan on a lot-by-lot basis would not be applicable.

E. Auction sales. When an owner proposes to offer his land for sale at auction in two or more parts, the following procedures shall be followed:

(1) Preliminary plans showing the manner in which the owner desires to divide his land for sale at auction, shall be submitted for approval or review as required under § 240-11 of this chapter, prior to advertisement of the sale, and in addition, shall contain the following notation:

This property is intended to be sold by auction or about _____, _____, in whole or in part according to this plan. Sale of lots at such auction shall be in the form of agreement to purchase, and no actual transfer of ownership or interest in such lots shall proceed until a final plan showing such division of the property shall have been reviewed by the Upper Frederick Township Planning Commission in accordance with its regulations, approved by the Board of Supervisors, and recorded in the Office of the Recorder of deeds, Montgomery County.

(2) The auction sale may then proceed in accordance with the above notation, after which the subdivider shall prepare and submit a final plan in accordance with these regulations.

§ 240-9. Tentative sketch plan.

Sketch plans shall be drawn legibly to scale but not necessarily showing precise dimensions and shall show the following information:

- A. Name of subdivision or land development and name of Township.
- B. A location plan showing the subject tract and the surrounding road network, including a key map.
- C. Name and address of the owner, agent, engineer, surveyor and architect, as applicable.
- D. The tract boundary and location by deed plotting.
- E. A north point and scale.
- F. The existing and proposed road and lot (or structure) layout.
- G. Significant topographical and physical features, such as soils, floodplains, steep slopes (over 15%), woodlands and existing structures.
- H. Proposals for control of drainage runoff.
- I. Proposals for community facilities.

§ 240-10. Minor subdivision plan.

It is the purpose of this section to provide for simplified plan submission and processing requirements by which minor subdivision may be submitted and approved. Plans submitted under the provisions of this section must meet the following criteria, conform to the established standards and provide the required information as described in § 240-7.

- A. Criteria for minor subdivisions. A subdivision of a tract of land that:
 - (1) Contains four lots or less.
 - (2) Has not been part of a subdivision submitted within the past three years.
 - (3) Presently fronts on a physically improved street that is legally open to the public.

- (4) Will not involve the construction of any new street or road, the extension of Township facilities or the creation of any other public improvements.
 - (5) Requires a variance(s) from Chapter 285, Zoning, for no more than one of the proposed lots on which new construction will occur or may occur in the future.
 - (6) Is in general conformance with the Township Comprehensive Plan and other plans.
- B. Additional requirements for minor subdivisions within floodplains. Minor subdivision applications for land within floodplains must conform to the applicable requirements established for lands within such areas in §§ 240-11B and 240-31 of this chapter and Chapter 285, Zoning, Article XVI, of the Code of the Township of Upper Frederick.
 - C. Plan submission. Minor subdivision plans shall be submitted in accordance with the plan processing procedures identified in § 240-14.
 - D. Plan approval. Plan approval shall be obtained through the procedure identified in § 240-14. The plan shall become a final plan when the following certifications are obtained:
 - (1) The signature and seal of the registered surveyor certifying that the plan represents a survey made by him; that the monuments shown thereon exist as located; and that the dimensional and geodetic details are correct.
 - (2) The signature of the owner or agent certifying his adoption of the plan and changes thereto.
 - (3) The signature of the Township Planning Commission certifying approval of the minor subdivision plan and any changes thereto on the date shown to the Board of Supervisors.
 - (4) Certification by the Zoning Hearing Board that any required special exceptions and variances have been granted.
 - (5) Signature of the Township Board of Supervisors certifying approval of the plan.
 - E. Recording of plan. Following final approval, the plan must be recorded in accordance with § 240-15.

§ 240-11. Preliminary plan.

A preliminary plan shall be submitted for all-proposed subdivisions not eligible for submission as a minor subdivision and for all applicable land developments. Applicants submitting a preliminary plan shall conform to the standards and provide the required information as described in § 240-7 as well as the following:

- A. Proposed improvements. Within the subject tract to be subdivided or developed and up to a distance of 100 feet outside the tract the plan shall show:
 - (1) Location and size of existing and proposed utilities above and below ground (e.g., electric facilities, fire hydrants, gas mains, water lines).
 - (2) Tentative grading plan of proposed roads to an existing road at a point of 100 feet beyond the boundaries of the tract.
 - (3) Tentative grading plan around all proposed structures and improvements.
 - (4) Location and size of open recreation areas.
 - (5) Land to be dedicated or reserved for future road widening or other public or common use.
 - (6) Locations of test holes.

- (7) A tentative cross section and center line profile for each proposed or widened cartway shown on the preliminary plan, including the profile for proposed sanitary sewers and storm drains, showing manholes, inlets and catch basins.
- (8) Preliminary design of any bridges, culverts or other structures and appurtenances which may be required.

B. Floodplain areas.

- (1) The regulations contained herein shall apply in those areas identified as flood prone in Chapter 285, Article XVI, of the Code of the Township of Upper Frederick. The Flood Boundary and Floodway Map, shall be available in the Upper Frederick Township building for inspection. In regard to the adopted Floodplain Conservation District, the regulations contained herein shall apply to those areas defined and established as floodplain and not in conflict with the information provided in the Flood Insurance Study.
- (2) The regulations contained herein are identified to conform to the requirements of § 1910.3d of the National Flood Insurance Program, P.L. 93-234. Furthermore, it is the purpose of these regulations to:
 - (a) Regulate the subdivision and development of floodplain areas in order to promote the general health, welfare and safety of the community.
 - (b) Require that each subdivision lot or development site in floodplain areas be provided with a safe building site with adequate access; and that public facilities which serve such sites be designed and installed to preclude flood damage at the time of initial construction.
 - (c) Protect individuals from buying lands which are unsuitable for use because of flood hazards by prohibiting the subdivision and development of unprotected floodplain areas.
- (3) Prospective developers shall consult with the Zoning Officer to make a determination as to whether or not the proposed subdivision or land development is located within an identified floodplain.
- (4) Where not prohibited by this or any other codes or ordinances, land located in a floodplain may be subdivided or developed with the provisions that the developer construct all buildings and structures to preclude flood damage in accordance with this and any other codes or ordinances regulating such development.
- (5) Where the subdivision or land development lies partially or completely in a floodplain, or where the subdivision or land development borders on a floodplain, the plan shall include detailed information identifying the following:
 - (a) Location and elevation of existing and proposed roads, water supply and sanitary facilities, building sites, structures, soil types, and proposed floodproofing measures.
 - (b) Boundaries of the floodplain and the base flood elevation as defined in Chapter 285, Zoning, Article XVI, Floodplain Conservation District, of the Code of the Township of Upper Frederick.

C. Certificates. Upon approval the preliminary plan must show:

- (1) The signature of the owner or agent certifying his adoption of the plan and any changes thereto.
- (2) The signature of the Township Planning Commission certifying to the Board of Supervisors approval of the plan and any changes thereto on the date shown.

§ 240-12. Final plan.

Applicant submitting a final plan shall conform to the following standards:

A. Record plan (final subdivision plan).

- (1) Drafting standards. The same standards shall be required for a record plan as for a preliminary plan and, in addition, for recording purposes all lettering and lines shall be drawn so as to still be legible should the plan be reduced to half size.
- (2) Information to be shown. The plan, which shall include all portions of an approved preliminary plan, shall also show:
 - (a) Courses and distances sufficient for the legal description of all the lines shown on the plan. The error of closure shall not be greater than one part in 10,000.
 - (b) The location, material and size of all monuments.
 - (c) Descriptive data of ultimate right-of-way lines, so that a single deed may be drawn to the appropriate authority for the dedication of roads by the subdivider, developer or builder.
 - (d) Evidence shall be provided that the plans are in conformance with Chapter 285, Zoning, and other applicable Township ordinances and regulations. In any instance where such plans do not conform, a notation on the plan shall identify the special exceptions or variances that have been officially authorized.
 - (e) When only a portion of the tract is being reviewed relative to the subdivision or land development, but where future subdivision or development is imminent, the applicant shall demonstrate that the remainder of the tract or parcel may be subdivided or developed in conformance with the existing zoning classification of land use in a logical and satisfied manner, as a condition of approval of his plan.
- (3) Certificates. When approved the record plan must show:
 - (a) The signature of the registered surveyor certifying that the plan represents a survey made by him; that the monuments shown thereon exist as located; and that the dimensional and geodetic details are correct.
 - (b) The signature of the owner or agent, certifying his adoption of the plan. If an agent is signing a plan on behalf of the property owners, his authority to do so shall be filed on record with the Township and the Montgomery County Recorder of Deed's office.
 - (c) The signature of the Township Planning Commission certifying to the Board of Supervisors approval of the plan on the date shown.
 - (d) The signature of the Township Board of Supervisors.

B. Improvement construction plan (where applicable).

- (1) Drafting standards. The same standards shall be required for an improvement construction plan as for a preliminary plan, except that the horizontal scale of the plan and profile shall not be in excess of 50 feet to the inch and the vertical scale of the plan shall be two feet, five feet or 10 feet to the inch, whichever is most appropriate.
- (2) Information to be shown. The plan shall contain sufficient information to provide working plans for the construction of the proposed roads, or any portion thereof, including all appurtenances, sewers and utilities, as shown on the approved preliminary plan from one existing or approved road to another, or in the case of a cul-de-sac, to its turnaround. Said information shall include:
 - (a) Horizontal plan. The horizontal plan shall show details of the horizontal layout as follows:

- [1] Information shown on the approved preliminary plan.
 - [2] The beginning and end of each stage of construction as applicable.
 - [3] Stations corresponding to those shown on the profile.
 - [4] The curb elevation at tangent points or horizontal curves at road intersections and at the projected intersections of the curblines.
 - [5] The location and size of sanitary sewers and lateral connections with distances between manholes, water, gas, electric and other utility pipes or conduits, storm drains and inlets.
 - [6] The location, type and size of curbs and all paving widths.
 - [7] The location and species of all shade trees and the location and type of fire hydrants and streetlights.
- (b) Profiles. The profile shall be a vertical section of the road with details of vertical alignment as follows:
- [1] Profiles and elevations of the ground along the center lines of proposed roads.
 - [2] Profiles of sanitary sewers with a profile over the sewer and finished ground surface showing manhole location beginning at the lowest manhole.
 - [3] Profiles of storm drains showing manhole and inlet locations.
- (c) Cross section. The cross section shall comply with the Township Engineer's standards and specifications as minimum requirements. It shall show a typical cross section across the road with details of grading and construction as follows:
- [1] The road, location and width of paving within the ultimate right-of-way.
 - [2] The type, depth and crown of paving.
 - [3] The type and size of curb.
 - [4] Location, width, type and thickness of sidewalks.
 - [5] The typical location, size and depths of sewer and utilities.

§ 240-13. Land development plans.

Applicants submitting a land development plan shall be required to show the following in addition to the information required in §§ 240-10 and 240-11:

- A. The zoning classification and applicable requirements with which compliance is necessary for granting final approval.
- B. Man-made features for the use of two or more prospective occupants.
- C. The lot size, floor area and/or gross leasable area as applicable.
- D. The density including the bedroom mix, if applicable.
- E. All roads, parking facilities and pedestrian ways (including the total number of parking spaces).
- F. The areas of common open space or facilities.

- G. A conceptual site utilization layout defining the general location of proposed uses and activities.
- H. Specifications for required improvements and changes to be effected upon the existing terrain or existing structures thereon.
- I. Other information deemed necessary by the Township.

§ 240-14. Plan processing procedures. [Amended 4-2-1992 by Ord. No. 92-1; 11-14-1996 by Ord. No. 96-6]

The following plan processing procedures shall be followed by all applicants for approval of a subdivision or land development plan:

- A. All plans filed for approval shall be submitted in the following order:
 - (1) Tentative sketch plan [optional or as required for subdivision or land development in § 240-8A(1)].
 - (2) Minor subdivision plan (may be submitted in satisfaction of preliminary and final plan requirements).
 - (3) Preliminary plan (includes subdivision improvement construction plan and/or land development plan as applicable).
 - (4) Final plan, record plan (improvement construction plan and/or land development plan, as applicable).
- B. Each plan, whether tentative, minor subdivision, preliminary or final, shall be filed one at a time; no subsequent plans shall be filed until a decision on the preceding plan has been reached.
- C. Formal applications for subdivision or land development shall be received by the Township Secretary at the Township Municipal Building at any time during regular working hours.
- D. The Township Secretary shall note the date received on each Township plan approval application form.
- E. Formal applications (minor subdivisions; tentative sketch plan if required; preliminary or final plan) shall consist of the following: **[Amended 6-14-2018 by Ord. No. 2018-02]**
 - (1) Three completed copies of the Township Plan Approval Application form.
 - (2) Not less than eight legible black-line or blue-line paper prints, and one drawing(s) in digital (.pdf) format and one PDF copy on a disk. If a proposed preliminary plan abuts or traverses a state road, one copy of the plan shall be submitted to be filed with the Pennsylvania Department of Transportation.
 - (3) Five completed copies of the sewage disposal report whenever soil percolation tests are required.
 - (4) Four copies of all other required information, including the proposed erosion and sediment control plan.
 - (5) Four copies of all necessary permits from those governmental agencies from which approval is required by federal or state law.
 - (6) The Township filing fee and an escrow fee as established by the governing body. The escrow fee is intended to cover the costs incurred by the municipality in examining the plans and other expenses that are incidental to the review of the plan. The subdivider shall pay the filing fee and escrow fee at the time of the filing of the application. The subdivider shall be required to replenish the escrow upon notice from the municipality that additional money is necessary to cover the review by the professional consultants/staff of the municipality. Any filing fee charged by the Montgomery County Planning Commission, or any other agency, is not included in the municipal filing fee or escrow. It shall be the responsibility of the subdivider to submit the filing fee charged by the Montgomery County Planning Commission, or any other agency, directly to the Montgomery County Planning Commission, or any other agency.

- (7) Certification that any previously required variances and/or special exceptions have been obtained from the Zoning Hearing Board.
- F. Upon receipt, the Township Secretary shall forward two copies of the plan, along with appropriate fee and review request form, to the Montgomery County Planning Commission and shall forward the remaining six copies to the Township Planning Commission.
 - G. The Township Planning Commission shall distribute copies of the plan for review as follows:
 - (1) Township Planning Commission: three.
 - (2) Township Engineer: one, when applicable.
 - (3) Township Solicitor: one, when applicable.
 - (4) Township Authority: one, when applicable.
 - (5) Review and recommendations by the Township Engineer, Township Solicitor and Township Authority shall be forwarded to the Township Planning Commission within 30 days from the date specified on the approval application form.
 - H. Review and recommendations by the Montgomery County Planning Commission shall be submitted to the Township no later than 30 days from the date specified on the review request form (the date the plans were forwarded to the county).
 - (1) The thirty-day review period shall not begin more than five days prior to the Montgomery County Planning Commission receipt of the request.
 - (2) If no date is noted on the request, the date will be assumed to be two days prior to its receipt by the Montgomery County Planning Commission.
 - (3) A county review shall be considered late only if the date on the county's report is more than the mandated number of days from the date on the review request form, unless a time extension has been granted or the proposal has been temporarily withdrawn. When a county review is late the Township may continue processing the application.
 - (4) When the time clock has been stopped due to a bad check or other valid reason, the days that pass during the stop time shall not count as part of the review period. The time clock will resume counting on the day the problem is resolved; provided, however, that in no case shall there be less than 15 days remaining for the review period. Thus, when less than 15 days remain, the time clock is automatically extended to cover the required 15 days.
 - I. All formal applications for approval of a plan shall be acted upon by the Township Planning Commission and the Board of Supervisors and such decisions shall be communicated to the applicant in writing, within the prescribed time period according to the Pennsylvania Municipalities Planning Code.
 - J. Application for approval of a subdivision or land development plan shall be placed on the agenda of the next regular Township Planning Commission meeting following formal submission of the application. The Township Planning Commission shall advise the applicant of the starting date of the legally prescribed time period for processing the plan as described in Subsection N.
 - K. The applicant, or his agent, shall appear in person at the time the Township Planning Commission reviews the plan.
 - L. If, during the review of the Township Planning Commission, it is determined that a variance and/or special exception is necessary, then the applicant shall apply to the Zoning Hearing Board for such.

- M. The Township Planning Commission shall recommend to the Board of Supervisors, in writing, the reasons for disapproval, approval or conditional approval.
- N. The Board of Supervisors shall act on the plan within 90 days after the date of the next regular meeting of the Township Planning Commission following the date the application is submitted to the Township Secretary. If, however, the next regular meeting of the Township Planning Commission occurs more than 30 days following the submittal of the application, the said ninety-day period shall be measured from the 30th day following the date the application was submitted.
- O. When deemed appropriate, the Township may request the applicant to agree, in writing, to an extension of the time period prescribed. (Such as, but not limited to, time required to secure a variance or special exception or to resolve a design problem, etc.).
- P. If the Board of Supervisors disapproves the plan, the Township Secretary shall notify the applicant in writing, describe the requirements which have not been met and shall cite the provisions of state law or Township ordinance relied upon for such decision. A copy of such notification shall be sent to the Planning Commission. If and when the applicant should reapply requesting approval of the plan, he shall do so in accordance with the plan sequence outlined in Subsection A.
 - (1) If the Board of Supervisors approves a preliminary plan subject to specific conditions, then those conditions shall be accepted in writing by the applicant, otherwise the plan shall be denied approval. Therefore, the written notification to the applicant shall:
 - (a) State the conditions of approval and request the applicant's written agreement to the conditions.
 - (b) State that the application will be denied if the applicant does not agree to the conditions, and specify the defects found in the application, describe the requirements which have not been met, and cite the provisions of the statute or ordinance relied upon for denial of the plan.
 - (c) State the plan approval shall be rescinded automatically upon the applicant's failure to accept or reject the conditions within 30 days following the decision of the Township Board of Supervisors to grant conditional approval.
- Q. If the Board of Supervisors approves the plan, seven copies, two mylar or linen and five paper, shall be signed and sealed by the Board of Supervisors and the Township Planning Commission.
- R. An approval of a plan shall be effective for a period of five years, unless extended by the Board of Supervisors. Where final approval is preceded by preliminary approval, the five-year period shall be counted from date of preliminary approval. No subsequent change or amendment in zoning, subdivision or other governing ordinance or plan shall be applied to adversely affect the right of the applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within five years from such approval.
- S. In addition, where the landowner has substantially completed the required improvements as depicted on the final plan within the five-year limit, or any extension thereof as may be granted by the Board of Supervisors, no change of Township ordinance or plan enacted after the date of the filing of the preliminary plan shall modify or revoke any aspect of the approved final plan pertaining to zoning classification or density, lot, building, road or utility location.
- T. If the development is proposed in phases in which the installation of improvements shall extend beyond the five-year period, then the following shall be done:
 - (1) The landowner shall file a schedule along with the preliminary plan. Said schedule shall depict the proposed development sections and include deadlines within which application for final plan approval of each section is intended to be filed. The schedule shall be updated annually by the applicant on or before the anniversary date of preliminary plan approval. The schedule update must be done until final

plan approval for the final section is granted. Said schedule and its modifications are subject to approval of the Board of Supervisors.

- (2) In the case of residential subdivisions or land developments which are to be developed in sections, each section, except the final section, must contain at least 25% of the total number of dwelling units in the entire development. However, the Board of Supervisors may approve a lesser percentage.
- (3) If the landowner does not adhere to the schedule of submission of final plans for the various sections, then any changes in zoning, subdivision or other governing ordinances enacted after the date of initial preliminary plan submission shall affect his property.
- (4) If the landowner does not default with regard to the schedule of submission of final plan for the various sections, has not violated any conditions of preliminary approval and has substantially completed the initial section of the development within the five-year period, then an additional term or terms of three years shall be extended to the applicant, to complete each of the other sections. The extended term or terms shall begin from the date of final plan approval for each section. During this three-year period no change in Township ordinance or plan enacted subsequent to the date of filing of the preliminary plan shall modify or revoke any aspect of the approved final plan pertaining to zoning classification or density, lot, building, road or utility location.

- U. If the Board of Supervisors determines that only a portion of a proposed plan can be safely developed, it shall limit development to that part and shall require that development proceed consistent with this determination.
- V. When the applicant does not intend to develop the plan himself and the Board of Supervisors determines that additional controls are required to insure safe development, it may require the applicant to impose appropriate deed restrictions on the land. Such deed restrictions shall be inserted in every deed and noted on the record plan.
- W. The approval of a subdivision or land development plan near or within the floodplain shall not constitute a representation, guarantee or warranty of any kind by the Township or by any official or employee thereof of the practicability or safety of the proposed plan and shall create no liability upon Upper Frederick Township, its officials or employees.
- X. Usual land development processing procedures required herein shall be waived for elder cottage applications processed through the Zoning Hearing Board in accordance with § 285-76, Elder cottages, of Chapter 285, Zoning. No additional review beyond that conducted by the Zoning Hearing Board is required.

§ 240-15. Recording of plan.

Upon approval of a final plan of subdivision or land development, the applicant shall within 90 days of such final approval record such plan in the Office of the Recorder of Deeds of Montgomery County, Pennsylvania. The approved final plan shall bear the official signature and seal of Upper Frederick Township, and the review stamp of the Montgomery County Planning Commission prior to recording.

§ 240-16. Exceptions. [Added 5-8-1986 by Ord. No. 86-1; amended 8-13-1998 by Ord. No. 98-4]

Usual land development processing procedures required herein shall be waived for residential conversion applications processed through the Upper Frederick Township Zoning Hearing Board in accordance with § 285-69, Residential conversions, of Chapter 285, Zoning, and no additional review beyond that conducted by the Upper Frederick Township Zoning Hearing Board shall be required.

ARTICLE IV
Design Standards

§ 240-17. Principles, general requirements and minimum design standards. [Amended 8-13-1998 by Ord. No. 98-4]

The following principles of subdivision and land development, general requirements and minimum standards of design shall be observed by the applicant in all instances:

- A. All portions of a tract being subdivided shall be designated as lots, roads, public lands or other land uses.
- B. Whenever possible, applicants shall preserve scenic points, historic sites and other community assets and landmarks as well as natural amenities such as mature trees and waterways.
- C. Subdivisions and land developments should be laid out so as to avoid excessive cut or fill.
- D. Applicants shall observe the ultimate rights-of-way for contiguous existing roads as prescribed in this chapter. Additional portions of the corridors for such roads shall be offered to the government agency having jurisdiction at the time the subdivision or land development is consummated. Applicable building setback lines, as defined by Chapter 285, Zoning, shall be delineated as measured from the ultimate right-of-way lines.
- E. The standards of design in this chapter will be used to judge the adequacy of subdivision and land development proposals. The standards included in these regulations are minimum design requirements. The Township Board of Supervisors reserves the right, in any case, to request that development features exceed these standards if conditions so warrant.
- F. The Township Board of Supervisors may modify or adjust the standards of this chapter to permit reasonable utilization of property while securing substantial conformance with the objectives of the regulations.
- G. Floodplain land shall not be subdivided or developed except in accordance with the floodplain regulations set forth in Chapter 285, Zoning.
- H. Improvement construction requirements will be completed under specifications of the Pennsylvania Department of Transportation, the Pennsylvania Department of Environmental Protection, the Montgomery County Soil and Water Conservation District, and other appropriate agencies. In the event of conflict, the specifications contained in this chapter shall govern.
- I. The developer or builder shall construct and install, at no expense to the Township, the roads, curbs, sidewalks, water mains, sanitary and storm sewers, streetlights, fire hydrants, road signs, shade trees, monuments and other facilities and utilities specified in this chapter. Construction and installation of such facilities and utilities shall be subject to inspection by appropriate Township officials during the progress of the work and the subdivider shall pay for inspection.

§ 240-18. Recommendation by Planning Commission.

The standards of design in this chapter shall be used to judge the adequacy of subdivision proposals. Whenever the literal application of these standards would cause undue hardship or be plainly unreasonable, the Township Planning Commission may recommend to the Township Board of Supervisors such reasonable modifications as will not be contrary to public interests.

- A. The standards included in these regulations are minimum design requirements.
- B. Developers and subdividers shall, if deemed necessary by the Township Board of Supervisors upon the recommendation of the Township Planning Commission, provide areas and easements for schools and other public buildings, parks, playgrounds, playfields, rights-of-way and easements for storm and sanitary sewer

facilities in any area that cannot immediately be joined to the existing storm and sanitary sewer systems of the Township.

§ 240-19. Roads. [Amended 5-9-2002 by Ord. No. 02-07]

Unless specified otherwise by the Board of Supervisors, all new roads or widened portions of all existing public rights-of-way intended for public use, shall be dedicated to the Township. However, where a development abuts a state or county owned right-of-way, the applicant shall request the appropriate agency to accept dedication.

A. Road system.

- (1) Conformance with adopted plans. The proposed road pattern shall conform to existing roads, to the Township Road Map, and to such county and state road and highway plans as have been duly adopted.
- (2) Arrangement. Roads shall be arranged in a manner to allow proper development of surrounding properties in relation to both existing and planned roads.
- (3) Conformity with topography. Roads shall be adjusted to the contour of the land so as to produce usable lots and roads of reasonable grade, alignment and drainage.
- (4) Grading. Roads may be graded to the full width of the ultimate right-of-way and provision made for slopes beyond the ultimate right-of-way in conformance with Township specifications.
- (5) Provisions of roads for future development. Access shall be given to all lots and portions of the tract in the subdivision and to adjacent unsubdivided land. Roads giving such access shall be improved to the limits of the subdivision. Remnants, reserve strips and land-locked areas shall not be created.
- (6) New roads. New roads shall be designed to continue existing roads at equal or greater right-of-way and cartway width, where practical.
- (7) Dead-end roads. Dead-end roads are prohibited, unless designed as culs-de-sac or designed for future access to neighboring tracts in accordance with the requirements of § 240-37.
- (8) Road names. Continuations of existing roads shall be known by the same name. Names for new roads shall not duplicate or closely resemble names of existing roads. All road names are subject to the approval of the Township Planning Commission and the Board of Supervisors.
- (9) Half-roads. The dedication of half-roads at the edges of a new subdivision is prohibited. If circumstances render this impracticable, adequate provisions for the concurrent dedication of the remaining half of the road must be furnished by the subdivider, developer or builder.

B. Road alignment.

- (1) Sight distance on horizontal and vertical curves. Proper sight distance shall be provided with respect to both horizontal and vertical alignments. Measured along the center lines of the road and at the driver's eye height of four feet, sight distance shall be 800 feet for primary roads, 900 feet for secondary roads and 200 feet for local residential roads.
- (2) Horizontal curves shall be used at all changes in direction in excess of 1°. Long radius curves shall be used rather than a series of curves connected by short tangents. In all cases, long radius curves are encouraged. Minimum radius curves at the ends of long tangents shall be as follows:
 - (a) Curvature. The minimum radius at the center line for horizontal curves on semi-controlled roads shall be 300 feet, on secondary roads 200 feet and on all other roads 150 feet.
 - (b) Tangents between curves. Except for local roads, there shall be a tangent of at least 100 feet measured at the center line between reverse curves.

- (c) Vertical curves. Vertical curves shall be used at changes in grade of more than 1%. The length of the curve shall be approximately 50 feet on secondary roads and 25 feet on all other roads for each 1% of change in grade. Over summits or in sumps, vertical curves shall not produce excessive flatness in grade. The high or low point on a vertical curve shall be definitely and clearly shown.

C. Road grades.

- (1) There shall be a minimum grade of at least 1% on all roads.
- (2) Maximum grade. Grades in excess of 5% shall be avoided whenever possible. For distances of not more than 1,500 feet there shall be a maximum grade of 7% on primary and secondary roads and 10% maximum on all other roads. The grade shall be measured along the center line.
- (3) Curve-grade combinations. Combinations of minimum radius horizontal curves and maximum grades shall not be permitted.
- (4) Road intersections. The grade within 50 feet of any side of an intersection or the outer perimeter of a cul-de-sac shall not exceed 4%. The grade shall be measured along the edge of the cartway.
- (5) Road grading. All roads shall be graded to the grades shown on the road profile and cross-section plan submitted and approved with the preliminary plan of subdivision and land development. They shall be inspected and checked for accuracy by the Township Engineer.

D. Classification of roads.

- (1) Class of roads. All roads shall be classified as one of the following: semi-controlled access, feeder, residential/rural, rural, cul-de-sac.
 - (a) Semi-controlled access highways which place lesser restrictions on the access of adjacent property owners by providing more frequent access points at grade-level intersections (e.g. with secondary streets, marginal access streets, etc.). They shall have a minimum right-of-way of 90 feet, appropriately widened at intersections for turning lanes, channelization, etc., and may contain:
 - [1] Four two-foot travel lanes.
 - [2] Two eight-foot shoulders.
 - [3] An appropriate median.
 - (b) Feeder roads shall be those which are used as connecting and through roads to serve residential areas and to connect residential roads to semicontrolled access highways and community facilities, with light traffic volumes. They shall have a minimum right-of-way of 60 feet. Construction of the road, curbing and sidewalk shall be in accordance with specifications hereinafter included.
 - (c) Residential/rural roads shall be those which are used strictly to serve residential areas and do not serve as through roads in development. They shall have a minimum right-of-way width of 60 feet. Where on-road parking is to be permitted, paving width shall be 30 feet. Construction of the street, curbing and sidewalk shall be in accordance with specifications hereinafter included.
 - (d) Rural roads. Rural roads are those not qualifying under any of the other classifications, and on which at least 75% of all road frontage consists of lots greater than two acres, with minimum lot widths of 200 feet. Rural roads shall have a minimum right-of-way of 50 feet and a minimum paved cartway of 18 feet.
 - (e) Cul-de-sac roads shall be those roads with one end open for vehicular access and the other end terminating in a vehicular turnaround and shall be defined as follows:

- [1] Temporary culs-de-sac are those constructed to an abutting property line with the intention that such road will be extended onto the adjoining property at a future date as a logical step in the circulation network of the neighborhood, superbloc or area. Temporary culs-de-sac shall be required by the Supervisors when conditions so warrant. Temporary culs-de-sac shall be governed by the same design standards as permanent culs-de-sac.
- [2] Permanent culs-de-sac provide access only to abutting lots within the tract being subdivided or developed. A permanent cul-de-sac:
 - [a] Shall be constructed to the specifications of street curbing and sidewalks hereinafter included in these standards for residential roads.
 - [b] Shall have a minimum right-of-way of 50 feet, a circular turnaround with a minimum right-of-way radius of 55 feet and an outer parking radius of 40 feet.
 - [c] Shall not be approved as part of a four-way intersection or as a continuation of a through road, unless special conditions warrant approval of either of the above by the Board of Supervisors.
 - [d] Shall not be approved when a through road is practicable.
 - [e] Shall not be less than 250 feet nor more than 800 feet in length, measured from the near side of the cartway of the intersecting road to the farthest point of cartway of the turnaround, nor serve more than 10 dwelling units, unless special conditions warrant approval by the Supervisors.
 - [f] Where it is proposed that a road be constructed to an abutting property line with the intention that such road will be extended onto the adjoining property at a future date, the temporary terminated cul-de-sac shall be constructed in the same manner as one permanently terminated; including the right-of-way width. Construction of the street curbing and sidewalk shall be in accordance with specifications hereinafter included in these standards.
- (2) Standard road widths. The minimum widths of the ultimate right-of-way (UROW) and the paving widths and the requirements for curbing shall not be less than the following:

Type of Road	UROW Width (feet)	Paving Width (feet)	Paving with Curbing (feet)
Semi-controlled access	90	24 to 48	40
Feeder	60	24	40
Residential	50	22	28
Cul-de-sac road ¹	50	20	28
Rural	50	18	28

NOTES:

¹Turnaround dimension found in § 240-19D(1)(e)[2][b].

- (3) Road widths in excess of standard. The Board of Supervisors may also require widths in excess of the standards for the following reasons:
 - (a) Where necessary for additional lanes for traffic volume, additional street parking, public safety and convenience.

- (b) For parking.
- (c) In addition, the Board of Supervisors may also require curbing for public safety, convenience, storm drainage and erosion control.
- (4) Road shoulders. All roads constructed without curbs shall have shoulders of a minimum width of eight feet and stabilized to control drainage and erosion.
- (5) Right-of-way dedication. The area between an existing right-of-way line and the ultimate right-of-way line should be offered for dedication to the authority having jurisdiction over the road when land is subdivided or developed along an existing right-of-way.
- (6) Right-of-way use restrictions. No fences, hedges, trees, shrubbery, walls, plantings or other obstructions shall be located or permitted within the right-of-way except for ground covers such as grass, ivy, crown-vetch or horizontally spreading walls necessitated by road widening and constructed by the authority having jurisdiction over the road.

E. Traffic circulation.

- (1) Islands, median strips. Channelization may be required in any area where traffic volumes warrant their use for safety and efficiency, and may be permitted in any area at the discretion of the Board of Supervisors. Such devices on state roads must meet or exceed the requirements of the Pennsylvania Department of Transportation.
- (2) Marginal access roads.
 - (a) These roads serve as minor access to adjacent properties on only one side of the road. This type of road runs parallel with and adjacent to a road of feeder or greater classification and serves to reduce the number of access points which intersect the larger road, thereby increasing the efficiency and safety of traffic flow along the major road while providing adequate access to abutting development.
 - (b) For development on all roads of feeder or greater classification, the Township reserves the authority to require a marginal access road, onto which individual driveways will have access.
 - (c) All marginal access roads shall consist of an additional right-of-way abutting and measured from the ultimate right-of-way line of the major road as defined by the Township Official Map Summary. The right-of-way shall contain the features listed below, in the order listed, moving upward from the ultimate right-of-way line of the major, parallel road:

	Minimum Grass Strip (feet)	Cartway Width (feet)	Number of Type of Lane	Total ROW (feet)	Parking
Industrial	5	28	2 to 12 travel lane	40	Not allowed
Commercial	5	24	2 to 12 travel lane	40	Not allowed
Single-family 2-way	5	28	2 to 10 travel lane 1 to 8 parking lane	40	Allowed one side
Single family	5	18	1 to 10 travel lane 1 to 8 parking lane	30	Allowed one side

- (d) Marginal culs-de-sac will meet marginal street regulations with a standard cul-de-sac turnaround at the closed end.

- (e) Where marginal access roads form a necessary leg of another classification of road, they shall be governed by the regulations of the other road classification.
- (3) If marginal access roads are not warranted, joint access driveways between lots should be provided from the cartway edge to the ultimate right-of-way line at a minimum and preferably further; provided, however, that in no case shall the length of the combined driveway be less than 25 feet.
- (4) For any driveway access provided on all roads of feeder or greater classification where a marginal access road is not warranted, a turnaround area for vehicles shall be provided.

F. Road intersections.

- (1) Number of intersections. No more than two roads shall cross at the same point. Four-way intersections are to be avoided in the layout of minor roads in residential areas when three-way or "T" intersections can be utilized. When existing roads intersect at odd angles, or have more than four approaches, the subdivider, developer or builder shall be required to make corrective changes to eliminate the odd angles or reduce the number of approaches to the intersection by curving the lesser road.
- (2) Minimum angle of intersection. Right angle intersections shall be used whenever practicable, there shall be no intersection angle, measured at the center line, of less than 60° minimum.
- (3) Center line. Where center line of streets open into opposite sides of a major artery within 100 feet of each other, they shall be made to coincide by curving the minor roads.
- (4) Minimum spacing of intersections on the same side of a road shall be a minimum distance equal to the depth of two lots of minimum width of a given district. Intersections on the same side of a semi-controlled access highway or feeder road shall be a minimum of 500 feet apart.
- (5) Sight distance. Proper sight lines should be maintained at all intersections of roads. There shall be measured along the center line a minimum clear sight triangle of 75 feet from the point of intersection. No building, trees, hedge, shrubbery or other obstruction whatsoever will be permitted in this area. Any obstruction to sight distance shall be removed at the time a building or structure is erected, whichever shall first occur.
- (6) Approach criteria. All approaches to an intersection shall not exceed 4% for a distance of 50 feet measured from the nearest right-of-way line of the intersecting road and shall follow a straight horizontal course for 100 feet.
- (7) Radii of pavement and right-of-way at intersections. Road intersections shall be rounded with tangential arcs at pavement edge (curbline) and right-of-way lines as listed below. Where two roads of different right-of-way width's intersect, the radii of curvature for the widest road shall apply. The pavement edge (or curbline) radius and ROW radius should be concentric when possible.

Type of Road	Minimum Radius of Arc at Intersection of Pavement Edge or Curbline (feet)	Minimum Radius of Arc at Intersection of Right-of-Way Line (feet)
Semi-controlled access	40 (or more as may be required)	20
Feeder	30	20
Residential	25	15
Cul-de-sac	25	15
Rural	25	15

G. Road construction standards. All public streets of any new subdivision or land development shall be built to the standards and specifications contained herein, and to applicable State and Federal Highway Department specifications (e.g., Pennsylvania Department of Transportation Specifications, Publication 408, latest revision).

(1) Subgrade.

- (a) The area within the limits of the proposed road surface shall be shaped to conform to the line, grade and cross-section of the proposed road.
- (b) All unsuitable subgrade materials shall be removed or stabilized.
- (c) Encroachment into wetland areas or the Floodplain Conservation District, where unavoidable, shall be done only after all required permits for such encroachment are obtained from Pennsylvania DEP, FEMA, U.S. Army Corps of Engineers or other agency having jurisdiction over such areas. Where permitted, such areas shall be permanently drained and stabilized. When deemed necessary by the Township Engineer, subbase drains shall be installed during construction. The proposed method of subgrade preparation for such areas shall be detailed on the Subdivision or Land Development Plan.
- (d) Fill material shall be suitable and thoroughly compacted for its full width, including shoulder areas, in uniform layers of not more than eight-inch thickness.
- (e) In fill areas over three feet thick, compaction tests are required in each eight-inch layer at one-hundred-fifty-foot intervals. The tests must be performed by a certified testing laboratory and results submitted to the Township Engineer. All compaction must be 100% of the maximum modified proctor density. Any layer not meeting this standard shall be removed or re-rolled until suitable compaction is obtained.
- (f) The subgrade beneath cartways, shoulders and sidewalks shall be thoroughly compacted to not less than 100% of the maximum modified proctor density.
- (g) Backfill of trenches within the cartway and curb area shall be thoroughly compacted before application of the base course. Refer to § 240-19G(6) for trench backfill specifications.
- (h) Before application of succeeding courses, the subgrade shall be checked and approved by the Township Engineer for lines, grade, crown, contour, suitable materials and compaction.
- (i) Crown board and straight edge shall be used for checking road and street construction. Maximum deviation shall not exceed 1/4 of an inch.

(2) Base course.

- (a) Base course shall consist of five inches compacted thickness Superpave Bituminous Concrete Base Course (BCBC), installed on top of eight inches of PennDOT-approved subbase material. **[Amended 2-8-2007 by Ord. No. 2007-03]**
- (b) The base course shall be rolled uniformly and thoroughly compacted according to the requirements of PennDOT Publication 408. Rolling shall continue until the materials do not creep or wave ahead of the roller wheels.
- (c) The base course shall extend 12 inches beyond the edge of paving on all streets constructed without a curb.
- (d) No base material shall be placed on a wet or frozen subgrade.

(3) Bituminous surface.

- (a) Bituminous material shall be Superpave with two inches of binder course and 1 1/2 inches of wearing course. **[Amended 2-8-2007 by Ord. No. 2007-03]**
 - (b) When required by the Township Engineer, a tack coat shall be applied.
 - (c) The completed road surface shall have a uniform slope of 1/4 inch per foot from center line to edge. On super-elevated curves, this slope shall not be less than 1/4 inch per foot, and shall extend up from the inside edge to the outside edge of the paving.
 - (d) No visible moisture shall be present before the laying of each course. The road surface temperature shall be at least 50° F., with the air temperature rising, before laying of the bituminous surface.
 - (e) At their junctures with curbs, existing streets and driveways, all wearing surface courses shall be sealed with a one-foot wide PG64-22 liquid asphalt gutter seal. **[Amended 2-8-2007 by Ord. No. 2007-03]**
 - (f) Application of all bituminous layers of roadway paving shall require full-time inspection by the Township, or its authorized representative.
 - (g) The wearing course shall not be installed until approval to do so is granted by the Board of Supervisors. It is the objective of the Township to delay installation of the wearing course until a significantly high percentage of residential dwellings, nonresidential structures or site improvements have been constructed.
 - (h) Failure to adhere to the above specifications shall give the Supervisors cause to refuse to accept roads for dedication.
- (4) Upper Frederick Township shall be provided with delivery slips for all materials used in the construction of streets.
- (5) Grading and shoulders.
- (a) Supporting shoulders shall be constructed on all sections of projects where a base course or pavement is to be constructed without other permanent support along the sides.
 - (b) Roadways shall be graded for not less than eight feet beyond the edge of the proposed paving on each side. This grading width shall be increased as necessary where sidewalks and/or planting strips are to be provided. Shoulders shall be compacted and graded with a slope of one inch per foot. Beyond the limits of this grading, banks shall be sloped to prevent erosion, but this slope shall not exceed one vertical to three horizontal, with tops of slopes in cuts rounded. Steeper slopes shall be permitted only where excessive cut or fill would otherwise be required, a professional engineer certifies the soil stability and the Township Engineer approves the design.
 - (c) For swales constructed between the pavement edge and the right-of-way line, cut slopes shall be limited to one vertical to two horizontal, and fill slopes shall be limited to one vertical to three horizontal.
- (6) Backfilling of road excavations. All trenches or other excavations in existing or proposed roads shall be backfilled in accordance with the following:
- (a) Backfilling shall be done as promptly as possible.
 - (b) The trench shall be backfilled with coarse aggregate consisting of screenings, 2RC, 2A modified or other aggregate as approved by the Township Engineer, to a height of at least one foot above the top of the conduit, pipe or pipe bell. These screenings shall be free from refuse, boulders, rocks, unsuitable organic material or other material which, in the opinion of the Township, is unsuitable.

- (c) When the pipe is located in a dedicated street or any place where paving (including driveways) may be placed, the remainder of the trench shall be backfilled with 2RC or other approved materials and promptly compacted. The backfill material shall be mechanically tamped in approximately six-inch layers.
 - (d) Permits shall be obtained before paving is opened in any existing state or Township road. Where openings have been made in existing Township roads, paving shall be restored in accordance with the paving standards contained in the Code of Ordinances. Openings made in state roads shall be restored in accordance with PennDOT specifications.
 - (e) Openings made behind the curblines shall be backfilled to a depth of six inches below the original ground surface. The remaining six inches shall be filled with good topsoil and seeded or sodded to the satisfaction of the Township Engineer.
 - (f) Whenever the trenches have not been properly filled or if settlement occurs, they shall be refilled, compacted and graded to conform to the surface of the ground.
 - (g) Frozen earth shall not be used for backfilling, nor shall any backfilling be done when materials already in the trench are frozen.
 - (h) Where excavated material, or any portion thereof, is deemed by the Township Engineer to be unsuitable for use as backfill, the applicant or applicant's agent shall replace backfill material with material approved by the Township.
- (7) The applicant shall notify all emergency service agencies when construction will affect accessibility on existing roads.

§ 240-20. Service drives; alleys; driveways; and parking areas. [Amended 4-2-1992 by Ord. No. 92-1; 6-13-2013 by Ord. No. 2013-03]

A. The following requirements for service drives, alleys, driveways and parking areas shall apply, except in the TND option within a continuing care retirement community:

- (1) Service drives.
 - (a) Alleys are prohibited in all zoning districts, except in the TND option within a continuing care retirement community, where alleys shall be designed in accordance with the standards in § 240-20B.
 - (b) In commercial and industrial districts, without expressly designated loading areas, service drives with a minimum paved cartway width of 20 feet shall be required. Where such service drives dead end, they shall be provided with a turnaround having a radius of not less than 25 feet. Where tractor trailers are to be accommodated, additional space for maneuvering shall be provided.
 - (c) Paving. The paving requirements shall be the same as for street paving.

(2) Driveways.

(a) Location.

[1] Driveways shall be located in a manner not to endanger roadway traffic. Driveways shall be located at least 40 feet from a road intersection, unless the lot width for the zoning district prohibits such. Access shall be provided to the road of lesser classification when there are roads of different classes involved. Safe stopping sight distance and posted speed limits shall also be used as design criteria for driveway location. Verified roadway speeds may be used where the speed limits are not posted.

[2] The Township Supervisors shall use the following criteria to guide them in determining driveway access to feeder and higher-classification roads. The Supervisors may use more-restrictive criteria when required.

[a] Driveway accesses shall be at least 200 feet apart.

[b] No more than five lots may have direct access to a feeder and higher-classification road. All the road frontage shall be considered a part of this requirement for lands held in single ownership.

[c] Alternates to be considered for larger subdivisions shall be as follows, subject to the approval of the Township Board of Supervisors upon recommendation of the Planning Commission:

[i] Provide reverse-frontage interior roads to be built according to standards for subdivision roads.

[ii] Provide marginal access roads as per § 240-19.

(b) Design and construction criteria.

[1] The driveway shall have a minimum width of 10 feet with a fifteen-foot width used at the entrance and over the pipe or swale. A radius return of five feet minimum shall be used at the driveway entrance. Where curb is involved, the curb depression shall be two feet wider than the driveway and depressed 1 1/2 inches above the gutter line.

[2] The driveway profile shall not exceed 4% within 20 feet of the edge of pavement and shall be no less than 1%. Beyond this point, the driveway slope shall not exceed 13%. The pavement cross slope shall be 3/8 inch per foot.

[3] All drives shall be paved from the cartway to a point 10 feet beyond the legal right-of-way. This may be extended by the Township for long drives and areas of drainage problems. Paved driveways shall consist of two inches' minimum depth Superpave wearing course material on four-inch minimum depth PennDOT-approved subbase material.

[4] The Township, upon field inspection, shall determine whether a pipe shall be used under the drive. The pipe, when required, shall be determined by drainage computations using a five-year storm frequency. The minimum pipe size shall be 15 inches, and it can be either corrugated galvanized metal pipe or concrete pipe. The pipe shall be located at least six feet from the edge of pavement unless field conditions, upon Township inspection, indicate modification of this criteria. The minimum length of pipe shall be 20 feet or extend at least two feet on each end beyond the edges of the driveway pavement.

[a] When swales are used, the gutter shall be at least six inches lower than the edge of pavement and six feet from the edge of pavement. This criteria may be modified by the Township if field conditions dictate such.

[5] Driveways for other than single-family residential use shall be designed in accordance with all the criteria for residential streets with the exception of right-of-way requirements.

[6] Frontages of 150 feet or less shall be limited to one driveway. Exceptions may be made where the frontage exceeds 300 feet in length. Normally not more than two driveways need to be provided to any single property tract or business establishment.

(c) Administration.

[1] No building permit shall be issued nor any occupancy permit shall be issued as to any

improvement or improvements in any district in this Township until the application for a driveway permit shall have been made, in writing, and a permit approved by the Township authorities, or other authority which may have jurisdiction over the road.

[2] In the event of any faulty, defective or inadequate installation or design which does or is apt to impede the free flow of surface water across or under any such entranceway or render the entranceway or the public way unsafe to travel over the same, and upon certification from the Township Engineer and after written notice to the property owner or tenant in possession, the same shall be repaired or removed, and pipe of adequate design, strength and size shall be provided by the owner within 45 days of such notice. All such installations shall be made only after obtaining a permit in accordance with other provisions of this chapter, and as the same may be amended hereafter, and at the owner's sole expense.

[3] Every permit issued for such underground installation or swale, as the case may be, shall be conditioned upon the agreement by the property owner in the application, and it shall be set forth upon the permit, that the property owner undertakes and agrees, for himself, his heirs, executors, assigns and/or successors, to maintain the same without expense to the Township at all times in a safe and usable manner.

(3) Parking areas.

- (a) Automobile parking facilities shall be provided off roads, whenever reasonable, in accordance with the requirements of this chapter and Chapter 285, Zoning.
- (b) At no time shall angle or perpendicular parking along the curbs of local, public or private access roads be permitted, except where permitted by Township ordinance. All parking lots and bays allowing any parking other than parallel shall be physically separated from the cartway by a minimum of seven feet and confined by barrier curbing.
- (c) No one area for off-street parking of motor vehicles in residential areas shall exceed 30 cars in capacity. Separate parking areas on a parcel shall be physically separated from one another by ten-foot planting strips.
- (d) No less than 20 feet of open space shall be provided between the curblines of any parking area and the outside wall of the dwelling unit in residential areas.
- (e) No parking shall be permitted within 10 feet of any property line, therefore providing a sufficient buffer area which shall include a planting screen required in § 240-37 of this chapter.
- (f) In commercial and industrial districts, provision of "common parking facilities" is hereby encouraged in recognition of their increased flexibility and efficiency. Subject to formal legal arrangements between the proposed users of the common parking facilities, satisfactory to the Township, the Zoning Hearing Board may reduce the aggregate amount of required parking space upon determination that greater efficiency is effected by joint use of the common parking area. When common parking facilities are approved, side and/or rear yard parking requirements may be waived in order to establish unified and continuous parking areas. In such cases, access drives and sidewalks shall be so aligned as to maximize parking efficiency and minimize traffic congestion. Entrances and exits must have good visibility so that, both going in and coming out, drivers can see and cars can be seen.
- (g) Parking stall dimensions shall be not less than 10 feet in width and 20 feet in depth. Ten percent of the total stall area may be maintained in grass, provided that such grass area shall be separated from the paved area by a suitable car wheel stop or bumper, as approved by the Township Engineer.
- (h) Screen planting requirements shall be applicable to parking lot facilities, along the area fronting

roads and along the area adjacent to other properties.

- (i) All dead-end parking lots should be designed to provide sufficient back-up area for the end stalls.
- (j) No less than a five-foot radius of curvature shall be permitted for all curblines in all parking areas.
- (k) Parking lot dimensions shall be no less than those listed in the following table:

Angle of Parking (degrees)	Parking Stall		Aisle Width	
	Depth (feet)	Width (feet)	1-Way	2-Way
90°	20	10	25	25
60°	21	10	18	20
45°	19	10	15	18

B. The following requirements shall apply for access drives, alleys and parking for the TND option within a continuing care retirement community:

(1) General.

- (a) The provisions of this § 240-20B shall apply to access drives, alleys and parking areas in a traditional neighborhood design option within a continuing care retirement community development.
- (b) In the event of a conflict between the provisions or requirements of this § 240-20B and any other provision of this chapter, the provisions of this § 240-20B shall apply.
- (c) In furtherance, but not in limitation, of Subsection B(1)(b) above, alleys, as classified and defined in Subsection B(2)(c) below, shall be permitted in accordance with the provisions of this § 240-20B.

(2) Access drives and alleys.

(a) General.

- [1] The provisions of this § 240-20B(2) shall apply to access drives and alleys in a traditional neighborhood design option within a continuing care retirement community development.
- [2] Except as otherwise provided in this § 240-20B(2), all provisions established for roads in § 240-19 shall apply to access drives and alleys in a traditional neighborhood design option within a continuing care retirement community development.

(b) Traffic system.

- [1] Alleys shall be permitted to service only residential areas within the TND option within a CCRC.
- [2] All access drives and/or alleys shall be considered a private improvement within the TND option within a CCRC, not intended for dedication to the Township at any time.
- [3] All access drives and/or alleys shall be constructed using six inches of PennDOT-approved subbase material, a four-inch Superpave bituminous concrete base course, and a one-and-one-half-inch Superpave wearing course.
- [4] On-street parking along the sides of access drives and alleys shall be allowed as provided in

the Table of Design Standards and Specifications in Subsection B(2)(d) below.

(c) Classification of access drives and alleys.

[1] Access drive. An access drive shall serve as the primary means of circulation throughout the TND option within a CCRC. Access drives shall be used as through roads to serve residential areas and to connect with public streets.

[2] Alley. An alley provides a vehicular means of access solely to the side or rear of dwelling units in a TND option within a CCRC.

(d) Standard dimensions. The following Table of Design Standards and Specifications shall apply to access drives and alleys in a traditional neighborhood design option within a continuing care retirement community development:

Design Standards and Specifications							
Street Type	Cartway Width	Travel Lanes	On-Street Parking	Sidewalk	Grass Strip	Curb Radii	
	(feet)		(number of sides)	(feet)	(feet)	Curb	(feet)
Access Drive 1	22	2	None	4 minimum	4 minimum	Yes	25
Access Drive 2	26	2	1	4 minimum	4 minimum	Yes	25
Alley 1	12	1	None	No ¹	N/A ²	No	15
Alley 2	16	2	None	No ¹	N/A ²	No	15

NOTES:

¹ Dwelling units shall front on access drives or common open space and, therefore, will be served by the required sidewalks along those access drives or by a pedestrian sidewalk network throughout the open space areas.

² Sidewalk is not required along alleys, which eliminates the ability to provide a grass strip. Grass cover shall be maintained up to the cartway in all areas, with the exception of residential driveways and parking spaces.

(e) Access drive and alley alignment.

[1] Sight distance. Proper sight distance shall be provided with respect to both horizontal and vertical alignments. Measured along the center lines of access drives and alleys from the driver's eye height of four feet, sight distance shall be 200 feet for access drives and 80 feet for alleys providing two-way circulation.

[2] Horizontal curves. Horizontal curves shall be used at all changes in direction in excess of 1°. Minimum radius curves at the ends of tangents shall be as follows:

[a] Curvature. The minimum radius at the center line for horizontal curves on access drives shall be 125 feet. The minimum radius for alleys shall be 50 feet.

[b] Tangents between curves. There shall be a tangent of at least 100 feet, measured at the center line between reverse curves, for all access drives. The minimum tangent between reverse curves for alleys shall be 50 feet.

[3] Intersection separation. Alley and access drive intersections shall be aligned or at a minimum spacing as follows:

[a] Access drive to access drive: 125 feet.

[b] Alley or access drive to alley: 100 feet.

[4] Intersection approach distance. All approaches to an intersection shall not exceed 4% for a distance of 50 feet measured from the nearest intersection. A straight horizontal course shall also be provided for the following minimum distances:

[a] Access drive: 100 feet.

[b] Alley: 50 feet.

[5] Clear sight triangle. Proper sight lines shall be maintained at all intersections for access drives and alleys by providing a clear sight triangle. No building, trees, hedge, shrubbery or other obstruction whatsoever will be permitted in this area. Measured along the center line from the point of intersection, a minimum clear sight triangle shall be provided for the following minimum distances:

[a] Access drive: 75 feet x 75 feet.

[b] Alley: 20 feet x 105 feet.

(3) Parking areas.

(a) General.

[1] The provisions of this Subsection B(3) shall apply to parking areas in a traditional neighborhood design option within a continuing care retirement community development.

[2] Except as otherwise provided in this Subsection B(3), all provisions established for parking areas in § 240-20A shall apply to driveways and parking areas in a traditional neighborhood design option within a continuing care retirement community development.

(b) Parking areas.

[1] Parking to building separation shall be:

[a] Three or more contiguous parking spaces: 20 feet minimum.

[b] Less than three contiguous parking spaces: none.

[2] Angle or perpendicular parking shall be permitted along access drives which are not proposed for dedication to the Township and shall:

[a] Be located a minimum of 30 feet from intersections.

[b] Contain a maximum of 10 contiguous spaces.

§ 240-21. Sidewalks and curbs.

A. Sidewalks.

(1) Sidewalks shall be provided along all roads in the R-30, CB, Cluster and Planned Residential Zoning Districts, except where in the opinion of the Board of Supervisors they are not necessary for the public safety and convenience.

(2) Sidewalks shall not be less than four feet in width in residential areas. A greater width may be required in areas in which multifamily developments, commercial or industrial buildings are located, or as deemed necessary by the Board of Supervisors.

- (3) Sidewalks shall be located between the curb and public road right-of-way line four feet from the curbline. The grade and paving of the sidewalk shall be continuous across driveways except in certain cases where heavy traffic volume dictates special treatment.
- (4) Crosswalks not less than 10 feet in width, and with concrete or asphalt paving not less than four feet wide may be required where necessary to provide access to schools, churches, parks and commercial areas. They shall be maintained by the abutting property owners in the same manner as sidewalks on public roads. However, driveway aprons shall be constructed of six-inch thick concrete with one layer of six inch by six inch #9 wire mesh for reinforcement.
- (5) Sidewalks shall be constructed so as to discharge drainage to the road, the grade of which shall not be less than 1/4 inch per foot. All concrete sidewalks shall be constructed on a four-inch crushed stone or gravel base to insure proper drainage and shall have a minimum thickness of four inches except under driveways where they shall have a minimum thickness of six inches. All concrete shall be the Pennsylvania Department of Transportation Class A (3,300 p.s.i., twenty-eight-day strength). All sidewalk improvements must be approved by the Township Engineer.
- (6) All construction and materials shall be in conformance with the Pennsylvania Department of Transportation Form 408.

B. Curbs.

- (1) Concrete curbs shall be installed along all roads in the R-30, CB, Cluster and Planned Residential Zoning Districts except where, at the discretion of the Board of Supervisors, they are not necessary for public safety and convenience. Concrete curbs shall be 18 inches deep, seven inches wide at the top and eight inches wide at the base. The normal distance from the top of curb to flow line of the gutter shall be eight inches.
- (2) Curbing shall be built in ten-foot lengths, and any approved expansion joint of 1/4 inch minimum thickness shall be used at each joint. A combination curb and gutter may be used at the option of the developer when approved by the Township Engineer. Where combination curb and gutter is used, it must be placed on a minimum of four inches of crushed stone or gravel to provide adequate drainage beneath the curb.
- (3) All concrete used in the construction of improvements shall be certified to develop a compressive stress of at least 3300 p.s.i. at 28 days with certification of the mix furnished to the Township Engineer.
- (4) Concrete shall be placed in forms that are straight and securely braced. Care shall be taken to control the water content to prevent separation of the aggregates. All concrete shall be thoroughly tamped into the forms. After the concrete has set sufficiently, the form shall be removed and the exposed surface shall be finished with an approved edging tool.
- (5) To provide for driveways, depressions in the curbing may be constructed and finished during the time of pouring.
- (6) All construction and materials shall be in accordance with Pennsylvania Department of Transportation, Form 408.

§ 240-22. Development blocks.

A. General. The length, width and shape of blocks shall be determined with due regard to:

- (1) Provision of adequate sites for buildings of the type proposed.
- (2) Zoning requirements.

- (3) Topography.
 - (4) Requirements for safe and convenient vehicular and pedestrian circulation, including the reduction of intersections with primary arterials.
- B. Size. Block length and width or acreage within bounding roads shall be such as to accommodate the size of lot required in the area by Chapter 285, Zoning, and to provide for convenient access, circulation control and vehicular and pedestrian safety. Whenever practicable, blocks shall be of such width as to provide two tiers of lots of the minimum size permitted under the applicable zoning classification.
 - C. Through lots. Double frontage lots are to be avoided and generally will not be permitted except where reversed frontage is desired away from a major thoroughfare to a road of lesser traffic volume.
 - D. Commercial and industrial blocks. For commercial or industrial use, the block size shall be sufficient in the judgment of the Board of Supervisors to meet all area and yard requirements for such use. Adequate provision shall be made for off-street parking and loading areas as well as for the flow of pedestrian and vehicular traffic so as not to inhibit the flow of such traffic on public rights-of-way.

§ 240-23. Lots.

- A. Area. All lots shall be no smaller than the minimum lot area requirements of the applicable zoning classification.
- B. Depth. Lots excessively deep in relation to width are to be avoided. A proportion of two to one is generally regarded as the desirable maximum for lots 60 feet or more in width unless a deeper lot is warranted because of previously existing man-made or natural constraints.
- C. Width. The minimum width of a lot shall be that width which is measured at the building line in feet, specified for the applicable zoning district.
- D. Corner lots. All corner lots shall be of sufficient size to comply with all yard requirements of the applicable zoning district.
- E. Frontage. The frontage shall not be less than the minimum requirements of the applicable zoning district.
- F. Sidelines. Whenever practical, the sidelines of a lot shall be set at right angles or radial to the right-of-way line.
- G. Building lines. Building lines for all lots shall be in conformance with the minimum front, side and rear yard requirements of the applicable zoning district.
- H. Lot numbers. For the purpose of development, each subdivision may have an overall system of lot numbers, the number one being assigned to a lot in the first section to be developed.⁴³
- I. Rear lots. A rear lot may be permitted, subject to the following criteria:
 - (1) Farmland, woods or other environmental amenities, if any, shall be preserved as a result of locating building lots away from existing roads.
 - (2) Access strips shall be located so as to serve as logical sites for future roads, in the event of future resubdivision, and are reserved for such purpose by a note on the final plan and in the deed for the lot.
 - (3) Design standards.
 - (a) General. A rear lot shall be connected to a public street by an access strip held in fee simple

43. Editor's Note: See also Ch. 99, Buildings, Numbering of.

ownership as part of the rear lot. Further subdivision of a rear lot shall require a public road as access.

- (b) Dimensions. Access strips shall be at least 50 feet wide; shall not exceed a vertical grade of 10%; and should contain no horizontal turn greater than 45°, where practical.
- (c) Layout. No more than two access strips may abut another.
- (d) Common access and driveways. Each pair of abutting access strips must share a common access point, and may share a common driveway in conformance with § 240-19E(3) and (4). A road frontage lot abutting such a pair of access strips may likewise share the access point or driveway in conformance with § 240-19E(4).
- (e) Spacing. Access points to rear lots, single or paired, onto a public road must be separated by at least 300 feet, as measured along the ultimate right-of-way.
- (f) Location. The location of the access strip must, in the opinion of the Township Board of Supervisors, be deemed logical and proper relative to the bulk of the rear lot and surrounding property configurations, upon the advice of the Township Engineer; and shall not in their opinion adversely affect sensitive or significant environmental features.
- (g) Use of rear lots. The use of rear lots may be permitted under only extreme cases where no other options are available. Rear lots shall not be utilized as a means of avoiding the construction of public roads.
- (h) Further subdivision. Further subdivision of any existing rear lot which would create additional rear lots is prohibited.

§ 240-24. Subdivision or land development with existing structures on land.

Except where a structure was obviously built to house more than one family, but where that structure and the surrounding property was held in single and separate ownership, and further where such a subdivision is proposed for the purpose of separating such a structure into two or more ownership parcels, no subdivision or land development will be approved with the property line extending through any portion of any existing structure.

A. If structure(s) is to remain:

- (1) In residential zoning districts of the Township, the lot and lot dimensions of the newly created lot containing the structure(s) must be in scale with the height and bulk of the structure, even if this requires a lot area and/or dimensions exceeding the minimum zoning requirements for that district.
- (2) In cases where the principal building use has not been as a dwelling, its conversion to a dwelling shall comply with all of the requirements of Chapter 285, Zoning, and Chapter 112, Code Enforcement, of the Township Code.

B. If existing structure(s) is to be removed subdivision or land development approval will be issued upon expeditious removal of existing structures in complete conformity with all other Township procedural requirements. In commercial and industrial areas, plots of land that have been cleared, as well as the existing vacant portions of such lands should be developed in conformity with the long range needs of the area to the extent possible. All developmental requirements embodied in the Building Code and Zoning Regulations shall be adhered to.

C. If existing structure(s) is to be replaced or is to be added onto demolition plans and/or construction plans must be detailed as part of the subdivision plan review and subsequent subdivision approval will be conditional upon compliance with said proposed details. Renovation work to the remaining portion of a structure following partial demolition must be completed promptly and expeditiously.

§ 240-25. Grading.

- A. Excavation or fill. No permanent excavation or fill shall be made with a face steeper in slope than three horizontal to one vertical, except where grading of excavation or fill to a 3:1 slope is impossible due to rock conditions and under one or more of the following conditions:
 - (1) The material in which the excavation is made shall be sufficiently stable (i.e., rock, etc.) to sustain a slope of steeper than three horizontal to one vertical, and a written statement of a civil engineer, licensed by the Commonwealth of Pennsylvania and experienced in erosion control, to that effect is submitted to the Township Engineer and approved by him. The statement shall state that the site has been inspected and that the deviation from the slope specified herein before will not result in injury to persons or damage to property.
 - (2) A concrete or stone masonry wall constructed according to present or future designs of the Township may be provided to support the face of the excavation or fill upon the approval of the Township Engineer.
 - (3) The excavation or fill shall be contained entirely inside the property lines of the property on which the excavation or fill is made.
- B. Slopes and fences. The top or bottom edge of slopes shall be a minimum of three feet from property or right-of-way lines or roads or alleys in order to permit the normal rounding of the edge without encroaching on the abutting property. All property lines, where walls or slopes are steeper than one horizontal to one vertical and five feet or more in height, shall be protected by a chain link fence four feet in height approved by the Township. The fence shall be an integral part of the wall.
- C. Site grading plan. The Township Engineer shall require a grading plan in conjunction with the plan of subdivision or land development in order to ensure compliance with the above standards. The grading plan must be approved by the Township Engineer before grading is started. A grading plan shall not be required for single-family dwellings on lots that are 1/2 acre or larger.

§ 240-26. Drainage.

- A. Blocks and lots. Blocks and lots shall be graded to secure proper drainage away from buildings and to prevent the collection of stormwater in pools. A minimum of 2% slope away from structures shall be required.
- B. Design. All drainage provisions shall be of such design as to carry surface water to the nearest practical road, storm drain or natural watercourse. Where drainage swales are used to deliver surface waters away from buildings they shall not be less than 1% grade and not be more than 4% grade. The swales shall be sodded, planted or provided with other erosion control measures as determined by the Township Engineer and shall conform with the shape and size specifications of the Township Engineer.
- C. Concentration. Concentration of surface water runoff shall be permitted only in watercourses.
- D. Construction. The subdivider shall construct and/or install such drainage structure and/or pipes which are necessary to prevent erosion damage and to satisfactorily carry off such surface waters to the nearest practical road, storm drain or natural watercourse in accordance with current State Erosion Control and Sedimentation Regulations.
- E. Multifamily or nonresidential areas. To minimize the effects of increased runoff, roof drainage shall be conveyed by downspouts and other drainage facilities constructed under the sidewalk and through the curb, or to a storm sewer, stormwater detention and control structure, or natural watercourse, if available, as determined by the Township Engineer.
- F. Open watercourses will be permitted where they exist naturally and where they will not interfere with public convenience or safety.

- G. When submitting a plan for approval involving the construction of storm drains, the designer shall use the following formula:

Rational Formula for Amount of Runoff

- in which Q = runoff from district in cubic feet per second
 C = runoff coefficient
 i = the average intensity of rainfall, in inches per hour, for a period of maximum rainfall of a given frequency of occurrence, and having a duration equal to the time required for runoff from the furthest point in the drainage area to the point considered in design
 A = drainage area of district in acres

The designer shall consult the Township Engineer who will furnish the appropriate values to use in the formula. Storm drains shall be adequate for the anticipated runoff when the area is fully developed as permitted by zoning. They shall have a minimum internal diameter of 15 inches and a minimum grade of 0.5% unless otherwise approved by the Township Engineer. The rainfall frequency shall be 15 years with a one-hundred-year frequency required in floodplain areas.

- H. The designer's computations shall be submitted in duplicate to facilitate the checking of design.
- I. Natural drainage/easements. Natural drainage should be encouraged wherever possible unless the Township Engineer determines it is infeasible. Drainage easements shall be required along natural watercourses to a minimum width of 15 feet from the center line and may be used for storm and sanitary sewers and open space. Where conditions warrant, such as in floodplains, additional width shall be required in such cases where runoff treatment requires a wider easement. Runoff studies submitted by an applicant must prove such requirements beyond the floodplain.
- J. Dedication. Where stormwater or surface water will be gathered within the subdivision or land development and discharged or arranged in volume over lands within or beyond the boundaries of the subdivision or land development, the subdivider, developer or builder shall reserve or obtain easements over all lands affected. The easements shall be adequate for such discharge of drainage and for carrying of such water and for the maintenance, repair and reconstruction of the same, including the right of passage by vehicles, machinery and other equipment for such purposes and which shall be of sufficient width for such passage and work. The subdivider, developer or builder shall convey at no cost the easements to the Township upon demand.
- K. Requirements.
- (1) Storm drains, storm and surface drainage. All storm drains and drainage facilities such as gutters, catch basins, bridges and culverts shall be installed and the land graded for adequate drainage as shown on the grading plan, and shall conform to applicable Township standards. Storm drains and appurtenances must be constructed by the subdivider or developer to take surface water from the bottom of vertical grades (the grades of which slope on both sides toward the bottom) to lead water away from springs, and to avoid excessive use of cross gutters at road intersections and elsewhere. All surface waters shall be enclosed in a storm drain.
 - (2) Location. Whenever-practicable storm drains shall be located within the cartway of the road. They shall be protected by a cover of at least 12 inches.
 - (3) Change in direction. Special curved storm drain sections may be used at all changes in direction unless approved otherwise by the Township Engineer. Manholes shall be constructed at all changes in horizontal alignment, shall be spaced not more than 300 feet apart on pipe of 24 inches internal diameter or less, and not more than 500 feet apart where larger sizes are installed. Inlets may be substituted for manholes where they will serve a useful purpose.

- (4) Inlets. Inlet spacing shall be so arranged that 95% of the gutter flow will be captured. No inlet smaller than PennDOT Type "C" (four-foot) shall be used on roads with grades of 4% or less. PennDOT Type "C" (six-foot) inlets shall be used on roads with grades of more than 4%. Inlets at road intersections shall be placed on the tangent and not on the curved portions. The gutter adjacent to and immediately upgrade from the inlet shall be so warped as to direct the water into the inlet.
- (5) Castings. Manhole and inlet castings, together with their covers or gratings, shall conform to Township standards, as may be in effect at the time the design of the sewer is submitted. All storm sewer manhole castings shall have the word "storm" cast into the lid. All manhole castings shall be of the type capable of accommodating highway loadings.
- (6) Stormwater roof drains. Stormwater roof drains and pipes shall not discharge water over a sidewalk, but shall extend under the sidewalk to the gutter. Where storm drains are accessible, the roof drain shall be connected thereto.
- (7) Unnatural drainage. Wherever construction stops or concentrates the natural flow of storm drainage in such a way as to affect adjoining properties, approval of the owners should be obtained in writing and a copy filed with the Township Secretary. Approval of plans by the Township does not authorize or sanction drainage affecting adjoining properties.
- (8) Drainage from nonnatural sources. Water originating from other than natural sources, such as air conditioning units, sump pumps or other dry weather flow, wherever practicable, shall be discharged into natural watercourses on the property. These facilities shall not discharge water under the sidewalk through the curb into the gutter.
- (9) Foundation underdrain. Foundation underdrain shall be used when directed by the Township Engineer for the purpose of removing spring water or soft spots in the roadway area.

L. Design submission.

- (1) All plans showing the proposed storm sewer construction must be accompanied by a complete design submitted by the registered engineer or surveyor.
- (2) When subdivisions or land developments are submitted to the Township for approval in sections, a complete storm sewer design for the proposed subdivision and land development shall be submitted. The proposed design must include the entire tract and not a portion.
- (3) If only a section of a subdivision or land development is contemplated for construction, the engineer shall show how he proposes to handle stormwater from this section in order to prevent damage to adjacent properties. If temporary construction is required, the engineer shall include such structures in the plan submitted.
- (4) In the event such temporary measures cannot ensure protection to adjacent properties, then the main outfall line of the storm sewer shall be included as part of the construction for the proposed section.

§ 240-27. Reserve strips; rights-of-way and/or easements; deeds.

- A. Reserve strips. Controlling access to roads, subdivisions or adjacent areas is prohibited.
- B. Rights-of-way and/or easements for sanitary utilities, road construction or maintenance, drainage purposes, public utilities, or for any specific purpose shall be required by the Board of Supervisors as needed. The location and width in each case shall be determined by the Board of Supervisors.
 - (1) Buildings shall be setback five feet from the nearest side of the utility right-of-way or easement to the proposed building.

- (2) Nothing shall be placed, planted, set or put within the area of an easement and the area shall be kept as lawn.
 - (3) The owner of any lot, upon written request by the Township and at the owner's sole expense, shall remove anything placed, planted, set or put (with or without knowledge of this regulation) within the area of any easement.
 - (4) To the fullest extent possible easements shall be adjacent to rear or side lot lines.
- C. No right-of-way nor easement for any purpose whatsoever shall be recited or described in any deed unless the same has been shown on the approved plan.
- (1) An error found in a deed shall be immediately corrected and rerecorded at the sole expense of the subdivider at the Montgomery County office of the Recorder of Deeds in Norristown, Pennsylvania.
- D. Utility easements. A minimum width of 20 feet shall be provided for common utilities and drainage when provided in undedicated land. Nothing shall be placed, planted, set or put within the area of an easement, and the area shall be maintained as lawn. An additional five-foot width shall be added to the easement width of each utility placed in the common easement.

§ 240-28. Public utilities.

- A. All water and gas mains and other underground facilities shall be installed prior to road paving at locations approved by the Township for the full width of the right-of-way.
- B. All gas and water mains shall be installed underground. All electric, telephone and communication services both main and service lines shall be provided by underground cables, installed in accordance with the prevailing standards and practices of the utility or other companies providing such services. All main underground cables which are within the right-of-way of a road shall be located as specified to the satisfaction of the Township Engineer.
 - (1) In order to promote and facilitate the undergrounding of utility distribution lines, a letter of endorsement shall be required from the suppliers of utility service (not limited to electrical, telephone or cable television) of the developer's choice wherein the applicant acknowledges that underground utilities are feasible and shall be consummated as part of the improvement plan. A statement relative to the intent of the developer to provide underground utility services shall be placed on the final plan prior to final approval of such plan.
 - (2) The provisions in this chapter shall not be construed as to limit or interfere with the construction, installation, operation and maintenance of public utility structures or facilities which may, hereafter, be located within public easements or rights-of-way designated for such purposes.
 - (3) Light standards are to be placed as required by ordinance. Power source for such standards shall be placed underground as required.
 - (4) Along collector roads and major highways all new electrical service should be placed underground.

§ 240-29. Sanitary sewers. [Amended 8-13-1998 by Ord. No. 98-4]

- A. Sanitary sewers shall be installed and connected to the Township sanitary sewer system. Where the subdivision or land development necessitates a capital improvement of the Township sanitary sewer system, the applicant shall pay that portion of said capital expenditure as is necessitated by the subdivision or land development.
- B. In order to facilitate the treatment of wastewater, sewage treatment facilities must be installed by the developer subject to the rules and regulations promulgated under Act 537, the Pennsylvania Sewage Facilities

Act, as contained in the Department of Environmental Protection, Subpart C, Article I, Chapters 71 and 73. Prior to final plan approval the following should be certified:

- (1) Assurance that the proposed sewage facility is in compliance with the Township Sewage Facilities Plan, as specified in Chapter 71, as referenced above.
 - (2) Permit granted by the certified local sewage enforcement officer for the installation of an individual or group sewage system, pursuant to Chapter 73 as referenced above.
 - (3) Assurance other than required federal and state wastewater permits will be obtained in due course.
- C. Size and grade. Sanitary sewers shall have a minimum inside diameter of eight inches and a minimum grade of 0.5%.
- D. Manholes. Manholes shall be located at intervals of 250 feet and at each change of line or grade. In exceptional cases, the interval may be extended to not more than 300 feet. Manhole appurtenances shall conform to current Township standards.
- E. Laterals. Lateral connections to each lot shown on the final plan shall be installed to the right-of-way line of the road. Each building shall have a separate connection to the Township Sanitary sewer system, when accessible.

§ 240-30. Water supply. [Amended 4-2-1992 by Ord. No. 92-1; 7-10-1997 by Ord. No. 97-5]

The applicant shall provide a reliable, safe and adequate water supply to support the intended uses approved as part of the development plan.

- A. Water service. Each lot shall connect to an approved water system, with the connection to a public water service being required whenever practical. If water is to be provided by means other than private wells owned and maintained by the individual owners of lots within the subdivision or development, applicants shall present evidence to the Board of Supervisors that the subdivision or development is to be supplied by a certificated public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. A copy of a certificate of public convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable evidence.
- B. Wells. The location of any existing or proposed well shall be shown on the preliminary plan for each lot and adjoining lot, where applicable.
- C. Hydrants. Fire hydrants shall be located at accessible points throughout the subdivision when central water supply is available, and shall be sufficient in number to ensure adequate fire protection.
- D. Water resources impact study.
- (1) Intent. Water resources impact studies are intended to show if there is an adequate supply of quality water for a proposed use and to estimate the impact of additional water withdrawals on existing nearby wells, underlying aquifers and streams.
 - (2) When required.
 - (a) Since Upper Frederick Township is located within the Southeastern Pennsylvania Groundwater Protected Area of the Delaware River Basin Commission (DRBC), all projects withdrawing 10,000 gpd or greater of groundwater or surface water, or a combination of these two sources, are required to obtain a permit from DRBC whenever the water is withdrawn from a common community well(s). These projects are not required to submit a water impact study; however, copies of all submissions by the applicant to DRBC must be sent to the Township. Additionally, copies of all

- submissions to the Department of Environmental Protection (DEP) and all correspondence received by the applicant from DEP shall be forwarded to the Township.
- (b) Water impact studies are required for projects that withdraw over 10,000 gpd and do not have to get a permit from DRBC or for projects withdrawing less than 10,000 gpd and which fall into one of the following two categories, unless waived by the Board of Supervisors:
 - [1] Subdivisions that contain five or more dwelling units and have an overall gross density greater than one house per two acres as shown on the final plan, with the area of lots greater than 10 acres excluded from the density calculation.
 - [2] All land developments intended for nonresidential use (i.e., industrial, commercial, institutional).
 - (3) Effect of water resources impact study. The Township will not approve any subdivision or land development where a Phase II Water Impact Study, described in Subsection D(4)(c), shows that the proposed water system:
 - (a) Does not provide an adequate supply of water for the proposed use, considering both quality and quantity.
 - (b) Adversely affects nearby wells and streams.
 - (c) Does not provide for adequate groundwater recharge, considering withdrawals.
 - (4) Requirements. All water impact studies must meet the following requirements:
 - (a) The study shall be prepared by a hydrologist, geologist or professional engineer qualified to conduct groundwater investigations.
 - (b) A Phase I Study shall be conducted for all projects required to do a water resources impact study. The Phase I study shall be based upon available literature and appropriate professional judgment and shall include the following information:
 - [1] Calculations of the projected water needs using the criteria set forth in the following references:
 - [a] "Public Water Supply Manual," Bureau of Water Quality Management Publication No. 15, by the Pennsylvania Department of Environmental Protection, as amended.
 - [b] "Guide for Determination of Required Fire Flow," by the Insurance Services Office (ISO), as amended.
 - [c] American Water Works Association, Standards and Manuals for the American Water Works Association, Denver, Colorado, as amended.
 - [2] A geologic map of the area within a one-mile radius of the site boundary.
 - [3] The location of all faults, lineaments and fracture traces within a 1/4 mile of the site boundary.
 - [4] The locations of all existing and proposed wells within 1/4 mile of the site boundary and all large wells (10,000+ gpd) within one mile of the site.
 - [5] The locations of any public or private water distribution lines within 1/4 mile radius of the proposed site.
 - [6] The location of all existing and proposed onlot septic systems within 1/4 mile of the site

boundary.

- [7] The location of all streams, perennial and intermittent, within 1/4 mile of the site boundary.
 - [8] A discussion of the aquifers underlying the site and their long term drought recharge capability based on accepted published data or detailed site specific investigations.
 - [9] Based on the drought recharge capability of the underlying aquifer and the calculated daily groundwater withdrawals of the project, a hydrologic budget shall be calculated for the site property itself, and for the area within 1/4 mile of the site boundary.
 - [10] Based on the results of the hydrologic budget, a determination shall be made on whether or not the potential exists for adverse effects on the hydrologic environment caused by the project.
 - [11] Any available water quality information for area groundwater based upon tests of wells within a one-mile radius.
 - [12] Potential sources of water quality impact such as wastewater treatment systems, industrial sites, agricultural chemical or solid waste disposal facilities existing within 1/4 mile of the site boundary should be analyzed.
 - [13] The study shall include a brief statement of the qualifications of the person(s) preparing the study.
 - [14] The study shall consider data and conclusions within the following studies:
 - [a] Special Groundwater Study of the Delaware River Basin-Study Area II (Delaware River Basin Commission, 1982).
 - [b] Groundwater Resources of the Brunswick Formation in Montgomery and Berks Counties, Pennsylvania, Bureau of Topographic and Geologic Survey (1965).
 - [c] Groundwater Resources of Montgomery County, Bureau of Topographic and Geologic Survey, 1971.
 - [d] Previous reports by other developers in the Township which are determined to be relevant by the Township.
 - [e] Any other report determined to be relevant by the Township.
 - [15] Technical criteria.
 - [a] The text of reports shall contain pertinent data, analysis and methods used to arrive at the report's conclusions. Appendices shall contain raw and summary data.
 - [b] All figures contained in reports shall contain complete legends, titles and scales.
 - [c] All numerical parameters within reports shall be presented with appropriate units and all data shall be referenced by sources, data, location and time, where appropriate.
- (c) A Phase II Water Resources Impact Study shall be conducted when the results of the Phase I Study identify potential water supply problems as determined by the Township Engineer or if the total amount of water to be withdrawn is greater than 10,000 gallons per day and the development was not required to obtain a permit from DRBC. The Phase II Study shall include:
- [1] A pumping test will be performed in the following manner:

- [a] The test shall include on pumping well, roughly centered onsite.
 - [b] One pumping test (done separately) shall be required for each 160 acres of the proposed subdivision, or fractions thereof.
 - [c] The test shall be conducted with a pumping rate 20% greater than the proposed peak rate of groundwater use for the average well to be built.
 - [d] During construction of the test well, the drillers shall keep an accurate geologic log of the type and thickness of rocks encountered, of the depth and thickness of all water bearing zones encountered and the yield from each zone.
 - [e] The pump test will be conducted for 24 hours after static equilibrium has been reached.
 - [f] The test shall be conducted during a period when no significant recharge has occurred, unless influence of recharge can be factored out.
 - [g] Analysis shall include all pumping and recovery calculations of hydraulic conductivity (directional) and specific yield, specific capacity and long term sustainable well yield (tabulated).
 - [h] To determine the impact of the project well on existing wells, a representative sample of existing wells, evenly spaced around the pumping well within 1/4 mile shall be monitored. Sufficient well monitoring shall be performed to allow for the construction of hydrographs showing a continuous record of well levels before, during and after the pumping test. In the absence of existing wells, an observation well shall be located at a distance of 150 to 200 feet from the proposed production well site, within the same fracture based upon a fracture trace analysis conducted at the site, and in no case shall the observation well be located at a distance over 500 feet from the proposed production well site.
- [2] Samples of water should be drawn from all test wells onsite prior to the termination of the pump test. An analysis of the parameters listed below shall be performed on the samples by a laboratory certified by the Pennsylvania Department of Environmental Protection. Lab analysis should be performed in accordance with "Standard Methods for the Examination of Water and Wastewater," latest edition.

Turbidity	Calcium hardness
Color	Iron
Odor	Manganese
pH	Fluoride
Total alkalinity	Nitrates
Hardness	Total solids
Bacteria (total plate count, total coliform/ 100 milliliters)	

- [3] A Phase II report shall be prepared and submitted to the Township. In addition to the information required for the Phase I report, the Phase II report shall include the following information:
- [a] The name of the driller and personnel conducting the test.
 - [b] A complete description of the test well or wells that includes horizontal and vertical dimensions, casing installation information and grouting details.

- [c] A list of geological formation samples.
 - [d] The static water level immediately prior to yield testing.
 - [e] A hydrograph of the depth to water surface during test pumping and recovery period at the test well or wells showing corresponding pump and discharge rate in gallons per minute and the time readings were taken.
 - [f] A log of depth to water surface for existing and observation wells during the test pumping period showing the time readings were taken.
 - [g] An analysis and interpretation of the impact of a proposed water supply and distribution system on the groundwater and existing wells.
- [4] Should the pumping test reveal an impact on the existing groundwater supply and/or wells within a one-half-mile radius, the applicant shall comply with one of the mitigation guidelines below, as approved by the Board of Supervisors:
- [a] Provide, at the applicant's cost, affected well owners with a safe and reliable water supply by either connecting to a proposed community water supply and charging rates equal to the rates charged for the proposed development or making improvements to the affected well.
 - [b] Improve the proposed well(s) in such a way that the effect on existing wells is eliminated.
 - [c] Other action or improvements to mitigate effect on existing wells.

§ 240-31. Floodplain areas. [Amended 2-11-2016 by Ord. No. 2016-03]

Any lot or tract of land that is proposed for subdivision or land development which contains or is adjacent to a watercourse, may contain areas of Identified Floodplain which is defined, and has boundaries established, as set forth in Chapter 140, Floodplain Management. Areas of Identified Floodplain are subject to all the regulations of Chapter 140, Floodplain Management, as well as to all of the regulations of Article XVI, Floodplain Conservation District as set forth in Chapter 285, Zoning.

§ 240-32. Special drainage problems and watercourses.

- A. Any development which creates a significant change in the characteristics of the watershed, thus increasing volume and velocity of surface water runoff, due to the decrease in retention and infiltration of stormwater, shall not be permitted until guarantees are made of improvements that will reduce the likelihood of erosion, sedimentation, inundation and water drainage from peak periods of precipitation and shall provide for controlled disposal of excess surface water. Such improvements must satisfy the Township Engineer and the requirements and regulations of the Pennsylvania Department of Environmental Protection, Bureau of Water Quality Management and Dams and Encroachments.
- B. All continuously flowing natural watercourses shall be maintained at their natural alignments and gradients.
- C. Intermittent watercourses shall be maintained essentially at their existing alignments and gradients. Paving of such watercourses shall not be allowed, nor shall piping, except under roads, driveways and walkways.
- D. Surface water runoff control measures shall be designed to restrict peak flow of stormwater runoff from the property during and after development to the same volume as existed prior to development, based upon calculations for a storm of one-hundred-year frequency (seven-inch rainfall in 24 hours) by use of methods to withhold, disperse and release at a controlled rate, all runoff over and above that which would have occurred from the land prior to development.

- E. Where, based upon the recommendations of the Township Planning Commission, the Soil Conservation District or the Township Engineer, storm sewers and culverts are required, installations shall be provided to:
- (1) Permit unimpeded flow of natural watercourses.
 - (2) Ensure adequate drainage of all low points along the line of streets.
 - (3) Intercept stormwater runoff along streets at intervals related to the extent and grade of the area drained.
 - (4) Provide positive drainage away from onsite sewage disposal facilities.
 - (5) Storm sewers and related installations shall be required only when the runoff stormwater cannot be satisfactorily handled within the street.
 - (6) Where existing storm sewers are reasonably accessible, proposed subdivisions shall be required, if feasible, to connect therewith.
 - (7) In the design of storm drainage facilities, concentration of stormwater runoff shall be avoided.
 - (8) Storm drainage facilities shall be designed to meet the following criteria: Storm sewer piping, inlet systems and culverts across roadways shall be designed for a storm of one-hundred-year frequency (seven inches in 24 hours), the same as for control measures as prescribed by Subsection E(9), hereinbelow.
 - (9) Where a subdivision or development is traversed by a watercourse, drainageway, channel or stream, there shall be provided a drainage easement conforming substantially with the high water line of such watercourse attributable to a flood of one-hundred-year frequency, in order to preserve the unimpeded flow of natural drainage, and to provide for future possible widening, deepening, relocating, improving or protecting of such drainage facilities. Any changes in the existing drainageway shall be subject to the approval of the Township Engineer and the Pennsylvania Department of Environmental Protection.
 - (10) It shall be the responsibility of the applicant to obtain all stormwater easements on, over or through other properties.

§ 240-33. Erosion and sediment control.⁴⁴ [Amended 8-13-1998 by Ord. No. 98-4]

- A. Where any excavation or grading is proposed, or where any existing trees, shrubs or other vegetative cover will be removed, the developer shall consult the Montgomery County Conservation District representative concerning plans for erosion and sediment control, and the geologic conditions of the site in order to determine the type and magnitude of development the site may safely accommodate. Before undertaking any excavation or grading, the developer shall conform to all pertinent laws, regulations and ordinances of the Commonwealth of Pennsylvania and Upper Frederick Township.
- B. No subdivision or land development plan shall be approved unless:
- (1) There has been a plan approved by the Board of Supervisors that provides for minimizing erosion and sedimentation consistent with this section, and an improvement bond or other acceptable securities are deposited with the Township which will insure installation and completion of the required improvements; or
 - (2) There has been a determination by the Board of Supervisors that a plan for minimizing erosion and sedimentation is not necessary.
- C. The Board of Supervisors, in its approval of any preliminary plan of subdivision and land development, shall condition its approval upon the execution of measures designed to prevent accelerated soil erosion and

⁴⁴ Editor's Note: See also Ch. 219, Soil Erosion, Sedimentation and Grading Control.
240:51

resulting sedimentation, as required by the Pennsylvania Department of Environmental Protection. All applicable regulations and permit requirements of said department as stipulated in its Soil Erosion and Sedimentation Control Manual shall be followed by all parties engaged in earthmoving activities. The manual is available at the office of the Montgomery County Conservation District, Norristown, Pennsylvania. The Township Engineer shall assure compliance with the appropriate specifications and requirements.

- D. In addition, the developer shall submit data, including proposed dates where relevant, to indicate that the subdivision or development will be carried out in compliance with the following principles:
- (1) Where feasible, natural vegetation should be protected and natural grade alterations kept to a minimum.
 - (2) The smallest practicable area of soil should be exposed at any one time during development or construction.
 - (3) When soil is exposed during development or construction the exposure should be limited to the shortest practicable period of time.
 - (4) Temporary ditches, dikes, vegetation and/or mulching shall be used to protect critical areas exposed during development or construction.
 - (5) Permanent vegetation and erosion control structures should be installed as soon as practicable during construction activities.
 - (6) Provisions should be made to accommodate effectively the increased runoff caused by changed soil and surface conditions during and after development or construction.
 - (7) Sediment basins (debris basins, desilting basins or silt traps) shall be installed and maintained to remove sediment from runoff waters from land undergoing development.
- E. Excavations and fills.
- (1) Cut and fill slopes shall not be steeper than 3:1 unless stabilized by a retaining wall or cribbing, except as approved by the Board of Supervisors when handled under special conditions.
 - (2) Adequate provisions shall be made to prevent surface water from damaging the cut face of excavations of the sloping surfaces of fills.
 - (3) Cut and fills shall not endanger adjoining property.
 - (4) No increased surface runoff will be permitted to leave the property being subdivided or developed by way of natural watercourses or storm drainage pipes, without first being suitable retained in such a way as to maintain runoff volume existing on the site previous to subdivision or development.
 - (5) Fill shall be placed and compacted as so to minimize sliding or erosion of the soil.
 - (6) Fill shall not encroach on natural watercourses or constructed channels.
 - (7) Fill placed adjacent to natural watercourses or constructed channels shall have suitable protection against erosion during periods of flooding.
 - (8) Grading shall divert water into the property of another landowner without the written consent of that landowner and the approval of the Board of Supervisors.
 - (9) During grading operations, measures for dust control shall be exercised.
 - (10) Grading equipment shall not be allowed to cross live streams. Provisions shall be made for the installation of temporary culverts, or bridges, if necessary.

F. Responsibility.

- (1) Whenever sedimentation is caused by stripping vegetation, regrading, or other development, it shall be the responsibility of the person, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses, and to repair any damage at his expense as quickly as possible.
- (2) Maintenance of all drainage facilities and watercourses within any subdivision or land development is the responsibility of the developer until they are accepted by the Township or other official agency, after which they become the responsibility of the accepting agency.
- (3) It is the responsibility of any person, corporation or other entity doing any act on or across a communal stream, watercourse, or swale, or upon the floodplain or right-of-way thereof, to maintain, as nearly as possible, the stream, watercourse, swale, floodplain or right-of-way in its present state during the activity and to return it to its original or equal condition after such activity is completed.
- (4) Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to their point of open discharge at the property line or at a communal watercourse within the property.
- (5) No person, corporation or other entity shall block, impede the flow of, alter, construct any structure, or deposit any material, or commit any act which will affect normal or flood flow in any communal stream or watercourse without having obtained prior approval from the Township or the Pennsylvania Department of Environmental Protection whichever is applicable.
- (6) Any person, corporation or other entity which makes any surface changes shall be required to handle existing and potential off-site runoff through his development by designing facilities to adequately handle storm runoff from a fully developed area upstream.

G. Compliance with regulations and procedures.

- (1) Stream channel construction on watersheds with drainage areas in excess of 320 acres, or in those cases where downstream hazards exist, shall conform to criteria established by the Pennsylvania Department of Environmental Protection.
- (2) Final plans for minimizing erosion and sedimentation as approved shall be incorporated into the agreement and bond requirements as required under Article VI of this chapter.
- (3) The approval of plans and specifications for the control of erosion and sedimentation shall be concurrent with the approval of the final plats of subdivision or land development, and become a part thereof.
- (4) In the event the developer proceeds to clear and grade prior to recording plats, the Board of Supervisors may revoke the approval of the preliminary plan.

§ 240-34. Bridges and culverts. [Amended 8-13-1998 by Ord. No. 98-4]

- A. Bridges and culverts shall be designed to meet current Pennsylvania Department of Transportation Standards to support expected loads and to carry expected flows. They shall be constructed to the full width of the right-of-way. Township design criteria shall be used when required by the Township.
- B. All drainage designs shall be submitted to Pennsylvania Department of Environmental Protection, Chief of Obstructions and Floodplain Management, whenever a culvert or structure is placed in a watercourse which has a defined bed and banks, whether natural or artificial and with perennial or intermittent flow.
- C. A permit for a bridge or culvert from the Pennsylvania Department of Environmental Protection will be required for a drainage area of 320 acres and a review and permit determination by the Pennsylvania

Department of Environmental Protection for areas smaller than 320 acres and which meet the criteria of Subsection B.

§ 240-35. Survey monuments.

- A. Monuments shall be of stone or concrete and located on the right-of-way lines at corners, angle points, beginning and end of curves, and as otherwise required. Monuments shall be indicated on all plans. They shall be placed after a new street has been completed. The center line of all new streets shall be marked with spikes and referenced to permanent monuments or structures. A certified copy of this referenced information shall be given to the Township Engineer. Permanent reference monuments of case concrete or durable stone 20 inches by four inches, with 45° beveled edges shall be set by the subdivider, developer or builder, at all corners and angle points of the boundaries of the original tract to be subdivided and at all street intersections and intermediate points as may be required.
- B. Bench marks. The Township elevations are based on the United States Geological Survey Datum. Location and elevation is available to all engineers and surveyors upon request to the Township Engineer's office. All contours and elevations shown on plans must be based on this system.
- C. Staking requirements. All lots shall be staked by a registered surveyor for the subdivider, builder or developer, when final grading has been completed. This stake out shall be visible and completed before an owner or occupant moves into the property. All lot corner markers shall be permanently located and shall be at least 5/8 inch metal pin with a minimum length of 24 inches located in the ground to existing grade.

§ 240-36. Natural or historic feature preservation.

- A. Limit of contract. Where the applicant is offering for dedication, or is required to establish a reservation of open spaces or preserve an area of scenic or historic importance, a "limit of contract" which will confine excavation, earthmoving procedures and other changes to the landscape, may be required to ensure preservation and to prevent destruction of the character of the area.
- B. Tree preservation. All trees six inches or more in caliper at breast height should not be removed unless within the proposed right-of-way line of a road or impractical for development. Relocation of noteworthy plant material should be encouraged where retention is impractical.
- C. Topsoil preservation. No topsoil shall be removed from the site or used as spoil. Topsoil must be removed from the areas of construction and stored separately. Upon completion of the construction, the topsoil must be redistributed on the site uniformly. All areas of the site shall be stabilized by seeding or planting on slopes of less than 10% and shall be planted in ground cover on slopes over 10%.
- D. Preserved landscaping. In order to promote the highest environmental quality possible, the success to which the applicant of a subdivision or land development plan has preserved existing salient natural features and land forms intrinsic to the site, shall be assessed. Terms of approval of a plan may be subject to the manner in which the layout or design of the plan has preserved existing natural features. When there is a conscientious plan to preserve the existing natural integrity and character of a site and where such preservation includes areas of woodland and trees comparable to required planting improvements, such as landscaping and buffer screening, the plan may be received in lieu of additional landscaping requirements upon recommendation of the Township Planning Commission.

§ 240-37. Landscaping. [Amended 3-14-1996 by Ord. No. 96-1; 9-10-2009 by Ord. No. 2009-08]

For all subdivision and land development proposals, the applicant shall, at a minimum, provide landscaping in accordance with this section. Applicants seeking to subdivide or develop three or fewer single-family detached residential units are excepted from complying with § 240-37F(2), (3), (4) and (5) of this chapter, although they must still provide shade trees [§ 240-37F(1)], riparian corridor vegetation [§ 240-37F(6)] and comply with the

remaining requirements of this chapter.

- A. Legislative intent. Article I, Section 27 of the Constitution of the Commonwealth of Pennsylvania states that people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and aesthetic values of the environment. It is the intent of these landscape planting requirements to protect this right by conserving existing vegetation and/or requiring new plant material in critical areas of land development. It is the intent of these requirements to protect the health, safety and welfare of the community by requiring planting plans for major land developments to be sealed by a landscape architect registered in the Commonwealth of Pennsylvania. In addition, it is the intent of these landscape requirements to:
- (1) Reduce soil erosion and protect surface water quality by minimizing stripping of existing woodlands or tree masses.
 - (2) Reduce stormwater runoff velocity and volume by providing planting areas where stormwater can infiltrate.
 - (3) Improve air quality by conserving existing or creating new plantings which produce oxygen and remove carbon dioxide from the atmosphere.
 - (4) Provide wildlife habitat.
 - (5) Conserve historically, culturally or environmentally important landscapes such as wooded hillsides, scenic views or aesthetic natural areas.
 - (6) Provide planted buffers between land developments, which act to visually integrate development into the existing rural landscape.
 - (7) Provide landscaped screens around visually obtrusive site elements within a development.
 - (8) Conserve energy by moderating solar radiation and providing shade.
 - (9) Aesthetically improve stormwater management facilities, such as detention basins, without impairing function.
 - (10) Improve water quality by helping to filter sediment and other pollutants before runoff enters surface water bodies.
 - (11) Preserve riparian corridors.
- B. General requirements.
- (1) Plans for proposed planting shall be prepared by a landscape architect registered by the Commonwealth of Pennsylvania and familiar with this section in order to promote the proper use and arrangement of plant materials. These plans shall be reviewed by the Township Engineer and the Planning Commission prior to final approval by the Board of Supervisors.
 - (2) Landscaping and plant material required by this section shall be planted prior to the issuance of a use and occupancy permit. In lieu of planting due to seasonal constraints, the locations of shade trees shall be staked, and the developer shall be required to submit to the Township a memorandum signed by the purchaser at the time of settlement. This memorandum shall indicate that the purchaser understands and acknowledges that the stakes indicate the location of trees to be planted, and that the trees shall be planted by the developer. The developer shall also deposit with the Township financial security in an amount sufficient to cover the cost of acquisition and planting of the required shade trees.
 - (3) Nonconforming uses. Whenever there is a nonconforming use, the nonconforming use must comply with the most restrictive landscape requirements for either the land use of the zoning district in which it is located, or the zoning district which normally permits the nonconforming use.

- (4) Plan required. A landscape plan is required for all subdivision and/or land developments, except the following:
 - (a) Residential subdivisions involving three or less dwelling units or lots. A plan is not required, but the planting requirements of § 240-37F(1), Shade trees, and of § 240-37F(6), Riparian Corridor Conservation District vegetation requirements, still apply. These features shall be shown on the subdivision plan.

C. Plan requirements.

- (1) The sketch landscape plan shall show the following:
 - (a) Approximate location and type of specimen or mature trees.
 - (b) Approximate location and type of tree masses.
- (2) The preliminary landscape plan shall show the following:
 - (a) Existing features.
 - [1] The location, type and character of existing buildings; mature trees standing alone; outer limits of tree masses and other existing vegetation; the location of floodplains, wetlands and other natural features that may affect the location of proposed streets, buildings and landscape plantings.
 - (b) Proposed landscaping.
 - [1] Approximate location of all proposed landscaping required under this chapter.
 - [2] General demarcation of existing vegetation "to remain" or "to be removed" and the means of protecting existing vegetation during construction.
 - [3] Approximate location of proposed buildings, paving, utilities or other improvements.
- (3) The final landscape plan.
 - (a) Drafting standards.
 - [1] The same standards shall be required as for a preliminary plan. (See § 240-7 of this chapter.)
 - (b) Information to be shown:
 - [1] Plan scale, date, north arrow and location map with zoning district designations for the site and adjacent properties.
 - [2] Location of all existing and proposed buildings and structures.
 - [3] Location of all existing and proposed roads, parking, service areas and other paved areas.
 - [4] Location of all outside storage and trash receptacle areas.
 - [5] Sidewalks, berms, fences, walls, freestanding signs and site lighting.
 - [6] Existing and proposed underground and aboveground utilities, such as site lighting, transformers, hydrants, manholes, valve boxes, etc. (Reference may be made to other submission drawings.)
 - [7] All existing and proposed contours at two-foot intervals to determine the relationship of planting and grading. Areas with slopes in excess of 3:1 shall be highlighted on the plan.

- [8] Location and type of existing mature trees, woodland and tree masses to remain.
 - [9] Location and type of existing mature trees, woodland and tree masses to be removed.
 - [10] Location of all proposed landscaping, including required shade trees, stormwater basin landscaping, parking lot landscaping, property line buffer and site element screen landscaping.
 - [11] A planting schedule listing the scientific and common name, size, quantity and root condition of all proposed plant material.
 - [12] A schedule showing all landscape requirements and plantings proposed for each category.
 - [13] Planting details, including method of protecting existing vegetation, landscape planting methods.
 - [14] Information in the form of notes or specifications concerning seeding, sodding, ground cover, mulching, etc.
 - [15] A detailed cost estimate shall be submitted with the public improvement escrow, showing the value of all proposed landscaping, including all labor, materials and guarantee.
 - [16] This condition may be satisfied through a land development agreement with sufficient and appropriate financial guarantees.
- (c) Certificates. When approved, the landscape plan must show:
- [1] The signature and seal of the registered landscape architect responsible for preparing the landscape plan and details.
 - [2] The signature of the subdivider, developer or builder.
 - [3] The signatures of the elected Township officials, Engineer or landscape architect, and Planning Commission.

D. Preservation of existing vegetation.

- (1) Each mature tree, tree mass or woodland (as defined by § 240-37I) on the site shall be designated "to remain" or "to be removed" in accordance with the following criteria:
 - (a) All subdivision and land developments shall be laid out in such a manner as to minimize the removal of healthy trees and shrubs on the site. Applicants should preserve trees that are on the Township registry of exceptional trees unless the trees are no longer healthy. The registry is available for public inspection at the Township offices and should be consulted prior to landscape plan submission.
 - (b) It shall be incumbent on the applicant to prove that vegetation removal is minimized. If challenged by the Township, the applicant shall produce evidence such as written documents or plans certified by a registered landscape architect or other qualified professional showing that no alternative layouts are possible and that no alternative clearing or grading plan would reduce the loss of mature trees, tree masses or woodlands.
 - (c) A mature tree, tree mass or woodland shall be considered "to remain" only if it meets all of the following criteria:
 - [1] The outermost branches of the tree(s) are at least five feet from any proposed buildings, structures, paving, parking or utilities (overhead or underground).

- [2] The outermost branches of the tree(s) are at least five feet from any proposed changes in grade or drainage, such as excavations, mounding or impoundments.
- [3] The tree(s) are clear of any sight triangles and do not, by their location or health, pose any undue threat to the health, safety or welfare of the community.
- (d) Mature trees, tree masses or woodlands that do not fit the above criteria shall be designated "to be removed." These trees will be removed during the construction process.

(2) Protection of existing vegetation.

- (a) Existing vegetation designated "to remain" as part of the landscaping of a subdivision or land development shall be identified prior to any clearing. At all times during the construction of the site, all trees "to remain" that are within 25 feet of a construction area shall be physically protected through the construction process. A temporary physical barrier, such as a snow fence, shall be erected a minimum of one foot outside the dripline on all sides of individual trees, tree masses or woodlands prior to major clearing or construction. The barrier shall be placed to prevent disturbance to or compaction of soil inside the barrier and shall remain until construction is complete. The barriers shall be shown on the landscape plan.
- (3) Hydrology. Alteration of existing drainage patterns and water supply for the protected vegetation shall be minimized.
- (4) Transplanting existing plant material. Specimen trees or individual trees from woodlands or tree masses designated "to be removed" are encouraged to be transplanted from one area to another. Transplanted trees must conform to the requirements of § 240-37F and G of this chapter.

E. Replacement of existing vegetation.

- (1) The total area of a lot or tract covered by woodlands, hedgerows and/or individual trees must be calculated. This calculation shall be based on the outermost dripline of the individual trees and/or groups of trees.
- (2) Up to 25% of the total gross area of woodlands, hedgerows and/or individual trees may be removed without replacement of vegetation. Trees identified as "to be removed" shall be counted toward this 25%.
- (3) When construction and other site work will result in the removal of more than 25% of the total gross area of woodlands, hedgerows and/or individual trees on a lot or tract, one shade tree and two shrubs or ornamental trees shall be planted for each 500 square feet, or fraction thereof, of woodlands, hedgerows and/or individual tree area removed in excess of the permitted 25% area.
- (4) Replacement trees and shrubs required by § 240-37E(3), above, shall be planted in addition to any trees or shrubs required for shade trees, screens, buffers, parking lot landscaping and riparian corridor vegetation required by § 240-37F.

F. Planting requirements.

(1) Shade trees.

(a) Shade trees shall be required:

- [1] Along all proposed roads.
- [2] Along all existing roads when they abut or lie within the proposed subdivision or land development.

- [3] Along access driveways serving two or more nonresidential units.
 - [4] Along major walkways through parking lots and between nonresidential buildings, as recommended by the Township Planning Commission.
- (b) Shade trees shall be located within the legal right-of-way, in compliance with the following provisions:
- [1] The Board of Supervisors may permit shade trees to be located outside the legal right-of-way if future road widening is likely, such as near intersections or large development entrances. In these cases, the trees on private properties will be considered to be shade trees governable by the Township Shade Tree Commission.
 - [2] In nonresidential developments, shade trees shall be located in a planting bed. The planting bed shall be at least 10 feet in width and planted in grass or ground cover. In areas where wider sidewalks are desirable, or space is limited, tree planting pits may be used.
 - [3] Trees shall be located so as not to interfere with the installation and maintenance of sidewalks and utilities. Trees shall be planted at least three feet from curbs and sidewalks, 15 feet from overhead utilities, and six feet from underground utilities. Where trees overhang any public path or sidewalk, tree branches should be pruned to nine feet above the ground. In addition, no side branching of the trunks shall be allowed below six feet and six inches from the ground, or 12 feet from the ground when the tree is mature.
 - [4] Shade trees shall be planted at a ratio of at least one tree per 50 linear feet of frontage, or fraction thereof. Trees shall be distributed along the entire frontage of the property, although they need not be evenly spaced. The Township encourages a variety of species to enhance the rural character of the area.
 - [5] Where trees are existing along a roadway, the existing trees over four inches in caliper within 10 feet of the ultimate right-of-way line can be counted toward the shade tree requirement. Where such existing shade trees are over 75 feet apart, new shade trees shall be planted between these existing trees not less than 25 feet from any existing tree.
- (2) Buffer and screen planting.
- (a) All subdivisions and land developments shall be landscaped with the following two components:
 - [1] Property line buffers that integrate the new development with its surroundings and separate incompatible land uses.
 - [2] Site element screens that act to minimize views to certain site elements located within 100 feet of property lines or road rights-of-way.
 - (b) Property line buffer requirements.
 - [1] Property line buffering is required for the following types of development and as otherwise specified in Chapter 285, Zoning, of the Code of the Township of Upper Frederick:
 - [a] All nonresidential development.
 - [b] All multifamily and single-family attached development.
 - [c] All single-family cluster development.
 - [d] All mobile home parks.
 - [2] An onsite investigation by the applicant shall determine the adjacent land uses along each

property boundary. In the case of vacant land, the existing zoned uses shall apply. The existing or zoned uses shall be noted on the plan. In the case of several permitted uses on a site, the most restrictive requirements shall apply. The Township shall have final approval of interpretation of land uses or the Zoning Map.

- [3] The quantity and type of plant material required shall be determined by the intensity of the proposed land use and the adjacent land use or zoning district, according to Table 1 (below).

Table 1

Property Line Buffers

(See § 240-37F(2)(b)[4] for definition of low-, medium- and high-intensity buffers)

Proposed Use	Adjacent Use			
	Office/ Institutional and Public Recreation	Commercial/ Industrial	Multifamily SFA, MHP	SF Semi-detached, SFD
Office/ Institutional ¹	Low	Low	Medium	High
Commercial/ Industrial	Medium	Low	High	High
Residential ²	Low	Medium	Low	Medium
Active recreation: (playing fields, golf courses, swim clubs, etc.)	Low	—	Low	Low

NOTES:

¹All uses in office/limited industrial parks shall be considered Office/Institutional Uses.

²Buffers are required for all multifamily, single-family attached, clustered single-family and mobile home park developments.

- [4] Plant material quantities and types.
 - [a] In accordance with Table 1, for every 100 linear feet of property line to be buffered, the following is required (at a minimum):

- Low intensity:
 - 1 canopy tree
 - 2 ornamental trees
- Medium intensity:
 - 1 canopy tree
 - 2 ornamental trees
 - 2 evergreen trees
 - 5 shrubs

High intensity: 5 evergreen trees
 2 ornamental trees
 1 canopy tree
 10 shrubs

[5] Buffer area location and dimension requirements.

- [a] The buffer area shall be between 25 and 50 feet in width along all property lines, unless otherwise specified by Chapter 285, Zoning.
- [b] The buffer area may be included within the front, side or rear yard setback areas.
- [c] Parking is not permitted in the buffer area.
- [d] Site element screens and stormwater basins are permitted in the buffer area.

[6] Design criteria.

- [a] The required plant material shall be distributed over the entire length of and width of the buffer area.
- [b] Plants shall be spaced to provide optimum growing conditions.
- [c] A variety of tree species is recommended as follows:

Number of Trees	Minimum Number of Tree Species	Maximum Percent of Any One Species
0 to 5	1	100%
6 to 15	2	50%
16 to 30	3	40%
31 to 50	4	30%
51 and over	6	20%

[d] All plant materials shall meet the requirements of § 240-37E.

- (c) Existing healthy trees, shrubs or woodlands may be substituted for part or all of the required buffer and screen plant material at the discretion of the Board of Supervisors. The quantities or visual effect of the existing vegetation shall be equal to or exceed that of the required buffer.
- (d) Existing or man-made topographic conditions, such as embankments or berms, in conjunction with existing vegetation, may be substituted for part or all of the required property line buffers at the discretion of the Board of Supervisors. The minimum visual effect shall be equal to or exceed that of the required buffer or screen.
- (e) The applicant may propose the use of alternative screen types or changes in plant materials or designs which fulfill the intent of this chapter, upon the recommendation of the Planning Commission for approval by the Board of Supervisors.

(3) Site element screens.

- (a) Site element screens shall be required in all proposed developments around the following site elements, when they are located partially or fully within 100 feet of the property line or existing road right-of-way.

- [1] Parking lots.
 - [2] Dumpsters, trash disposal or recycling areas.
 - [3] Service or loading docks.
 - [4] Outdoor storage.
 - [5] Vehicle storage.
 - [6] Active recreation facilities.
 - [7] Detention basins.
 - [8] Sewage treatment facilities and pump stations.
- (b) Site elements not included in the above list that have similar visual impact shall be screened in accordance with requirements for the most similar elements as determined by the Township.
 - (c) The type of site element screen required shall be determined by the site element and the adjacent existing land use or zoned use in the case of vacant land, according to Table 2.
 - (d) The site element screen shall be placed between the site element and the property line and shall be designed to block views to the maximum extent possible. The screen shall be located as close as possible to the site element and shall surround the element without impeding function or encroaching on sight triangles.
 - (e) The following types of screens shall be used where specified in Table 2:
 - [1] Screen Type No. 1, Evergreen or Deciduous Shrubs. Shrubs shall be placed three feet on center in a minimum five-foot wide bed surrounding the site element and arranged to provide a continuous hedge-like screen up to a minimum height of 3 1/2 feet at maturity. Shrubs may be clipped to form a hedge or left in their natural habit.
 - [2] Screen Type No. 2, Double Row of Evergreens. A double row of evergreen trees shall be placed 10 feet on center and offset 10 feet to provide a continuous screen at a minimum height of 12 feet at maturity.
 - [3] Screen Type No. 3, Opaque Fence. A six-foot opaque fence surrounding the site element on at least three sides.
 - [4] Screen Type No. 4, Opaque Fence With Ornamental Trees and Shrubs. A six-foot opaque fence surrounding the site element on at least three sides, with additional plantings at the minimum rate of three shrubs and two ornamental trees or large shrubs for each 10 linear feet of proposed fence, arranged formally or informally next to the fence.
 - [5] Screen Type No. 5, Architectural Extension of the Building. An eight-foot minimum height architectural extension of the building (such as a wing wall) shall enclose service or loading docks. The building materials and style of the extension shall be consistent with the main building.
 - [6] Screen Type No. 6, Berm with Ornamental Trees. A two to three-foot high continuous curvilinear berm with ornamental trees at the rate of one tree for every 20 feet, clustered or arranged informally. The maximum slope of the berm shall be 3:1.
 - [7] Screen Type No. 7. A two- to three-foot-high continuous curvilinear berm with grass alone. The maximum slope of the berm shall be 3:1.

- [8] Screen Type No. 8, Evergreen Hedge. An evergreen hedge (such as arborvitae, chamaecyparis, etc.). Height of plants shall be six feet, three feet on center maximum.
- [9] Screen Type No. 9, Low Wall. A wall of brick or stone (not concrete block), at least 50% opaque, no less than three and no more than four feet in height.
- (f) The appropriate site element screen shall be determined based on Table 2, as follows:

Table 2
Site Element Screens
Existing Adjacent Land Use
(or Zoning District When Undeveloped)

Proposed Site Element	Nonresidential		Residential	
	Office or Institutional	All Other Nonresidential	Single-Family Detached, Attached Multifamily	All Roads
Parking lots, 30 stalls or less	—	—	1	1, 7, 9
Parking lots, 30 stalls or more	—	—	1 or 6	1, 7, 9
Dumpster, trash or recycling area	4 or 8	3	4 or 8	4 or 8
Service and loading docks	2 or 5	—	2 or 5	2 or 5
Outdoor sales yard and vehicle storage (excluding car sales area)	1	1	1	1
Active recreation facilities	—	—	7	—
Detention basins	6	—	6	—
Sewage treatment plants and pump stations	1 or 8	—	1 or 8	1 or 8

NOTES:

1. Numbers 1 through 9 refer to types of site element screens, as defined in § 240-37F(3)(e).
 2. Each site element within 100 feet of a property line or ultimate right-of-way line shall be screened with the screen type shown in this chart. When more than one alternative is given, chose one.
 3. When both residential and nonresidential uses are allowed by the zoning district on the adjacent land, the residential requirements shall apply.
 4. Trees shall be planted on berms surrounding detention basins only in compliance with § 240-37F(5).
- (g) Existing healthy trees, shrubs or woodlands may be substituted for part or all of the required site

element plant material at the discretion of the Board of Supervisors. The quantities or visual effect of the existing vegetation shall be equal to or exceed that of the required buffer.

- (h) Existing topographic conditions, such as embankments or berms, may be substituted for part or all of the required property line buffers at the discretion of the Board of Supervisors. The minimum visual effect shall be equal to or exceed that of the required screen.
 - (i) The applicant may propose the use of alternative screen types or changes in plant materials or designs which fulfill the intent of this chapter, with the recommendation of the Planning Commission for approval by the Board of Supervisors.
 - (j) Plant materials shall meet the specifications of § 240-37E. Use of plantings selected from the list of recommended plant material (§ 240-37H) is recommended.
- (4) Parking lot landscaping.
- (a) Parking lots should be effectively landscaped with trees and shrubs to reduce the visual impact of glare, headlights and parking lot lights; to delineate driving lanes; and to define rows of parking. Furthermore, parking lots should be adequately landscaped to provide shade in order to reduce the amount of reflected heat and to improve the aesthetics of parking lots.
 - (b) All parking lots with 10 or more stalls shall be landscaped according to the following regulations (see illustration as well):
 - [1] One planting island shall be provided for every 10 parking stalls. There shall be no more than 10 contiguous parking stalls in a row without a planting island.
 - [2] The ends of all parking rows shall be divided from drives by planting islands.
 - [3] In residential developments, large parking lots shall be divided by planting strips into smaller parking areas of no more than 40 stalls.
 - [4] In nonresidential developments, large parking lots shall be divided by planting strips into smaller parking areas of no more than 100 stalls.
 - [5] Planting islands shall be a minimum of nine feet by 18 feet in area, underlain by soil (not base course material); mounded at no more than a 4:1 slope, nor less than a 12:1 slope; and shall be protected by curbing or bollards. Each planting island shall contain one shade tree plus shrubs and/or ground cover to cover the entire area.
 - [6] All planting strips shall be a minimum of eight feet wide. Strips shall run the length of the parking row, underlain by soil, mounded at no more than a 4:1 slope, nor less than a 12:1 slope, and shall be protected by curbs, wheel stops or bollards. Planting strips shall contain plantings of street-type shade trees at intervals of 30 to 40 feet, plus shrubs and/or ground cover to cover the entire area at maturity.
 - [7] The placement of light standards shall be coordinated with the landscape plan to avoid a conflict with the effectiveness of light fixtures.
 - (c) Plant materials shall comply with the requirements of § 240-37G. The use of planting from the list of recommended plant material, § 240-37H, is encouraged.
 - (d) All parking lots shall be screened from public roads and from adjacent properties as required in § 240-37B.
- (5) Stormwater basins and associated facilities. Landscaping shall be required in and around all stormwater management basins according to the following:

- (a) All areas of stormwater management basins, including basin floors, side slopes, berms, impoundment structures or other earth structures, shall be planted with cover vegetation such as lawn grass or naturalized plantings specifically suited for stormwater basins (see § 240-37G for recommended plants for stormwater basins). The Township encourages the use of wildflowers in compliance with Subsection F(5)(a)[2], below.
 - [1] Lawn grass areas shall be sodded or hydroseeded to minimize erosion during the establishment period and, once established, these areas shall be maintained at a height of not more than six inches.
 - [2] Naturalized cover plantings, such as wildflowers, meadows and nonaggressive grasses specifically designed for the permanently wet, intermittently wet and usually dry areas of stormwater basins, may be planted as an alternative to lawn grass given:
 - [a] The plantings provide continuous cover to all areas of the basin.
 - [b] The plantings do not interfere in the safe and efficient function of the basin as determined by the Township Engineer.
 - [3] Trees and shrubs shall be allowed in and around stormwater basins given they do not interfere in the proper function of the basin and no trees are planted on or within 30 feet of an impoundment structure or dam.
- (b) Basin shape shall incorporate curvilinear features to blend with the surrounding topography.
- (c) Minimum grades of the stormwater basin floors shall be 2% and maximum side slopes of the basin shall be 3:1. If side slopes (inside the basin) are between 5:1 and 3:1, then the Board of Supervisors, upon the recommendation of the Planning Commission, may require a fence around the basin. If side slopes are more gradual than 5:1 (preferably more gradual than 8:1) then a fence is not necessary.
- (d) Stormwater basins shall be screened from adjacent properties with landscaping according to § 240-37B.
- (6) Riparian Corridor Conservation District vegetation requirements. In areas within the Riparian Corridor Conservation District, as defined in § 285-205 of the Zoning Ordinance, the edge of water features and stream corridors shall be vegetated with native vegetation to further the ecological and environmental benefits, as stated in the Riparian Corridor Conservation Overlay District (RCC). To promote reestablishment of forest cover and woodland habitat, new plantings shall be implemented as follows:
 - (a) Each mature tree, tree mass or woodland located within the Riparian Corridor Conservation District shall be identified on the preliminary plan. Those portions of the RCC not meeting the vegetation standards shall be supplemented to meet the minimum requirements of § 240-37F(6)(b) through (d). Those portions of the RCC with woodland cover that exceeds the minimum requirements of § 240-37F(6)(b) through (d) may not be counted toward meeting the requirements for other portions of the RCC.
 - (b) RCC Zone 1. New trees shall be planted at a minimum rate of one shade tree and two shrubs per 250 square feet for all portions of Zone 1 without existing tree cover.
 - [1] Trees shall be planted in staggered rows or an equivalent informal arrangement and meet the standards of § 240-37G, Plant material specifications, maintenance and guarantee.
 - [2] Proposed trees shall be identified on the Township tree list and shall be native.
 - [3] Existing native, healthy trees, shrubs or woodlands shall be preserved.

- [4] Invasive vegetation may be removed in accordance with a plan for removal submitted to the Township and found to be acceptable.
 - (c) RCC Zone 2. New trees shall be planted at a minimum rate of one shade tree and two shrubs per 500 square feet for all portions of Zone 2 without existing tree cover.
 - [1] Trees shall be planted in staggered rows or an equivalent informal arrangement and meet the standards of § 240-37G, Plant material specifications, maintenance and guarantee.
 - [2] Proposed trees shall be identified on the Township tree list and shall be native.
 - [3] Existing native, healthy trees, shrubs or woodlands shall be preserved.
 - [4] Invasive vegetation may be removed in accordance with a plan for removal submitted to the Township and found to be acceptable by the Township.
 - (d) RCC Zone 3. Grasses shall be planted to result in a naturalized covering.
 - [1] Existing native, healthy trees, shrubs or woodlands shall be preserved.
- G. Plant material specifications, maintenance and guarantee. The following standards shall apply to all plant materials or transplanted trees as required under this chapter:
- (1) General requirements.
 - (a) The location, dimensions and spacing of required plantings should be adequate for their proper growth and maintenance, taking into account the sizes of such plantings at maturity and their present and future environmental requirements, such as wind, soil, moisture and sunlight. (Refer to § 240-37H, Recommended plant list).
 - (b) Plantings should be selected and located such that they will not contribute to conditions hazardous to public safety. Such locations include, but are not limited to, public road rights-of-way, underground and aboveground utilities, and sight triangle areas required for unobstructed views at road intersections.
 - (2) Plant specifications.
 - (a) All plants shall meet the minimum standards for health, form and root condition as outlined in the American Association of Nurserymen (AAN) Standards.
 - (b) All plant material shall be hardy and within the USDA Hardiness Zone six applicable to Montgomery County, Pennsylvania.
 - (c) Shade and canopy trees shall reach a minimum height and spread of 30 feet at maturity as determined by the AAN Standards, and shall be deciduous. New trees shall have a minimum caliper of 2 1/2 inches at planting.
 - (d) Ornamental trees or large shrubs shall reach a typical minimum height of 15 feet at maturity, based on AAN Standards. Trees and shrubs may be deciduous or evergreen and shall have a distinctive ornamental character such as showy flowers, fruit, habit, foliage or bark. New ornamental trees shall have a minimum height of six feet or 1 1/2 inch caliper at time of planting. New large shrubs shall have a minimum height of 2 1/2 feet to three feet at time of planting.
 - (e) Small shrubs may be evergreen or deciduous and shall have a minimum height at maturity of four feet based on AAN Standards. New shrubs shall have a minimum height of 18 inches at time of planting.
 - (f) Evergreen trees shall reach a typical minimum height of 20 feet at maturity based on AAN

Standards for that species, and shall remain evergreen throughout the year. New evergreens shall have a minimum height at planting of six feet.

(3) Maintenance.

- (a) Required plant material shall be maintained for the life of the project to achieve the required visual effect of the buffer or screen. It shall be the ultimate responsibility of successive property owners to insure that the required plantings are properly maintained. Dead or diseased plant material shall be removed or treated promptly by the property owner and replaced at the next growing season.
- (b) Safety. All sight triangles shall remain clear, and any plants or parts thereof, such as unstable limbs, that could endanger safety shall be removed. Plant material shall be replaced if necessary. It shall be the responsibility of the property owner to maintain all plantings and architectural elements to ensure a safe environment.
- (c) Maintenance guidelines for the plantings are encouraged to be published by the planting plan designer, to be used by grounds maintenance personnel to insure that the design's buffering and screening concepts are continued.

(4) Landscape bond.

- (a) Any tree or shrub that dies within 18 months of planting shall be replaced by the current landowner or developer. Any tree or shrub that, within 18 months of planting or replanting, is deemed, in the opinion of the Township, not to have survived or not to have grown in a manner characteristic of its type, shall be replaced. Substitutions or replacements must be equivalent to the original material and are subject to approval by the Township.
- (b) The developer or landowner shall deposit with the Township a sum of money in the form of cash, certified check, letter of credit or bond equal to a minimum of 15% of the total landscaping costs to cover the cost of replacing, purchasing, planting and maintaining all dead, dying, defective or diseased plant material for a period of 18 months.

H. Recommended plant material list.

- (1) Shade or canopy trees. Suitable for shade trees or parking lots as well as for buffers and screens. (Minimum mature height: 30 feet or more.)

Scientific Name	Common Name
<i>Acer rubrum</i>	Red maple (native)
<i>Celtis occidentalis</i>	Hackberry (native)
<i>Cladrastis lutea</i>	Yellowwood (native)
<i>Corylus colurna</i>	Turkish Filbert
<i>Fraxinus pennsylvanica lanceolata</i>	Marshall's Seedless
cv. Marshall's seedless	Marshall's Seedless Ash
<i>Ginkgo biloba</i>	Ginko (male only)
<i>Gleditsia triacanthos inermis</i>	Thornless Honeylocust
<i>Koelreuteria paniculata</i>	Golden Rain Tree
<i>Quercus bicolor</i>	Swamp White Oak (native)
<i>Quercus coccinea</i>	Scarlet Oak (native)
<i>Quercus imbricaria</i>	Shingle Oak (native)

Scientific Name

Quercus phellos
 Quercus prinus
 Quercus rubra
 Robinia pseudoacacia
 Sophora japonica
 Tilia Americana
 Tilia cordata
 Tilia tomentosa
 Ulmus parvifolia
 Zelkova serrata

Common Name

Willow Oak (native)
 Chestnut Oak (native)
 Northern Red Oak (native)
 Black Locust (native)
 Japanese Pagodatree
 American Linden (native)
 Little Leaf Linden
 Silver Linden
 Chinese Lacebark Elm
 Japanese Zelkova

- (2) Shade or canopy trees. Suitable for property line buffers and nonvehicular use areas only. (Minimum mature height: 30 feet or more.)

Scientific Name

Acer saccharum
 Betula lenta
 Betula nigra
 Carya ovata
 Carya sp.
 Fagus grandifolia
 Fagus sylvatica
 Fraxinus americana
 Liriodendron tulipifere
 Metasequoia glyptostroboides
 Ostrya virginiana
 Phellodendron amurense
 Quercus alba
 Quercus coccinea
 Quercus palustris
 Quercus velutina
 Sassafras albidum

Common Name

Sugar Maple (native)
 Sweet Birch (native)
 River Birch (native)
 Shagbark Hickory (native)
 Hickory (native)
 American Beech (native)
 European Beech
 White Ash (native)
 Tuliptree (native)
 Dawn Redwood
 American Hornbeam; Ironwood
 Amur Cork Tree
 White Oak (native)
 Scarlet Oak (native)
 Pin Oak (native)
 Black Oak (native)
 Sassafras (native)

- (3) Ornamental trees. Suitable for property line buffers or site element screens. (Minimum mature height: 15 feet or more.)

Scientific Name

Amelanchier canadensis
 Cercis canadensis
 Chinoanthus virginicus
 Cornus kousa

Common Name

Shadblow, Shadbush (native)
 Redbud (native)
 Fringetree (native)
 Japanese Dogwood

Scientific Name	Common Name
<i>Cornus mas</i>	Cornelian Cherry
<i>Crataegus</i> cv. Toba	Toba Hawthorn
<i>Crataegus molis</i>	Downy Hawthorn
<i>Crataegus oxycantha</i>	English Hawthorn
<i>Crataegus phaenopyrum</i>	Washington Hawthorn
<i>Halesi carolina</i>	Silverbells (native)
<i>Hamamelis virginiana</i>	Witch Hazel (native)
<i>Koelreuteria paniculata</i>	Golden Raintree
<i>Luburnam vossi</i>	Goldenchain
<i>Magnolia virginiana</i>	Sweetbay Magnolia (native)
<i>Malus</i> sp.	Crab Apple Species (native)
<i>Oxydendrum arboreum</i>	Sourwood (native)
<i>Prunus sargentii</i>	Sargent Cherry
<i>Prunus calleryana</i> cv. Kwanzan	Kwanzan Cherry
<i>Pyrus calleryana</i> cv. Bradford	Bradford Pear
<i>Pyrus calleryana</i> cv. Redspie	Redspire Pear
<i>Sorbus aucuparia</i>	European Mountain Ash
<i>Styrax japonica</i>	Japanese Snowball
<i>Syringa amurensis japonica</i>	Japanese Tree Lilac

- (4) Large deciduous shrubs. Suitable for use in property line buffers or site element screen (not clipped hedges). (Minimum mature height: 15 feet or more.)

Scientific Name	Common Name
<i>Aronia arbutifolia</i>	Black Chokeberry (native)
<i>Calycanthus flordius</i>	Sweet Shrub (native)
<i>Cephalanthus occidentalis</i>	Buttonbush (native)
<i>Clethra acuminata</i>	Summersweet (native)
<i>Cornus sericea</i>	Red Osier Dogwood (native)
<i>Corylus americanus</i>	American Filbert, American Hazel
<i>Enkianthus campanulatus</i>	Redvein Enkianthus
<i>Euonymus alatus</i>	Burning Bush
<i>Forsythia</i> sp.	Forsythia
<i>Fothergilla major</i>	Large Fothergilla (native)
<i>Ilex verticillata</i>	Winterberry (native)
<i>Lindera benzoin</i>	Spicebush (native)
<i>Lonicera</i> spp. (shrubbery var.)	Honeysuckle Bush
<i>Myrica pensylvanica</i>	Bayberry (native)
<i>Philadelphus</i> spp.	Mock Orange

Scientific Name	Common Name
<i>Physocarpus opulifolius</i>	Common Ninebark
<i>Sambucus canadensis</i>	Elderberry (native)
<i>Spirea nipponica</i>	Snow Mound Spirea
<i>Vaccinium corymbosum</i>	Blueberry (native)
<i>Viburnum dentatum</i>	Arrowwood (native)
<i>Viburnum lentago</i>	Nannyberry (native)
<i>Viburnum prunifolium</i>	Blackhaw (native)
<i>Viburnum</i> spp.	Other large viburnums
<i>Viburnum trilobum</i>	American Cranberry Bush

- (5) Deciduous or evergreen shrubs. Suitable for clipped hedges in property line buffers or site element screens. (Minimum mature height: four feet or more.)

Scientific Name	Common Name
<i>Acanthopanax sieboldianus</i>	Five Leaf Aralia
<i>Aronia arbutifolia</i>	Black Chokeberry (native)
<i>Cornus mas</i>	Cornelian Cherry
<i>Cotoneaster salicifolia</i>	Willowleaf Cotoneaster
<i>Euonymus alatus</i>	Winged Euonymous
<i>Euonymus alatus compactus</i>	Dwar Winged Euonymous
<i>Euonymus fortuneii vegetus sarcoxie</i>	Big Leaf Wintercreeper
<i>Ilex crenata compacta</i>	Compact Japanese Holly
<i>Illex glabara</i>	Inkberry (native)
<i>Ilex crnata hetzi</i>	Hertz Holly
<i>Juniperus chinensis glauca hetzi</i>	Hertz Blue Juniper
<i>Juniperus chinensis pfitzeriana compacta</i>	Compact Pfitzer Juniper
<i>Lingustrum ibolium</i>	Ibolium Privet
<i>Lonicera fragrantissima</i>	Winter Honeysuckle
<i>Philadelphus lemoinei</i>	Mock Orange
<i>Ribes alpinum</i>	Currant
<i>Taxus brownii</i>	Brown's Yew
<i>Taxus canadensis</i>	Canada Yew
<i>Taxus densiformis</i>	Dense Yew
<i>Taxus media hatfieldi</i>	Hatfield Yew
<i>Viburnum dentatum</i>	Arrow Wood (native)
<i>Viburnum lentao</i>	Nannyberry (native)
<i>Viburnum opulus</i>	European Cranberry Bush
<i>Viburnum prunifolium</i>	Black Haw (native)
<i>Thuja</i> sp.	Arborvitae

(6) Evergreen shrubs. Suitable for site element screens. (Minimum mature height: four feet.)

Scientific Name	Common Name
Azalea — evergreen species — must reach 3-foot height	Azalea
Chamaecyparis obtusa	Chamacyparis
Chamaecyparis pisifera	Chamaecyparis
Ilex crenata "Hetzi"	Japanese Holly
Ilex glabra	Inkberry (native)
Ilex maservae	Blue Holly Series
Juniperus chinensis "Hertzi Glauca"	Hertz Blue Juniper
Kalmia latifolia and cvs	Mountain Laurel (native)
Leucothoe fontanessiana	Leucothoe
Pieris floribunda	Mountain Andromeda (native)
Pieris japonica	Japense Andromeda
Rhododendron sp.	Various Lg. Rhododendrons
Taxus sp.	Yew
Thuja sp.	Arborvitae
Viburnum rhytidoyllum	Leatherleaf Viburnum

(7) Evergreen trees. Suitable for property line buffers or site element screens. (Minimum mature height: 20 feet.)

Scientific Name	Common Name
Abies concolor	White Fir
Ilex opaca	American Holly (native)
Picea abies	Norway Spruce
Picea omorika	Serbian Spruce
Picea pungens	Colorado Spruce
Pinus strobus	White Pine (native)
Pinus thunbergii	Japanese Black Pine
Pseudotsuga menziesii	Douglas Fir
Tsuga canadensis	Canadian Hemlock (native)
Tsuga caroliniana	Carolina Hemlock (native)

(8) Canopy trees. Suitable for stormwater detention basins.

Scientific Name	Common Name
+Acer rubrum	Red Maple
*Acer saccharinum	Silver Maple
*Betula nigra	River Birch
*Fraxinus americana	White Ash
*Ilex opaca	American Holly

+Liquidambar styraciflua	Sweet Gum
*Nyssa Sylvatica	Black Gum
*Quercus phellos	Willow Oak
+Quercus bicolor	Swamp White Oak
*Quercus palustris	Pin Oak
+Taxodium distichum	Bald Cypress

(9) Deciduous/evergreen ornamental trees. Suitable for stormwater detention basins.

Scientific Name	Common Name
*Amelanchier canadensis	Shadblow, Shadbush
*Carpinus caroliniana	Ironwood
*Chionanthus virginicus	Fringetree
*Magnolia virginiana	Sweetbay
+Salix caprea	Willow sp.
+Salix discolor	Willow sp.
*Thuja occidentalis cv. nigra	Arborvitae

(10) Deciduous or evergreen shrubs. Suitable for stormwater detention basins.

Scientific Name	Common Name
+Aronia arbutifolia	Red Chockberry
*Calycanthus florida	Sweetshrub
+Cephalanthus occidentalis	Button Bush
+Clethra alnifolia	Summersweet
+Cornus amomum	Silky Dogwood
+Cornus sericea	Red-Stem Dogwood
*Hamamelis virginiana	Witch Hazel
+Ilex glabra	Inkberry
+Ilex verticillata	Winterberry
*Lindera benzoin	Spice Bush
*Myrica cerifera	Southern Bayberry
+Myrica Pensylvanica	Northern Bayberry
*Rhododendron periclymenoides	Pinxterbloom Azalea
+Rhododendron viscosum	Swamp Azalea
*Sambucus canadensis	Elderberry
*Viburnum cassanoides	Witherod
*Viburnum dentatum	Arrowwood
*Viburnum lentago	Nannyberry
*Viburnum tirlobum	American Cranberry bush

(11) Herbaceous perennials. Suitable for stormwater detention basins.

Scientific Name	Common Name
* <i>Aster novaeangliae</i>	New England Aster
* <i>Chrysanthemum leucanthemum</i>	Ox-Eye Daisy
+ <i>Eupatorium dubium</i>	Joe Pye Weed
+ <i>Eupatorium fistulosum</i>	Hollow Joe Pye Weed
* <i>Hemerocallis</i> sp.	Day Lily
* <i>Hesperis matronalis</i>	Dames Rocket
+ <i>Hibiscus moscheutos</i>	Rose Mallow
+ <i>Iris pseudoacarus</i>	Yellow Iris
+ <i>Iris versicolor</i>	Blue Flag
+ <i>Lobelia cardinalis</i>	Cardinal Flower
+ <i>Lobelia siphilitica</i>	Blue Lobelia
+ <i>Monarda didyma</i>	Bee Balm
+ <i>Panicum virgatum</i>	Switchgrass
* <i>Phalaris arundinacea</i>	Canary Reed Grass
* <i>Rudbeckia</i> sp.	Black-Eyed Susan
+ <i>Scirpus acutus</i>	Hard Stem Bullrush
+ <i>Spartina alternifolia</i>	Cordgrass
+ <i>Typha angustifolia</i>	Narrowleaf Cattail
+ <i>Typha latifolia</i>	Common Cattail
+ <i>Vernonia noveboracensis</i>	New York Iron Weed

NOTES:

*Suitable for usually well-drained areas that may be subject to occasional flooding.

+Suitable for permanently wet areas.

I. Definitions. As used in this section, the following terms shall have the meanings indicated:

CALIPER — Diameter of a tree's trunk measured 12 inches above the ground.

MATURE TREE — Any tree of six inches or more in caliper, whether standing alone, in tree masses or woodlands. A mature tree shall be healthy specimen and shall be a desirable species, as determined by the Township or landscape architect appointed by the Township.

MINIMIZE — To reduce to the smallest amount possible. "Minimize" does not mean to "eliminate," but that the most substantial efforts possible under the circumstances have been taken to reduce the, effect of the action (such as grading, clearing, construction, etc.).

SIGHT TRIANGLE — Proper sight lines must be maintained at all intersections of roads. Measured along the center line, there should be a "clear sight triangle" of 75 feet from the point of intersection based on the posted speed limit. No building or present or future obstruction will be permitted in this area.

SPECIMEN TREE — Any tree with a caliper that is 75% or more of the record tree of the same species in the Commonwealth of Pennsylvania. (A list of record trees by species will be maintained at the Township for public use identification of specimen trees).

TREE MASS — A grouping of three or more trees, each at least 1 1/2 inch in caliper within a one-hundred-square-foot area.

WOODLAND — A stand of predominantly native vegetation covering at least one acre, consisting of a 50% cover of mature trees of size.

§ 240-38. Park, open space and recreation dedication areas; fee in lieu of dedication. [Added 5-14-2015 by Ord. No. 2015-03⁴⁵]

- A. Legislative intent. The purpose of this section is to adopt the provisions of Section 503(11) of the Pennsylvania Municipalities Planning Code⁴⁶ and thereby provide for needed parks, recreation and open space in the Township. In addition, it is the intent of these dedication requirements to:
- (1) Recognize that the development of residential and nonresidential property in the Township creates a demand for local recreational facilities.
 - (2) Provide adequate open spaces, recreational lands and recreational facilities to serve both the existing and future residents and nonresidents of the Township by providing for both passive and active recreation.
 - (3) Further implement the goals, objectives and recommendations of the Township's Recreation, Park and Open Space Plan and the Township's Comprehensive Plan.
- B. Applicability.
- (1) This section shall apply to any residential subdivision or nonresidential land development application or plan filed after the effective date of this section. Applicants seeking approval of a minor subdivision plan, as defined in § 240-5, shall submit to the Township a fixed fee, prior to release of final plans for recording, as established by the Township in the schedule of fees for the newly created lots in lieu of providing a public dedication area.
 - (2) This section shall not apply to applications and plans that the Township determines to involve only minor adjustments or corrections to applications and plans for approval pending as of the effective date of this section.
- C. General requirements.
- (1) All areas dedicated under the provisions of this section shall be consistent with the specific goals, objectives and recommendation of the Township Comprehensive Plan and the Township Recreation, Park and Open Space Plan, and are to be in accordance with the principles and standards contained in this chapter.
 - (2) In lieu of dedication, a fee may be paid, as hereinafter set forth in § 240-38E.
 - (3) The amount and location of land and facilities to be dedicated, or the fee in lieu thereof, shall bear a reasonable relationship to the use of the park and recreation facilities by future residents, occupants, employees or visitors to the site.
- D. Standards for park, open space and recreational infrastructure dedication.
- (1) The applicant shall offer for dedication an amount of land and recreational infrastructure for park, recreation or open space in accordance with the requirements below. The Township, in its discretion, may require that the land and recreational infrastructure remain in private ownership and be reserved and restricted in perpetuity under other forms of ownership as provided in § 240-38J.
 - (2) Except for mini-parks, rights-of-way or easements for greenways, no contiguous area of land shall be considered for dedication if it is less than 0.5 acre, and in no event shall the area proposed for dedication

45. Editor's Note: This ordinance also repealed former § 240-38, Open space areas and community assets.

46. Editor's Note: See 53 P.S. § 10503(11).

be less than 100 feet in width. The land to be dedicated shall be contiguous and regular in shape, where possible and practical, and shall have size, dimensions, topography, access and general character suitable for its proposed recreational use, as determined by the Township, in conjunction with the Township Parks Board and the Township Planning Commission. The Township shall have the sole discretion not to approve or accept any area of land if it determined that the contiguous area of the same is insufficient to adequately serve as or provide park and recreation area.

- (3) Land proposed as a mini-park, as defined herein, shall be fully developable and shall have size, dimensions, topography, access and general character suitable for its proposed recreational use, as determined by the Township, in conjunction with the Township Parks Board and the Township Planning Commission.
- (4) The mini-park recreational infrastructure shall be provided as required by the Township.
- (5) The area dedicated may not be used in calculating density.
- (6) No more than 25% of the land proposed for dedication shall be within the required riparian corridor or contain other natural resource constraints such as steep slopes or wetlands.
- (7) Any land not suitable for active or passive recreation shall not be accepted as dedicated land; this includes areas within stormwater basins that could not be used for recreation.
- (8) Consideration shall be given to preserving viewsheds, natural features, including rocks and rock outcrops, large trees and stands of trees, watercourses, historic structures and areas and other community assets that would enhance the value and aesthetic qualities of the development.
- (9) The land shall be easily and safely accessible from all residential or occupied areas within the development or the general area to be served, and it shall have road frontage or other suitable access from a public roadway for maintenance purposes.
- (10) The Township may require that land to be dedicated be located along a property boundary so that such land may be combined with dedicated land or other recreation areas that are or will be adjacent to the land to be dedicated.
- (11) The land shall be accessible to utilities, if determined to be necessary by the Township.
- (12) The land shall be designed and developed for its intended open space, park or recreation use, in accordance with the recommendations contained in the Township Recreation, Park and Open Space Plan.

E. Determining amount of land to be dedicated.

- (1) The amount of land to be dedicated or reserved for park and open space shall be in accordance with the following table. The applicant or applicant's agent shall not be permitted to dedicate or reserve land that is deemed by the Township inadequate to be used as recreation or open space.

Type of Dwelling	Park Dedication Requirement		Mini-Park Dedication Requirement
	Per Dwelling Unit	Per 1,000 Square Feet of Building, Structure or Improvement	Per Dwelling Unit
Residential			
<ul style="list-style-type: none"> • Apartment • Lot line house 			

Type of Dwelling	Park Dedication Requirement		Mini-Park Dedication Requirement
	Per Dwelling Unit	Per 1,000 Square Feet of Building, Structure or Improvement	Per Dwelling Unit
<ul style="list-style-type: none"> • Multifamily building • Single-family attached dwelling unit • Two-family building • Village house 	1,255 square feet	N/A	100 square feet
<ul style="list-style-type: none"> • Single-family detached dwelling unit 	1,154 square feet	N/A	N/A
Nonresidential	N/A	1,002 square feet	N/A

- (2) For proposals with a mixture of types of dwelling units and/or with a mixture of residential and nonresidential uses, the amount of land to be dedicated or reserved for park and open space shall be the sum of the areas needed for each type of dwelling unit and/or nonresidential improvement calculated at the rates in the above table.
- (3) The resulting acreage required for mini-park dedication shall not be in addition to the amount calculated for the "Park Dedication Requirement Per Dwelling Unit" in Column 2, but it shall be a part of it.

F. Standards for fee in lieu of dedication.

- (1) Subject to the discretion of the Township, payment of a fee in lieu of land and recreational infrastructure dedication shall be required:
 - (a) Where dedication would result in open space or recreation areas too small to be usable, as determined in § 240-38D(2), not including required mini-parks.
 - (b) If the Township Comprehensive Plan or the Township Recreation, Park and Open Space Plan recommends recreation land to be provided elsewhere.
 - (c) If a suitable site for recreation cannot be located on the site.
- (2) All fees paid in lieu will be determined as follows:
 - (a) Recreational land and infrastructure fee in lieu. The applicant shall tender to the Township, prior to final plan approval, a fee in lieu of dedication of land and infrastructure calculated as follows:
 - [1] Residential development. The number of dwelling units for which recreational land and infrastructure are not provided shall be multiplied by the applicable residential recreational land and infrastructure fee in lieu adopted by the Township.
 - [2] Nonresidential development. The square footage of nonresidential development identified on the plan for which recreational land and infrastructure are not provided shall be divided by 1,000, and the resulting value shall be multiplied by the applicable nonresidential recreational land and infrastructure fee in lieu value adopted by the Township.
- (3) All fees paid in lieu of land dedication or recreational infrastructure may only be used for:
 - (a) The acquisition, operation or maintenance of parkland, open space or recreational facilities

reasonably accessible to the development.

- (b) The construction of improvements and recreational infrastructure.
- (c) Costs incidental to such purposes, including, but not limited to, planning, engineering, design, administrative and legal fees, utility relocation or installation, construction of sewage or water facilities, vehicular and pedestrian access signage and the purchase of park equipment and maintenance.

(4) All fees paid to the Township shall be deposited in a separate interest-bearing account, clearly identified as reserved, for providing, acquiring, operating or maintaining park or recreational facilities and land. The Township shall maintain records identifying the specific recreation facilities for which the fee was received and sites for which such fees have been received. Interest earned on such accounts shall become funds of that account. Funds from such accounts shall be expended only in properly allocable portions of the costs incurred to acquire, construct or improve such specific, identifiable and/or proposed recreation facilities for which such funds have or may hereafter be collected.

(5) If the Township fails to use the fees collected from a particular applicant in accordance with this section within three years of the date such fees were paid, or used the fees paid for a purpose other than the purposes set forth in this section, the applicant may submit a written request, on such forms as are established by the Township, for the refund of such fees, plus interest that accumulated thereon from the date of fee payment, which request shall be reviewed and acted upon by the Township within 45 days of the date of receipt.

G. Use of land and fees. The types of recreational infrastructure shall be designed and constructed as provided in the Township Recreation, Parks and Open Space Plan, and be deemed to include, but not be limited to:

- (1) Playground equipment and surfaces.
- (2) Play fields.
- (3) Basketball courts, or other court facilities.
- (4) Hiking, bicycle, walking and jogging trails and exercise stations.
- (5) Parking lot facilities.
- (6) Utility services.
- (7) Bathrooms and water fountains.
- (8) Landscaping.
- (9) Picnic facilities and benches.
- (10) Lighting facilities relating to park and recreational facilities.

H. Combination of land dedication and fees in lieu of land dedication.

- (1) The Township may accept a combination of land dedication in fee simple title, grants of rights-of-way and easements and fees in lieu of land in order to meet the requirements and standards of the Township Recreation, Park and Open Space Plan. Such combination shall be subject to the review and approval of the Township at its sole discretion.
- (2) The resulting combination of land and fees shall not exceed the total acreage to be developed, or the acreage which constitutes the basis of calculating the fee in lieu of dedication required by this section.

I. Determination of land dedication vs. fees in lieu of land dedication.

- (1) The Township, with the recommendation of the Planning Commission, shall determine whether land dedication, grant of rights-of-way and easements or fees in lieu of land shall be required. Such decision shall be made as early in the plan review process as possible, but not later than concurrent with the preliminary plan approval.
- (2) The Township shall consider the following factors, in addition to any other factors that may be applicable to a particular site:
 - (a) If the land in that location serves a valid public purpose.
 - (b) If there is a need to make a reasonable addition to an existing park or recreation area.
 - (c) If the land meets the objectives and requirements of this section.
 - (d) If the area surrounding the proposed development has sufficient existing parks, recreation areas or facilities or open space and if pedestrians or bicyclists can safely reach these areas.
 - (e) Any relevant policies of the Township regarding parks, recreation areas and facilities and open space, including those within the Township Comprehensive Plan and the Township Open Space, Park and Recreation Plan.
 - (f) Any recommendations regarding such land that has been received from the Township and/or County Planning Commission, the Township Board of Parks and Recreation, the Township Engineer and/or the Boyertown Area School District.

J. Conveyance and maintenance of open space. All open space, shown on the final plan as approved by the Township and subsequently recorded in the Office of the Recorder of Deeds of Montgomery County, must be conveyed in accordance with one or more of the following methods:

- (1) Dedication in fee simple to Upper Frederick Township. The Township may, but shall not be required to, accept any portion or portions of the park and open space; provided that: such land is freely accessible to, and of benefit to, the general public of Upper Frederick Township; there are no acquisition costs involved; the Township agrees to and has access to maintain such lands; it is acceptable with regard to size, shape, location and improvement; and it is subject to such regulations and rules as may be recommended by the Township Board of Parks and Recreation and/or adopted by the Board of Supervisors.
 - (a) When land is dedicated, acceptance by the Township shall be by means of a signed resolution and a signed deed of dedication executed by the property owner transferring title in fee simple to the Township or by grant of a right-of-way and easement to the Township, to which a property description of the dedicated area shall be attached in a form acceptable to and approved by the Township Solicitor.
 - (b) Subject to the submission of documentation to the Township for its approval, and except as provided with regard to easements or rights-of-way for the trails and greenways, a fee simple warranty deed conveying the property shall be delivered to the Township with title free and clear of all liens, encumbrances and conditions, other than nonexclusive public utility easements.
 - (c) All applicable deed transfer taxes shall be paid by the applicant.
- (2) By conveying title to a corporation, association, funded community trust, condominium or other legal entity:
 - (a) The terms of such instrument of conveyance must include provisions suitable to the Township and otherwise guarantee:
 - [1] The continued use of such land for the intended purpose.

- [2] Continuity of proper maintenance for those portions of the open space requiring maintenance.
 - [3] The availability of funds required for such maintenance.
 - [4] Adequate insurance protection.
 - [5] Provisions for payment of applicable taxes.
 - [6] Recovery for loss sustained by casualty, condemnation or otherwise.
 - [7] Such other covenants and/or easements that the Township shall deem desirable to fulfill the purposes and intent of these regulations.
- (b) The following are prerequisites for such an entity:
- [1] It must be set up before any homes or dwelling units are sold or leased or otherwise conveyed.
 - [2] Membership must be mandatory for each buyer and/or lessee of each dwelling unit and any successive buyer and/or lessee.
 - [3] It must be responsible for liability, insurance, taxes, recovery for loss sustained by casualty, condemnation or otherwise, and the maintenance of recreational and other facilities.
 - [4] Member or beneficiaries must pay their pro rata share of the costs, and the assessment levied can become a lien on the property.
 - [5] It must be able to adjust the assessment to meet future conditions.
 - [6] Such entity shall not be dissolved, nor shall it dispose of the open space, by sale or otherwise, except to an organization conceived and established to own and maintain the open space. The entity must first offer to dedicate the open space to the Township before any such sale or disposition of the open space.
- (3) The dedication of open space, streets or other lands in common ownership of the corporation, association or other legal entity, or the Township, shall be absolute and not subject to reversion for possible future use for further development.
- (4) All documents pertaining to the conveyance and maintenance of the open space shall meet the approval of the Solicitor as to legal form and effect, and to the Township as to suitability for the proposed use of the open space.

ARTICLE V
Mobile Home Regulations

§ 240-39. General applicability.

- A. Individual mobile homes. Individual mobile homes may be erected on any lot where the use is permitted, providing compliance is made with zoning requirements and all applicable sections of this chapter.
- B. Mobile home developments. The provisions of this chapter shall be followed in the construction or alteration of all mobile home developments (as defined in this chapter) planned for tracts of land 10 acres or greater in size. These provisions are in addition to other applicable regulations of this chapter. Compliance with Chapter 285, Zoning, is required.

§ 240-40. Application procedures.

All applications for mobile home developments shall follow the procedures established in Chapter 285, Zoning. No application for subdivision or land development approval for the construction of a mobile home development will be accepted until the Board of Supervisors has given approval pursuant to the requirements of Chapter 285, Zoning.

§ 240-41. Site design.

All appropriate regulations of Chapter 285, Zoning, shall be adhered to in mobile home developments. In addition thereto, the following regulations shall apply:

- A. Arrangement of structure and facilities. The tract, including mobile home stands, patios, other dwellings and structures, and all tract improvements, shall be organized in relation to topography, the shape of the plot and common facilities. Special attention shall be given to new mobile home designs and to common appurtenances that are available.
- B. Adaptation to tract assets. Each mobile home unit or other dwelling or structure shall be fitted to the terrain with a minimum disturbance of the land and a minimum elevation difference between the floor level of the unit and the ground elevation under it. Existing trees and shrubs, rock formation, streams, floodplains, steep slopes and other natural features of the tract shall be preserved to the maximum extent practical. Favorable views shall be emphasized by the plan.
- C. Courts and spaces. Groups or clusters of units, so placed as to create interior spaces and courtyards, shall be incorporated whenever feasible.
- D. Orientation. Mobile homes are encouraged to be arranged in a variety of orientations, and are strongly encouraged to have many units with their long sides facing the street rather than their ends, in order to provide variety and interest. Site layout shall be designed to insure that mobile home units are offset to block long uninterrupted vistas between the units.
- E. Street layout. Gridiron layouts and street patterns unrelated to the topography of the site are to be avoided.
- F. Roadways.
 - (1) Standards. All Township standards for the construction of roads contained in this chapter, as subsequently amended, shall be adhered to for all public roads in and abutting mobile home developments. In those developments wherein the roads are to be maintained as private internal roadways, owned and maintained by the mobile home park operator or owned and maintained in common by the residents/owners of the individual lots, the standards shall be as follows:
 - (a) Right-of-way. There shall be an equivalent right-of-way (as defined herein) reserved along those streets which are designed to function as feeder or collector roads, and which connect major

exterior roadways, from major loops, traverse the development or provide major or important access to adjacent parcels. No equivalent right-of-way is required on other roads. On those roads where an equivalent right-of-way is required, parallel parking may be permitted, but perpendicular or angle parking is discouraged.

- (b) Pavement. Pavement width of all residential streets serving as access to mobile home lots shall be not less than 26 feet, except that this may be reduced to not less than 20 feet on a street serving as access to no more than 20 mobile home lots where parking is prohibited along the road and off-street visitor parking is provided in common areas within 300 feet of all dwelling units at a rate of 0.3 space per mobile home.
 - (c) Grades. Gradients on all residential streets shall not exceed 10%.
 - (d) Culs-de-sac. A paved turnaround area with a minimum radius of 40 feet shall be provided at the closed end of any cul-de-sac road serving as a sole access to four or more mobile home lots. No permanently closed cul-de-sac street shall exceed 700 feet in length or serve as the sole access to more than 20 mobile home lots.
- (2) Access limitations. Mobile home lots may have direct access only onto roads internal to the development. Direct access from a mobile home lot shall not be permitted onto the road(s) from which the mobile home development gains primary access.
 - (3) Conversions. Any road built as a private road, and later proposed for conversion to a public road, shall be brought up to the applicable standards for public roads prior to being ordained as a public way, unless this requirements is waived by the Board of Supervisors subsequent to determining that compliance with the requirement would have negative effect on the mobile home development.

G. Pedestrian circulation.

- (1) General requirements. All mobile home developments shall provide safe, convenient, all-season pedestrian walkways of adequate width for intended use, durable and convenient to maintain between individual mobile homes, mobile home development, all community facilities provided for the residents, and off-site pedestrian traffic generators, such as schools, bus stops, commercial centers, etc. These pedestrian walkways may parallel vehicular roadways, where they shall only be required on one side, or they may from a separate but coordinated system away from streets. Walkways must be provided wherever pedestrian traffic is concentrated and where school children congregate, but may be waived elsewhere if the applicant successfully demonstrates a lack of need.
- (2) Common walk system. Where a common walk system is provided and maintained between locations, such common walks shall have a minimum width of four feet. Where these walks parallel roadways they shall be separated from the road pavement by a distance of at least four feet.
- (3) Individual walks. All dwellings shall be connected to common walks, or to streets, or to driveways or parking spaces connecting to a paved street. Such individual walks shall have a minimum width of two feet.

H. Parking.

- (1) Spaces required. Two paved off-street parking spaces shall be provided for each dwelling on the same lot therewith. Parking for any commercial or other nonresidential use shall follow the requirements otherwise applicable for such uses.
- (2) Common park areas.
 - (a) Aisle width. Where common parking facilities are to be used, no parking aisle will be less than 22 feet in width.

(b) All parking areas shall conform to § 240-37B(4).

§ 240-42. Common open space. [Amended 8-13-1998 by Ord. No. 98-4]

In addition to any requirements of Chapter 285, Zoning, the following regulations shall also apply:

- A. Arrangement. The common space shall be designed as a contiguous area unless the applicant demonstrates to the satisfaction of the Board of Supervisors that two or more separate areas would be preferable. The open space shall also have easily identifiable pedestrian and visual accessibility to all residents of the mobile home development, although all units do not have to abut the common open space.
- B. Recreation. Recreation areas and facilities shall be provided to meet the anticipated needs of the residents of the development. Not less than 25% of the required open space area exclusive of lands within the required buffers, shall be devoted to recreation. Recreation areas should be of a size, shape and topography that is conducive to active and passive recreation.
- C. Buffers.
 - (1) General requirements. Along all exterior property boundary lines a permanent buffer (as defined in § 240-37B) shall be provided.
 - (2) Existing buffers. In cases where the property line of a mobile home development occurs along natural features which function as buffers, including, but not limited to, mature vegetation, significant grade changes or stream valleys which are likely to be permanently preserved, buffering may be waived along that property line upon approval of the Township Board of Supervisors upon recommendation of the Township Planning Commission.
 - (3) Buffer landscape plan. A landscaping plan shall be submitted with the final plans, in accordance with § 240-37C, showing all pertinent information including the location, size and species of all individual trees and shrubs to be preserved or planted, or alternately the general characteristics of existing vegetation masses which are to be preserved.
- D. Drainage considerations. The following site drainage requirements shall apply to all mobile home developments:
 - (1) Surface water. The ground surface in all parts of the development shall be graded and equipped to drain all surface water in a safe, efficient manner. The velocity of runoff during and after development shall not exceed 1 1/2 feet per second as required by Chapter 106, § 102.22(c) of the Erosion Control Rules and Regulations published by the Pennsylvania Department of Environmental Protection, July 1, 1973, and as subsequently amended.
 - (2) Ponds and retention structures. Surface water collectors and other bodies of standing water capable of breeding mosquitoes and other insects shall be eliminated or controlled in a manner approved by the Pennsylvania Department of Environmental Protection.
 - (3) Wastewater. Wastewater from any plumbing fixtures or sanitary sewer line shall not be deposited upon the ground surface in any part of a mobile home development or the surrounding properties.
 - (4) Erosion and sediment control. All applicable regulations and permit requirements to prevent accelerated soil erosion and resulting sedimentation as stipulated in the Pennsylvania Department of Environmental Protection Soil Erosion and Sedimentation Control Manual, July 1, 1973, and as subsequently amended, shall be followed by all parties engaged in establishment of a mobile home development. (The manual is available at the office of the Montgomery County Soil and Water Conservation District, Court House, Norristown, Pennsylvania.)
- E. Ground cover requirement. Exposed ground surfaces in all parts of every mobile home development shall be

paved, or covered with stone screening or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and the emanation of dust during dry weather. Impervious pavement shall be kept to a minimum. All ground surfaces shall be appropriately maintained.

- F. Lighting facilities. Lighting facilities shall be provided as needed and arranged in a manner which will protect the mobile home development residents, neighboring properties and adjacent highways from direct glare or hazardous interference of any kind. Lighting facilities shall be required where deemed necessary by the Board of Supervisors for the safety and convenience of the mobile home development residents, and shall be installed by the developer.

§ 240-43. Common elements.

- A. Ownership. Common open space and roadways shall be offered for dedication to the Township or public use assured through easements or other appropriate means, in any mobile home development where all lots will be sold, or where the Township Board of Supervisors determines those facilities to be key elements in the open space and/or circulation systems of the Township, in accordance with the Township Comprehensive Plan. In all other cases, these and other common elements may be retained in private ownership, or may be owned jointly by the residents of the development.
- B. Maintenance. Prior to development plan approval, provisions acceptable to the Township Board of Supervisors and Township Solicitor for the maintenance of all common elements which will not be owned and maintained by a governmental agency shall be established.
- C. Service building. The structure or structures containing the management office and other common facilities shall be conveniently located for the use intended.

§ 240-44. Utilities.

- A. Water supply.
 - (1) General requirements. An adequate supply for domestic, auxiliary and fire fighting uses shall be provided for all uses included in the mobile home development, including service buildings and accessory facilities, in accordance with Chapter 285, Zoning.
 - (2) Water distribution system. All water piping, fixtures and other equipment shall be constructed and maintained in accordance with state and local regulations as well as those of the servicing utility.
 - (3) Individual water-riser pipes and connection.
 - (a) Individual water-riser pipes shall be located within the defined area of the mobile home stand at a point where the water connection will approximate a vertical position, thereby insuring the shortest water connection possible and decreasing susceptibility to water pipe freezing.
 - (b) The water-riser pipe shall have a minimum inside diameter consistent with the standards of the servicing public utility, or in lack thereof, of the Township Engineer, and terminate at least four inches above the ground surface. The water outlet shall be provided with a cap when a mobile home does not occupy the lot.
 - (c) Adequate provisions shall be made to prevent freezing of service lines, valves and riser pipes and to protect risers from heaving and thawing actions of ground during freezing weather. Surface drainage shall be diverted from the location of the riser pipe.
 - (4) Fire protection. All mobile home developments shall be provided with fire hydrants to meet the specifications of the Middle States Department Association of Fire Underwriters. In addition, those hydrants shall be in sufficient numbers to be within 600 feet of all existing and proposed mobile homes and other dwellings and structures, measured by way of accessible streets or common areas.

B. Sewage disposal.

- (1) General requirements. An adequate and safe sewerage system shall be provided in all mobile home developments for conveying and disposing of sewage from dwellings, service buildings and accessory facilities in accordance with the state requirements.
- (2) Sewer system. All sewer lines shall be located in trenches of sufficient depth to be free of breakage from traffic or other movements and shall be separated from the water supply system. The system shall be constructed and maintained in accordance with all state regulations, as well as those of the servicing utility.
- (3) Individual sewer connections.
 - (a) Each mobile home stand shall be provided with a sewer riser pipe consistent with the standards of the servicing utility. The sewer riser pipe shall be so located on each stand that the sewer connection to the mobile home drain outlet will approximate a vertical position.
 - (b) The sewer connection shall have an inside diameter and slope as required by the servicing utility. All joints shall be watertight.
 - (c) All material used for sewer connections shall be semirigid, corrosive resistant, nonabsorbent and durable. The inner surface shall be smooth.
 - (d) Provision shall be made for plugging the sewer riser pipe when a mobile home does not occupy the lot. Surface drainage shall be diverted away from the riser. The rim of the riser pipe shall extend at least 1/2 inch above ground elevation.

C. Underground utilities. All electric, natural gas, telephone and any other utility lines shall be placed underground in all mobile home developments and each shall have the necessary shutoff valves and other safety requirements normally associated with safe operation. All utility connections shall be appropriately capped for safety purposes whenever a mobile home stand is not occupied.

§ 240-45. Permits, licenses, fees and inspections. [Amended 8-13-1998 by Ord. No. 98-4]

A. Permits required.

- (1) Lots for sale. In those mobile home developments wherein some or all of the mobile home lots will be sold individually (whether totally fee simple, fee simple with a homeowner's association, condominium or cooperative), no lot to be conveyed shall be developed or a mobile home or other structure placed or constructed thereon until the subdivision and/or land development plan has been properly approved and the proper building and construction permits have been issued for that lot in accordance with standard procedures for any building activity in the Township. No mobile home or other structure shall be occupied until a valid occupancy permit has been issued by the Township.
- (2) Lots for lease. In those mobile home developments wherein some or all of the mobile home lots will be leased, the following regulations shall apply to the entire development, exclusive of the lots being sold individually:
 - (a) Initial permits. It shall be unlawful for any persons or group to construct, alter, extend or operate a mobile home development unless and until that person or group obtains:
 - [1] A valid permit issued by the Pennsylvania Department of Environmental Protection, in the name of the operator, for a specified construction, alteration or extension proposed.
 - [2] Valid permit(s) authorizing construction and initial occupancy issued by the Township Zoning Officer in the name of the operator. All permits for water supply and sewage systems

shall have been obtained.

[3] Compliance with all other requirements contained herein.

[4] Final approval of the application has been granted by the Board of Supervisors.

- (b) Annual licenses. In addition to the initial permits, the operator of a mobile home development with lots for lease shall apply to the Pennsylvania Department of Environmental Protection and to the Township Zoning Officer on or before the 1st day of each year for an annual license to continue operation of the mobile home park. The Zoning Officer shall issue the annual license upon satisfactory proof that the park continues to meet the standards prescribed by the state agencies having jurisdiction and the standards of this chapter and other applicable ordinances. The license so issued shall be valid for one year from the date of issuance.

B. Fees.

- (1) Fees for the initial application and preliminary and final approvals of any mobile home development shall be prescribed by regulations of the Board of Supervisors.
- (2) The fee for the annual license required for mobile home developments having lots for lease shall be prescribed by regulations of the Board of Supervisors and shall be submitted to the Zoning Officer with the application for the annual license.

C. Inspection.

- (1) Upon notification to the licensee, manager or person in charge of a mobile home development, with lots for lease, the building inspector or Township Zoning Officer may inspect a mobile home development after due notice to determine compliance with this chapter.
- (2) Upon receipt of the application for annual license and before issuing such annual license, the Zoning Officer or other designated representative of Upper Frederick Township shall make an inspection of the mobile home development to determine compliance with this chapter and other applicable ordinances. The Zoning Officer or other representative shall thereafter notify the licensee of any instances of noncompliance and shall not issue the annual license until the licensee has corrected all such violations.

- D. Modular and mobile home inspections. The applicant or developer shall inform the Township Engineer of the delivery date of a modular and/or mobile home. The Township Engineer shall inspect the modular or mobile home upon its arrival at the site prior to installation to determine if it meets the standards of Part 5, "Standards for the Installation of Mobile Homes" (ANSI/NFPA) publication #501A 1977). The Township Engineer shall also inspect a modular home after its installation and prior to occupancy by residents, in order to determine its compliance with installation instruction outlined in the building system approval report, which shall be provided by the applicant or developer.

§ 240-46. Additional requirements.

- A. Mobile home stands. A concrete pad, properly graded, placed and compacted so as to be durable and adequate for the support of the maximum anticipated loads during all seasons shall be used for all mobile homes.
- B. Anchoring. Every mobile home placed within a mobile home development shall be anchored to the mobile home stand where it is located prior to the unit being occupied or used in any other way, or the expiration of seven days, whichever occurs first. The anchoring system shall be designed to resist a minimum wind velocity of 90 miles per hour.
- C. Stability. All mobile homes placed within a mobile home development shall, prior to occupancy or other use, be affixed to their mobile home stands in such a way so as to prevent tilting of the unit. No mobile home shall permanently rest on the wheels used to transport the unit.

- D. Skirts. All mobile homes placed within a mobile home development shall, prior to occupancy or other use, have skirts installed for protection of the utility connections.
- E. Hitch. The hitch or tow bar attached to a mobile home for transport purposes shall be removed and remain removed from the mobile home when it is placed on its mobile home stand.

ARTICLE VI

Improvement Construction and Financial Security**§ 240-47. Required improvements.**

- A. The applicant shall construct all improvements, including road improvements, including grading, paving, curbs, gutters, sidewalks, streetlights, fire hydrants, water mains, street signs, shade trees, storm drainage facilities, sanitary sewers, landscaping, traffic control devices, open space and restricted areas and erosion and sediment control measures in conformance with the final plan as approved.
- B. Before any plat shall be finally approved for recording, or any building permit shall be issued, the developer shall complete all required improvements or provide a performance guarantee in accordance with § 240-48.

§ 240-48. Financial security. [Amended 4-2-1992 by Ord. No. 92-1]

In lieu of the completion of any improvements required as a condition for final plan approval, financial security in an amount sufficient to cover the costs of any improvements or common amenities shall be provided to the Township.

- A. Type of security.
 - (1) Without limitation as to the type of financial security which the Township may approve, which approval shall not be unreasonably withheld, irrevocable letters of credit from a Federal Commonwealth chartered lending institution and/or restrictive or escrow accounts in such lending institutions shall be deemed acceptable financial security for the purposes of this section. The developer shall be required to execute such escrow agreement prepared by the Township Solicitor.
 - (2) Such financial security shall be posted with a bonding company or federal or commonwealth chartered lending institution chosen by the developer, builder or subdivider posting the financial security, provided said bonding company or lending institution is authorized to conduct business within the commonwealth.
- B. Amount. The amount of the financial security shall be equal to 110% of the cost of the required improvements for which financial security is to be posted.
- C. Determination of improvement costs. The cost estimate of public improvements is to be determined by a professional engineer retained by the developer, subject to review and approval of the Township Engineer. Any dispute of the cost estimate shall be addressed pursuant to the procedure contained in § 509 of the Pennsylvania Municipalities Planning Code.
- D. Time limit. Such financial security shall provide for, and secure to the public, the completion of all subdivision improvements for which such security is being posted within one year of the date fixed in the subdivision agreement for completion of such improvements.
- E. Delayed completion. If the subdivider, developer or builder requires more than one year from the date of posting of the financial security to complete the required improvements, the amount of financial security may be increased by an additional 10% for each one-year period beyond the first anniversary date from posting of financial security, or to an amount not exceeding 110% of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one-year period by using the above bidding procedure.
- F. Development in stages. In the case where development is protected over a period of years, the Board of Supervisors may authorize submission of final plats by section or stages of development subject to such requirements or guarantees as to improvements in future sections or stages of development as it finds essential for the protection of any finally approved section of the development.

- G. Water and sewer facilities. If water mains or sanitary sewer lines, or both, along with apparatus of facilities related thereto, are to be installed under the jurisdiction and pursuant to the rules and regulations of a public utility or municipal authority separate and distinct from Upper Frederick Township, financial security to assure proper completion and maintenance thereof shall be posted in accordance with the regulations of the controlling public utility or municipal authority and shall not be included within the financial security as otherwise required by this section.

§ 240-49. Release from liability.

- A. Partial release. As the work of installing the required improvements proceeds, the party posting the financial security may request the Board of Supervisors to release or authorize the release, from time to time, such portions of the financial security necessary for payment to the contractor(s) performing the work. Any such request shall be in writing addressed to the Upper Frederick Township Board of Supervisors and subject to the provisions for release as established in § 509, the Pennsylvania Municipalities Code.
- B. Release in full. The portion of the financial security unencumbered by the post-completion security of § 240-49D shall be released only upon completion installation of the required improvements in accordance with the approved improvement construction plan. Strict compliance with procedures established by § 510 of Act 247, the Pennsylvania Municipalities Planning Code, shall be followed with respect to the release of financial security posted by the subdivider, owner, developer or builder. If the Upper Frederick Township Board of Supervisors fails to comply with the time limitations of § 510 of Act 247, all improvements will be deemed to have been approved, and the developer shall be released from all liability pursuant to the financial security.
- C. Incomplete improvements. If the required improvements are not completely installed within the period fixed or extended by the Township Board of Supervisors, the Board of Supervisors shall declare the financial security in default to collect the amount payable thereunder. Upon receipt of such amount, the Township shall install such improvements as were covered by the security and are commensurate with the extent of building development which has taken place in the subdivision or land development, not exceeding in cost, however, the amount collected upon the security. Strict compliance with procedures established by § 511 of Act 247, the Municipalities Planning Code, shall be followed.
- D. Post-completion security. The developer shall be responsible for maintenance of all subdivision or land development improvements until such improvements are offered for dedication and accepted by the Township, and 10% of the performance guarantee shall be held back until a maintenance guarantee as provided for in § 240-53C has been posted.

§ 240-50. Inspection of work and materials.

- A. Notice. The Township Engineer shall be notified 48 hours in advance of the commencement of any construction or installation operation, in order that provision may be made for inspection by the Township. Construction and installation operations shall also be subject to inspection by the Township officials during the progress of the work. The subdivider, developer or builder shall pay for all inspections.
- B. Improvement specifications. All required road improvements shall be constructed in accordance with the applicable provisions of the Pennsylvania Department of Transportation, Form 408, dated 1976, including the latest revisions and other applicable regulations. All other required improvements shall be constructed in accordance with approved specification.
 - (1) Specifications. The specifications will be furnished to the applicant by Upper Frederick Township. If any of the specifications are unavailable at the Township building, the Township Engineer shall provide the applicable specifications.
 - (2) Sample of materials. During or after construction of required improvement, should the Township require

a sample of materials, said sample shall be furnished by the appropriate contractor, in a form specified by the Township Engineer.

- (3) Delivery slips. Copies of all delivery slips for materials used in the construction of any storm sewers, sanitary sewers, roads, curbs, sidewalks or any other facility within a Township right-of-way or easement shall be supplied to the Township.

§ 240-51. Off-site improvements. [Amended 4-2-1992 by Ord. No. 92-1]

Certain improvements beyond the geographical boundaries of a site to be subdivided and/or developed, including but not limited to road improvements, may be required by the Board of Supervisors to be constructed by the developer where it can clearly be demonstrated that such improvements have been made necessary solely through the additional burden imposed by the subdivision and/or development of the site. All such improvements or contributions toward said improvements shall be considered solely voluntary contributions by the developer and nonrefundable. The subdivider or developer may be required to cover costs which may be incurred by the Township or other governmental jurisdiction in order to make these improvements feasible. The legal and financial arrangements to cover costs of off-site improvements shall be the same as those prescribed in § 240-48.

ARTICLE VII
Fees, Conditions of Acceptance and Penalties

§ 240-52. Fees and costs. [Amended 4-2-1992 by Ord. No. 92-1]

- A. No application for preliminary or final plan approval shall be considered as submitted until the fees and/or escrow deposit, as set forth below, shall have been paid.
- B. The Board of Supervisors shall adopt and amend, by resolution, a schedule of fees, payable by the applicant to the Township, for the filing of preliminary and final plans.
- C. The Board of Supervisors shall adopt and amend, by resolution, a schedule of escrow deposits, to be paid by the applicant to the Township at the time of the filing of the application, sufficient to pay all Township expenditures anticipated in the course of its review and disposition of plans.
 - (1) Costs incurred by the Township in excess of the escrowed amount shall be paid by the applicant prior to the granting of approvals or permits.
 - (2) If costs incurred by Township are less than the escrowed amount, the difference shall be refunded to the applicant following disposition of the plans.
- D. Township expenditures subject to escrow as in Subsection C, above, include, but are not limited to the following:
 - (1) Engineering and other technical services such as plan review and construction inspections.
 - (2) Materials and facilities tests.
 - (3) Services of the Township Solicitor in reviewing and/or preparing documents related to the plan reviews.

§ 240-53. Conditions of acceptance. [Amended 4-2-1992 by Ord. No. 92-1]

- A. Conditions. The Township shall have no obligation to accept dedication of any road or other improvement unless:
 - (1) The required improvements, utility mains and laterals and monuments, shown on an approved plan or plans, have been constructed to all requirements.
 - (2) It is established to the satisfaction of Township Board of Supervisors that there is a need for the dedication of improvements.
- B. Acceptance. The Township shall have no responsibility with respect to any road or other improvement, notwithstanding the use of the same by the public, unless the road or other improvement is accepted by an ordinance adopted by the Township Board of Supervisors.
- C. Guarantee. The applicant shall guarantee, for a period of 18 months from the date of the ordinance accepting dedication, to maintain the stability of all materials and work and to promptly replace all poor or inferior materials and work and to remedy all defects in materials or workmanship, all shrinkage, settlement or other faults of any kind whatsoever arising therefrom, at his own expense, and to the satisfaction of the Township Engineer, when notified in writing to do so by the Township Engineer. In order to secure the guarantee as herein required, the Township shall be assured by means of a proper guarantee in the form of a maintenance bond, with surety satisfactory to the Township or the deposit of funds or securities in escrow in an amount equal to 15% of the completion guarantee posted by the owner with the Township.

§ 240-54. Violations and penalties. [Amended 4-2-1992 by Ord. No. 92-1]

Any person, partnership or corporation who or which has violated the provisions of this chapter shall, upon being

found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$500, plus all court costs, including the reasonable attorney's fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of the violation by the District Justice. If the defendant neither pays nor timely appeal the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this chapter to have believed that there was no such violation, in which event there shall be deemed to have only one such violation until the fifth day following the date of the determination of the violation by the District Justice, and thereafter, each day that a violation continues shall constitute a separate violation. All fines collected for such violations shall be paid to the Township.

ARTICLE VIII
Amendments; Validity

§ 240-55. Amendment procedure. [Amended 4-2-1992 by Ord. No. 92-1]

The Upper Frederick Township Board of Supervisors may, from time to time, amend, supplement, change, modify or repeal this chapter by proceeding in the following manner. The Board of Supervisors by resolution adopted at a regular or special meeting shall fix the time and place of a public hearing on the proposed amendment and cause public notice thereof to be given as follows:

- A. By publishing a notice thereof once each week for two successive weeks in a newspaper of general circulation in the Township. The first notice shall not be more than 30 days or less than seven days from the date of the hearing.
- B. The notice shall state the time and place of the hearing, the general nature of the proposed amendment, and the full opportunity to be heard will be given to any citizen and all interested parties attending such hearing.
- C. Whenever a proposed amendment affects a particular property, then there shall be posted upon said property or premises at such place or places as the Board of Supervisors may direct, notice of said proposed amendment.

§ 240-56. Referral to Planning Commission.

All proposed amendments before adoption shall be referred to the Township Planning Commission and the Montgomery County Planning Commission at least 30 days prior to the public hearing, for recommendation and report, which shall not be binding.

Chapter 247

TAXATION

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Earned Income Tax
[Adopted 10-13-2011 by Ord. No. 2011-06⁴⁷]

§ 247-1. Definitions.

All terms defined in the Local Tax Enabling Act⁴⁸ shall have the meanings set forth therein. The following terms shall have the meanings set forth herein:

COLLECTOR — The person or entity appointed as Tax Officer pursuant to the Local Tax Enabling Act to collect the tax.

EFFECTIVE DATE — January 1, 2012.

ENACTMENT — This article.

GOVERNING BODY — The Board of Supervisors of Upper Frederick Township.

LOCAL TAX ENABLING ACT — The Local Tax Enabling Act, as set forth in 53 P.S. § 6901 et seq. while such numbering and provisions remain in effect under Act 32 of 2008, and as set forth in 53 P.S. § 6924.101 et seq., when such numbering and provisions become effective under Act 32, and as amended in the future.

TAX — The tax imposed by this article.

TAXING AUTHORITY — Upper Frederick Township.

TAX RETURN — A form prescribed by the Collector for reporting the amount of tax or other amount owed or required to be withheld, remitted or reported under this article or the Local Tax Enabling Act.

TAX YEAR — The period from January 1 to December 31.

TCC — The tax collection committee established to govern and oversee the collection of earned income tax within the TCD under the Local Tax Enabling Act.

TCD — Any tax collection district to which the taxing authority or any part of the taxing authority is assigned under the Local Tax Enabling Act.

§ 247-2. Imposition of tax.

- A. General purpose resident tax. The taxing authority hereby imposes a tax for general revenue purposes at the rate of 0.5% on earned income and net profits of individual residents of the taxing authority.
- B. General purpose municipal nonresident tax. The taxing authority also imposes a tax for general revenue purposes at the rate of 1% on earned income and net profits derived by an individual who is not a resident of the taxing authority from any work, business, profession or activity of any kind engaged in within the boundaries of the taxing authority.
- C. Ongoing tax. The tax shall continue at the above rates during the current tax year and each tax year thereafter, without annual reenactment, until this enactment is repealed or the rate is changed.
- D. Combined tax rate applicable to residents. Currently, the total rate applicable to residents of the taxing authority, including the tax imposed by the school district and municipality in which the individual resides, is 1%.
- E. Municipal tax rate applicable to nonresidents. Currently, the total rate applicable to nonresidents working within the taxing authority based on the municipal nonresident tax rate is 1%.

47. Editor's Note: This ordinance also repealed former Art. I, Earned Income Tax, adopted 12-29-1966 by Ord. No. 66-6, as amended.

48. Editor's Note: See 53 P.S. § 6924.101 et seq.

- F. Local Tax Enabling Act applicable. The tax is imposed under authority of the Local Tax Enabling Act, and all provisions thereof that relate to a tax on earned income or net profits are incorporated into this enactment. Any future amendments to the Local Tax Enabling Act that are required to be applied to a tax on earned income or net profits will automatically become part of this enactment upon the effective date of such amendment, without the need for formal amendment of this enactment, to the maximum extent allowed by 1 Pa.C.S.A. § 1937.
- G. Applicable laws, regulations, policies and procedures. The tax shall be collected and administered in accordance with 1) all applicable laws and regulations, and 2) policies and procedures adopted by the TCC or by the Collector. This includes any regulations, policies and procedures adopted in the future to the maximum extent allowed by 1 Pa.C.S.A. § 1937.

§ 247-3. No exemption from tax.

Although credits and deductions against tax are permitted under certain circumstances as provided in applicable law and regulations, no individuals are exempt from tax based on age, income or other factors.

§ 247-4. Individual tax returns and payments.

Every individual receiving earned income or earning net profits in any tax year shall file tax returns and pay tax in accordance with the Local Tax Enabling Act.

§ 247-5. Employer withholding, remittance and tax returns.

Every employer shall register, withhold and remit tax and file tax returns in accordance with the Local Tax Enabling Act.

§ 247-6. Tax Collector.

The tax will be collected from individuals and employers by the Collector.

§ 247-7. Interest, penalties, costs and fines.

Individuals and employers are subject to interest, penalties, costs and fines in accordance with the Local Tax Enabling Act, including costs imposed by the Collector in accordance with the Local Tax Enabling Act.

§ 247-8. Purpose; amendment and restatement; prior enactment.

The primary purpose of this Enactment is to conform the earned income and net profits tax currently imposed to the Local Tax Enabling Act, as amended and restated by Act 32 of 2008,⁴⁹ and to do so within the time frame required by Act 32. Any prior enactment imposing a tax on earned income or net profits of individuals is amended and restated in its entirety to read as stated in this enactment. Any other prior enactment or part of any prior enactment conflicting with the provisions of this enactment is rescinded insofar as the conflict exists. To the extent the same as any enactment in force immediately prior to adoption of this enactment, the provisions of this enactment are intended as a continuation of such prior enactment and not as a new enactment. If this enactment is declared invalid, any prior enactment levying a similar tax shall remain in full force and effect and shall not be affected by adoption of this enactment. If any part of this enactment is declared invalid, the similar part of any prior enactment levying a similar tax shall remain in effect and shall not be affected by adoption of this enactment. The provisions of this enactment shall not affect any act done or liability incurred, nor shall such provisions affect any suit or prosecution pending or to be initiated to enforce any right or penalty or to punish offense under the authority of any enactment in force prior to adoption of this enactment. Subject to the foregoing provisions of this section, this enactment shall amend and restate on the effective date any enactment levying a tax on earned income or net profits in force

49. Editor's Note: See 53 P.S. § 6924.101 et seq.

immediately prior to the effective date.

§ 247-9. through § 247-12. (Reserved)

ARTICLE II
Amusement Tax
[Adopted 4-13-1967 by Ord. No. 67-2]

§ 247-13. Title. [Amended 3-14-1968 by Ord. No. 68-1]

This article shall be known as the "Upper Frederick Township Amusement Tax Ordinance of 1967," the provisions of which shall become effective April 19, 1967, and shall continue in effect from year to year at the same rate and for the same purpose as required its original enactment by the Township without any further reenactment or action by the Township Board of Supervisors.

§ 247-14. Definitions and word usage. [Amended 8-13-1998 by Ord. No. 98-4]

- A. As used in this article, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

ADMISSION — Monetary charge of any character, including contributions, donations, dues or membership fees, periodic or otherwise, charged for the privilege of attending or engaging in amusements as hereinafter defined; provided, "admission" shall not include tax added or charge expressly subject to the Tax Reform Code of 1971, P.L. 6, No. 2, March 4, 1971, 72 P.S. § 7161 et seq., as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

AMUSEMENT — All manner or form of entertainment, diversion, sport, pastime or recreation within the Township for which admission is charged or paid, except motion-picture theaters.

PERSON — Any individual, partnership, limited partnership, association, firm or corporation. Whenever used in any clause prescribing or imposing a penalty, "person," as applied to associations, shall mean the partners thereof; and as applied to corporations, the officers thereof.

- B. The singular shall include the plural; the plural shall include the singular; the masculine shall include the feminine.

§ 247-15. Imposition of tax.

The tax imposed by this article is required for general revenue purposes of the Township, including the maintenance, repair and construction of roads, the general costs and expenses of the administration of the functions and activities of Township government as authorized under the Pennsylvania Second Class Township Code.

§ 247-16. Levy of tax.

A tax to provide revenue for general Township purposes shall be and is levied, assessed and imposed hereby upon each and every item, transaction, admission, person and event as described and/or defined in this article, and upon every sale, right, dues, ticket privilege and/or use accorded, given or made, transferred, sold or honored for amusement purposes by a person in the Township to any other person as to any place, event, privilege, use, entertainment or recreation, parking, storage or benefit to persons, property or vehicles located or conferred in the Township for any consideration or donation as any and all such terms as defined above, and upon any and every donation or price paid for recreation, amusement or entertainment purposes, and upon the rental price, charge, price or donation for the privilege of using any personal property or any park, lake, watercourse, including any canoe, boat, fishing tackle, equipment, bait or supplies or the sale, transfer or exchange of possession or access to any of the aforementioned in or for use or employment in the Township for the purpose or partly for the purpose of amusement. Said tax shall be at the rate of 10% of the price, consideration, donation or admission, dues, rental sale or transfer.

§ 247-17. Payment of tax.

The taxes imposed by this article shall be paid by the buyer at the same time as the price or consideration for such ticket, transfer, use, admission or enjoyment is paid, to the seller, and shall be collected by the seller for and on behalf of the Township before the buyer shall receive any ticket or enjoy any right of admission, use, access to or enjoyment of any of the property or facility upon which such tax is imposed, and shall be a debt of the buyer owing the Township until paid.

§ 247-18. Failure to collect tax.

The failure or refusal of any buyer to pay or any seller or transferor to collect the tax imposed by this article shall constitute a violation of this article for each admission, privilege, right or evidence thereof sold or transferred.

§ 247-19. Records.

Every seller (as herein defined) shall keep a complete and accurate record of all transfers, rentals and sales of tickets and admissions, including the prices charged or paid, the name and address of each and every buyer and the amount of the tax collected, which record shall be turned over to the Township's Tax Collector at such time as the seller remits the tax collected to him. The tax when first collected by the seller shall be and remain the property of the Township. The Board shall be given the right to inspect all recreational and entertainment facilities, all books and records pertaining to the use thereof and admissions, at any reasonable time, and the refusal of any seller to afford such access to the Board or its representative shall be deemed a separate violation of this article.

§ 247-20. Discount.

- A. Seller shall pay to the Township Tax Collector all taxes collected on or before the fifteenth day of the month following the month in which such tax is collected from the buyer.
- B. The Township Tax Collector shall allow a 2% discount of the gross amount of tax collected upon submission by the seller of a proper, complete and accurate list of all such collections paid by the seller to him within 30 days of collection from the buyer.

§ 247-21. Enforcement and remedies. [Amended 8-13-1998 by Ord. No. 98-4]

- A. Enforcement notice.
 - (1) If it appears to the Township that a violation of this article has occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.
 - (2) The enforcement notice shall be sent to the violator and, if applicable, the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel and to any other person requested in writing by the owner of record.
 - (3) An enforcement notice shall state at least the following:
 - (a) The name of the violator and, if applicable, the owner of record and any other person against whom the Township intends to take action.
 - (b) The location of the violation and, if applicable, 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 this article.
 - (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 Board of Supervisors within a period of 10 days.
- (f) That failure to comply with the notice within the time specified, unless extended by appeal to the Board of Supervisors, constitutes a violation, with possible sanctions clearly described.

B. Enforcement remedies.

- (1) Any seller responsible for collection of the taxes herein imposed who fails or refuses to collect the same or make payment thereof to the Township Tax Collector shall be liable personally for payment of such tax and a penalty equal to 100% of such tax. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this article or any person who submits or causes to be submitted a false or incomplete record or return shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$600 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by a District Justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues or each section of this article which shall be found to have been violated shall constitute a separate violation.
- (2) Nothing contained in this section 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 section.
- (3) District Justices shall have initial jurisdiction over proceedings brought under this section.

§ 247-22. Failure to pay tax.

The Tax Collector is authorized hereby to attach the property of any buyer failing to pay or any seller failing to remit to the Tax Collector any tax collected, at the time the same is due under the provisions of this article, or to institute a lawsuit for the same in any court of competent jurisdiction.

§ 247-23. Enforcement; violations and penalties. [Amended 8-13-1998 by Ord. No. 98-4]

A. Enforcement notice.

- (1) If it appears to the Township that a violation of this article has occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.
- (2) The enforcement notice shall be sent to the violator and, if applicable, the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel and to any other person requested in writing by the owner of record.
- (3) An enforcement notice shall state at least the following:
 - (a) The name of the violator and, if applicable, the owner of record and any other person against whom the Township intends to take action.
 - (b) The location of the violation and, if applicable, 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 this article.
 - (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 Board of Supervisors within a period

of 10 days.

- (f) That failure to comply with the notice within the time specified, unless extended by appeal to the Board of Supervisors, constitutes a violation, with possible sanctions clearly described.

B. Enforcement remedies.

- (1) Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this article or the willful and intentional violation by any buyer or seller or person subject to the provisions of this article or the interference by any person with the collection of said tax for each sale which the tax is not collected when due shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$600 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by a District Justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues or each section of this article which shall be found to have been violated shall constitute a separate violation.
- (2) Nothing contained in this section 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 section.
- (3) District Justices shall have initial jurisdiction over proceedings brought under this section.

ARTICLE III
Per Capita Tax
[Adopted 4-13-1967 by Ord. No. 67-3]

§ 247-24. Levy of tax. [Amended by Ord. No. 76-3; 12-14-2017 by Ord. No. 2017-02]

There is levied, assessed and imposed hereby a per capita tax in the amount of \$10 per annum upon every person 18 years of age or over, resident of, or residing in, the Township of Upper Frederick, Montgomery County, Pennsylvania, for road construction, repair and maintenance and for general revenue purposes of the Township of Upper Frederick.

§ 247-25. Imposition of tax.

The tax imposed and levied hereby is for a period of one year and shall be collectible and paid at the same time or times and in the same manner as other Township taxes are levied or collected upon property made taxable for Township purposes, for the year 1967.

§ 247-26. Revenue of tax. [Amended 3-14-1968 by Ord. No. 68-1]

It is the considered opinion of the Township Board of Supervisors, after careful inquiry and deliberation, and the Supervisors find that the tax levied and imposed hereby will yield the sum of \$3,285 annually, which tax and the said sum to be derived by collection thereof are required for general revenue purposes for the construction, repair and maintenance of Township roads and the administration of Township government as authorized under the Pennsylvania Second Class Township Code.

§ 247-27. Inclusion of other taxes.

The taxes levied and imposed hereby are and shall be in addition to all other taxes levied or imposed by the Township of Upper Frederick.

§ 247-28. Collection of tax.

The taxes levied by this article shall be collected by the duly elected or appointed Tax Collector, and the compensation of the Tax Collector shall be allowed and paid the same as shall be fixed from time to time for the collection real estate taxes of the Township, as provided by the Local Tax Collection Law of 1945, as amended and supplemented and by the provisions of Act 511, approved December 31, 1965.

§ 247-29. Evidence of payment. [Amended by Ord. No. 76-3]

The entry of the per capita tax in the duplicate and the issuance of such duplicate to the Tax Collector shall constitute his warrant for the collection of the per capita tax hereby levied and assessed. The Tax Collector or any Township Supervisor finding at any time within the Township any resident or inhabitant above the age of 18 years whose name does not appear upon the tax duplicate shall report the name and address of such person forthwith to the assessor, who shall, after proper investigation, certify the same unto the Township Tax Collector, whereupon the Tax Collector shall add the name and assessment of this per capita tax against such person to the duplicate of Township and proceed to collect the same.

§ 247-30. Authority of Tax Collector. [Amended 8-13-1998 by Ord. No. 98-4]

There is conferred hereby upon the Tax Collector all power together with all the duties and obligations to the same extent and as provided in the Pennsylvania Local Tax Collection Law of 1945, as amended and supplemented. In addition to said powers and not in limitation thereof, the Tax Collector shall have the following powers:

- A. The Tax Collector may sue in the name of the Township for the recovery of taxes due and unpaid under this

article.

- B. The Tax Collector shall demand, receive and collect from all corporations, political subdivision, associations, companies, firms or individuals employing persons owing delinquent per capita tax or whose wife owes delinquent per capita tax or having in possession unpaid commissions or earnings belonging to any person or person owing delinquent per capita tax or whose wife owes delinquent per capita tax upon the presentation of a written notice and demand under oath or affirmation containing the name of the taxable or the husband thereof and the amount of tax due. Upon the presentation of such written notice and demand, it shall be the duty of any such corporation, political subdivision, association, company, firm or individual to deduct from the wages, commissions or earnings of such individual employees then owing, or that shall within 60 days thereafter become due, or from any unpaid commissions or earnings of any such taxable in its or his possession, or that shall within 60 days thereafter come into its or his possession a sum sufficient to pay the respective amount of the delinquent per capita tax and costs shown upon the written notice or demand, and to pay the same to the Tax Collector of the Township within 60 days after such notice shall have been given.
- C. All other penalties and sanctions of the Local Tax Collection Law, as amended, and the Local Tax Enabling Act of 1965 are hereby adopted as the provisions of this article, including provision for discount if paid within two months of the tax notice as though set forth at length herein.

§ 247-31. Remittance of taxes to Treasurer.

The Tax Collector shall remit said taxes to the treasurer of the Township by separate statement at the same time as other taxes are remitted.

§ 247-32. Compensation of Collector.

The expenses of collections, the compensation to the Tax Collector for the collection of the tax imposed by this article and also the expenses and compensation for the collection of delinquent per capita taxes provided or authorized in the Local Tax Collection Law of 1945 as amended and supplemented, and the Local Tax Enabling Act, Act No. 511, approved December 31, 1965, are hereby incorporated by reference thereto with as full affect as though set forth at length herein.

§ 247-33. Continuation of tax. [Added 3-14-1968 by Ord. No. 68-1]

This tax shall continue in effect from year to year at the same rate and for the same purpose as required in the original enactment by the Township without any further reenactment or action the Township Board of Supervisors.

ARTICLE IV
Penalty for Delinquent Payment of Tax
[Adopted 12-28-1976 by Res. No. 76-9]

§ 247-34. Amount of penalty for delinquent payment of tax.

All taxpayers who shall fail to make payment of any taxes charged against them by Upper Frederick Township for four months after the date of the tax notice, provided such notice is dated January 1, 1976, or thereafter, shall be charged a penalty of 10% of his delinquent taxes, which penalty shall be added to the taxes and collected by the Tax Collector.

ARTICLE V
Tax Exemption for Certain Residents
[Adopted 3-10-1977 by Res. No. 77-3]

§ 247-35. Exemption from occupation, poll or per capita tax.

Any resident of Upper Frederick Township whose income from all sources is less than \$3,200 per annum, or in the case of a husband and wife, whose combined income from all sources does not exceed \$3,200, shall be entitled to an exemption for the payment of any occupation, poll or per capita tax enacted by Upper Frederick Township. Applications for exemption shall be made to the Board of Supervisors of Upper Frederick Township prior to August 1 of the taxable year for which the exemption is requested, and application shall be made on the appropriate forms provided by the local Tax Collector.

§ 247-36. Rights of Tax Collector.

The Tax Collector shall be exonerated from the collection of occupation, poll and per capita taxes from those individuals who have been granted an exemption by the Board of Supervisors of Upper Frederick Township.

ARTICLE VI
Local Services Tax
[Adopted 10-11-2012 by Ord. No. 2012-04⁵⁰]

§ 247-37. Short title.

This article shall be known and may be cited as the "Local Services Tax of 2012."

§ 247-38. Definitions.

The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context or language clearly indicates or requires a different meaning:

COLLECTOR — The person, public employee or private agency designated by the Township to collect and administer the tax herein imposed.

DCED — The Department of Community and Economic Development of the Commonwealth of Pennsylvania.

EARNED INCOME — Compensation, as this term is defined in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of December 31, 1965, P.L. 1257, § 13, as amended, 53 P.S. § 6913, as amended.

EMPLOYER — An individual, partnership, association, limited liability corporation, limited liability partnership, corporation, governmental body, agency or other entity employing one or more persons on a salary, wage, commission or other compensation basis, including a self-employed person.

HE, HIS or HIM — Indicates the singular and plural number, as well as male, female and neuter genders.

INDIVIDUAL — Any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the Township.

NET PROFITS — The net income from the operation of a business, profession or other activity, as this term is defined in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of December 31, 1965, P.L. 1251, § 13, as amended, 53 P.S. § 6913, as amended.

OCCUPATION — Any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, earned on or performed within the corporate limits of the Township for which compensation is charged or received; whether by means of salary, wages, commission or fees for services rendered.

TAX — The local services tax at the rate fixed in § 247-39 of this article.

TAX YEAR — The period from January 1 until December 31 in any year; a calendar year.

TOWNSHIP — The Township of Upper Frederick.

§ 247-39. Levy of tax.

For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2013, upon the privilege of engaging in an occupation with a primary place of employment within the Township during the tax year. Each natural person who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of \$52, assessed on a pro rata basis, in accordance with the provisions of this article. This tax may be used solely for the following purposes as the same may be allocated by the Township from time to time: emergency services, which shall include emergency medical services, police services and/or fire services; road construction and/or maintenance; reduction of property taxes; or property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S.A. Chapter 85, Subchapter F (relating to homestead property exclusion). The Township shall use no less than 25% of the funds derived from the tax for emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by

50. Editor's Note: This ordinance also repealed former Art. VI, Local Services Tax, adopted 9-13-1982 by Ord. No. 83-2, as amended, and provided for an effective date of 1-1-2013.

the Township. The tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.

§ 247-40. Exemption; refunds.

- A. Exemption. Any person whose total earned income and net profits from all sources within the Township is less than \$12,000 for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year. In addition, the following persons are exempt from payment of the tax:
- (1) Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration, or its successor, to be a total of one-hundred-percent disability.
 - (2) Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For the purposes of this subsection, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.
- B. Procedure to claim exemption.
- (1) A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the Township and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the Township of less than \$12,000 in the calendar year for which the exemption certificate is filed. In the event the Township utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the Township for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the Township or except as required by Subsection B(2), the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times, and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the uniform form provided by the Township.
 - (2) With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the Township that the person has received earned income and net profits from all sources within the Township equal to or in excess of \$12,000 in that calendar year, or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within the Township in an amount equal to or in excess of \$12,000 in that calendar year, an employer shall withhold the local services tax from the person under Subsection B(3).
 - (3) If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under Subsection B(2), the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under Subsection B(2), a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this subsection is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the

Township may pursue collection under this article.

(4) Except as provided in Subsection B(2), it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the local services tax.

C. Refunds. The Township, in consultation with the Collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the General Municipal Law relating to refunds of overpayments and interest on overpayments. Refunds made within 75 days of a refund request or 75 days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed \$1. The Township or the Collector shall determine eligibility for exemption and provide refunds to exempt persons.

§ 247-41. Duty of employers to collect.

A. Each employer within the Township, as well as those employers situated outside the Township, but who engage in business within the Township, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the Township and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax for each employee in his or her employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the Township.

B. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of the tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest 1/100 of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided in Subsection D of this section. For purposes of this subsection, "combined rate" shall mean the aggregate annual rate of the tax levied by the school district and the Township.

C. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.

D. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld, and a statement from the employee that the pay statement is from the employee's principal employer, and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.

E. The tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. The Township shall provide a taxpayer a receipt of payment upon request by the taxpayer.

F. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the Township if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of Subsection B of § 247-40 of this article and this section and remits the amount so withheld in accordance with this article.

G. Employers shall be required to remit the local services taxes 30 days after the end of each quarter of a calendar year.

§ 247-42. Returns.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the Collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commissions paid by him or her to an employee, except as provided hereafter in this article, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

§ 247-43. Dates for determining tax liability and payment.

In each tax year, each employer shall use his or her employment records to determine the number of employees from whom such tax shall be deducted and paid over to the Collector on or before the 30th day following the end of each calendar quarter of each such tax year.

§ 247-44. Self-employed individuals.

Each self-employed individual who performs services of any type or kind, or engages in any occupation or profession within a primary place of employment within the Township, shall be required to comply with this article and pay the pro rata portion of the tax due to the Collector on or before the 30th day following the end of each quarter.

§ 247-45. Employment in more than one occupation or political subdivision.

A. The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order:

- (1) First, the political subdivision in which a person maintains his or her principal office or is principally employed;
- (2) Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision;
- (3) Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

B. In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions.

§ 247-46. Nonresidents subject to tax.

All employers and self-employed individuals residing or having their places of business outside of the Township, but who perform services of any type or kind or engage in any occupation or profession within the Township, do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this article with the same force and effect as though they were residents of the Township. Further, any individual engaged in an occupation within the Township and an employee of a nonresidential employer may, for the purpose of this article, be considered a self-employed person, and in the event his or her tax is not paid, the Township shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

§ 247-47. Administration of tax.

- A. The Collector shall be appointed by resolution of the Township. It shall be the duty of the Collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer of self-employed persons, together with the date the tax was received.
- B. The Collector is hereby charged with the administration and enforcement of this article, and is hereby charged and empowered, subject to municipal approval, to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of payroll records of any employer subject to this article, the examination and correction of any return made in compliance with this article, and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Collector shall have the right to appeal consistent with the Local Taxpayers Bill of Rights under Act 50 of 1998.
- C. The Collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Collector the means, facilities and opportunity for such examination.

§ 247-48. Suits for collection.

- A. In the event that any tax under this article remains due or unpaid 30 days after the due dates above set forth, the Collector may sue for the recovery of any such tax due or unpaid under this article, together with interest and penalty.
- B. If, for any reason, the tax is not paid when due, interest at the rate of 6% on the amount of such tax shall be calculated beginning with the due date of the tax, and a penalty of 5% shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection.

§ 247-49. Violations and penalties.

Whoever makes any false or untrue statement on any return required by this article, or whoever refuses inspection of the books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or whoever fails or refuses to file any return required by this article shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600, and costs of prosecution; and, in default of payment of such fine and costs, to imprisonment for not more than 30 days. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this article.

§ 247-50. Interpretation.

- A. Nothing contained in this article shall be construed to empower the Township to levy and collect the tax hereby imposed on any occupation not within the taxing power of the Township under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.
- B. If the tax hereby imposed under the provisions of this article shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States, or of the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other persons or individuals as herein provided.

§ 247-51. through § 247-52. (Reserved)

ARTICLE VII
Realty Transfer Tax
[Adopted 2-12-1987 by Ord. No. 87-1]

§ 247-53. Short title.

This article shall be known as the "Realty Transfer Tax Ordinance of Upper Frederick Township."

§ 247-54. Authority.

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within the Township of Upper Frederick, regardless of where the documents making the transfer are made, executed or delivered or where the actual settlements on such transfer took place as authorized by Article XI-D, "Local Real Estate Transfer Tax, 72 P.S. § 8101-D et seq.

§ 247-55. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ASSOCIATIONS — A partnership, limited partnership or any other form of unincorporated enterprise owned or conducted by two or more persons other than a private trust or decedent's estate.

CORPORATION — A corporation, joint-stock association, business trust or banking institution which is organized under the laws of this commonwealth, the United States or any other state, territory, foreign country or dependency.

DOCUMENT — Any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise of title to real estate, but does not include wills, mortgages, deeds of trust or other instruments of like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding 30 years, or instruments which solely grant, vest or confirm a public utility easement. "Document" shall also include a declaration of acquisition required to be presented for recording under § 247-54 of this article.

FAMILY FARM CORPORATION — A corporation of which at least 75% of its assets are devoted to the business of agriculture and at least 75% of each class of stock of the corporation is continuously owned by members of the same family. The business or agriculture shall not be deemed to include:

- A. Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing.
- B. The raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities.
- C. Fur farming.
- D. Stockyard and slaughterhouse operations.
- E. Manufacturing or processing operations of any kind.

MEMBERS OF THE SAME FAMILY — Any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing and the estate of any of the foregoing. Individuals related by the half-blood or legal adoption shall be treated as if they were related by the whole-blood.

PERSON — Every natural person, association or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment or both, the term "person," as applied to associations, shall include the responsible members or general partners thereof and as applied to corporations, the officers thereof.

REAL ESTATE —

- A. All lands, tenements or hereditaments within Upper Frederick Township, including, without limitation, buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees and other improvements, immovables or interests which by custom, usage or law pass with a conveyance or land, but excluding permanently attached machinery and equipment in an industrial plant.
- B. A condominium unit.
- C. A tenant-stockholder's interest in an cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

REAL ESTATE COMPANY — A corporation or association which meets any of the following:[**Amended 5-8-2014 by Ord. No. 2014-01**]

- A. Is primarily engaged in the business of holding, selling or leasing real estate, 90% or more of the ownership interest in which is held by 35 or fewer persons and which:
 - (1) Derives 60% or more of its annual gross receipts from the ownership or disposition of real estate; or
 - (2) Holds real estate, the value of which comprises 90% or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.
- B. Ninety percent or more of the ownership interest in the corporation or association is held by 35 or fewer persons, and the corporation or association owns, as 90% or more of the fair market value of its assets, a direct or indirect interest in a real estate company. An indirect ownership interest is an interest in a corporation or association, 90% or more of the ownership interest of which is held by 35 or fewer persons whose purpose is the ownership of a real estate company.

TITLE TO REAL ESTATE —

- A. Any interest in real estate which endures for a period of time, the termination of which is not fixed or ascertained by a specific number of years including, without limitation, an estate in fee simple, life estate or perpetual leasehold.
- B. Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consists of a group of rights approximating those of an estate in fee simple, life estate or perpetual leasehold including, without limitation, a leasehold interest or possessory interest under lease or occupancy agreement for a term of 30 years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

TRANSACTION — The making executing, delivering, accepting or presenting for recording of a document.

VALUE —

- A. In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate; provided, that where such documents shall set forth a nominal consideration, the value thereof shall be determined from the price set forth in or actual consideration for the contract of sale;
- B. In the case of a gift, sale by execution upon a judgment or upon the foreclosures of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth or the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties or the real estate of an acquired company, the actual monetary worth of the real estate determined

by adjusting the assessed value of the real estate for local real estate tax purposes for the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania Realty transfer tax base calculations;

- C. In the case of an easement or other interest in real estate the value of which is not determinable under Subsections A or B of this definition, the actual monetary worth of such interest; or
- D. The actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other persons existing before the transfer and not removed thereby or between the grantor, the agent or principle of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

§ 247-56. Imposition of tax; interest.

- A. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, a tax at the rate of 1% of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.
- B. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the recorder whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.
- C. It is the intent of this chapter that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitation prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. § 6901 et seq., so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer then the tax levied by Upper Frederick Township under the authority of the Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be 1/2 of the rate and such 1/2 rate shall become effective without any action on the part of Upper Frederick Township; provided, however, that Upper Frederick Township and any other political subdivision which impose such tax on the same person or transfer may agree that, instead of limiting their respective rates to 1/2 of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the Local Tax Enabling Act.
- D. Any tax imposed under Subsection A that is not paid by the date the tax is due shall bear interest as prescribed for interest on delinquent municipal claims under the Act of May 16, 1923 (P.L. 207, No. 153) (53 P.S. § 7101 et seq.), as amended, known as "The Municipal Claims and Tax Liens Act." The interest rate shall be the lesser of the interest rate imposed upon delinquent commonwealth taxes as provided in Section 806 of the Act of April 9, 1929 (P.L. 343, No. 176) (72 P.S. § 806), as amended, known as "The Fiscal Code," or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims. **[Amended 1-11-2007 by Ord. No. 2007-02]**

§ 247-57. Exempt parties.

The United States, the commonwealth or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment of the tax imposed by this article. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

§ 247-58. Excluded transactions.

- A. The tax imposed by section shall not be imposed upon:
 - (1) A transfer to the commonwealth, or to any of its instrumentalities, agencies or political subdivisions, by

gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation, which reconveyance may include property line adjustments, provided said reconveyance is made within one year from the date of condemnation.

- (2) A document which Upper Frederick Township is prohibited from taxing under the Constitution or Statutes of the United States.
- (3) A conveyance to a municipality, Township, school district or county pursuant to acquisition by the municipality, Township, school district or county of a tax delinquent property at sheriff sale or tax claim bureau sale.
- (4) A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.
- (5) A transfer of division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by cotenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.
- (6) A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one year shall be subject to tax as if the grantor were making such transfer.
- (7) A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
- (8) A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.
- (9) A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.
- (10) A transfer for no or nominal actual consideration from trustee to successor trustee.
- (11) A transfer (1) for no or nominal actual consideration between principal and agent or straw party; or (2) from or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this article. Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this subsection.
- (12) A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the Department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this article.
- (13) A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than two years.
- (14) A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed

by the grantee to that agency or authority as security for a debt or the grantee or a transfer to a nonprofit industrial development agency or authority.

- (15) A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if:
 - (a) The grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture; and
 - (b) The agency or authority has the full ownership interest in the real estate transferred.
- (16) A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.
- (17) Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transfer for commercial purposes.
- (18) A transfer to a conservancy which possesses a tax exempt status pursuant to § 501(c)(3) of the Internal Revenue Code of 1954 [68A Stat. 3, 26 U.S.C. § 501(c)(3)] and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.
- (19) A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least 75% of each class of the stock thereof.
- (20) A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.
- (21) A transaction wherein the tax due is \$1 or less.
- (22) Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

B. In order to exercise any exclusion provided in this section, the true, full and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this article.

§ 247-59. Documents relating to associations or corporations and members, partners, stockholders or shareholders thereof.

Except as otherwise provided in § 247-58, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purposes of this article, corporations and associations are entities separate from their members, partners stockholders or shareholders.

§ 247-60. Acquired company.

- A. A real estate company is an acquired company upon a change in the ownership interest in the company, however, effected, if the change does not affect the continuity of the company and, of itself or together with prior changes, has the effect of transferring, directly or indirectly, 90% or more of the total ownership interest in the company within a period of three years.
- B. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when,

because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this article.

- C. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the recorder of each county in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county. A copy of the Pennsylvania Realty Transfer Tax Declaration of Acquisition may be submitted for this purpose.

§ 247-61. Credits against tax.

- A. Where there is a transfer of a residential property by a licensed real estate broker, which property was transferred to him within the preceding year as consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him shall be given to him toward the amount of the tax due upon the transfer.
- B. Where there is a transfer by a builder of residential property, which was transferred to the builder within the preceding year as consideration of the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.
- C. Where there is a transfer of real estate which is leased by the grantor, a credit of the amount of tax paid at the time of the lease shall be given the grantor toward the tax due upon the transfer.
- D. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.
- E. If the tax due upon the transfer is greater than the credit given under this section, the difference shall be paid. If the credit allowed is greater than the amount or tax due, no refund or carryover credit shall be allowed.

§ 247-62. Extension of lease.

In determining the term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established.

§ 247-63. Proceeds of judicial sale.

The tax herein imposed shall be fully paid, and have priority out of the proceeds or any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made except the state realty transfer tax, and the sheriff or other officer conducting said sale shall pay the tax herein imposed out of the first monies paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax.

§ 247-64. Duties of Recorder of Deeds.

- A. As provided in 16 P.S. § 11011-6, as amended by Act of July 7, 1983 (P.L. 40, No. 21), the Recorder of Deeds shall be the collection agent for the local realty transfer tax, including any amount payable to Upper Frederick Township based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania Realty Transfer Tax, without compensation from Upper Frederick Township.
- B. In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.

- C. On or before the tenth of each month, the recorder shall pay over to Upper Frederick Township all local realty transfer taxes collected, less 2% for use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania Realty Transfer Tax. The 2% commission shall be paid to the county.
- D. Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the recorder shall rerecord the deed or record the additional realty transfer tax form only when both the state and local amounts and a rerecording or recording fee has been tendered.

§ 247-65. Statement of value.

Every document lodged with or presented to the Recorder of Deeds for recording shall set forth therein and as a part of such document the true, full and complete value thereof, or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this article. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of this section shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. Other documents presented for the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this article.

§ 247-66. Civil penalties.

- A. If any part of any underpayment of tax imposed by this article is due to fraud, there shall be added to that tax an amount equal to 50% of the underpayment.
- B. In the case of failure to record a declaration required under this article on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax 5% of the amount of such tax if the failure is for not more than one month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

§ 247-67. Lien.

The tax imposed by this article shall become a lien upon the lands, tenements or hereditaments or any interest therein, lying, being situated, wholly or in part within the boundaries of Upper Frederick Township, which lands, tenements, hereditaments or interest therein are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this article, said lien to begin at the time when the tax under this article is due and payable, and continue until discharge by payment, or in accordance with the law, and the Solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Montgomery County, in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. § 7101 et seq., its supplements and amendments.

§ 247-68. Enforcement.

All taxes imposed by this article, together with interest and penalties prescribed herein, shall be recoverable as other debts of like character are recovered.

§ 247-69. Regulations.

The Tax Collector of Upper Frederick Township is charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. § 8101-C et seq. are incorporated into and made a part of this article.

ARTICLE VIII
Tax Certifications
[Adopted 5-9-1996 by Ord. No. 96-4]

§ 247-70. Issuance of tax certifications and duplicate bills.

The duly elected Tax Collector for the Township of Upper Frederick shall be and is hereby authorized and appointed as a municipal officer to issue tax certifications and duplicate bills upon request by the general public, property owners and other interested parties with regard to the status of said municipal taxes as may be necessary from time to time.

§ 247-71. Assessment and collection of fee. [Amended 8-13-1998 by Ord. No. 98-4]

The duly elected Tax Collector for the Township of Upper Frederick, in the process of preparing and issuing tax certifications and duplicate bills, shall be entitled to assess and collect a fee in an amount as established from time to time by resolution of the Board of Supervisors.

§ 247-72. Compensation of Tax Collector.

The duly elected Tax Collector for the Township of Upper Frederick shall and is hereby authorized to assess, collect and retain such fees as are herein established or hereinafter revised, amended or altered from time to time by resolution of the Board of Supervisors of the Township of Upper Frederick as compensation for providing such additional service.

ARTICLE IX
Local Taxpayers Bill of Rights
[Adopted 12-30-1998 by Res. No. 98-23]

§ 247-73. Establishment and adoption.

Pursuant to the provisions of Act 50 of the 1998 General Assembly of the Commonwealth of Pennsylvania, enacted May 5, 1998, known as the "Local Taxpayers Bill of Rights," the Upper Frederick Township Board of Supervisors hereby establishes and adopts the Upper Frederick Township Local Taxpayers Bill of Rights, the full text of which is attached hereto, incorporated herein and marked Exhibit A.⁵¹

§ 247-74. Notification.

As required by the provisions of Act 50 and the Upper Frederick Township Local Taxpayers Bill of Rights, the Upper Frederick Township Board of Supervisors shall notify any taxpayer contacted by the Township regarding an assessment, audit, determination, review or collection of an eligible Upper Frederick Township tax of the availability of the Upper Frederick Local Taxpayers Bill of Rights. Upper Frederick Township shall make copies of the Upper Frederick Township Local Taxpayers Bill of Rights available to taxpayers upon request at no charge to the taxpayer, including mailing costs. The notification forwarded to the taxpayers contacted as referenced above shall provide as follows:

"You are entitled to receive a written explanation of your rights with regard to the audit, appeal, enforcement, refund and collection of local taxes by contacting, in person or by mail, Jennifer Bolognese, Upper Frederick Township Secretary, at P.O. Box 597, Frederick, Pennsylvania, 19435. You may also call the Township Secretary at (610) 754-6436 on Tuesdays and Wednesdays during the hours of 9:00 a.m. to 4:00 p.m. and Thursdays during the hours of 9:00 a.m. to 5:00 p.m. for further information."

§ 247-75. Effective date.

The provisions of the Upper Frederick Township Local Taxpayers Bill of Rights shall become effective on January 1, 1999.

51. Editor's Note: Exhibit A is included at the end of this chapter.

ARTICLE X
Delinquent Tax Collector
[Adopted 4-11-2002 by Ord. No. 02-06]

§ 247-76. Appointment of Collector of Delinquent Taxes.

The elected Tax Collector of the Township is hereby appointed, authorized and directed to act as the Collector of Delinquent Taxes within the Township, for real estate taxes collected after the end of the tax year, but before the taxes remaining unpaid are submitted to the County Tax Claim Bureau for collection.

§ 247-77. Term of appointment.

This appointment and authorization shall remain in effect until the Board of Supervisors, by ordinance, takes further action, as required by law.

§ 247-78. Vacancies.

In the event of a vacancy in the office of Tax Collector during the term of this appointment, the successor Tax Collector shall automatically succeed to the powers and duties set forth herein.

§ 247-79. Additional bond not required.

The Collector of Delinquent Taxes shall not be required to give additional bond on account of this appointment.

§ 247-80. Authority and power.

The Collector of Delinquent Taxes shall have all the authority and power now vested by law in the collector of nondelinquent Township taxes for the collection of such delinquent taxes.

§ 247-81. Reporting of collections.

The Collector of Delinquent Taxes shall account to the Board of Supervisors for all delinquent tax collections made, in the same manner as required for the reporting of nondelinquent tax collections.

§ 247-82. Compensation of Collector.

The Collector of Delinquent Taxes shall be compensated in the same manner as provided for the collection of nondelinquent taxes within the Township.

ARTICLE XI
Fees for Collection of Delinquent Real Estate Taxes
[Adopted 12-13-2012 by Ord. No. 2012-05⁵²]

§ 247-83. Appointment of Collector of Taxes.

In addition to the authorization for the collection of taxes and institution of tax sales authorized by the Real Estate Tax Sales Law ("RETSL"), 72 P.S. § 5860.201 et seq., the Montgomery County Tax Claim Bureau is appointed as alternative collector and is authorized and directed to file liens for existing delinquent real estate taxes with the Prothonotary of Montgomery County in accordance with the provisions of the Municipal Claims and Tax Liens Act, 53 P.S. § 7101 et seq.

§ 247-84. Interest rate.

In accordance with the MCTLA⁵³ and RETSL, interest shall be charged on taxes so returned from and after, but not before, the first day of the month following the return. Interest shall be charged at the rate of 9% per annum.

§ 247-85. Charges, expenses and fees.

Pursuant to Section 7106 of the MCTLA, and based on the determination of the Commissioners of Montgomery County, it is hereby established that the reasonable charges, expenses and fees incurred in the collection of any delinquent account under the MCTLA are hereby fixed at 5% of the total amount of the delinquent taxes (including interest and penalties), and that additional reasonable attorney's fees incurred in the collection of any delinquent taxes shall be fixed at 1% of the total amount of the delinquent taxes (including interest and penalties), and that said charges for attorney's fees and for all charges, expenses and fees set forth herein, shall be paid to the County of Montgomery through the Montgomery County Tax Claim Bureau in lieu of payment of commission pursuant to Section 207 of RETSL.

§ 247-86. Implementation.

The proper officials of Upper Frederick Township are hereby authorized and empowered to take such additional action as they may deem necessary or appropriate to implement this article.

52. Editor's Note: This ordinance also repealed former Art. XI, Off-Premises Advertising Sign Tax, adopted 3-13-2008 by Ord. No. 2008-03.

53. Editor's Note: See Municipal Claims and Tax Liens Act, 53 P.S. § 7101 et seq.

ARTICLE XII
Agency Fees for Collection of Delinquent Earned Income Taxes
[Adopted 6-9-2016 by Res. No. 2016-10]

§ 247-87. Definitions.

The following terms shall have the meanings set forth herein:

COLLECTOR — The Berks County Earned Income Tax Collection Bureau.

ENACTMENT — This resolution.

GOVERNING BODY — The Board of Supervisors of Upper Frederick Township, Montgomery County, Pennsylvania.

TAX — All local earned income taxes, other taxes, penalties, interest, and costs that the Collector collects on behalf of the Taxing Authority under the Local Tax Enabling Act, 53 P.S. § 6924.101, et seq., or other statutory law.

TAXING AUTHORITY — The Township of Upper Frederick, Montgomery County, Pennsylvania.

TAXPAYER — An employer or taxpayer that is liable for tax.

§ 247-88. Authorization.

The taxing authority acknowledges the collector may engage one or more third-party collection agencies to pursue and collect delinquent tax in situations where the amount of delinquent tax owed is relatively small and it is therefore cost-prohibitive for the collector to dedicate the upfront resources necessary to pursue such delinquent tax. The taxing authority hereby approves of the imposition on and collection of a fee from any delinquent taxpayer by any third-party collection agency engaged by the collector, provided such fee does not exceed 25% of the amount of tax collected from any such taxpayer.

§ 247-89. Notice.

Promptly after adoption of this article, the taxing authority will provide a copy of the enactment to the collector. If the taxing authority later rescinds, limits, or changes the scope of, the authorization set forth in this article, then the taxing authority will immediately notify the collector.

ARTICLE XIII
Volunteer Service, Real Property and Earned Income Tax Credit
[Adopted 12-26-2017 by Ord. No. 2017-03]

§ 247-90. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ACTIVE VOLUNTEER — A volunteer for a volunteer fire company listed under § 247-91B who has complied with, and is certified under, the Volunteer Service Credit Program.

EARNED INCOME TAX — A tax on earned income and net profits levied under Chapter 3 of the Act of December 31, 1965 (P.L. 1257, No. 511), known as the Local Tax Enabling Act.⁵⁴

ELIGIBILITY PERIOD — The time frame when volunteers may earn credit under the Volunteer Service Credit Program.

EMERGENCY RESPONDER — A volunteer who responds to an emergency call with one of the entities listed under § 247-91B.

EMERGENCY RESPONSE CALL — Any emergency call to which a volunteer responds, including travel directly from and to a volunteer's home, place of business or other place where he/she shall have been when the call was received.

QUALIFIED REAL PROPERTY — A residential real property owned and occupied as the domicile of an active volunteer.

VOLUNTEER — A member of a volunteer fire company or a nonprofit emergency medical service agency.

§ 247-91. Volunteer Service Credit Program.

- A. Establishment. Upper Frederick Township hereby establishes a Volunteer Service Credit Program. The goal of the program is to encourage membership and service in the Upper Frederick Township Volunteer Fire Company.
- B. Eligible entities. The Volunteer Service Credit Program is available to residents of the Township who are volunteers of the Upper Frederick Township Fire Company.
- C. Qualifying volunteer criteria. To be a qualifying volunteer under this article, an individual must:
 - (1) Be a Township resident; and
 - (2) Have served as an active volunteer, in good standing, as so certified under this article, for the entire preceding calendar year, for a volunteer fire company.
- D. Eligibility list. A notarized list of eligible active volunteers shall be submitted to the governing body, no later than 45 days before tax notices are to be distributed, by the Chief of the Upper Frederick Township Fire Company.
- E. Criteria revision. The Board of Supervisors reserves the right to revise the criteria for a qualifying volunteer, in whole or in part, at its sole discretion.
- F. Eligibility period. A volunteer must meet the minimum criteria established by this article during the eligibility period to qualify for the tax credit established under §§ 247-92 and 247-93. For 2018, and each subsequent year thereafter, the eligibility period shall run from January 1 until December 31.
- G. Recordkeeping. The Chief of each volunteer fire company, or the Supervisor of the nonprofit emergency

⁵⁴. Editor's Note: See 53 P.S. §§ 6924.101 et seq.

medical service agency listed under § 247-91B, shall keep specific records of each volunteer's activities in a service log to establish credits under the Volunteer Service Credit Program. Service logs shall be subject to review by the Board of Supervisors, the State Fire Commissioner and the State Auditor General. The Chief or Supervisor shall annually transmit to the Township a notarized eligibility list of all volunteers that have met the minimum criteria for the Volunteer Service Credit Program. The notarized eligibility list shall be transmitted to the Township no later than January 1 of each year. The Chief or Supervisor shall post the notarized eligibility list in an accessible area of the volunteer agency's facilities.

- H. Application. Volunteers that have met the minimum criteria of the Volunteer Service Credit Program shall sign and submit an application for certification to their Chief or Supervisor. The Chief or Supervisor shall sign the application if the volunteer has met the minimum criteria of the Volunteer Service Credit Program, and forward it to the Township Secretary. Applications shall not be accepted by the Township after April 1 of each year.
- I. Municipal review. The Township Secretary shall review the applications for credit under the Volunteer Service Credit Program, and shall cross reference them with the notarized eligibility list. The Board of Supervisors shall approve all applicants that are on the notarized eligibility list. All applicants approved by the Board of Supervisors shall be issued a tax credit certificate by the Township Secretary.
- J. Official tax credit register. The Township shall keep an official tax credit register of all active volunteers that were issued tax credit certificates. The Township Secretary shall issue updates, as needed, of the official tax credit register to the following:
 - (1) Board of Supervisors.
 - (2) Chief of the volunteer fire company(ies).
 - (3) Tax Officer for the Township Collection District.
- K. Injured volunteers.
 - (1) An emergency responder that is injured during an emergency response call may be eligible for future tax credits. The injury must have occurred while responding to, participating in, or returning from an emergency response call with one of the entities listed under § 247-91B.
 - (2) An injured emergency responder shall provide documentation from a licensed physician with the application required under § 247-91H stating that their injury prevents them from performing duties to qualify as an active volunteer. In such a case, the injured emergency responder shall be deemed an active volunteer for that tax year.
 - (3) An injured emergency responder shall annually submit the application required under § 247-91H, along with updated documentation from a licensed physician stating that the injury still exists and prevents them from qualifying as an active volunteer. The injured emergency responder shall again be deemed an active volunteer for that tax year. An injured emergency responder shall only be deemed an active volunteer for a maximum of five consecutive tax years.

§ 247-92. Earned income tax credit.

- A. Tax credit. Each active volunteer who has been certified under the Upper Frederick Township Volunteer Service Credit Program shall be eligible to receive a tax credit of up to \$50 of the earned income tax levied by the Township. When an active volunteer's earned income tax liability is less than the amount of the tax credit, the tax credit shall equal the individual's tax liability.
- B. Claim.
 - (1) An active volunteer with a tax credit certificate may file a claim for the tax credit on their Township

earned income tax liability when filing a final return for the preceding calendar year with the Tax Officer for the Upper Frederick Township Tax Collection District.

C. Rejection of the tax credit claim.

- (1) The Tax Officer shall reject a claim for a tax credit if the taxpayer is not on the official tax credit register issued by the Township Secretary.
- (2) If the Tax Officer rejects the claim, the taxpayer shall be notified in writing of the decision. The notice shall include the reasons for the rejection, and provide the method of appealing the decision pursuant to § 247-94.
- (3) Taxpayers shall have 30 days to appeal the decision of the Tax Officer.

§ 247-93. Real property tax credit.

A. Tax credit. Each active volunteer who has been certified under the Upper Frederick Township Volunteer Service Credit Program shall be eligible to receive a real property tax credit of 20%.

B. Claim.

- (1) An active volunteer with a tax credit Certificate may file a claim for the tax credit on their qualified real property tax liability for the Township's real estate tax levy. The tax credit shall be administered as a refund by the Township Treasurer. An active volunteer shall file the following with the Township Secretary:
 - (a) A true and correct receipt from the Township Real Estate Tax Collector of the paid Township real property taxes for the tax year which the claim is being filed.
 - (b) The tax credit certificate.
 - (c) Photo identification.
 - (d) Documentation that the tax paid was for qualified real property as defined in this article.
- (2) If the active volunteer provides all documents required under this subsection, the Township Treasurer shall issue the tax refund to the active volunteer.

C. Rejection of the tax credit claim.

- (1) The Township Secretary shall reject the claim for a Township real property tax credit if the taxpayer fails to provide the documents required under Subsection B(1).
- (2) If the Township Secretary rejects the claim, the taxpayer shall be notified in writing of the decision. The notice shall include the reasons for the rejection, and provide the method of appealing the decision pursuant to § 247-94.
- (3) Taxpayers shall have 30 days to appeal the decision of the Township Secretary.

§ 247-94. Appeals.

A. Earned income tax credit appeals.

- (1) Any taxpayer aggrieved by a decision under § 247-92 shall have a right to appeal said decision.
- (2) A taxpayer shall have 30 days to appeal a decision or rejection of claim.
- (3) All appeals under § 247-92 shall follow the provisions of the Act of May 5, 1998, P.L. 301, No. 50,

known as the Local Taxpayers Bill of Rights.⁵⁵

- (4) The procedure established for an appeal under the Local Taxpayers Bill of Rights is found in § 247-73 of the Code of the Township of Upper Frederick.

B. Real property tax credit appeals.

- (1) Any taxpayer aggrieved by a decision under § 247-93C shall have a right to appeal said decision.
- (2) A taxpayer shall have 30 days to appeal a decision or rejection of claim.
- (3) All appeals under § 247-93C(1) shall follow the provisions of 2 Pa.C.S.A. Chapter 5, Subchapter B (relating to practice and procedure of local agencies), and 2 Pa.C.S.A. Chapter 7, Subchapter B (relating to judicial review of local agency action), also known as the Local Agency Law.

55. Editor's Note: 53 Pa. C.S.A. § 8421 et seq.

Chapter 253

TRANSIENT RETAIL MERCHANTS

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick 9-13-1979 by Ord. No. 79-2. Amendments noted where applicable.]

§ 253-1. License required.

From and after the effective date hereof, it shall be unlawful for any person, firm or corporation, who is not the holder of a valid, unexpired and unrevoked license issued pursuant to this chapter, to engage in selling, purchasing or soliciting the sale or purchase of food, printed matter, services, goods, wares or merchandise of any description, or in soliciting contributions, gifts or pledges of money or any other thing of value, by visitation to private homes or residences or on the public streets or highways of Upper Frederick Township.

§ 253-2. Application for permit. [Amended 6-3-1996 by Ord. No. 96-5; 8-13-1998 by Ord. No. 98-4]

Any person desiring to obtain a license to engage in the activities described in § 253-1 hereof shall make application thereof, in person, to the Township Secretary.

- A. The applicant shall supply over his signature the following information:
- (1) His name.
 - (2) His place and date of birth.
 - (3) His address.
 - (4) His residence.
 - (5) The address at which he will receive notices under this chapter.
 - (6) Name and address of his employer or principal, and nature of his business activity or a description of the nonprofit activity.
 - (7) Nature of the business activity in which applicant wishes to engage within the Township.
 - (8) A criminal record check received from the Pennsylvania State Police and dated within three months of the submission of the application.
 - (9) The name of a reference.
- B. Upon submission of said application and the payment of a fee in an amount as established from time to time by the Board of Supervisors, a license shall be issued to the applicant in the form of a card which shall, unless revoked, entitle the licensee to engage in the activities specified for a period of one year from the date of issuance; provided, that the Township Secretary may refuse to issue a license if he has reasonable grounds for believing the applicant to be of poor moral character, in which event the applicant shall be required to apply in person to the Board of Supervisors; provided, further, that no fee shall be required of any honorably discharged and disabled soldier, sailor or marine of the military or naval service of the United States who is a resident of this commonwealth.
- C. Licenses may be renewed annually upon payment of the fee herein above provided for and the submission of any amendment of the original application necessary to reflect any changes in the information therein contained.

§ 253-3. Requirements for license holders.

Every person to whom a license has been issued hereunder shall, in the carrying on of his business or activities in the Township, comply with the following conditions and rules of conduct:

- A. He shall carry his license card at all times and exhibit it upon request to any peace officer, Township official or any person upon whom he shall call or with whom he shall talk in carrying on his licensed activities.
- B. His license card is not transferable and he shall not permit nor allow any other person to use same and shall immediately report its loss to the Township Secretary, should such event occur. His card shall not be altered or defaced nor shall he permit so to be.
- C. He shall not enter, nor attempt to enter, any dwelling or business house without invitation or permission of the occupant and shall immediately leave any premises upon request.
- D. He shall not represent his license card to be an endorsement of himself or his goods, wares or services, or the goods, wares or services of his employer.
- E. He shall immediately surrender his license card upon revocation of his license as hereinafter provided.

§ 253-4. Revocation of license.

Any license hereafter issued may be revoked by the Board of Supervisors upon the failure of the licensee to comply with the standards of conduct established by § 253-3 hereof, or upon ascertainment that the licensee has made any false statement in his application for license hereunder. Notice of revocation shall be given by written notice served or sent by registered mail to the address designated for this purpose in the license application.

§ 253-5. Appeal.

Any person whose license has been revoked shall be entitled to appear with counsel, if he desires, before the Board of Supervisors at a regular or special meeting and he will be heard in behalf of his request for reinstatement of his license.

§ 253-6. Exemptions. [Amended 8-13-1998 by Ord. No. 98-4]

- A. No license fee shall be charged:
 - (1) To farmers selling their own produce.
 - (2) For the sale of goods, wares and merchandise, donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose.
 - (3) To any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products.
 - (4) To children under the age of 18 years who take orders for and deliver newspapers, greeting cards, candy, bakery products and the like, or who represent the Boy Scouts or Girl Scouts or similar organizations.
 - (5) To the seeking or taking of orders by insurance agents or brokers licensed under the insurance laws of the Commonwealth of Pennsylvania.
 - (6) To a person who has complied with the provisions of the Solicitation of Funds for Charitable Purposes Act, 10 P.S. § 162.1 et seq., as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.
 - (7) For taking orders for merchandise, by sample, from dealers or merchants for individuals or companies who pay a license or business privilege tax at their chief place of business.

B. But all persons exempted hereby from the payment of the license fee shall be required to register with the Township Secretary and obtain a license without fee; provided, any person dealing with one or more of the above mentioned exempted categories, and dealing with other goods, wares or merchandise not so exempted, shall be subject to the payment of the license fee fixed by this section for his activities in connection with the sale of goods, wares and merchandise not in such exempted categories. Provided, further, the Township Secretary may similarly exempt from payment of the license fee, but not from registering with him, persons working without compensation and selling goods, wares or merchandise for the sole benefit of a nonprofit corporation. Provided, further, every license issued under the provisions of this chapter shall be issued on an individual basis to any person or persons engaging in such business; every individual shall obtain a separate license, issued to him in his name, and the license fee hereby imposed shall be applicable to every such individual license, except that a representative of a charitable organization may obtain licenses for the applicants.

§ 253-7. Violations and penalties. [Amended 8-13-1998 by Ord. No. 98-4]

Any person, firm or corporation who shall violate any provision of this chapter, upon conviction thereof in an action brought before a District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$15 more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this chapter continues or each section of this chapter which shall be found to have been violated shall constitute a separate offense.

Chapter 259

VEHICLES, ABANDONED

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick 12-12-1985 by Ord. No. 85-5. Amendments noted where applicable.]

GENERAL REFERENCES

Property maintenance — See Ch. 194.

§ 259-1. Definitions and word usage.

- A. As used in this chapter, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

LESSEE — Owner for the purposes of this chapter when the lessor holds the lessee responsible for maintenance and repairs.

MOTOR VEHICLE — Any type of mechanical device, propelled by a motor, in which persons or property may be transported upon public streets or highways, and including trailers or semitrailers pulled thereby.

NUISANCE — Any condition, structure or improvement which shall constitute a threat or potential threat to the health, safety or welfare of the citizens of Upper Frederick Township.

OWNER — The actual owner, agent or custodian of the property on which motor vehicles are stored, whether individual or partnership, association or corporation.

PERSON — A natural person, firm, partnership, association, corporation or other legal entity.

- B. In this chapter, the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

§ 259-2. Motor vehicle nuisances prohibited.

It shall be unlawful for any person, owner or lessee to maintain a motor vehicle nuisance upon the open private grounds of such person, owner or lessee within the Township. A motor vehicle nuisance shall include any motor vehicle which is unable to move under its own power and has any of the following physical defects:

- A. Broken windshields, mirrors or other glass, with sharp edges.
- B. One or more flat or open tires or tubes which could permit vermin harborage.
- C. Missing doors, windows, hood, trunk or other body parts which could permit animal harborage.
- D. Any body parts with sharp edges, including holes resulting from rust.
- E. Missing tires resulting in unsafe suspension of the motor vehicle.
- F. Upholstery which is torn or open which could permit animal and/or vermin harborage.
- G. Broken headlamps or tail-lamps with sharp edges.
- H. Disassembled chassis parts apart from the motor vehicle stored in a disorderly fashion or loose in or on the vehicle.

- I. Protruding sharp objects from the chassis.
- J. Broken vehicle frame suspended from the ground in an unstable manner.
- K. Leaking or damaged oil pan or gas tank which could cause fire or explosion.
- L. Exposed battery containing acid.
- M. Inoperable locking mechanism for doors or trunk.
- N. Open or damaged floor boards, including trunk and fire wall.
- O. Damaged bumpers pulled away from the perimeter of vehicle.
- P. Broken grill with protruding edges.
- Q. Loose or damaged metal trim and clips.
- R. Broken communication equipment antennae.
- S. Suspended on unstable supports.
- T. Such other defects which could threaten the health, safety and welfare of the citizens of Upper Frederick Township.

§ 259-3. Storage of motor vehicle nuisances.

- A. Any person, owner or lessee who has one or more motor vehicle nuisances, as defined in § 259-2 above, may store such vehicle(s) in Upper Frederick Township only in strict compliance with the regulations provided herein. Any person, owner or lessee who elects to store a motor vehicle nuisance, as defined in § 259-2, above, must store the same within a garage or other enclosed building, or, outside within an opaqued fence, at least six-foot high which is locked at all times when unattended. Such motor vehicle nuisances may be stored in an area enclosed by a chain link fence, at least six feet high, screened by shrubbery around the perimeter to the height of the fence, with an unobstructed gate capable of admitting fire or emergency equipment. Such gate shall remain locked at all times when unattended. In addition, all gas and oil or other flammable liquids shall be removed from the motor vehicle, and it shall be kept free of vermin infestation while being stored. The total area of storage of motor vehicle nuisances may not exceed 300 square feet, without obtaining a proper permit for storage of such nuisances from the Upper Frederick Township Board of Supervisors.
- B. Any person, owner or lessee who has or desires to store motor vehicle nuisances, defined in § 259-2, above, in an exterior storage area which exceeds 300 square feet, must, first, apply for a permit for either temporary or permanent storage and pay a fee to Upper Frederick Township, such as may be provided from time to time by resolution of the Board of Supervisors. The motor vehicle nuisances must be stored within a garage or other enclosed building, or, within an opaque fence, at least six feet high, or a chain link fence, at least six feet high, screened by shrubbery around the perimeter to the height of the fence, which fence shall be locked at all times when unattended. In addition, all gas and oil or other flammable liquids shall be removed from the motor vehicles, and it shall be kept free of vermin infestation while being stored. Nothing herein shall be construed to permit the storage of motor vehicle nuisances contrary to the provisions of Chapter 285, Zoning, of the Code of the Township of Upper Frederick.

§ 259-4. Inspection; notice to comply.

- A. The Zoning Officer is hereby empowered to inspect grounds on which motor vehicles are stored to determine if there is compliance with the provisions of this chapter. If noncompliance with the provisions of this chapter constitutes a nuisance, or if any condition, structure or improvement poses a threat to the health, safety or welfare of the public, he shall issue a written notice to be served by registered or certified mail upon the owner

of said premises, or, if the owner's whereabouts or identity be unknown, by posting the notice conspicuously upon the offending premises.

- B. Said notice shall specify the condition or structure or improvement complained of, and shall require the owner to commence to remove or otherwise rectify the condition or structure or improvement as set forth therein within 10 days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time.

§ 259-5. Authority to remedy noncompliance.

If the owner of grounds on which motor vehicles are stored does not comply with the notice to abate the conditions, within the time limit prescribed, the Township shall have the authority to take measures to correct the conditions and collect the cost of such corrections, plus 10% of all costs. The Township, in such event and pursuant to its statutory or otherwise authorized police powers, shall have the right and power to enter upon the offending premises to accomplish the foregoing.

§ 259-6. Hearing.

- A. Any person aggrieved by the decision of the Zoning Officer may request and shall then be granted a hearing before the Board of Supervisors; provided, he files with the Board of Supervisors, within 10 days after notice of the Zoning Officer's decision, a written petition requesting such hearing and setting forth a brief statement of the grounds therefor. The hearing shall commence not later than 30 days after the date on which the petition was filed, unless postponed for sufficient cause.
- B. After such hearing, the Board of Supervisors shall sustain, modify or overrule the action of the Zoning Officer.

§ 259-7. Violations and penalties. [Amended 8-13-1998 by Ord. No. 98-4]

Any person, firm or corporation who shall violate any provision of this chapter, upon conviction thereof in an action brought before a District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this chapter continues or each section of this chapter which shall be found to have been violated shall constitute a separate offense.

§ 259-8. Remedies not mutually exclusive.

The remedies provided herein for the enforcement of this chapter, or any remedy provided by law, shall not be deemed mutually exclusive; rather they may be employed simultaneously or consecutively at the option of the Board of Supervisors.

Chapter 265

VEHICLES AND TRAFFIC

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick 8-13-1998 by Ord. No. 98-4. Amendments noted where applicable.]

GENERAL REFERENCES

Abandoned vehicles — See Ch. 259.

ARTICLE I
General Regulations

§ 265-1. Definitions and interpretation.

- A. Words and phrases, when used in this chapter, except for sections or parts to which different or additional definitions apply, shall have the meanings ascribed to them in The Vehicle Code, the Act of June 17, 1976, P.L. 162 No. 81, as amended, except that, in this chapter the word "street" may be used interchangeably with the word "highway," and shall have the same meaning as the word "highway" as defined in the Vehicle Code.
- B. The term "legal holidays" as used in this chapter shall mean and include: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.
- C. In this chapter, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine.

§ 265-2. Manner of adopting permanent traffic and parking regulations.

All traffic and parking regulations of a permanent nature shall be enacted as ordinances, as parts of ordinances, as amendments to ordinances, or as amendments to this chapter, except where the law specifically authorizes less formal action.

§ 265-3. Provisions to be continuation of existing regulations.

The provisions of this chapter, so far as they are the same as those of ordinances and regulations in force immediately before the enactment of this chapter, are intended as a continuation of those earlier ordinances and regulations, and not as new enactments. Nothing in this chapter shall affect any act done or liability incurred, or any suit or prosecution pending or to be instituted under any of those repealed or superseded ordinances or regulations.

§ 265-4. Temporary and emergency regulations.

- A. The Chairman of the Board of Supervisors shall have the following powers to regulate traffic and parking temporarily and in time of emergency:
 - (1) In the case of fire, flood, storm or other emergency, to establish temporary traffic and/or parking regulations; and,
 - (2) In the case of emergency or to facilitate public works, or in the conduct of parades, processions or public events, to restrict or prohibit traffic and/or parking in limited areas for periods of not more than 72 hours.
- B. Such temporary and emergency regulations shall be enforced by the Police Department in the same manner as permanent regulations. Any person who shall operate or park a vehicle or tractor in violation of any such regulations, or who shall move, remove, destroy, injure or deface any sign or marking erected, posted or made to give notice of any such regulation, shall upon conviction thereof, be subject to the penalty set forth in the law or elsewhere in this chapter for a violation of such nature, and, in case of a violation for which no specific penalty is set forth in the law or elsewhere in this chapter, to a fine of not more than \$25 together with costs of prosecution.

§ 265-5. Experimental regulations.

The Board of Supervisors may, from time to time by resolution, designate places upon and along the highways in the Township where, for a period of not more than 90 days, specific traffic and/or parking regulations, prohibitions and restrictions shall be in force and effect, and shall designate such locations by proper signs and markings. Such regulations, prohibitions and restrictions shall be effective as if they had been specified in this chapter. No person shall operate and no person shall move, remove, destroy or deface any sign or marking erected, posted or made by

authority of this section. Any person who shall violate any provision of this section shall, upon conviction thereof, be subject to the penalty set forth in the law or elsewhere in this chapter for a violation of such nature, and in case of a violation for which no specific penalty is set forth in the law or elsewhere in this chapter, to a fine of not more than \$25 together with costs of prosecution; provided, the purpose of this section is to allow for the test and experimental determination of the feasibility and desirability of permanent changes in the ordinances of the Borough of Jefferson relative to traffic and parking.

§ 265-6. Traffic on streets closed or restricted for construction, maintenance or special events.

- A. The Board of Supervisors shall have authority to close any street or specific part of a street to vehicular traffic and to place barriers or station police officers at each end of the closed portion, while construction or maintenance work is under way or a special event is being conducted on the closed portion. It shall be unlawful for any person to drive a vehicle upon any such closed portion.
- B. The Board of Supervisors shall have authority to establish a restricted traffic area upon any street where construction or maintenance work is under way and to station flagmen at each end of the restricted portion. It shall be unlawful for any person to drive a vehicle upon any such restricted traffic area at any time when the flagman is displaying a sign directing that vehicle to stop, or is signaling that vehicle, by a flag or other device, not to proceed.
- C. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

§ 265-7. Use of streets by processions and assemblages.

- A. For the purpose of this section, the words "assemblage" and "procession" shall have the following meanings:

ASSEMBLAGE — A gathering of people without vehicles, which interferes with the movement of pedestrian or vehicular traffic on any street.

PROCESSION — A group of individuals, vehicles, animals and/or objects moving along a street in a way that interferes with the normal movement of traffic. A procession shall not include a funeral caravan or military convoy.
- B. It shall be unlawful for any person to hold or participate in any assemblage unless the person organizing or conducting the assemblage first obtains a permit from the Board of Supervisors, which shall be issued without fee. Application for the permit shall be made at least one week in advance of the day on which the assemblage is proposed to be held, but in any case where a state-designated highway is proposed to be used, application shall be made at least three weeks in advance of the proposed date. The permit shall state the place where and the date when the assemblage is to be held, the hour when the assemblage may convene and the hour by which it shall have been completely dispersed. It shall be unlawful for any person to hold or to participate in any assemblage unless the permit has been granted, or at any time or place other than that authorized by the permit.
- C. It shall be unlawful for any person to hold or participate in any procession unless the person organizing or conducting the procession first obtains a permit from the Board of Supervisors, which shall be issued without fee. Application for the permit shall be made at least two weeks in advance of the day when the procession is proposed to be held, but in any case where the state-designated highway is proposed to be used, application shall be made at least three weeks in advance of the proposed date. The permit shall specify the date on which the procession is to be held, the route to be followed by the procession, the hour when and place where participants may commence to assemble and form before the procession is under way, the time when the procession may commence to move along its route, and the time by which the end of the procession shall have been disbanded. It shall be unlawful for any person to hold or to participate in any procession unless the permit shall have been granted, or under any conditions as to time or route or otherwise than those stated in the permit.

- D. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

§ 265-8. Authority of police officers.

The police officers of the Township of Upper Frederick are hereby authorized to direct traffic on the highways of the Township and at intersections thereof and to otherwise enforce the provisions of this chapter.

§ 265-9. Authorization for use of speed-timing devices.

- A. The Township of Upper Frederick Police Department is hereby authorized to use all speed-timing devices for the determination of speed of a motor vehicle as are approved or will be approved by the Department of Transportation of the Commonwealth of Pennsylvania, in accordance with Title 75, Pa.C.S.A. § 3368.
- B. This section authorizes the use of said devices upon all highways within the Township be they Township, county or state highways, and does also hereby elect to exercise all powers granted to "local authorities" under the Vehicle Code of the Commonwealth of Pennsylvania, 75 Pa.C.S.A. § 6101 et seq., (1977), as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

ARTICLE II
Traffic Regulations

§ 265-10. Maximum speed limits established on certain streets. [Amended 9-9-2004 by Ord. No. 04-14]

A. Maximum speed limits are established on portions of specified streets, as follows, and it shall be unlawful for any person to drive a vehicle, on any part of a street where a maximum speed limit applies, at a higher speed than the maximum prescribed for that part of the street:

Street	Between	Maximum Speed Limit (mph)
Becker Road	Snyder Road to Hauck Road	25
Buck Road	—	15
Colonial	—	30
Deep Creek Road	From Green Lane Road to Fisher Road	35
Deep Creek Road	From Perkiomen Avenue to Green Lane Road	25
Fagleysville Road	—	35
Faust Road	Pennsylvania Route 73 to Little Road (LR 46010)	35
Faust Road	From Little Road (LR 46010) to Salford Station Road (T481)	35
Goezel Road	Becker Road to Perkiomenville Road	25
Gottshall Road	Sweisfort Road to Perkiomenville Road	30
Hauck Road	Snyder Road to Perkiomenville Road	25
Heimbach Road	Pennsylvania Route 73 to Little Road (LR 46010)	35
Keyser Road	Fagleysville Road to Neiffer Road	35
Kratz Road	Route 29 to the Lower Frederick Township Line	25
Krause Road	From Rt. 73 (SR 0073) to the Lower Frederick Township Line	25
Little Road	Perkiomenville Road to the Lower Frederick Township Line	35
Salford Station Road	—	25
Snyder Road	—	35
Swamp Creek Road [Added 5-10-2007 by Ord. No. 2007-05]	Limerick Township Line to Lower Frederick Township line	25
Sweisfort Road	Little Road (LR 46010) to Gottshall Road	30
Yost Road	Snyder Road to Sweisfort Road	25

B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$35. Any person exceeding the maximum speed limit by more than five miles per hour shall pay an additional fine of \$2 per mile for each mile in excess of five miles per hour over the maximum speed limit.

§ 265-11. Maximum speed limits established on certain bridges and elevated structures.

- A. Maximum speed limits are established, as follows, on certain bridges and elevated structures, and it shall be unlawful for any person to drive a vehicle on any such bridge or elevated structure, at a higher speed than the maximum prescribed for that bridge or elevated structure:

Bridge or Elevated Structure	Location	Maximum Speed Limit
	(Reserved)	

- B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$35. Any person exceeding the maximum speed limit by more than five miles per hour shall pay an additional fine of \$2 per mile for each mile in excess of five miles per hour over the maximum speed limit.

§ 265-12. Maximum speed limits established for certain vehicles on hazardous grades.

- A. The following are declared to be hazardous grades, and, upon any such hazardous grade, no person shall drive a vehicle, having a gross weight in excess of that referred to for that grade, in the direction stated for that grade, at a speed in excess of that established in this section for that grade, and, if so stated for a particular grade, the driver of every such vehicle shall stop the vehicle before proceeding downhill:

Street	Between	Direction of Travel	Maximum Gross Weight	Maximum Speed Limit	Required to Stop Before Proceeding Downhill
(Reserved)					

- B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$35. Any person exceeding the maximum speed limit by more than five miles per hour shall pay an additional fine of \$2 for each mile in excess of five miles per hour over the maximum speed limit.

§ 265-13. Maximum speed limits established in parks.

- A. A speed limit of 15 miles per hour is established on all streets and roadways in the public parks maintained and operated by the Township, except in the following locations, where the lower maximums, as specified, shall apply:

Park	Street	Location	Maximum Speed Limit
(Reserved)			

- B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$35. Any person exceeding the maximum speed limit by more than five miles per hour shall pay an additional fine of \$2 per mile for each mile in excess of five miles per hour over the maximum speed limit.

§ 265-14. Traffic signals at certain locations.

- A. At the following locations, traffic signals as indicated below shall be erected (or are ratified if previously erected), and traffic at those locations shall be directed by those signals:

Location	Type of Signal
(Reserved)	

- B. Any driver of a vehicle who disobeys the directions of any traffic signal shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

§ 265-15. Intersections where turn prohibited on red signal.

- A. The following are established as intersections where drivers of vehicles headed in the direction or directions indicated are prohibited from making a right turn (or a left turn from a one-way street into another one-way street) on a steady red signal:

Intersection	Vehicles Traveling On	Facing
		(Reserved)

- B. Any driver of a vehicle who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

§ 265-16. One-way streets established.

- A. The following are established as one-way streets, and it shall be unlawful for any person to drive a vehicle on any one-way street other than in the direction established for traffic on that street:

Street	From	To	Direction of Travel
			(Reserved)

- B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

§ 265-17. Turning at certain intersections prohibited or restricted.

- A. It shall be unlawful for the driver of any vehicle, of the type indicated, traveling upon the first-named street at any of the following intersections, in the direction or directions indicated in each case, to make a left turn and/or a right turn into the second-named street, as indicated, at any time when such a turn is prohibited by this section:

Vehicles Traveling on	Direction of Travel	Not to Make Turn	Into	When	Type of Vehicle Applicable To
					(Reserved)

- B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

§ 265-18. Left turns prohibited at certain intersections.

- A. It shall be unlawful for the driver of any vehicle, traveling upon the first-named street at any of the following intersections, in the direction or directions indicated in each case, to make other than a left turn, at any time stated, both right turns and straight-across traffic being prohibited:

Vehicles Traveling On	Direction of Travel	Times	Not To Make Right Turn Into or Travel Straight Across
			(Reserved)

- B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

§ 265-19. U-turns prohibited at certain locations.

- A. It shall be unlawful for the driver of any vehicle, traveling upon any of the following portions of streets, in the direction or directions indicated for that street, to make a U-turn:

Street	Portion	Direction of Travel
	(Reserved)	

B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

§ 265-20. No-passing zones established.

A. The following are established as no-passing zones, and it shall be unlawful for the driver of any vehicle to overtake or pass another vehicle or to drive on the left side of the roadway in any no passing zone:

Street	Direction of Travel	Between
	(Reserved)	

B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

§ 265-21. Through highways established.

A. The following highways are established as through highways, thus authorizing stop or yield signs to be erected facing traffic approaching every intersection with the through highway except for those intersections with traffic signals, or with exceptions or modifications as indicated below. Every driver of a vehicle approaching a stop or yield sign authorized by this section shall stop the vehicle or yield right-of-way as required by §§ 3323(b) or 3323(c) of the Vehicle Code, as the case may be, and shall not proceed into or across the through highway until he has followed all applicable requirements of that section of the law:

Highway	Between
	(Reserved)

B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

§ 265-22. Stop intersections established. [Amended 7-11-2002 by Ord. No. 02-10; 9-8-2005 by Ord. No. 2005-07]

A. The following intersections (in addition to intersections with the through highways established by § 265-21) are established as stop intersections, and official stop signs shall be erected (or are ratified if previously erected) in such a position as to face traffic approaching the second-named street (the intersecting or through street) on the first-named street (the stop street) in the direction or directions indicated for that intersection. Every driver of a vehicle approaching the intersection on the first named or stop street, in the direction indicated in each case, shall stop the vehicle as required by § 3323(b) of the Vehicle Code, and shall not proceed into or across the second-named or intersecting or through street until he has followed all applicable requirements of that section of the law.

Stop Street	Intersection or Through Street	Direction of Travel
Becker	Hauck	—
Becker	Snyder	—
Brookside Way	Faust Road	—
Buck Road	Faust Road	—
Buck Road	Foxfield Circle (Both Intersections)	

Stop Street	Intersection or Through Street	Direction of Travel
Buck Road	Glenwood Drive	
Buck Road	Pin Oak Lane	
Colonial	Fagleysville	—
Creek Lane	Green Lane Road	—
Deep Creek Road	Route 29	—
Faust	Route 73	—
Faust	Little	—
Faust	Salford Station	—
Fisher Lane	Deep Creek Road	—
Goezel	Becker	—
Goezel	Perkiomenville	—
Gottshalk	Perkiomenville	—
Hauck	Snyder	—
Haywood Road	State Route 29	—
Heimbach	Little	—
Heimbach	Route 73	—
Hildebeidel	Colonial	—
Hunsberger	State Route 73	—
Ivy Lane	Route 73	North
Keyser	Fagleysville	—
Keyser	Neiffer	—
Kratz	Route 29	—
Kratz	Salford Station	—
Krause	Route 73	—
Locust Lane	Haywood Road	—
Opossum	Snyder Road	—
Perkiomen Avenue	Deep Creek Road	—
Pheasant	Opossum Avenue	—
Raccoon	Woodchuck Lane	—
Rockhill	Perkiomenville Road	—
Sweisfort	Little	—
Swamp Creek	Neiffer	—
Swamp Creek	Fagleysville	—
Woodchuck	Opossum Avenue	—
Woodland	Becker Road	—
Yost	Snyder	—
Yost	Sweisfort	—

- B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

§ 265-23. Yield intersections established.

- A. The following intersections (in addition to intersections with the through highways established by § 265-21) are established as yield intersections, and official yield signs shall be erected (or are ratified if previously erected) in such a position as to face traffic approaching the second-named street (the through street) on the first-named street (the yield street) in the direction or directions indicated for that intersection. Every driver of a vehicle approaching the intersection on the first-named or yield street, in the direction indicated in each case, shall slow down or stop the vehicle as required by § 3323(c) of the Vehicle Code, and then yield the right-of-way as required by that subsection of the Vehicle Code.

Yield Street	Through Street	Direction of Travel
	(Reserved)	

- B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

§ 265-24. Operation of motor vehicles restricted on public lands.

- A. No motor vehicle including a motorcycle, pedalcycle or minibike shall be operated on any property owned by the Township or any other public agency or instrumentality within the Township without the permission of the property owner and a permit from the [designated official] of the Township.
- B. Any person who violates an provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

§ 265-25. Rotary traffic islands established.

- A. The following locations are designated as rotary traffic islands, and every vehicle passing around a rotary traffic island shall be driven only to the right of the island:

Location
(Reserved)

- B. Any person who drives a vehicle otherwise than to the right of any rotary traffic island shall be guilty of a violation of this section, and, upon conviction, shall be sentenced to pay a fine of \$25 and costs.

§ 265-26. Play highways established and authorized.

- A. The following areas upon the streets in the Township are established as play highways:

Street	Between	Days	Hours
(Reserved)			

- B. The [designated official] is authorized to designate as play highways, whenever he deems that action advisable, and for whatever period of time directed by him, any part of any street in the Township, where sledding and coasting, shall be permitted. That play highway shall be set apart for the purpose under the direction of the [designated official].
- C. No person shall drive any motor vehicle upon any play highway at any time when that street shall be designated as a play highway, except in case of emergency, with special permission of the [designated official] or of the police officer in charge, who shall first clear that play highway of all persons using it for the

purpose for which it was set aside. Any person who violates any provision of this subsection shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

§ 265-27. Snowmobile roads designated.

A. The following roads and streets within the Township are designated as special snowmobile roads:

Street or Road	Between	Used by Snowmobiles Only When Closed to Vehicular Traffic	Shared With Vehicular Traffic
		(Reserved)	

B. It shall be unlawful for any person to operate a snowmobile on any highway, street or road in the Township other than as provided above. Provided nothing in this section shall prohibit any person from operating a snowmobile on any other street in the borough:

- (1) As authorized by § 7721 of the Vehicle Code for emergency and bridge crossings and for direct crossing of streets or two-lane highways; or
- (2) For special snowmobile events where authorized in advance and the street is blocked off as provided in § 7723 of the Vehicle Code. Any person who violates any provision of this section shall be subject to the penalties prescribed in § 7752(a) of the Vehicle Code.

ARTICLE III
Restrictions on Size, Weight and Type of Vehicle and Load

§ 265-28. Vehicle weight limits established on certain streets and bridges.

- A. On the following bridges and streets or parts of streets, by authority granted by § 4902(a) of the Vehicle Code, it shall be unlawful for any person or persons to drive any vehicle or combination having a gross weight in excess of the maximum prescribed below for that bridge or street or part of street, as the case may be:

Street or Bridge	Between	Maximum Gross Weight (tons)
Colonial	—	3
Faust Road	—	16 or combo 30
Faust Road	Salford Station and Little Road	10

- B. Any person who violates any provision of this section shall be prosecuted under §§ 4902-(a) and 4902(g-1) of the Vehicle Code, and, upon conviction, shall be sentenced to pay a fine of \$150 plus \$150 for each 500 pounds, or part thereof, in excess of 3,000 pounds over the maximum allowable weight, and costs.

§ 265-29. Restrictions on size of vehicles on certain streets and bridges.

- A. On the following bridges and streets or parts of streets, by authority granted by § 4902(a) of the Vehicle Code, it shall be unlawful for any person to drive any vehicle or combination in violation of the size restrictions prescribed below for that bridge or street or part of street:

Street or Bridge	Between	Restrictions
		(Reserved)

- B. Any person who violates any provision of this section shall be prosecuted under §§ 4902(a) and 4902(g-1) of the Vehicle Code, and, upon conviction, shall be sentenced to pay a fine of \$75 and costs.

§ 265-30. Restrictions as to weight and size of vehicles on certain streets and bridges.

- A. By reason of hazardous traffic conditions and other safety factors, by authority granted by § 4902(b) of the Vehicle Code, it shall be unlawful for any person to drive any vehicle or combination in violation of the restriction prescribed below for that bridge or street or part of street.

Street or Bridge	Between	Restrictions
		(Reserved)

- B. Any person who violates any provision of this section shall be prosecuted under §§ 4902(b) and 4902(g-1) of the Vehicle Code, and, upon conviction, shall be sentenced to pay a fine of not less than \$25 and not more than \$100 and costs.

§ 265-31. Truck traffic restricted on certain streets.

- A. It shall be unlawful for any person to drive a vehicle other than a passenger car on any of the following streets or parts of streets:

Street

Between

(Reserved)

- B. Provided: nothing in this section shall prohibit any person from driving an emergency vehicle on any of those streets or parts of streets, or from driving on any of those streets or parts of streets a truck or other commercial vehicle making local deliveries to or pickups from premises located along that street or part of a street.
- C. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

ARTICLE IV
General Parking Regulations

§ 265-32. Vehicles to be parked within marked spaces.

Wherever a space is marked off on any street for the parking of an individual vehicle, every vehicle parked there shall be parked wholly within the lines bounding that space, and it shall be a violation of this article for any person to park a vehicle or allow it to remain parked otherwise.

§ 265-33. Parking prohibited at all times in certain locations. [Amended 6-8-2000 by Ord. No. 00-2; 2-14-2002 by Ord. No. 02-3; 9-8-2005 by Ord. No. 2005-07]

Parking shall be prohibited at all times in the following locations:

Street	Side	Between
Buck Road	Both	Entire length
Haywood Road	Both	Gravel Pike (Route 29) to and including the cul-de-sac
Ivy Lane	East	Route 73, to and including the cul-de-sac
Locust Lane	Both	Haywood Road to and including the cul-de-sac
Perkiomenville Road	Both	Entire length
Rockhill Road	Both	Perkiomenville Road to and including the cul-de-sac

§ 265-34. Parking prohibited in certain locations, certain days and hours.

Parking shall be prohibited in the following locations at all times on the days and between the hours indicated in this section, as follows:

Street	Side	Between	Days	Hours

(Reserved)

§ 265-35. Parking of trucks, buses and certain other vehicles prohibited in certain locations.

It shall be unlawful for any person to park, or to allow to remain parked, on any of the following streets or parts of streets, any vehicle other than a passenger car (which shall not include any bus, motor home or passenger car attached to a trailer of any kind):

Street	Between

(Reserved)

§ 265-36. Parking time limited in certain locations certain days and hours.

No person shall park a vehicle, or allow it to remain parked, for longer than the time indicated, in any of the following locations, at any time on the days and between the hours indicated:

Street	Side	Between	Days	Hours

(Reserved)

§ 265-37. Special purpose parking zones established; parking otherwise prohibited.

The following are established as special purpose parking zones, and it shall be unlawful for any person to park a vehicle or to allow it to remain parked, in any such zone, except as specifically provided for that zone:

Street	Side	Location	Authorized Purpose or Vehicle
		(Reserved)	

§ 265-38. Standing or parking on roadway for loading or unloading.

It shall be unlawful for any person to stop, stand or park a vehicle (other than a pedalcycle) on the roadway side of any vehicle stopped or parked at the edge or curb of any street, except that standing or parking for the purpose of loading or unloading persons or property shall be permitted on the following named streets on Monday through Saturday, between the hours of 9:00 a.m. and 11:30 a.m. and between the hours of 1:30 p.m. and 4:00 p.m., and for no longer than necessary for the loading or unloading.

Street	Side	Between
		(Reserved)

§ 265-39. Angle parking required on portions of certain streets.

A. Only angle parking shall be permitted on the following portions of streets:

Street	Side	Between
		(Reserved)

B. On all streets where angle parking is required, every vehicle parked at the angle shall be parked with its front nearest the curb.

§ 265-40. Parking prohibited on portions of certain highways during street sweeping hours.

It shall be unlawful for any person to park a vehicle or to allow the same to remain parked, at any time between 8:00 a.m. and 10:00 a.m. on any of the following portions of the highways of the Township, on the days hereby respectively designated for street sweeping purposes:

Street	Between	Day
		(Reserved)

§ 265-41. Residential permit parking.

A. Findings and purpose. The Township finds that:

- (1) Certain residential areas in the Township are subjected to commuter vehicle parking, therefore, depriving the residents of those areas of spaces in which to park their own vehicles;
- (2) Those residential streets are also subjected to a high degree of commuter traffic which substantially reduces the quality of the ambient air level; and,
- (3) The establishment of a parking permit program for certain affected areas should facilitate efficient movement of traffic by providing for parking preference during certain hours of the day and days of the week. Therefore, the borough considers it to be in the interest of the people of the Township to provide for the establishment of a residential permit parking program to insure primary access to available parking spaces by neighborhood residents and also to provide a cleaner ambient air level.

B. Definitions. For the purpose of this section, words and terms listed in this subsection, as follows, shall have the following meanings:

COMMUTER VEHICLE — A motor vehicle parked in a residential area by a person not a resident of that

residential area.

PROPRIETOR — A person who owns or leases real estate within a residential area of which he is not a resident, but who owns or manages a business enterprise or professional office maintained at that address; for the purpose of this section, a proprietor shall be entitled to one parking permit for that business or professional office address.

RESIDENT — A person who owns or leases real property within a residential area and who maintains either a voting residence, or bona fide occupancy, or both, at that address.

RESIDENTIAL AREA — A contiguous area containing public highways or parts of public highways primarily abutted by residential property or residential and nonbusiness property (such as schools, parks, places of worship, hospitals and nursing homes).

C. Criteria. The residential areas designated in Subsection D of this section are those deemed impacted and hence eligible for residential parking on the basis of the following criteria:

(1) During any period between the hours of 7:00 a.m. and 6:30 p.m., Monday through Saturday, except legal holidays, the number of vehicles parked (or standing), legally or illegally, on the streets in the area is equal to 70% or more of the legal, on-street parking capacity of the area. For the purpose of this criterion, a legal parking space shall be 20 linear feet.

(2) During the same period as specified in Subsection C(1), directly above, 10% or more of the vehicles parked (or standing) on the streets in the area are not registered in the name of a person residing in the area. For the purpose of this criterion, the latest available information from the Bureau of Motor Vehicles and Licensing of the Pennsylvania Department of Transportation regarding registration of motor vehicles shall be used; provided, in determining that a specific area identified as impacted and eligible for residential permit parking is designated as a residential permit parking area, the following factors are taken into consideration:

- (a) The local and metropolitan needs with respect to clean air and environment;
- (b) The possibility of a reduction in total vehicle miles driven in the Township;
- (c) The likelihood of alleviating traffic congestion, illegal parking and related health and safety hazards;
- (d) The proximity of public transportation to the residential area;
- (e) The desire and need of the residents for residential permit parking and their willingness to bear the administrative costs in connection with it; and
- (f) The need for parking in excess of the residential permit parking program in proximity to establishments located in the residential permit parking area and used by the general public for religious, health or educational purposes.

D. Designation of residential permit parking areas. The following are designated as residential permit parking areas: Signs shall be erected along the streets in each residential permit parking area, indicating the days, hours, locations and conditions under which parking shall be by permit only.

Area	Bounded By and Including (Reserved)
-------------	-----------------------------------------------

E. Application for permit. Application for a residential parking permit shall be made to the Road Foreman, or other individual designated by the Board of Supervisors by the person desiring the permit, who shall be only the owner or the driver of a motor vehicle who resides on or is a proprietor of property immediately adjacent to a street or other location within a residential parking permit area. A separate application shall be required

for each motor vehicle, and each application shall be accompanied by a permit fee, set pursuant to a resolution of the Board of Supervisors, which shall be for the use of the Township, to be applied to the cost of administering the residential permit parking program. Each application shall contain the following information: the name of the owner or the driver, as the case may be, of the motor vehicle; the address of the resident or the proprietor, as the case may be; the make, model and registration number of the motor vehicle; and the driver number as taken from the applicant's current driver's license. At the discretion of the Road Foreman, or other individual designated by the Board of Supervisors, the applicant shall be required, at the time of making application, to present his driver's license and the vehicle registration card. **[Amended 7-14-2011 by Ord. No. 11-04]**

- F. Issuance of permit. Upon receipt of the application and the permit fee, and determination by him that the information upon the application shows that the applicant is entitled to a residential parking permit, the Road Foreman, or other individual designated by the Board of Supervisors shall issue to the applicant a residential parking permit, which shall be valid for the remainder of the calendar year. The permit shall display the serial and registration numbers of the motor vehicles, the residential parking area number, and the expiration date. The permit shall be renewable annually before the expiration date, upon making application for renewal and payment of the permit fee. It shall be unlawful and a violation of this section for any person to display other than the current and valid permit while standing or parking in a residential permit parking area at any time when those permits are to be displayed. **[Amended 7-14-2011 by Ord. No. 11-04]**
- G. Temporary and exemption parking permits. Temporary parking permits may be issued by the Road Foreman, or other individual designated by the Board of Supervisors, upon payment of a fee established pursuant to a resolution, to bona fide visitors of residents of a designated residential permit parking area, and exemption parking permits may be issued, without payment of a fee, to handicapped persons. **[Amended 7-14-2011 by Ord. No. 11-04]**
- H. Responsibility of permit holder.
- (1) Notwithstanding any provision of this section to the contrary, the holder of a residential parking permit shall be permitted to stand or park a motor vehicle operated by him in any designated residential parking area during those times when parking of motor vehicles is permitted in that area. While a vehicle for which a residential parking permit has been issued is so parked, that permit shall be displayed so as to be clearly visible through the windshield of the vehicle. A residential parking permit shall not guarantee or reserve to the holder a parking space within a designated residential permit parking area.
 - (2) A residential parking permit shall not authorize its holder to stand or park a motor vehicle in any place where or at any time when stopping, standing or parking of motor vehicles is prohibited or set aside for other specified types of vehicles, nor shall the permit exempt its holder from the observance of any traffic or parking regulation other than residential permit parking regulation or restriction.
 - (3) No person other than the permit holder whose name appears on the permit shall use a residential parking permit or display it on a vehicle operated; any such use or display by a person other than the permit holder shall constitute a violation of this section by the permit holder and by the person who so used or displayed the parking permit.
 - (4) It shall constitute a violation of this section for any person falsely to represent himself as eligible for a residential parking permit or to furnish false information in an application to the Road Foreman, or other individual designated by the Board of Supervisors in order to obtain a residential parking permit. **[Amended 7-14-2011 by Ord. No. 11-04]**
 - (a) Revocation of permits. The Road Foreman, or other individual designated by the Board of Supervisors shall have authority to revoke the residential parking permit of any permit holder found to be in violation of any provision of this section. Upon written notification to him of the revocation, the permit holder shall surrender the permit to the Road Foreman, or other individual designated by the Board of Supervisors. Failure to do so, when so requested, shall constitute a

violation of this section. Provided: any person receiving such a notice may, within 10 days after the date of the notice, appeal to Board of Supervisors for a hearing on the revocation, and the decision of the Board of Supervisors shall be final.

§ 265-42. Violations and penalties. [Amended 7-14-2011 by Ord. No. 11-04]

Any person who violates any provision of this article shall, upon conviction, be sentenced to pay a fine of not more than \$15 and costs. Provided: it shall be the duty of the police officers and of parking enforcement personnel of the Township to report to the appropriate official all violations of any provision of this article, indicating, in each case: the section violated; the license number of the vehicle involved in the violation; the location where the violation took place; and any other facts that might be necessary in order to secure a clear understanding of the circumstances attending the violation. The police officer or other person making the report shall also attach to or place upon every such vehicle a notice stating that the vehicle was parked in violation of this article. The notice shall contain instructions to the owner or driver of the vehicle that if he will report to the office of the Road Foreman, or other individual designated by the Board of Supervisors and pay the sum of _____ \$0 within _____ () hours after the time of the notice, or if he will place the sum of _____ \$0, enclosed within the envelope provided, in any of the special parking fine boxes installed at various locations within the Township, that act will save the violator from prosecution and from payment of the fine and costs prescribed in the first sentence of this section.

§ 265-43. Enforcement. [Added 3-13-2003 by Ord. No. 03-01; amended 11-18-2010 by Ord. No. 2010-05]

The provisions of this article shall be enforced by the police officers of the Township of Upper Frederick and, in the absence of a police officer, the Township Road Foreman of Upper Frederick Township is authorized to take all action necessary to enforce the provisions of this article.

ARTICLE V
On-Street Metered Parking

§ 265-44. Parking meter zone established.

Parking meter zones are established upon and along certain streets in the Township, as follows:

Street	Between	Rate	Maximum Parking Time
		(Reserved)	

§ 265-45. Days and hours parking meters in operation and parking time limits apply.

Parking meters shall be operated, by the deposit of a coin in the meter, as prescribed by § 265-48, and the parking rates for specified lengths of time, as well as the maximum parking times prescribed in § 265-44, shall apply at all times between the hours of 9:00 a.m. and 5:00 p.m. Monday through Thursday and Saturday, and between the hours of 9:00 a.m. and 9:00 p.m. Friday, in the parking meter zones listed in § 265-44. Provided, however: the requirements of this article as to parking time limit and as to deposit of coins in meters shall not apply on [MUNICIPAL] holidays.

§ 265-46. Placement and characteristics of parking meters.

Parking meters installed in the parking meter zones established by § 265-44 of this article shall be placed upon the curb or sidewalk, and immediately adjacent to the individual parking spaces described in § 265-47 of this article. Each parking meter shall be placed or set so as to show that the parking space adjacent to that meter is or is not legally occupied. Each parking meter installed shall indicate by a proper legend the legal parking time established by the Township, and when the adjacent space is occupied by a vehicle, the parking meter shall indicate on and by its dial and pointer the duration of the period of legal parking, and, on the expiration of that period, shall indicate illegal parking or over-parking.

§ 265-47. Parked vehicles to be wholly within marked spaces.

Lines and/or markings shall be painted or placed upon the curb, sidewalk or roadway adjacent to each parking meter for the purpose of delineating the parking space for which that meter shall be used. Every vehicle parked at any parking meter shall be parked wholly within the lines or markings so placed and applicable to that meter. It shall be unlawful and a violation of this article for any person to park a vehicle across any such line or marking, or to park a vehicle in such a position that that vehicle is not wholly within the area designated by those lines or markings.

§ 265-48. Coin deposit in meter; overtime parking unlawful.

Whenever a vehicle is to be parked in any space adjacent to a parking meter, at any time in the period of limited parking as prescribed by § 265-45 of this article, the driver of the vehicle, upon entering the parking space, shall immediately deposit, or cause to be deposited, in that parking meter, one or more proper coins of the United States of America as specified in the legend on the parking meter. Upon the deposit of the coin or coins, and placing the meter in operation, the parking space may be lawfully occupied by the vehicle for the time indicated on the meter. If any vehicle shall remain in any space parking space for any length of time that the meter shall indicate by proper signal that the lawful parking time has expired, that vehicle shall be considered as having been parked overtime, and the parking of a vehicle overtime shall be a violation of this article.

§ 265-49. Unlawful to deposit substitute for coin in meter.

It shall be unlawful for any person to deposit in any parking meter installed under the provisions of this article any slug or other substitute for a coin of the United States of America.

§ 265-50. Unlawful to deposit coin in meter to extend parking time beyond legal limit.

It shall be unlawful and a violation of this article for any person to deposit or cause to be deposited, in any parking meter installed under the provisions of this article, any coin for the purpose of increasing or extending the parking time of any vehicle beyond the legal parking time of 15 minutes in any fifteen-minute parking meter zone, 1/2 hour in any one-half-hour parking meter zone, one hour in any one-hour parking meter zone, or two hours in any two-hour parking meter zone.

§ 265-51. Unlawful to remain parked at meter showing violation.

It shall be unlawful, and a violation of this article, for any person to permit a vehicle to remain in a parking space adjacent to a parking meter installed under this article, when that meter displays a signal indicating that the vehicle has already been parked there beyond the period of time prescribed for that parking space, or the time for which a coin or coins was deposited in that meter for the parking of that vehicle.

§ 265-52. Unlawful to tamper with meter.

It shall be unlawful, and a violation of this article, for any person to deface, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under the provisions of this article. Provided: nothing in this section shall apply to the servicing or opening of parking meters by officers, employees or police officers of the Township under the direction of the [designated official] or Board of Supervisors.

§ 265-53. Ticketing of vehicles parked unlawfully; effect of payment within 48 hours. [Amended 7-14-2011 by Ord. No. 11-04]

- A. It shall be the duty of the police officers and parking enforcement personnel of the Township, acting in accordance with the directions of the Road Foreman, or other individual designated by the Board of Supervisors, to report;
- (1) The number of each parking meter that indicates that a vehicle occupying the adjacent parking space is, or has been, parked in violation of any provision of this article;
 - (2) The date and hour of the violation;
 - (3) The license number of the vehicle;
 - (4) Any other facts, the knowledge of which is necessary for a thorough understanding of the circumstances attending the violation.
- B. The police officer or other person making the report shall also place on or attach to the vehicle a notice to the owner or driver of the vehicle that the vehicle was parked in violation of this article, and instructing the owner or driver that if he will report to the office of the Road Foreman, or other individual designated by the Board of Supervisors, and pay, for the use of the Township, the sum of _____ \$5 within _____ () hours after the time of the notice, or will place the sum of _____ \$0 enclosed within the envelope provided, in any of the special parking fine boxes installed at various locations within the Township within the time limit, that act will save the violator from prosecution and from payment of the fine prescribed in § 265-54A of this article.

§ 265-54. Violations and penalties.

- A. Any person who violates any provision of this article, with the exception of § 265-52, and who fails to pay the fine set forth in § 265-53, shall be cited within 15 days of the violation and upon conviction, be sentenced to pay a fine of not more than \$15 and costs.
- B. Any person who violates any provision of § 265-52 of this article shall, upon conviction, be sentenced to pay

a fine of not more than \$600 and costs, and, in default of payment of fine and costs, to imprisonment for not more than 30 days.

§ 265-55. Exceptions.

- A. By resolution, the Board of Supervisors may temporarily suspend the provisions of this article by requiring coin deposit in meters and establishing a maximum parking time at meters.
- B. The Township shall have authority to establish no-parking or special-purpose parking zones within any parking meter zone, and to remove parking meters from those areas as previously installed there, and the provisions of this article shall not apply in those areas where no-parking or special-purpose parking are in effect.

ARTICLE VI
Off-Street Metered Parking

§ 265-56. Metered parking lots established.

The following are established as the metered parking lots established by this Township:

Lot	Location	Rate	Maximum Parking Time	Days In Operation	Hours in Operation
(Reserved)					

§ 265-57. Placement and characteristics of parking meters.

Parking meters installed in the parking lots shall be placed immediately adjacent to the individual parking spaces that shall be marked off and maintained in the lots. For each parking meter there shall be a clear indication, through use of a directional arrow, or an identification as to number with the parking space, to show which individual parking space it serves. Each parking meter shall indicate by a proper legend the parking rate and the maximum parking time established by § 265-56 of this article, and, when the parking space is occupied and the parking meter put into operation by the insertion of one or more coins, the parking meter shall indicate on and by its dial and pointer the duration of legal parking, and, upon the expiration of that period, shall indicate illegal parking or over-parking.

§ 265-58. Reserved parking spaces for handicapped may be provided.

The Board of Supervisors, at its discretion, may provide, at convenient and suitable locations in any one or more of the metered parking lots, reserved parking spaces for handicapped, and shall designate those spaces by appropriate signs. It shall be unlawful, and a violation of this article, for any person to park in any such reserved parking space, any vehicle unless that vehicle bears or displays either: a "handicapped registration plate," a "handicapped parking placard," a "disabled veteran registration plate" or a "disabled veteran placard."

§ 265-59. Parked vehicles to be wholly within marked spaces.

Lines and/or markings shall be painted or placed upon the surface of the metered parking lots, adjacent to each parking meter, for the purpose of delineating the parking space for which that meter shall be used. Every vehicle parked adjacent to any parking meter shall be parked wholly within the lines or markings so placed and applicable to that meter. It shall be unlawful and a violation of this article for any person:

- A. To park a vehicle across any such line or marking; or,
- B. To park a vehicle in such a position that the vehicle shall not be within the area so delineated by the lines or markings;
- C. To park a vehicle elsewhere in any such lot that in an individual parking space adjacent to a parking meter.

§ 265-60. Manner of parking at meters.

It shall be unlawful for any person to park a vehicle in any metered parking lot:

- A. Otherwise than with the front of the parked vehicle nearest to the parking meter applicable to that vehicle; or,
- B. With any part of the vehicle touching the meter post or head or the raised base or barrier on which meters are erected.

§ 265-61. Coin deposit in meter; overtime parking unlawful.

Whenever a vehicle is to be parked in any metered parking lot, at any time when the lot is open for use and the meters are to be in operation, the driver of the vehicle, upon entering the parking space, shall immediately deposit, or cause to be deposited, in the proper parking meter, one or more proper coins, of the United States of America as specified in the legend on the parking meter. Upon the deposit of the coin or coins, and placing the meter in operation, the parking space may be lawfully occupied by the vehicle for the time indicated on the meter. If any vehicle remains in any such parking space for such length of time that the meter indicates that the lawful parking time has expired, that vehicle shall be considered as being parked overtime, and the parking of a vehicle overtime shall be a violation of this article. Provided: every hour that a vehicle remains parked at a meter showing a violation shall constitute a separate violation of this article.

§ 265-62. Unlawful to deposit substitute for coin in meter.

It shall be unlawful for any person to deposit in any parking meter installed under the provisions of this article any slug or other substitute for a coin of the United States of America.

§ 265-63. Unlawful to remain parked at a meter showing violation.

It shall be unlawful, and a violation of this article, for any person to permit a vehicle to remain in a parking space adjacent to a parking meter installed under this article, when that meter displays a signal indicating that the vehicle has already been parked there beyond the period of time prescribed for that parking space, or the time for which a coin or coins was deposited in that meter for the parking of that vehicle.

§ 265-64. Unlawful to tamper with meter.

It shall be unlawful, and a violation of this article, for any person to deface, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under the provisions of this article. Provided: nothing in this section shall apply to the servicing or opening of parking meters by officers, employees or police officers of the Township under the direction of the [designated official] or Board of Supervisors.

§ 265-65. Metered parking lots for certain types of vehicles only.

The metered parking lots established by this article shall be for the use of passenger cars, passenger vans and pickup trucks only, and it shall be unlawful for any person to park any other type of vehicle in any of those lots.

§ 265-66. Ticketing of vehicles parked unlawfully; effect of payment of within 48 hours. [Amended 7-14-2011 by Ord. No. 11-04]

- A. It shall be the duty of the police officers and parking enforcement personnel of the Township, acting in accordance with the direction of the Road Foreman, or other individual designated by the Board of Supervisors, to report:
 - (1) The number of each parking meter that indicates that a vehicle occupying the adjacent parking space is, or has been, parked in violation of any provision of this article;
 - (2) The date and hour of the violation;
 - (3) The license number of the vehicle;
 - (4) Any other facts, the knowledge of which is necessary for a thorough understanding of the circumstances attending the violation.
- B. The police officer or other person making the report shall also place on or attach to the vehicle a notice to the owner or driver of the vehicle that the vehicle was parked in violation of this article, and instructing the owner

or driver that if he will report to the office of the Road Foreman, or other individual designated by the Board of Supervisors and pay, for the use of the Township, the sum of _____ dollars \$0 within _____ () hours after the time of the notice, or will place the sum of _____ dollars \$0 enclosed within the envelope provided, in any of the special parking fine boxes installed at various locations within the Township, within that time limit, that act will save the violator from prosecution and from payment of the fine prescribed in § 265-67A of this article.

§ 265-67. Violations and penalties.

- A. Any person who violates any provision of this article, with the exception of § 265-64, and who fails to pay the fine set forth in § 265-66, shall be cited within 15 days of the violation and upon conviction, be sentenced to pay a fine of not more than \$15 and costs.
- B. Any person who violates any provision of § 265-64 of this article shall, upon conviction, be sentenced to pay a fine of not more than \$600 and costs, and, in default of payment of fine and costs, to imprisonment for not more than 30 days.

ARTICLE VII
Off-Street Unmetered Parking

§ 265-68. Unmetered parking lots established.

The following are established at the unmetered parking lots operated by the Township:

Lot	Location	Maximum Parking Time (Reserved)	Days in Operation	Hours in Operation
-----	----------	---------------------------------------	-------------------	--------------------

§ 265-69. Reserved parking spaces for handicapped may be provided.

The Board of Supervisors at its discretion, may provide, at convenient and suitable locations in one or more of the unmetered parking lots, reserved parking spaces for handicapped, and shall designate those spaces by appropriate signs. It shall be unlawful, and a violation of this article, for any person to park in any such reserved parking space, any vehicle unless that vehicle bears or displays either: a "handicapped registration plate," a "handicapped parking placard," a "disabled veteran registration plate," or a "disabled veteran placard." Provided, all provisions, requirements and restrictions contained in the other sections of this article shall apply to vehicles lawfully parked in reserved parking spaces for handicapped.

§ 265-70. Unlawful to park overtime or when lot closed.

It shall be unlawful for any person to park a vehicle, or to allow a vehicle to remain parked in any unmetered parking lot:

- A. For longer than the maximum parking time prescribed by § 265-68 of this article.
- B. At any time when the lot is not in operation and is closed to public use.

§ 265-71. Unmetered lots for certain types of vehicles.

The unmetered parking lots established by § 265-68 of this article shall be for the use of passenger cars, passenger vans and pickup trucks only, and it shall be unlawful for any person to park any other kind or class of vehicle in any such lot.

§ 265-72. Manner of parking.

Every vehicle parked in an unmetered parking lot shall be parked wholly within the lines bounding or marking the individual parking space assigned to that vehicle, and shall be parked headed into the parking space. It shall be unlawful for any person:

- A. To park a vehicle in a space not rented by him.
- B. To park a vehicle otherwise than as required by this section.
- C. To park a vehicle elsewhere than in an individual parking space, the prohibited areas including, but not limited to, the access and exit driveways and turning and maneuvering spaces.

§ 265-73. Parking on rental basis only.

The parking spaces in the unmetered parking lots shall be available for parking on a monthly rental basis only. The rental fee shall be fixed by Board of Supervisors pursuant to a resolution and shall be for a calendar month or the part of a calendar month remaining after the rental arrangements are made. The rental fee shall be paid in advance to the Township Secretary for the use of the Township, and after the first month shall be automatically

renewable until the renter notifies the Township that he wishes to terminate the rental arrangements. At any time, however, the Township may, by amending § 265-68 of this article, discontinue provision of a specific unmetered parking lot or a portion of the parking spaces in any such lot, or may change any unmetered parking lot, or part of an unmetered parking lot to a metered parking lot or to metered parking spaces. The rental parking spaces shall be assigned by the Township Secretary. The name of the renter of a parking space and/or the numbers and/or letters on the registration tag of the vehicle entitled to be parked there shall be posted by the Township at the rental space or shall be painted on the surface of that parking space.

§ 265-74. Violations and penalties.

- A. The police officer or other person making the report shall also place on or attach to the vehicle a notice to the owner or driver of the vehicle that the vehicle was parked in violation of this article, and instructing the owner or driver that if he will report to the office of the Road Foreman, or other individual designated by the Board of Supervisors and pay, for the use of the Township, the sum of _____ dollars (\$) within _____ (_____) hours after the time of the notice, or will place the sum of _____ dollars (\$) enclosed within the envelope provided, in any of the special parking fine boxes installed at various locations within the borough, within that time limit, that act will save the violator from prosecution and from payment of the fine prescribed in Subsection B hereof. **[Amended 7-14-2011 by Ord. No. 11-04]**

- B. Any person who violates any provision of this article and who fails to pay the fine set forth in this section, shall be cited within 15 days of the violation and upon conviction, be sentenced to pay a fine of not more than \$15 and costs.

ARTICLE VIII
Removal and Impoundment of Illegally Parked Vehicles

§ 265-75. Applicability.

This article is enacted under authority of the Vehicle Code [75 P.S. § 6109(a-22)], and gives authority to the Township to remove and impound those vehicles which are parked in a tow-away zone and in violation of the parking violations of this article. Vehicles which have been abandoned (as defined by the Vehicle Code) or which are disabled or parked in a manner as to interfere with traffic or which pose a hazard to others may be towed under the provisions of the Pennsylvania Vehicle Code.

§ 265-76. Authority to remove and impound.

The Township shall have the authority to remove and impound or to order the removal or impounding of any vehicle parked illegally; provided, that the circumstances of its parking were within the conditions stated in § 265-75. Provided, no such vehicle shall be removed or impounded, except in strict adherence to the provisions of this section, or the provisions of the Pennsylvania Vehicle Code.

§ 265-77. Designated tow-away zones. [Amended 2-14-2002 by Ord. No. 02-3]

The following designated streets are hereby established as tow-away zones. Signs shall be posted to place the public on notice that their vehicles may be towed for violation of the Township parking regulations:

Street	Side	Between
Buck Road	Both	Entire length
Haywood Road	Both	Gravel Pike (Route 29) to and including the cul-de-sac
Locust Lane	Both	Haywood Road to and including the cul-de-sac
Perkiomen Avenue	Both	Entire length
Rockhill Road	Both	Perkiomenville Road to and including the cul-de-sac

§ 265-78. Towing and storage.

- A. Removal and impounding of vehicles under this article shall be done only by towers previously approved by the Upper Frederick Township Board of Supervisors. Every tower shall have a bond or liability insurance sufficient to indemnify owners of impounded vehicles against loss or damage to those vehicles in their custody in an amount satisfactory to the Upper Frederick Township Board of Supervisors. The approved tower shall charge for towing and storage of vehicles in accordance with the schedule of charges fixed by the Board of Supervisors and no different charges shall be demanded or collected from any person whose vehicle is removed or impounded under this article. The Upper Frederick Township Board of Supervisors shall revoke the approval of or delete from its list of approved towers any tower that makes an unapproved charge in connection with any vehicle removed or impounded under this article.
- B. Each approved tower shall retain separate and secure storage facilities for impounding, with a minimum capacity to accommodate four average size passenger vehicles or light trucks. The storage garage of an approved tower shall be inspected annually by a designated officer or agent of Upper Frederick Township to determine that the tower has the necessary equipment and storage facilities required by this article and regulations promulgated thereunder.

§ 265-79. Payment of towing and storage charges.

The payment of towing and storage charges shall not relieve the owner or driver of any vehicle from liability for any fine or penalty for the violation of the provisions of this article for which the vehicle was removed or impounded.

§ 265-80. Reclamation costs.

In order to reclaim his or her vehicle, the owner shall pay towing and storage costs, plus a fee of \$25, of which \$10 shall be transferred to the Pennsylvania Department of Transportation by the garage to which the vehicle was taken.

§ 265-81. Records of vehicles removed and impounded.

The Township shall cause a record to be kept of all vehicles impounded under this article and shall be able at all reasonable times to furnish the owners or the agents of the owners of those vehicles with information as to the place of storage of the vehicle.

§ 265-82. Restrictions upon removal of vehicles.

No vehicles shall be removed under the authority of this article or the Vehicle Code if, at the time of the intended removal, the owner or the person for the time being in charge of the vehicle is present and expresses a willingness and intention to remove the vehicle immediately.

§ 265-83. Enforcement. [Added 3-13-2003 by Ord. No. 03-01; amended 11-18-2010 by Ord. No. 2010-05]

The provisions of this article, and the provisions of Section 7303.1 (75 P.S. § 7303.1 et seq.) of the Pennsylvania Motor Vehicle Code pertaining to the removal of abandoned vehicles, shall be enforced by the police officers of the Township of Upper Frederick. In the absence of a police officer for Upper Frederick Township, the Township Road Foreman of Upper Frederick Township is authorized to take all action necessary to enforce the provisions of this article and the provisions of Section 7303.1 (75 P.S. § 7303.1 et seq.) of the Pennsylvania Motor Vehicle Code pertaining to the removal of abandoned vehicles.

ARTICLE IX
Snow and Ice Emergency

§ 265-84. Declaration of snow and ice emergency.

In order to facilitate the movement of traffic and to combat the hazards of snow and ice on the snow emergency routes named in § 265-86 of this article, the [designated official], in his discretion, may declare a snow and ice emergency (designated in this article as a "snow emergency"). Information on the existence of a snow emergency shall be given by the Township through radio, newspaper or other available media, and information on the termination of the emergency may be given by use of the same media.

§ 265-85. Parking prohibited and driving motor vehicles restricted on snow emergency routes during emergency.

After any snow emergency is declared, it shall be unlawful, at any time during the continuance of the emergency, for any person:

- A. To park a motor vehicle or to allow that vehicle to remain parked anywhere on any snow emergency route designated in § 265-86 of this article; or
- B. To drive any motor vehicle on any such snow emergency route, unless that vehicle is equipped with snow tires or chains.

§ 265-86. Snow emergency routes designated.

The following are designated as snow emergency routes:

Street	Between	
	(Reserved)	

§ 265-87. Violations and penalties.

- A. If, at any time during a period of snow emergency declared under § 265-84 of this article, a person shall park a motor vehicle or allow a motor vehicle to remain parked anywhere upon a snow emergency route, that person shall be guilty of a violation of this article, and, upon conviction, shall be sentenced to pay a fine of not more than \$15 and costs.
- B. If, at any time during a period of snow emergency declared under § 265-84 of this article, a person shall drive a motor vehicle upon a snow emergency route, without having that vehicle equipped with snow tires or chains, that person shall be guilty of a violation of this article, and, upon conviction, shall be sentenced to pay a fine of \$25 and costs.

ARTICLE X
Regulation of Pedalcycles and Nonmotorized Vehicles

§ 265-88. Riding and parking of pedalcycles on sidewalks along certain streets prohibited.

A. It shall be unlawful for any person to ride or to park a pedalcycle on the sidewalk along the following portions of the streets in the Township:

Street	Side	Between
		(Reserved)

B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$5 and costs.

§ 265-89. Restrictions on use of pushcarts.

A. The word "pushcart," as used in this section, shall mean a vehicle, including a pedalcycle, propelled solely by human power, and used or intended for use for the display, transport, exhibit or sale of goods, wares or merchandise.

B. It shall be unlawful for any person to propel a pushcart upon any sidewalk in any business district except as necessary to move the pushcart to a location from which it is to be loaded or unloaded or from which goods, wares or merchandise are to be sold or dispensed under permit from the Board of Supervisors as provided in Subsection C of this section.

C. It shall be unlawful for any person to park a pushcart upon any sidewalk except for the purpose of selling or dispensing from that pushcart goods, wares or merchandise to passersby under permit from the Board of Supervisors. Every such permit shall be issued to the person making application for the permit, upon payment of a fee, which shall be for the use of the Township, set by the Board of Supervisors pursuant to a Resolution. The permit shall be granted to the applicant, upon payment of the fee, and upon his signing an agreement with the Board of Supervisors that he shall be bound by the conditions imposed by Board of Supervisors and made a part of the permit, dealing with the following matters:

- (1) Restricting or limiting the parking of the pushcart to one or more stated locations upon the sidewalk and to stated days and hours at each location;
- (2) Stating requirements to be adhered to in connection with the disposal of garbage and refuse resulting from the operations carried on;
- (3) Requiring that there be no violation of any law, ordinance or regulation pertaining to health, sanitation and the handling of food or drink.

D. Any person who violates any provision of this section, or any condition of any permit granted under this section, shall be guilty of a summary offense, and, upon conviction, shall be sentenced to pay a fine of \$25 and costs.

§ 265-90. Skates, skateboards, coasters, sleds and other toy vehicles.

A. It shall be unlawful for any person to ride on a sled upon any sidewalk in the Township, or upon any roadway unless that roadway is on a portion of a street blocked off for sledding by authority of § 265-5 of Article I or § 265-26 of Article II of this chapter. Provided: nothing in this subsection shall prevent a pedestrian from pulling a sled, with or without a rider, upon a sidewalk.

B. It shall be unlawful for any person to engage in roller-skating, skateboarding or to ride upon or propel any coaster or other toy vehicle upon:

- (1) Any street except in order to cross the roadway; or
 - (2) Any sidewalk located in a business district, except that nothing in this paragraph shall prevent a pedestrian from pulling a coaster or other toy vehicle, with or without a rider, upon a sidewalk.
- C. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$5 and costs.

ARTICLE XI
Pedestrian Regulations

§ 265-91. Pedestrians to obey traffic control signs.

At all locations in the Township where official traffic-control signals are installed, pedestrians, except where directed otherwise by pedestrian-control signals installed under § 265-92 of this article, shall obey the directions of those traffic-control signals, as follows:

- A. When facing a green signal, a pedestrian may proceed across the roadway within a crosswalk;
- B. When facing a steady yellow signal, a pedestrian shall not start to cross the roadway;
- C. When facing a steady red signal, a pedestrian shall not enter the roadway.

§ 265-92. Pedestrian-control signal locations established.

- A. At the following locations, official pedestrian-control signals shall be erected (or are ratified if previously erected):

(Reserved)

- B. Every pedestrian facing a steady or flashing "Don't Walk" signal shall obey the directions of that signal, as follows:
 - (1) When facing a steady "Don't Walk" signal, a pedestrian shall not start to cross the roadway in the direction of the signal, but any pedestrian who has partially completed his crossing on the "Walk" signal should proceed to a sidewalk or safety zone while the "Don't Walk" signal is showing.
 - (2) When facing a flashing "Don't Walk" signal a pedestrian shall not start to cross the roadway in the direction of the indication, but any pedestrian who has partly completed crossing during the "Walk" indication should proceed to a sidewalk or safety zone.
- C. Any pedestrian who fails to obey the directions of a "Don't Walk" signal, as indicated above, shall be guilty of an offense and a violation of this article.

§ 265-93. Locations where pedestrian crossing in unmarked crosswalks restricted.

Except when authorized by a police officer or other appropriately attired person authorized to direct, control or regulate traffic, it shall be unlawful for any pedestrian to cross the roadway at any of the following streets, at the intersection with that street indicated.

Street	Intersection	Direction of Travel
	(Reserved)	

§ 265-94. Locations where pedestrians may cross only in crosswalk.

A. It shall be unlawful for any pedestrian:

- (1) To cross any roadway in a business district within the Township except in a crosswalk;
- (2) To cross the roadway, in any of the following portions of streets in the Township, except in a crosswalk:

Street

Between

(Reserved)

B. Provided: nothing in this section shall permit any pedestrian to cross in a crosswalk at any location where that crossing is prohibited by § 265-92 of this article.

§ 265-95. Violations and penalties.

Any pedestrian who violates any provision of this article shall be guilty of a summary offense, and, upon conviction, shall be sentenced to pay a fine of \$5 and costs.

Chapter 272

WATER

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Water Rates
[Adopted 6-29-1992 by Ord. No. 92-5]

§ 272-1. Definitions.

As used in this article, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

DWELLING UNIT — A separate dwelling, apartment, room or group of rooms, used for separate dwelling purposes and equipped for the preparation of food. In all cases, the determination of Upper Frederick Township as to what constitutes a "separate dwelling unit" shall be final.

PERSON — Any individual, firm, corporation, association or company.

USER — Any person, as defined above, owning, occupying or using any property served with water from the water system of Upper Frederick Township.

§ 272-2. Connection to water system.

All buildings within Upper Frederick Township so situated that water service is available shall connect to the municipal water system.

§ 272-3. Water rates. [Amended 4-14-1995 by Ord. No. 95-2; 12-12-1996 by Ord. No. 96-7; 12-30-1998 by Ord. No. 98-7]

The rates charged by Upper Frederick Township for water furnished by it to the public shall be as follows:

- A. General service within upper Frederick Township. The following usage, service and minimum charges shall be made for water furnished for general use within Upper Frederick Township to each separate dwelling unit, as the same is hereinbefore defined, situate within the corporate limits of Upper Frederick Township:
 - (1) Beginning April 1, 2008, there shall be an annual charge of \$102, payable at the rate of \$8.50 per month, plus a charge of \$4.75 for 1,000 gallons of metered usage in the previous quarter, to be billed on a monthly basis. Future rates shall be established by resolution, which may be duly adopted and amended by the Board of Supervisors from time to time. **[Amended 3-13-2008 by Ord. No. 2008-04]**
- B. Resale of water. No person shall purchase water from Upper Frederick Township and resell the same in any manner.

§ 272-4. Curtailment of use.

- A. The Township of Upper Frederick shall have the authority in the event of any emergency affecting the adequacy of the supply of water to domestic users of the municipal water system or the adequacy of the firefighting capacity of the system, either actual or imminent, to require any or all users to curtail or discontinue the use of water. Such curtailment or discontinuance shall remain in effect for the duration of such emergency. Verbal or other notice by the Township of Upper Frederick to the user, or his agent, or public advertisement in a newspaper circulated locally, shall be deemed sufficient for the purposes of this article.
- B. Any such curtailment may apply to all use of water for washing the car and watering the lawn or garden, and if the degree of emergency shall warrant, include any and all uses.

§ 272-5. Temporary and special service.

Temporary and special water service connections may be made under terms established by the Township of Upper Frederick not inconsistent herewith; subject, in each case, upon appeal, to review by the Board of Supervisors of

Upper Frederick Township.

§ 272-6. Terms of payment. [Amended 12-12-1996 by Ord. No. 96-7; 8-13-1998 by Ord. No. 98-4; 12-30-1998 by Ord. No. 98-8; 1-10-2002 by Ord. No. 02-2; 6-13-2002 by Ord. No. 02-08; 5-12-2005 by Ord. No. 05-05]

- A. All bills for water furnished for all purposes shall be rendered monthly on the first day of each month, or on such other period of time or other date in such month as the Supervisors, by resolution, shall specify, and shall cover a monthly period. The minimum monthly charge shall be billed in advance, and the metered charge shall be billed on the basis of the usage in the previous quarter. **[Amended 3-13-2008 by Ord. No. 2008-04]**
- B. The water usage shall be due and payable upon the applicable billing date as provided for in Subsection A of this section, and the appropriate amount, computed in accordance with this article, shall constitute the net bill. If bills are not paid within 30 calendar days after each billing date, an additional sum of 1.50% of the principal due shall be added to such net bill every 30 days after the due date, which net bill, plus such additional sum, shall constitute the gross bill. Payment made or mailed and postmarked on or before the last day of such thirty-calendar-day period shall constitute payment within such period. If the end of such thirty-calendar-day period shall fall on a legal holiday or a Sunday, payment made on or mailed and postmarked on the next succeeding weekday which is not a legal holiday shall constitute payment within such period. Any bill not paid within said 30 calendar days shall be deemed delinquent.
- C. Failure to pay either usage, service or minimum charges within 30 days after the gross bill becomes due shall be cause for termination of water service until payment is made of all outstanding charges for water service. The Board of Supervisors may adopt by resolution, which may be amended from time to time, procedures establishing requirements for such water service termination. Such procedures must be followed prior to any termination of water service.
- D. If service is terminated under the conditions set forth in Subsection C above, a reconnection charge, in the amount as established from time to time by resolution of the Board of Supervisors, shall be paid before service is restored.
- E. The owner of the property served shall be responsible to the Township of Upper Frederick for payment for all water furnished to the property irrespective of any agreement between the property owner and a third party, and the bill shall, in all cases, be rendered to the owner of the property unless the Township of Upper Frederick is notified in writing by said owner to render the bill to some other person, in which case the owner shall, nevertheless, remain liable for the payment of all water bills.
- F. Water rentals and other charges imposed by this article shall be a lien, to the extent permitted by the laws of the commonwealth, on the improved property connected to and/or served by the water system(s); and any such water rentals and other charges which shall be delinquent shall be filed as a lien, to the extent permitted by the laws of the commonwealth, against the improved property so connected to and served by the water system(s), which lien shall be filed in the office of the Prothonotary of Montgomery County, Pennsylvania, and shall be collected in the manner and to the extent permitted by the laws of the commonwealth for the collection of municipal claims. In addition, any costs and/or reasonable attorneys' fees incurred by the Township or its agent shall be added to the unpaid water charges, along with penalties and interest, as set forth above, and the aggregate of the same shall be entered as a lien on the property served. The delinquent water charges, costs and reasonable legal fees incurred, as well as the penalty and interest, shall be collected by the designated agent of the Township. The Township hereby approved the following schedule of attorneys' fees for services in connection with collections of accounts, which is hereby determined to be fair and reasonable compensation for the services set forth below, all in accordance with the principles set forth in § 3 of the Municipal Claims Law, as amended by Act No. 1 of 1996: **[Amended 3-13-2008 by Ord. No. 2008-04; 5-16-2013 by Ord. No. 2013-01]**

Legal Services	Fee for Services
Filing of lien	\$250
Title search	\$250
Preparation and service of writ of scire facias	\$600
Alternative service of legal pleadings	\$250
Entry of judgment	\$150
Preparation of writ of execution and attendance at initial Sheriff's sale	\$750
Preparation of documents and attendance at second Sheriff's sale	\$600
Review schedule of distribution and resolve distribution issues	\$250
Installment of payment agreement at taxpayer's request	\$100
Preparation and filing of civil complaint with District Justice	\$125
Attendance and representation at District Justice hearing	\$250
Preparation and filing of notice of execution/notice to defendant	\$80
Order and filing of notice of judgment/transcript of civil case	\$80
Services not covered above	Prevailing hourly rate of Township Solicitor

§ 272-7. Regulations governing connections to the water system.

A. Ownership of facilities and responsibility therefor.

- (1) Upon the request of the owner of any property within the corporate limits of the Township of Upper Frederick, abutting upon a street wherein a water main exists or reasonably adjacent thereto, the Township of Upper Frederick will make a connection to the main for said owner at his expense. All piping from the main to the property served, including curb shut-off and meter pit, shall be installed for the owner at his expense by a plumber licensed by the Township of Upper Frederick, and shall remain the property of the owner and shall be maintained by the owner, except the Township of Upper Frederick reserves the right to repair, at its expense, any leak on a customer's service pipe between the municipal main and the water meter. A water meter shall be installed in such piping, located in a suitable protective pit directly opposite the point at which the connection is made to the main, or the meter can be located inside the building, if the meter is equipped with an outside remote reading device which conforms to municipal standards. Each new water meter shall be furnished by the Township of Upper Frederick at the expense of the property owner, and the Township of Upper Frederick will credit the property owner the amount equivalent to the cost of a plain standard 3/4 inch water meter. The Township of Upper Frederick shall have the right to remove any such water meter for testing or for maintenance and may furnish, in its place, another meter substantially the equal thereto as the need for such replacement may occur, without incurring liability therefore to the owner.
- (2) The Township of Upper Frederick shall inspect, test, adjust, maintain and/or replace such meters, at its own expense, except that any meter damaged in service through the negligent act or omission of the property owner, or his tenant or agent, shall be replaced by the Township of Upper Frederick at the expense of the property owner. Meter damage resulting from freezing or backflow of hot water shall be considered to be the result of negligence on the part of the owner or tenant.
- (3) Where the water meters are presently installed inside buildings, the Township of Upper Frederick may, at its option, require the installation of a meter with the approved outside remote reading device. In such cases, the Township of Upper Frederick will contribute an amount equal to 1/2 the cost of necessary materials and all of the labor expense incurred by the installation.

- B. Meter accuracy. The accuracy of the water meters on the Township of Upper Frederick's system shall be determined in accordance with the rules and regulations of the Public Utility Commission of the Commonwealth of Pennsylvania. Upon request of any user, the Township of Upper Frederick will remove the meter from his premises and test the accuracy thereof. If the said meter is found to register a greater quantity of water than passed through it, to a degree exceeding the tolerance of accuracy prescribed by the Public Utility Commission for such cases, no charge shall be made for such test, and the bills for water rendered on the basis of the registration of said meter, for a period of not more than three months preceding the removal thereof, may be adjusted on an equitable basis. If the said meter is found to register a smaller quantity of water than that passed through it, or to be within the prescribed tolerances of accuracy, a charge shall be paid by the user for the testing of the meter in accordance with the schedule of charges adopted from time to time by the Board of Supervisors of the Township of Upper Frederick. Upon prior request, the water user may witness the water test during working hours.
- C. Access to premises. As long as water is piped to any building, the proper officials of the Township of Upper Frederick shall, at all reasonable times, have free access to the meters or service pipes to inspect, test, read, repair, remove or replace the same, whether or not the occupant of the building is a water user, and such access shall not be impeded by coal, ashes or rubbish, nor in any other manner. Failure to provide such free access shall be cause for termination of service until suitable access is provided.
- D. Estimated bills. In the event that a customer's water meter fails to register or is not read at the scheduled time, the Township of Upper Frederick may issue an estimated bill for the period involved based upon the records of the same customer's usage for comparable past periods. Any inaccuracy resulting from failure to read a user's meter at the regularly scheduled time will be corrected in the preparation of the bill based upon the next reading of the meter.

§ 272-8. Violations and penalties. [Amended 8-13-1998 by Ord. No. 98-4]

Any person, firm or corporation who shall violate any provision of this article, upon conviction thereof in an action brought before a District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this article continues or each section of this article which shall be found to have been violated shall constitute a separate offense.

ARTICLE II
Water Conservation
[Adopted 1-13-1994 by Ord. No. 94-1]

§ 272-9. General policy.

No water shall be provided for internal or external use to any residential, commercial, industrial, agricultural, recreational, governmental or public building or structure of any kind which is constructed or remodeled and in which plumbing, water piping or water fixtures are to be installed, extended or altered in any way, and for which construction a permit is required to be obtained from Upper Frederick Township (or would be required but for an exemption from a permit requirements for public or governmental agencies) unless the new, extended or altered plumbing, water piping and other water using fixtures therein conform to the requirements and standards of § 272-10 of this article. The provisions of this article shall apply to any such building or structure for which such a building permit is issued, or would otherwise be required to be issued but for such an exemption, on or after January 13, 1994.

§ 272-10. Water conservation performance standards for plumbing fixtures and fittings.

- A. Article 1 — Water Closets and Associated Flushing Mechanisms. The water consumption of water closets shall not exceed an average of 1.6 gallons per flush cycle over a range of test pressures from 20 to 80 p.s.i. The fixture shall perform in accordance with the test requirements of the ANSI A112.19.2M and ANSI A112.19.6M.
- B. Article 2 — Urinals and Associated Flushing Mechanisms. Urinal water consumption shall not exceed an average of 1.5 gallons per flush cycle over a range of test pressures from 20 to 80 p.s.i. The fixtures shall perform in accordance with the test requirements for ANSI A112.19.2M and ANSI A112.19.6M.
- C. Article 3 — Showerheads. Showerhead discharge rates shall not exceed 3.0 gallons of water per minute over a range of test pressures from 20 to 80 p.s.i. The fixture shall perform in accordance with the test requirements of ANSI A112.18.1M.
- D. Article 4 — Faucets. Sink and lavatory faucet discharge rates shall not exceed 3.0 gallons of water per minute over a range of test pressures from 20 to 80 p.s.i. The fixture shall perform in accordance with the test requirements of ANSI A112.18.1M.

§ 272-11. Special provisions.

- A. Article 1 — Special Purpose Equipment. The performance standards of § 272-10 shall not apply to fixtures and fittings such as emergency showers, aspirator faucets and blow out fixtures that, in order to perform a specialized function, cannot meet the specified standards.
- B. Article 2 — Exemption. Any person(s) may apply to Upper Frederick Township for an exemption to the terms of this article, which may be granted by the Board of Supervisors, upon proof that some other device, system or procedure will save as much or more water as those set forth herein, or that those set forth herein cannot be complied with, without undue hardship.

§ 272-12. Official review and modification.

The Board of Supervisors may, from time to time, modify, add to, or remove from the standards and restrictions herein.

§ 272-13. Violations and penalties. [Amended 8-13-1998 by Ord. No. 98-4]

Any person, firm or corporation who shall violate any provision of this article, upon conviction thereof in an

action brought before a District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this article continues or each section of this article which shall be found to have been violated shall constitute a separate offense.

Chapter 285

ZONING

[HISTORY: Adopted by the Board of Supervisors of the Township of Upper Frederick 11-21-1991 by Ord. No. 91-3. Amendments noted where applicable.]

GENERAL REFERENCES

Planning Commission — See Ch. 41.

Animals — See Ch. 87.

Code enforcement — See Ch. 112.

Property maintenance — See Ch. 194.

Soil erosion, sedimentation and grading control — See Ch. 219.

Stormwater management — See Ch. 228.

Subdivision and land development — See Ch. 240.

ARTICLE I

Title; Intent; Community Development Objectives; Interpretation; Conflict; Municipal Uses**§ 285-1. Short title and effective date.**

This chapter shall be known and may be cited as the "Upper Frederick Township Zoning Ordinance of 1991" and shall become effective upon enactment.

§ 285-2. Declaration of legislative intent. [Amended 4-10-2008 by Ord. No. 2008-05]

This chapter is enacted for the purpose of promoting the health, safety, morals and the general welfare of the Township. This chapter has been adopted in accordance with the Comprehensive Plan adopted by the Township and in recognition of the provisions and uses provided by the Regional Comprehensive Plan adopted by the Central Perkiomen Valley Regional Planning Commission and its members and is designed to lessen congestion on the roads and highways, to secure safety from fire, panic and other danger, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue congestion of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements, to conserve the value of buildings and to encourage the most appropriate use of land throughout the Township.

§ 285-3. Statement of community development objectives.

In applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the health, safety, morals and the general welfare of the Township. The Comprehensive Plan in accordance with which this chapter is enacted and which is reflected in the provisions of this chapter have been formulated to implement the purpose set forth in § 285-2, in the respects therein stated and more particularly with a view toward, inter alia, the following statement of community development objectives:

- A. Guide and encourage the future development of the Township in accordance with comprehensive planning of land use and population density that represents the most beneficial and convenient relationships among the residential, commercial, industrial and recreational areas within the Township.
- B. Have regard for the suitability of the various uses appropriate to each of them and their potential for such uses as indicated by topography and soil conditions, existing man-made conditions, trends in population, the direction and manner of use of land, building development and economic activity.
- C. Consider such conditions and trends both within the Township and with respect to the relationship of the Township to surrounding areas.
- D. Protect the character and the social and economic stability of each of such areas and encourage their orderly and beneficial growth.
- E. Protect and conserve the value of land and buildings throughout the Township, depending upon necessity of circumstances appropriate to the various zoning districts established herein.
- F. Bring about through proper timing of gradual conformity of land use to the Comprehensive Plan aforesaid, and minimize conflicts among the uses of land and buildings.
- G. Aid in bringing about the most beneficial relationship between land use and in the circulation of traffic throughout the Township, having particular regard to traffic to and from the major roads, and to the avoidance of congestion on the roads and the provision of safe and convenient access appropriate to the various land uses.
- H. Aid in providing a guide for public policy and action in the efficient provision of public facilities and services, in the provision of safe and proper sanitary sewage disposal, and for private enterprise in building development, investment and other economic activity relating to land use.

§ 285-4. Interpretation.

To the extent that such objectives are consistent with the purposes set forth in § 285-2 and with the minimum requirements therefore, the provisions of this chapter shall be interpreted, administered and applied in such manner as will facilitate attainment of the said objectives, and all others permitted by law.

§ 285-5. Conflict.

It is not intended by this chapter to repeal, abrogate, annul or interfere with any existing ordinance or enactment, or with any rule, regulation or permit adopted or issued thereunder, except insofar as the same may be inconsistent or in conflict with any of the provisions of this chapter; provided, that where this chapter imposes greater restrictions upon the use of buildings or land, or upon the height and bulk of buildings, or prescribes larger open spaces than are required by the provisions of such ordinance, enactment, rule regulation or permit, then the provisions of this chapter shall control.

§ 285-5.1. Municipal uses. [Added 9-8-2016 by Ord. No. 2016-06]

The provisions of this chapter shall not apply to any building of the Township, or extension thereof, or to the use of any premises by the Township, if the Board of Supervisors shall decide that such building, or extension thereof, or such use of any premises, is reasonably necessary for the convenience or welfare of the public.

ARTICLE II
Administration

§ 285-6. Declaration of legislative intent.

In expansion of, and in addition to, the declaration of legislative intent and statement of community objectives found in Article I, §§ 285-2 and 285-3, of this chapter, it is the intent of this article to promote the public health, safety, morals and general welfare of the Township inhabitants by providing specific duties and responsibilities of the Zoning Officer in the issuance of building and occupancy permits, and the procedures for obtaining the same, as contained in this article.

§ 285-7. Appointment of Zoning Officer.

The provisions of this chapter shall be administered and enforced by a Zoning Officer.

- A. The Board of Supervisors shall annually appoint to a one year term a Zoning Officer who shall meet qualifications established by the Board of Supervisors and demonstrate a working knowledge of municipal zoning. The Zoning Officer may succeed himself.
- B. The Zoning Officer shall receive compensation as determined by resolution of the Board of Supervisors.
- C. The Zoning Officer shall make reports to the Board of Supervisors as the may require.

§ 285-8. Zoning Officer's authority and responsibilities. [Amended 8-13-1998 by Ord. No. 98-4]

The Zoning Officer shall not have the power to permit any activity which does not conform to the provisions of this chapter. The Zoning Officer shall have the authority to perform the following responsibilities:

- A. Receive all applications for building permits and use and occupancy permits.
- B. Keep a public record of those applications filed including:
 - (1) All relevant plans and information submitted therewith.
 - (2) All applications for permits.
 - (3) All permits issued in accordance with this chapter.
 - (4) Any special conditions attached thereto.
- C. Review applications for zoning permits for erection or alteration of structures or changes in use, determine whether such construction or use is in accordance with the general requirements of this chapter, all other applicable ordinances and with the laws and regulations of the commonwealth.
- D. Issue permits only in response to those applications which are in compliance with this chapter, all other applicable ordinances, and the laws and regulations of the Commonwealth of Pennsylvania which.
 - (1) When the Zoning Hearing Board grants a special exception or variance, the application shall be considered in compliance with this chapter for the purpose of issuing permits; the Zoning Hearing Board shall be made a part of the public record of these applications.
 - (2) When the Board of Supervisors grants a conditional use, the application shall be considered in compliance with this chapter for the purpose of issuing permits; the Board of Supervisors action shall be made a part of the public record of these applications.
 - (3) The Zoning Officer shall issue permits in regard to such applications only upon receipt of written evidence from the Zoning Hearing Board attesting to the granting of the special exception or variance,

or from the Board of Supervisors confirming the approval of a conditional use application.

- E. Enlist the assistance of other municipal agents and agencies in performing these responsibilities.
- F. Conduct inspections and surveys to determine compliance or noncompliance with the terms of this chapter. In carrying out such surveys, the Zoning Officer or his/her representative may enter upon land or buildings, within the limits of the law.
- G. Make written orders requiring compliance with the provisions of this chapter to be served personally or by certified mail. Issue any cease and desist orders for violations, as directed by the Board of Supervisors.
- H. Institute proceedings in courts of proper jurisdiction for the enforcement of provisions of this chapter, at the direction of the Board of Supervisors.
- I. Have available a map showing the current zoning classification of all land.
- J. Maintain a record of the identity, location and type of uses, including structures, lots and signs, assigned nonconforming status, as well as documentation of the evidence and reasoning that led to the assignment of nonconforming status.
- K. Participate in proceedings before the Zoning Hearing Board, either at the request of the Board of Supervisors as a representative of the Township, or at the request of the Zoning Hearing Board as a sworn witness presenting facts and information.
- L. Perform any other duties as directed by the Board of Supervisors.

§ 285-9. Building and/or use and occupancy permits.

- A. The requirements for the application, review and issuance of building or demolition permits are found in Chapter 112, Code Enforcement, Article II, of the Code of the Township of Upper Frederick, as amended.
- B. A use and occupancy permit shall be required for:
 - (1) Use and occupancy of any new construction, or any new alteration or addition to an existing structure, whether or not a building permit is required.
 - (2) Change in use of all or any part of any building or structure, whether or not the change involves physical alteration to the building or structure.
 - (3) Use of land or change in the use of land, except that the placing of vacant land into agricultural or forestry uses shall not require a use and occupancy permit.
 - (4) Change in use of a nonconforming use.
 - (5) Change of occupancy in any commercial or industrial establishments. All new occupants of buildings shall be required to apply for and obtain a use and occupancy permit.
- C. It shall be a violation of this chapter for any person to use or occupy any building, structure or land until a use and occupancy permit has been issued.

§ 285-10. Applications for permits.

- A. Applications. Applications for building permits and for use and occupancy permits shall be made in writing by the owner or authorized agent, and shall be filed with the Zoning Officer on forms obtained from him. The Zoning Officer shall require with the application some or all of the following depending whether the permit is for alteration or development of a previously undeveloped property:
 - (1) A statement as to the proposed use of the building.

- (2) A plan, drawn to scale, showing the location of the building in relation to property and right-of-way lines.
 - (3) A statement that the property and right-of-way lines shown on the plan have been located and staked on the premises by a surveyor or other person competent to give such location.
 - (4) The name and address of the person who has so located and stake the lines.
 - (5) A copy of the decision of the Zoning Hearing Board granting any special exception or various required for the proposed use or building.
 - (6) Other specific information relevant to making a decision regarding the permit.
- B. Completion of construction. Upon completion of the construction, addition to, or alteration of any building or structure authorized by any building permit obtained in compliance with this chapter, and prior to use or occupancy, the holder of such permit shall notify the Zoning Officer of such completion. Use and occupancy shall not be authorized until the Zoning Officer has certified that the work has been inspected and approved as being in conformity with this and other applicable ordinances, and the permit fee has been paid.
- C. Temporary use and occupancy. Pending completion of a building or alterations thereto, a temporary use and occupancy permit may be issued with limits and conditions as established by the Zoning Officer for a temporary occupancy of a part or all of a building, provided that such temporary occupancy would not lend in any way to jeopardize life or property.
- D. No implied warrant. Issuance of a use and occupancy permit, or temporary use and occupancy permit, shall in no way be construed to warrant in any way the workmanship, safety or quality of the structure or building materials used to construct the said structure or alterations thereto.

§ 285-11. Issuance or refusal of permit.

If the Zoning Officer determines that an application is in compliance with the provisions of this chapter, it shall be his duty to issue the appropriate permit; and if he determines that an application is not in compliance with the provisions of this chapter, it shall be his duty to refuse the permit, in which case he shall instruct the applicant in the method, as hereinafter set forth, of appeal or application to the Zoning Hearing Board.

§ 285-12. Appeal from Zoning Officer's decision.

An appeal from the decision of the Zoning Officer shall be made within 30 days, according to the procedures described herein.

§ 285-13. Expiration of permits.

Permits shall expire six months after the date of issuance unless the permittee shall have commenced substantial construction or utilization of the property which is the subject of the permit in accordance with the intent thereof.

§ 285-14. Violations.

It shall be the duty of the Zoning Officer to take cognizance of violations of this chapter. He shall investigate each violations which come to his attention whether by observation or communication by any person or agency. He shall order in writing the correction of such conditions as are found to be in violation of this chapter.

§ 285-15. Enforcement notice.

An enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record. The notice of enforcement shall include:

- 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 that have not been met, citing in each instance the applicable provisions of this chapter.
- D. The date on which expires the period in which compliance with this chapter is to be achieved.
- E. A statement describing the recipient's right to appeal to the Zoning Hearing Board within 30 days of receipt of the notice.
- F. A statement that failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

§ 285-16. Enforcement proceedings.

- A. If a violation is not corrected within the period specified by the enforcement notice, it shall be the duty of the Zoning Officer to notify the Board of Supervisors, who shall take necessary action to correct the violation, which action may include initiation of a civil enforcement proceeding.
- B. Where, in the opinion of the Zoning Officer, a violation presents peril to life or property, the Zoning Officer may recommend to the Board of Supervisors immediate initiation of a civil enforcement proceeding.

§ 285-17. Enforcement remedies.

- A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this chapter shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. Each day that a violation continues shall constitute a separate violation.
- B. Causes of action. An aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by an alleged violation of this chapter, may institute any appropriate action or proceeding to prevent, restrain, correct or abate the violation.
 - (1) When any action is instituted by a landowner or tenant, the Township shall be notified at least 30 days prior to the time the action is begun.
 - (2) Notice must be given by serving a copy of the complaint to the Board of Supervisors. No action may be maintained until such notice has been given.

§ 285-18. Fees.

The fees for permits, applications for special exceptions, applications for variances, Zoning Hearing Board certificates, etc., and other charges associated with this chapter shall be fixed in accordance with a fee schedule adopted by a resolution of Board of Supervisors upon the enactment of this chapter and such schedule may be amended from time to time by resolution of the Board of Supervisors.

ARTICLE III
Amendments

§ 285-19. Power of amendment.

The Board of Supervisors may, from time to time, amend, supplement, change, modify or repeal this chapter, including the Zoning Map, by proceeding in the following manner, and as otherwise required by law.

§ 285-20. Application for amendment. [Amended 8-13-1998 by Ord. No. 98-4]

Every application for amendment of this chapter shall first be presented for review by the Board of Supervisors and shall contain the following:

- A. The name, address and interest of each person represented by the application, and the name and address of the applicant's representative.
- B. A plan or map showing the extent of the area to be rezoned or districts to be affected, streets bounding and intersecting the area, land use and zoning classification of abutting districts, and photographs of the area to be rezoned and abutting areas.
- C. A statement of the circumstances in the proposed district and the abutting districts and any other factors on which the applicant relies as reason for supporting the proposed rezoning.
- D. The approximate time schedule for the beginning and completion of development in the area.
- E. A site plan to scale indicating the location of structures, uses, area for off-street parking and loading.
- F. Information about the market area to be served by the proposed development, if a commercial use, including population, effective demand for proposed business facilities, and any other information describing the relationship of the proposed development to the needs of the market area.
- G. A community impact analysis with sufficient information regarding traffic, water supply, sewage disposal, environmental issues and any other issues relevant to the proposal.
- H. All review required by the Pennsylvania Department of Transpiration and Environmental Protection.
- I. Fee as established by the Board of Supervisors.

§ 285-21. Review procedure.

Upon receipt of a complete application and appropriate fee, the Board of Supervisors shall review and consider the application as follows:

- A. Prior to voting on the enactment of an amendment, the Board of Supervisors shall hold a public hearing pursuant to public notice, at a time and place fixed by resolution adopted at a regular or special meeting.
- B. The application shall be referred to the Planning Commission when not prepared by them, and a period of 30 days prior to the public hearing allowed for their review and comment.
- C. The application shall be referred to the Montgomery County Planning Commission and a period of 30 days prior to the public hearing allowed for their review and comment.

§ 285-22. Public notice. [Amended 6-13-2002 by Ord. No. 02-09]

- A. Notice of hearing. Notice of the hearing shall be published once a week for two successive weeks in a newspaper of general circulation in the Township. Such notice shall state the time and place of the hearing and particular nature of the matter to be considered at the hearing. The first publication shall not be more than

30 days and the second publication shall not be less than seven days from the date of the hearing. The notice shall include reference to the time and place of the hearing as well as the place in the Township where copies of the amendment may be examined without charge or obtained for the cost of reproduction.

- B. Publication of text. The full text of the proposed amendment, or a reasonable detailed summary prepared by the Township Solicitor, shall be published once in a newspaper of general circulation in the Township, no less than seven days and not more than 60 days before a vote of enactment. If the full text is not published:
 - (1) A copy of the full text shall be supplied to the publishing newspaper at the time of publication.
 - (2) An attested copy of the full text shall be filed in the Montgomery County Law Library.
- C. Mailed notice. Notice shall be mailed to every person or group who shall have registered with the Township their names and addresses for this purpose.
- D. Perimeter posting. If the proposed amendment involves a Zoning Map change, notice of said public hearing shall be mailed at least 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, and shall be conspicuously posted along the perimeter of the affected tract by the Township at least one week prior to the public hearing, at points deemed by the Township to be sufficient to notify potentially interested citizens. The notice shall include the location, date and time of the public hearing.
- E. Change to amendment. If, after any public hearing, the proposed amendment is changed substantially or is revised to include land not previously affected, the Board of Supervisors shall hold another public hearing, pursuant to public notice, before proceeding to a vote on the amendment.
- F. Notice of change to amendment. Where a public hearing is required in accordance with Subsection E, above, at least 10 days before voting to enact the Board of Supervisors shall publish in a newspaper of general circulation in the Township a brief summary setting forth in reasonable detail the provisions of the amendment along with a summary of the changed portions of the amendment.

§ 285-23. Enactment.

- A. The Board of Supervisors shall vote on the proposed amendment within 60 days of the last publication of the text, or new publication shall be required.
- B. The Board of Supervisors shall vote on the proposed amendment within 90 days of the last public hearing, or a new public hearing shall be required.
- C. Within 30 days of enactment, a copy of the amendment shall be forwarded to the Montgomery County Planning Commission.

§ 285-24. Curative amendments.

Township curative amendments or citizen challenge and curative amendments submitted to the Board of Supervisors shall be considered in accordance with the provisions and procedures of the Pennsylvania Municipalities Planning Code, as amended.

ARTICLE IV
Zoning Hearing Board

§ 285-25. Appointments. [Amended 2-9-1995 by Ord. No. 95-4]

The Board of Supervisors shall appoint a Zoning Hearing Board consisting of three members. The Board of Supervisors shall designate one such member to serve until the first day of January following the original effective date of this chapter, one until the first day of the second January thereafter, and one until the first day of the third January thereafter; shall reappoint or appoint three successors on the expiration of their respective terms to serve three years, and shall fill any vacancy for the unexpired term of any member whose term becomes vacant.

- A. The members of the Zoning Hearing Board shall be removable for cause by the Board of Supervisors upon written charges and after a public hearing.
- B. Zoning Hearing Board members shall be residents of the Township and may hold no other office in the Township.
- C. The word "Board" when used in this article shall mean the Zoning Hearing Board.
- D. Where legal counsel is desired, an attorney, other than the Solicitor of the Township, may be appointed to serve as counsel to the Zoning Hearing Board.
- E. The compensation of the members and alternates to the Zoning Hearing Board shall be established by resolution of the Board of Supervisors, but, in no case, shall the compensation exceed the rate of compensation authorized to be paid to the Supervisors.

§ 285-26. Alternate members.

The Board of Supervisors may appoint by resolution no more than three residents of the Township to serve as alternate members of the Board. The term of office of an alternate shall be three years.

- A. If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate as many alternate members of the Board to sit on the Board as may be needed to provide a quorum. An alternate so designated 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 article and as otherwise provided by law.
- B. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Board has made a final determination of the matter or case.
- C. Designation of an alternate shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.
- D. Alternate members may hold no other office in the Township.
- E. Any alternate may participate in any proceeding or discussion of the Board but may not vote as a member nor be compensated unless designated as a voting alternate as provided above.

§ 285-27. Organization of Board.

- A. The Board shall annually elect officers from its membership.
- B. For the conduct of any hearing and the taking of any action, a quorum shall be no less than two voting members.

- C. The Board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the Township and the laws of the commonwealth.
- D. The Board shall keep a public record of its business, which records shall be the property of the Township, and shall submit reports of its activities to the Township as requested by the Board of Supervisors.

§ 285-28. Jurisdiction.

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

- A. Substantive challenges to the validity of any land use ordinance, except those brought before the Board of Supervisors pursuant to the curative challenge and amendment process.
- B. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal filed within 30 days after the effective date of said ordinance.
- C. Appeals from the determination of the Zoning Officer, including the grant or denial of any permit, or failure to act on the application therefor, the issuance of any enforcement notice or the registration or refusal to register any nonconforming use, structure or lot.
- D. Appeals from a determination by the Township Engineer or the Zoning Officer with reference to the floodplain ordinance or such provisions within a land use ordinance.
- E. Applications for variance from the terms of this chapter.
- F. Applications for special exceptions under the zoning or floodplain ordinance.
- G. Appeals from the determination of the Zoning Officer or Township Engineer in the administration of ordinance provisions for sedimentation and erosion control and stormwater management insofar as the determination does not involve an application pursuant to Chapter 240, Subdivision and Land Development.
- H. Interpretation of the words, terms, rules, regulations, provisions and restrictions of this chapter where there is doubt as to the meaning thereof, including determination in specific instances whether questionable uses are permitted by virtue of being "similar to" or "customarily incidental to" permitted uses as provided by this chapter.

§ 285-29. Orders.

When the order, requirement, decision or determination of a Township officer is appealed to the Board, the Board shall have the power to reverse or affirm in whole or in part, and the decision of the Board shall be enforced as though it were the decision of the officer appealed from.

§ 285-30. Appeal or applications to Zoning Hearing Board.

Challenges and appeals may be filed with the Board in writing by the landowner affected, any officer or agency of the Township, or any person aggrieved. Requests for variance or special exception may be filed by any landowner or any tenant with permission of the landowner. An appeal or application regarding a matter within the jurisdiction of the Board may be filed with the Township Secretary on forms provided by the Zoning Hearing Board. The applicant shall provide seven copies of the application and accompanying materials, which shall include:

- A. The name and address of the applicant, and of the applicant's representative(s) or agent(s) where applicable.
- B. The name and address of the record owner of the property that is the subject of the application or appeal. Where the applicant is not the record owner of the subject property, a signed and notarized statement from the

record owner, authorizing the applicant to pursue the specific appeal or application.

- C. A brief description and location of the subject property, along with a survey and/or sketch of the property boundaries.
- D. A statement of the present zoning classification of the subject property with the improvements thereon, and the present use thereof.
- E. A statement of the section of this chapter under which consideration by the Board is requested, along with a summary of reasons or arguments in support of request.
- F. A reasonably accurate description of the improvements or changes intended to be made under the application. In addition, there shall be attached a plot plan of the property to be affected, indicating the location and size of the lot, and the size and location of the existing and proposed improvements or changes.
- G. Any and all additional information that may be required by the Zoning Hearing Board.
- H. Payment to the Township in accordance with a fee schedule recommended by the Board and adopted by the Township Board of Supervisors, as amended.
 - (1) Such fees may include compensation for the secretary and members of the Board, notice and advertising costs, stenographic costs in accordance with § 285-33F herein, and necessary administrative overhead connected with the hearing.
 - (2) The fees may not include compensation for the legal expenses of the Board, or expenses for engineering, architectural or other technical consultant or expert witness fees.
 - (3) All permissible costs shall be borne by the applicant, based on an itemized list of expenses.

§ 285-31. Action on application or appeal.

- A. Immediately upon receipt of an application, the Township Secretary shall promptly forward the application to the Zoning Hearing Board Chairperson along with all of the above information.
- B. The Chairperson, in consultation with the Zoning Hearing Board Solicitor, shall fix a reasonable time and place for a public hearing on the application. Said hearing shall occur no more than 60 days after the application is made to the Secretary, unless the applicant has agreed in writing to an extension of time.
- C. A true and correct copy of the application and all related information shall be forwarded to the Township Secretary, the Chairperson of the Planning Commission, each Township Supervisor, each Zoning Hearing Board member and the Zoning Hearing Board Solicitor.
- D. Upon receipt of a Zoning Hearing Board application, the Planning Commission as its next regularly scheduled meeting may consider the application and may, at its sole discretion, resolve to comment thereon.

§ 285-32. Public notice and written notice of hearing.

The Board shall give public notice and written notice as follows:

- A. By publishing a notice once a week for two successive weeks in a newspaper of general circulation in the Township. Such notice shall state the time and place of the hearing, the particular nature of the matter to be considered at the hearing and the specific ordinance provisions that permit consideration by the Zoning Hearing Board. The first publication shall not be more than 30 days and the second not less than seven days from the date of the hearing.
- B. By mailing or serving written notice to the record owner, applicant and applicant's representative.

- C. By conspicuously posting written notice of hearing on the affected tract of land at least one week prior to the meeting.
- D. By mailing or serving notice thereof to the Township Supervisors, Planning Commission Chairperson, Zoning Hearing Board members and Zoning Officer.
- E. By mailing or giving written notice to any and all parties in interest who have made a timely request for the notice.
- F. By mailing a written notice to any and all parties registered for that purpose.
- G. By mailing a written notice to all landowners within 500 feet of the applicant's land in Upper Frederick Township and adjacent municipalities, where appropriate, by certified mail with return receipts requested.
- H. By providing a list of names and addresses of all parties who have been mailed or served notice, to the applicant, the Township Supervisors, Planning Commission Chairperson, all Zoning Hearing Board members and the Zoning Officer.
- I. Costs of mailing, posting and serving notices shall be paid by the applicant as part of the fees charged for the hearings, in accordance with § 285-30H, herein.

§ 285-33. Hearing procedures. [Amended 6-13-2002 by Ord. No. 02-09]

- A. Hearing shall be held at the call of the Chairperson and at such times as the Board may determine. The first hearing shall be commenced within 60 days from the date of the applicant's request, unless the applicant has agreed, in writing, to an extension of time. Each subsequent hearing shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the Board or Hearing Officer shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. 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.
- B. The parties to the hearing shall be the Township, any person affected by the application who has made timely appearance of record before the Board, and any other person, including civic or community organizations permitted to appear by the Board. The Board shall have the power to require that all persons who wish to be considered parties enter appearances in writing on forms provided for that purpose.
- C. The Chairperson or acting Chairperson may administer oaths and issue subpoenas to compel the attendance of witnesses and productions of relevant documents and appears, including witnesses and documents requested by the parties.
- D. 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.
- E. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- F. The Board shall keep a stenographic record of the proceedings.
 - (1) The appearance fee for a stenographer shall be shared equally by the applicant of the applicant and the Board.

- (2) The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board, 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.
- G. Except upon notice and opportunity for all parties to be present, to participate, and to inspect and contest materials, the Board shall not:
- (1) Communicate, directly or indirectly, with any party or his representative in connection with any issue involved.
 - (2) Take notice of any communication, reports, staff memoranda or other materials, except advice from their Solicitor.
 - (3) Or inspect the subject site or its surroundings after commencement of hearings with any party or his representatives.

§ 285-34. Decision of Zoning Hearing Board. [Amended 6-13-2003 by Ord. No. 02-09]

- A. The Board shall render a written decision or making written findings on the application within 45 days of the last hearing. Each decision shall be accompanied by findings of fact and conclusions based upon findings. Conclusions based on any provision of a Township ordinance shall contain a reference to the provision.
- B. Except for challenges filed under § 285-37C, where the Board fails to render the decision within the required period required by this section, or fails to commence, conduct or complete the required hearing as provided by § 285-33A, 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.
- C. When a decision has been deemed to have been rendered in favor of the applicant because of the failure of the Board to hold a hearing or render a decision as provided, the Board shall give public notice of said deemed decision within 10 days from the last day it could have met to render a decision. Such notice shall be given in the manner prescribed by § 285-31, herein. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
- D. A copy of the final decision or findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

§ 285-35. General standards for Board review.

In the consideration of an application for variance or special exception, the Board shall:

- A. Consider the suitability of the property for the use desired. Assure itself that the proposed change is consistent with the spirit, purpose and intent of this chapter.
- B. Determine that the proposed change will not substantially injure or detract from the use of neighboring property or from the character of the neighborhood and that the use of the adjacent property is adequately safeguarded.
- C. Determine that the proposed change will serve the best interest of the Township, the convenience of the community (where applicable) and the public welfare.
- D. Determine that the proposed change will serve the best interests of the Township, the convenience of services and facilities such as water, sewer, police and fire protection and schools.

- E. Consider the suitability of the proposed location of use with respect to probable effects upon traffic and assure adequate access arrangements in order to protect roads from undue congestion and hazard.
- F. Be guided in its study, review and recommendation by sound standards of subdivision practice where applicable.
- G. The Board shall be limited to consideration of applications as they relate to ordinance provisions in effect at the time of the application. The Township Board of Supervisors shall retain the exclusive right to enact and amend ordinances.

§ 285-36. Specific standards for variances and special exceptions.

- A. Variance. The Board shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. The Board may require preliminary application to the Zoning Officer. The Board may grant a variance provided that all of the following findings are made where relevant in a given case:
 - (1) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions and not the circumstances or conditions generally created by the provisions of this chapter in the neighborhood or district in which the property is located.
 - (2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefor necessary to enable the reasonable use of the property.
 - (3) That the unnecessary hardship has not been created by the applicant. Monetary hardship cannot be considered by the Board.
 - (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- B. Special exception. The Board shall hear and decide requests for special exceptions in accordance with the standards and criteria found in the particular section of this chapter that permits application for said special exception, and with the general standards in § 285-35. In granting any special exception, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter.
- C. Burden of proof. For variances, the burden of proof shall be on the applicant. For special exceptions, the applicant shall be entitled to the special exception unless others can prove that it would adversely affect the public health, safety, morals or welfare.

§ 285-37. Challenge and appeals.

Decisions on appeals and applications to the Board, other than variances and special exceptions, shall be considered in accordance with the following:

- A. Time limitations on appeals.
 - (1) All appeals from determination adverse to a landowner shall be filed by the landowner within 30 days after notice of the determination is issued.
 - (2) Appeals designed to secure reversal or limit the approval of any application for development, preliminary or final, shall be filed with the Board no later than 30 days after the application is approved by an appropriate Township officer or agency, unless the person filing proves that he had no notice,

knowledge or reason to believe that such approval had been given. If such person succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest.

- B. Effect of filing. Upon filing of any proceeding before the Board, and during its pendency, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer, agency or body certifies to the Board facts indicating imminent peril to life or property, in which case the development or official action shall not be stayed other than by a restraining order granted by the Board or by the court having jurisdiction of zoning appeals.
- C. Substantive validity challenge. A landowner who desires to challenge, on substantive grounds, the validity of a map or ordinance provision which prohibits or restricts the use or development of land in which he has an interest, may submit the challenge either to the Zoning Hearing Board or, with a request for curative amendment, to the Township Board of Supervisors.
- (1) The written application to the Zoning Hearing Board shall contain the reasons for the challenge.
 - (2) Public notice of the hearing shall include notice that the validity of the ordinance or map is in question, and shall specify the place and time where a copy of the request and its accompanying materials may be examined by the public.
 - (3) Based upon the testimony at the hearing(s), the Board shall determine whether the challenged ordinance or map is defective, as alleged. If the challenge is found to have merit, the decision of the Board shall include recommended amendments to the challenged ordinance which will cure the defects found.
 - (4) In reaching its decision, the Board shall consider the plans and explanatory material submitted by the landowner, and shall also consider:
 - (a) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.
 - (b) If the proposal is for residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the ordinance or map.
 - (c) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodland, wetlands, floodplains, aquifers, natural resources and other natural features.
 - (d) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts.
 - (e) The impact of the proposal on the preservation of agricultural and other land uses which are essential to public health and welfare.
 - (5) If the Board fails to act on the request within 45 days of the last hearing, a denial of the request is deemed to have occurred.

§ 285-38. Expiration.

Unless otherwise specified by the Board, a special exception or variance shall expire if the applicant fails to obtain any and all permits within one year of the date of the decision. The applicant may apply to the Board for postponement of the expiration, providing in writing an explanation of the reasons why permits were not obtained and a request for a postponement to a specific date. All parties who originally received notification of the Board's decision in the matter shall be notified of the postponement of expiration, at the applicant's expense.

§ 285-39. Appeal to court.

Any persons aggrieved by the decision of the Board may within 30 days thereafter appeal to the Court of Common Pleas of Montgomery County by petition duly verified setting forth the grounds upon which said appeal is taken.

§ 285-40. Language interpretation.

For purposes of this chapter, certain words shall be interpreted as follows:

- A. Words used in present tense include the future.
- B. The singular number includes the plural and the plural includes the singular.
- C. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" and "occupied for."
- D. The word "person" includes an individual, corporation, partnership, incorporated association and/or any other similar entity.
- E. The words "include" or "including" shall not limit the term to the specified examples, but are intended to extend the meaning to all other instances of like kind and character.
- F. The word "building" shall always be construed as if followed by the words "or part thereof."
- G. The word "may" is permissive, and the words "shall" and "will" are always mandatory.
- H. The masculine includes the feminine (he/she, his/her, etc.).

§ 285-41. Definition of terms. [Amended 7-8-1993 by Ord. No. 93-1; 11-14-1996 by Ord. No. 96-6; 3-13-1997 by Ord. No. 97-2; 4-2-1998 by Ord. No. 98-3; 8-13-1998 by Ord. No. 98-4; 9-10-1998 by Ord. No. 98-5; 9-14-2000 by Ord. No. 00-3; 7-10-2003 by Ord. No. 03-02; 8-14-2003 by Ord. No. 03-04]

Words and terms used in this chapter shall have the meanings given in this article. Unless expressly stated otherwise, any pertinent word or term not a part of this listing, but vital to the interpretation of this chapter, shall be construed to have its legal definition, or in absence of a legal definition, its meaning as commonly accepted by practitioners including civil engineers, surveyors, architects, landscape architects and planners.

ACCESS DRIVE — A privately owned, constructed and maintained vehicular access from a public or private right-of-way to off-street parking or loading spaces.

ACCESS STRIP — A piece of land which provides physical access to, and legal road frontage for a lot, but which does not comply with the minimum lot width regulations of this chapter. Access strips shall be a minimum of 50 feet wide and provide access to "rear" or "interior" lot. The area of an access strip shall not be included in the minimum lot area or minimum front yard setback required under the provisions of this chapter.

ACCESSORY STRUCTURE OR BUILDING — A structure detached from a principal building on the sale lot and customarily incidental and subordinate to the principal building or use.

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

ADDITION — An extension or increase in floor area or height of a building or structure.

ADULT USE — Any business, club or other similar operation which permits patrons, clients, visitors or members to hear, view, read, lease, purchase, trade or exchange, and/or participate in activities, publications, movies, video tapes, and/or live or televised performances which have as their dominant theme or themes explicit sexual activities and/or the exhibition of portions of the human or animal anatomy which are not normally seen in the public or in commercial or other club-type operations, including the genital areas, buttocks and female breasts, and which are operations may or may not exclude minors by virtue of age. Included in the term "adult use" are bookstores, movie theaters, bars and any other operation which qualifies for inclusion by virtue of the definition above, regardless of

the type of other uses or operations which may also be conducted on or in the property or properties involved.

AGRICULTURE — The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, silviculture, aquiculture and animal and poultry husbandry and the necessary accessory uses for packing, treating and storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agriculture activities. Included in the term "agriculture" is the use of machinery designed and used for agricultural operations including, but not limited to, crop dryers, feed grinders, sawmills, hammer mills, refrigeration equipment, bins and related equipment used to store or prepare crops for marketing, and those items of agricultural equipment and machinery defined by the Act of December 12, 1994 (P.L. 944, No. 134), known as the Farm Safety and Occupational Health Act. Custom work and the movement of crops harvested off-site to the farmstead property shall be considered normal farming practice.

ALLEY — A minor, vehicular right-of-way, public or private, on which no principal structures front, which serves as the secondary means of access to two or more properties which otherwise front on a public street.

ALTERATION — As applied to building or structure, a change or rearrangement in the structural parts or mechanical equipment, or any enlargement or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

ANCILLARY USE — A subordinate use that is controlled by a larger permitted use. An example is a public garage (tires, batteries and accessories) or garden shop controlled by a department store.

ANIMAL HOSPITAL — A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

ANIMAL HUSBANDRY — The raising and keeping of livestock, fish, fur-bearing animals, honey bees or poultry for any commercial purpose. The keeping of livestock, fish, fur-bearing animals, honey bees or poultry as farm pets or for domestic purposes shall not be construed as animal husbandry.

ANTENNA — A transmitting and/or receiving device used in telecommunications that radiates or captures radio signals.

ANTENNA RECEPTION WINDOW — The area which lies between the satellite dish antenna and an orbiting satellite.

ANTENNA SUPPORT STRUCTURE — Any pole, telescoping mast, tower, tripod or any other structure which supports a device used in the transmitting or receiving of radio frequency energy.

APPLICANT — A person who has filed an application for approval of a subdivision or land development plans, including his/her heirs, successors, agents and assignees. The term also includes landowner, developer, builder and/or other persons responsible for the plans and construction of buildings or other improvements on any parcel of land.

AQUIFER — An underground bed or stratum of earth, gravel or porous stone that contains water.

AQUIFER RECHARGE AREA — The exposed ground level portion of an aquifer.

AUDITORIUM — A building containing a stage and a seating for meetings and/or performances.

AUTOMOTIVE REPAIR, MAJOR — Major repairs include any spray painting; body, fender, clutch, transmission, differential, axle, spring and frame repairs; major overhauling of engines requiring removal of cylinder head; repairs of radiator requiring removal thereof; and complete recapping or retreading of tires.

AUTOMOTIVE REPAIR, MINOR — Includes sale and servicing of spark plugs, batteries and distributors and distributor parts; tire servicing and repair, but not recapping or regrooving; replacement of mufflers and tail pipes, water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors and the like; radiator cleaning and flushing; washing and polishing, and sale of automotive washing and polishing materials; greasing and lubrication; providing and repairing fuel pumps, oil filters and lines; minor servicing and repair of carburetors; emergency electrical repairs; adjusting and repairing brakes; minor motor adjustment not involving removal of the head or crankcase or racing the motor; provision of

road maps and other informational material to customers; provision of rest room facilities; and state inspection and normal state inspection repairs.

AUTOMOTIVE SERVICE STATION — Any premises used for supplying gasoline and oil, tires, accessories and services for motor vehicles at retail direct to the motorist consumer, including minor automotive repair.

BANK — Includes savings and loan, finance companies, credit unions and other similar financial or fiduciary institutions.

BANK AT FULL FLOW — The highest point of the stream bank corresponding to the flow that just fills the channel to the top of its banks to a point where the water begins to overflow into a floodplain area.**[Added 9-10-2009 by Ord. No. 2009-07]**

BARN — A large farm building generally used to store farm products, supplies and/or equipment and frequently containing facilities to shelter large live stock or for conducting farm operations such as the milking of cows; or any accessory building that is larger in ground floor area than the dwelling it is accessory to, regardless of the use of the accessory building.

BASEMENT — A space having 1/2 or more of its floor-to-ceiling height above the average level of the adjoining ground and with a floor-to-ceiling height of not less than 6 1/2 feet. A space which does not meet the above criteria is a cellar. For floodplain management purposes, a "basement" means any area of the building having its floor below ground level on all sides.

BED-AND-BREAKFAST — A residential accessory use consisting of one dwelling unit together with no more than five rooms or suites (accommodating no more than 10 guests) that are rented to overnight or weekly guests and where meal are prepared for the guests by the proprietors. The rented rooms do not contain kitchen facilities and do not contain kitchen facilities and do not constitute a separate dwelling units.

BEST MANAGEMENT PRACTICES (BMPs) — Conservation practices or management measures which control soil loss and reduce water quality degradation caused by nutrients, animal wastes, toxics, sediment and runoff.**[Added 9-10-2009 by Ord. No. 2009-07]**

BLOCK — A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways or any other barrier to development.

BOARDING OR ROOMING HOUSE — A commercial use consisting of a single dwelling unit and no more than five rooms or suites (accommodating no more than 10 lodgers) where lodging is provided with or without meals to tenants for periods generally longer than 30 days, for compensation.

BONUS DENSITY — The amount by which development can exceed base zoning with the use of TDRs in a receiving district.**[Added 5-12-2011 by Ord. No. 2011-02]**

BUFFER — An area designed and functioning to separate the elements and uses of land which abut it and to ease the transition between them. Unless otherwise specified, buffer may be included as part of the required setbacks and yard areas. Buffers may be further defined and regulated by this or other Township ordinances to include screen and softening buffer categories.

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.

BUILDING CODE OFFICIAL — The Building Inspector or other person officially appointed by the Township Supervisors to administer and enforce Chapter 112, Code Enforcement, Article II.

BUILDING COVERAGE — The ratio obtained by dividing the maximum horizontal cross-section of all principal and accessory buildings on a lot (including balconies and decks, patios, covered porches, carports and breezeways) by the net lot area of the lot upon which the buildings are located.

BUILDING ENVELOPE — The area of a lot within which a principal building may be erected. This area is defined by the limits of the minimum front, side and rear yard areas, and encompasses the area of the lot not found in the yard areas and rights-of-way.

BUILDING LINE — The line which serves as the rear boundary of the minimum front yard. (See also "yard line.") For the purposes of measuring lot width at the building line the following apply:

- A. For wedge-shaped lots which are narrower at the street than at the rear property line, the building line may be moved back from the minimum front yard depth to a point where the lot width equals the minimum required for the district; provided, that at least 50 feet of street frontage is provided and the lot complies with all other dimensional requirements of the district.
- B. Where "rear" or "interior" lots are permitted, the building line shall be oriented as parallel or concentric to the street from which access is provided as is feasible, and setback from the intervening property line at least the minimum front yard depth.

BUILDING SEPARATION — The horizontal distance between buildings or structures measured from the exterior surface. The measured distance shall not include overhanging eaves, gutters and cornices. **[Added 6-13-2013 by Ord. No. 2013-02]**

CALIPER — Tree diameter measured 2 1/2 feet from the ground.

CAMPGROUND — A plot of ground upon which two or more campsites are located, established or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education or vacation purposes.

CAREGIVER — The person responsible for the direct care, protection, supervision and guidance of children in a day care setting.

CARPORY — A building open on two or more sides and used in conjunction with a dwelling for the storage of private motor vehicles.

CARTWAY — The portion of a street or highway designed for vehicular traffic, typically paved.

CELL SITE — A tract or parcel of land that contains the cellular communication antenna, its support structure, accessory building(s) and parking, and may include other uses associated with and ancillary to cellular communication transmission.

CELLAR — The portion of a building which is partly or completely below grade, and having more than 1/2 of its height below grade (see "basement").

CELLULAR COMMUNICATIONS — A commercial or noncommercial low-power mobile radio service licensed by the Federal Communications Commission (FCC) to two providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area. **[Amended 12-11-2014 by Ord. No. 2014-02]**

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

CENTRAL SEWER OR WATER — A sewage disposal network and facilities, or water supply network serving a group or series of property owners in coming; may be publicly or privately owned.

CHILD — For the purposes of child day care, a child is a person under 16 years of age.

CHILD DAY CARE FACILITY — Any dwelling, building or portion thereof in which child day care services are provided, including any onsite outdoor play area. Child day care facilities shall be further differentiated by the following three classifications:

- A. **DAY CARE FACILITY** — A facility which is licensed to provide care for seven or more children at any one time, where the child care areas are not being used as a family residence.
- B. **FAMILY DAY CARE HOME** — Any premises or dwelling unit other than the child's own home where the

child care areas are being used as a family residence, operated for profit or not for profit, in which child day care is provided at any one time on a regular basis to four, five or six children, who are not relatives of the caregiver. Day care service for children in this type of a facility is different from "babysitting."

C. GROUP DAY CARE HOME — A facility in which care is provided for more than six but less than 12 children, at any one time, where the child care areas are being used as a family residence.

CHURCH — See "place of worship."

CLOSED CUP FLASH POINT — The temperature at which a liquid sample produces sufficient vapor to flash, but not ignite, when in contact with a flame in a closed cup tester.

CLUB — A group of people organized for a common purpose to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings and a constitution and/or bylaws.

CLUSTER DEVELOPMENT — An alternative development method wherein structures are arranged in closely related groups, reducing lot sizes, preserving land for open space and permitting more imaginative site design than may be possible under standard development.

COMMERCIAL SOLAR ENERGY SYSTEM — An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. Commercial solar energy systems consist of one or more freestanding ground-, or roof-mounted solar collector devices, solar-related equipment and other accessory structures and buildings, including light reflectors, concentrators and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures. **[Added 7-18-2019 by Ord. No. 2019-01]**

COMMON FACILITIES — All the real property and improvements set aside for the common use and enjoyment of the residents including, but not limited to, buildings, open land, private roads, parking areas, walkways, recreation areas, landscaped areas, drainage easements and any utilities that service more than one unit, such as sewer and water facilities.

COMPREHENSIVE PLAN — The Upper Frederick Township Comprehensive Plan and amendments thereto, including maps, charts and/or descriptive matter officially adopted by the Township Planning Commission and Board of Supervisors, intended to express Township policies that guide future development of the Township and including all elements required by the Pennsylvania Municipalities Planning Code.

CONDITIONAL USE — A form of permitted use, authorized by this chapter, under the jurisdiction of the Board of Supervisors. The Board of Supervisors is empowered to grant permission for conditional uses, consistent with the public interest, in compliance with the standards and procedures established in this chapter, following thorough examination of the proposal, and under any reasonable safeguards necessary to implement the purposes and intent of this chapter and to protect the general welfare.

CONDOMINIUM — Real estate, portions of which are designated for separate ownership and the remainder of which is designed for common ownership solely by the owner of those portions created under either the Pennsylvania Unit Property Act of July 3, 1963, or the Pennsylvania Uniform Condominium Act.

CONDOMINIUM ASSOCIATION — A community association combining individual homeownership with shared use or ownership of common property and facilities organized in accordance with the Pennsylvania Uniform Condominium Act, 68 P.S. § 3101 et seq. The homeowner owns the interior of the individual residence while the exterior is owned "in common" with the other owners. The homeowner owns an individual interest in the common facilities in addition to his residence. The association is responsible for maintaining the property and delivering common services, but does not own the common property. Condominium is a legal form of ownership, not a specific building type.

CONSTRUCTION — The construction, conversion, reconstruction, renovation, repair, extension, expansion, alteration or relocation of a building or structure, including the placement of mobile or manufactured homes.

CONTIGUOUS — Sharing a boundary.

CONVERSION — The remodeling or alteration of a structure so as to accommodate more leasable or saleable units or a different use than what had originally been intended for the structure. Includes the alteration of a nonresidential structure into a dwelling unit(s) for at least one family, the modification of a single-family structure to accommodate more units than originally intended, the alteration of existing dwellings into a commercial use, and the alteration of an existing dwelling into a mixed commercial and residential use.

CORNER LOT — A lot having contiguous frontage on two or more intersecting roads.

COUNTY — The County of Montgomery, Commonwealth of Pennsylvania.

CULVERT — A drain, ditch or conduit not incorporated in a closed system, that carries drainage water under a driveway, roadway or paved area.

CURATIVE AMENDMENT — An amendment, submitted either by a citizen or by the Township, to be considered by the Board of Supervisors as a potential cure for a successful challenge to the substantive validity of a land use ordinance.

DAY CARE — See "child care facility."

DECIBEL (dB) — A unit which describes the sound pressure level or intensity of sound. A sound level meter is calibrated in decibels.

DEED — A written instrument whereby an estate in real property is conveyed by a grantor to a grantee.

DEED RESTRICTION — A restriction upon the use of a property placed in a deed.

DENSITY — The number of dwelling units per developable acre of land.

DEPARTMENT OF HEALTH — The Department of Health of the Commonwealth of Pennsylvania (the "DOH").**[Added 8-10-2017 by Ord. No. 2017-01]**

DETENTION BASIN or POND — A facility for the temporary storage of stormwater runoff.

DETONABLE MATERIALS — Materials which decompose by detonation. Such materials include explosives, unstable compounds and fissionable matter.

DETONATION — A rapid build-up of a destructive pressure wave caused by chemical reaction and/or the sudden release of energy.

DEVELOPABLE — Acreage available for development after subtracting legal and ultimate rights-of-way of existing roads, floodplains, wetlands, ponds, lakes, utility company easements and rights-of-way, riparian conservation corridor and slopes of 15% or more from the gross area of a tract or lot; applies to developable acre, acres, tract, tract area and tract acreage.**[Amended 9-10-2009 by Ord. No. 2009-07]**

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.

DEVELOPMENT PLAN — The provisions for guiding development, including a plan of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, street, parking facilities, ways, common open space and public facilities.

DEVELOPMENT RIGHTS — The rights of the owner of a parcel of land, under land development regulations, to configure that parcel and the structures thereon to a particular density for residential uses.**[Added 5-12-2011 by Ord. No. 2011-02]**

DISABLED — A person having a physical or mental condition which prevents one from doing any substantial gainful work when that condition is expected to last (or has lasted) at least 12 months or is expected to result in death.

DISPENSARY — A person, including a natural person, corporation, partnership, association, trust or other entity,

or any combination thereof, which is registered by the DOH under the Act⁵⁶ to dispense medical marijuana. The term does not include a health care medical marijuana organization under Chapter 19 of the Act. **[Added 8-10-2017 by Ord. No. 2017-01]**

DISPENSARY FACILITY — Any building or structure used to dispense medical marijuana by a licensed dispensary. **[Added 8-10-2017 by Ord. No. 2017-01]**

DRAINAGE — The natural or man-made features of land that are specifically designed to store or carry surface water runoff.

DRIVE-IN USE — An establishment which by design, physical facilities, service or by packaging procedures encourages or permits customers to receive services, obtain goods or be entertained while remaining in their motor vehicles.

DRIVEWAY — A private cartway providing vehicular access between a public street and a lot, property or development.

DWELLING TYPES — For the purposes of this chapter, the following are the definitions of the various types of dwelling units.

- A. **APARTMENT** — A single dwelling unit in a multifamily building; a single dwelling unit in a duplex may also be referred to as an apartment.
- B. **LOT LINE HOUSE** — A single-family detached dwelling on an individual lot, with the building set on one side property line, so that the lot has only one side yard. Lot line homes should be designed so that this side yard and the rear yard constitute the primary outdoor living areas for the dwelling. Typically, no windows are placed on the building wall that is on the lot line. A five-foot access easement is provided on the adjacent property along the lot line, for necessary maintenance of the building wall located on the lot line. Also known as zero lot line.
- C. **MULTIFAMILY BUILDING** — A detached residential building containing three or more dwelling units with not more than six dwelling units located at ground level. Units may not be arranged entirely in horizontal rows (like townhouses), and are generally locate entirely above or below one another. Units may share outside access and/or internal hallways, lobbies and similar facilities. The dwelling units cannot be individually lotted, but instead share the lot or tract on which the building containing them is located. The development is usually under one operating unit, as rental or condominium development. This dwelling type includes garden apartments, flats and multifamily conversions.
- D. **SINGLE-FAMILY ATTACHED DWELLING UNIT** — A dwelling unit having its own independent outside access, with no other dwelling units located directly and totally above or below it, and having party walls in common with at least one but not more than three adjacent similar dwelling units, and located in a building comprised of at least three dwelling units. This dwelling type shall include, but not be limited to, dwelling units commonly known as townhouses, rowhouses, triplexes, quadruplexes and multiplexes.
 - (1) **MULTIPLY** — An attached dwelling arranged in a group of no more than six units, in a variety of configurations: side by side; back to back; or vertically. Because of the variety of configurations, a multiplex can be designed to look like a large, single-family detached house, a feature which is encouraged by this chapter.
 - (2) **TOWNHOUSE (ROWHOUSE)** — A single-family attached dwelling in a row of at least three units, with each dwelling unit occupying the area from ground to roof, with individual outside access.
- E. **SINGLE-FAMILY DETACHED DWELLING UNIT** — A building designed for and occupied exclusively as a residence for only one family and not attached to any other building or dwelling units.

56. Editor's Note: See 35 P.S. § 10231.101 et seq.

- F. **TWO FAMILY BUILDING** — A residential building containing two dwelling units and which is not attached to any other building. A two family building counts as two dwelling units for density purposes.
- (1) **DUPLEX (TWO FAMILY DETACHED)** — A two-family building with one dwelling unit placed above the other so that they share a common horizontal partition. When lotted, a duplex shall be entirely on one lot. Separate ingress and egress is provided to each unit.
 - (2) **TWIN (SINGLE-FAMILY SEMIDETACHED)** — A two-family building with dwelling units placed side-by-side, and joined to each other by a vertical common party wall, but otherwise surrounded by yard areas. When lotted, each dwelling unit may be on a separate lot, with the common boundary between the two lots running along the common party wall. Separate ingress and egress is provide to each unit.
- G. **VILLAGE HOUSE** — A single-family detached house on an individual lot, differing from other forms of single-family detached housing in its lot size and placement on the lot. The front yard is narrow, but is distinguished by planting or architectural treatments. Each village house must meet two or more of the following criteria:
- (1) An unenclosed porch, at least seven feet wide, running across at least 3/4 of the house front.
 - (2) A front yard raised above sidewalk grade by at least 30 inches with a retaining wall of at least 18 inches at the sidewalk line.
 - (3) A fence of at least 30 inches and no more than four feet in height, enclosing the front yard, plus one flowering shrub per 60 inches across the width of the house front.
 - (4) Two canopy trees per lot, or three flowering trees per lot, located within the front yard.
 - (5) Intensive planting of one canopy tree, one flowering tree, plus one flowering shrub per 30 inches across the width of the house front.
 - (6) A hedge of shrubs planted 18 inches apart across the width of the front yard, limited to a mature height of four feet.
- H. **ELDER COTTAGE** — A small manufactured or modular, freestanding housing unit specifically designed for elderly, disabled or handicapped persons. This unit is designed to be transported and moved and to be installed on the same lot as an existing single-family detached dwelling unit. **[Added 6-13-2013 by Ord. No. 2013-02]**

DWELLING UNIT — One or more rooms, designed, occupied or intended to be occupied as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single-family maintaining a household.

EASEMENT — A vested or acquired right to use land other than as a tenant, for a specific purpose, such right being held by someone other than the owner who hold title to the land. No structure shall be erected within an easement to impede access.⁵⁷

ELDERLY — A person 62 years of age and over, or a couple where one of them is 62 years of age or over.

ELEVATION — A vertical distance above or below a fixed reference level; and a flat scale drawing of the front, rear or side of a building.

ESTATE LOT — A large, privately-owned lot comprising all or part of an area of open land under the open land standards of the R-80 Land Preservation District. The purpose of the estate lot is to provide surrounding residents with visual access to open land, while keeping the land under private ownership and maintenance. Only a small

57. Editor's Note: The definition of "elder cottage," which immediately followed this definition, was moved to a subsection under the definition of "dwelling types" 6-13-2013 by Ord. No. 2013-02.

portion of the estate lot may be developed; the remainder may be farmed or left in its natural state. Public access to estate lots is not required.

EXPLOSIVE MATERIAL — A material which produces flammable or explosive gases or vapors under ordinary temperature conditions, and includes liquids which have a closed cup flash point of less than 105° F.

FAMILY — Any number of individuals living together on a nontransient basis as a single housekeeping unit and doing their cooking on the premises, when said individuals are related by blood, marriage or adoption, including any number of foster children; no more than five unrelated individuals living together as a single housekeeping unit and doing their cooking on the premises, except when an application for a special exception to enable a greater number of unrelated individuals to occupy a dwelling unit is reviewed and approved by the Zoning Hearing Board, as provided herein. Notwithstanding the definition as before, a family shall also be deemed to include mentally or physically handicapped persons occupying a dwelling unit as a single, nonprofit housekeeping unit if such occupants are handicapped persons as defined in Title VIII of the Civil Rights Act of 1968, as amended by the "Fair Housing Act of 1988." Such unrelated individuals shall have the right to occupy a dwelling unit in the same manner and to the same extent as any family unit as defined in the part of this definition.

FAMILY DAY CARE HOME — See "child day care facility."

FARM OPERATION — A premises of at least five acres which is used for the production of agricultural commodities in their unmanufactured state, such as raising livestock and which shall include those activities which are customarily associated with such production, including the application of manure and/or fertilizers for crop production.

FAST-FOOD RESTAURANT — An establishment whose principal business is the sale of prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off the premises.

FLAMMABLE — Subject to easy ignition and rapid flaming combustion.

FLOODPLAIN-RELATED TERMS —

A. The following terms are defined for the purposes of Article XVI, FPC Floodplain Conservation District: **[Amended 2-11-2016 by Ord. No. 2016-03]**

- (1) **BASE FLOOD** — A flood which has a one percent chance of being equaled or exceeded in any given year (also called the "one-hundred-year flood" or "one-percent-annual-chance flood").
- (2) **FEMA** — The Federal Emergency Management Agency which has jurisdiction over the National Flood Insurance Program and its related studies and regulations.
- (3) **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 usual and rapid accumulation of surface waters from any source.

B. All other floodplain-related terms shall be as defined in Chapter 140, entitled "Floodplain Management," and are incorporated herein by reference.

FLOOR AREA, GROSS — The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of the exterior walls, or from the center line of a wall separating two buildings, but not including interior vehicular parking or loading, or any space where the floor-to-ceiling height is less than six feet.

FLOOR AREA, NET — The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking and loading, and all floor area below the first or ground floor except when used or intended to be used for human habitation or service to the public. The area excluded as unusable may not exceed 15%.

FRONTAGE — The length of the lot line abutting a street right-of-way.

GROSS LEASABLE AREA — The total floor area designed for owner or tenant occupancy and exclusive use,

including basements, mezzanines and upper floors, expressed in square feet and measured from the center line of partitions and from outside wall faces; not including public or common areas, such as public toilets, corridors, stairwells, elevator lobbies or enclosed mall spaces.

GROUP DAY CARE HOME — See "child care facility."

GROUP HOME — A residential facility used as living quarters by any number of unrelated persons requiring special care, and their attendant adult supervisors, specifically designed to create a residential setting for the following types of individuals: juvenile delinquents, the mental and physically impaired, and other similar uses as a special exception. The individuals may be either transient or permanent residents.

GROWER/PROCESSOR — A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which is registered by the DOH under the Act⁵⁸ to grow and process medical marijuana. The term does not include a health care medical marijuana organization under Chapter 19 of the Act. **[Added 8-10-2017 by Ord. No. 2017-01]**

GROWER/PROCESSOR FACILITY — Any building or structure used to grow medical marijuana by a licensed grower/processor that has a current and valid license from the DOH pursuant to the Act.⁵⁹ **[Added 8-10-2017 by Ord. No. 2017-01]**

GUEST ACCOMMODATIONS — See "bed-and-breakfast," "hotel," "motel."

HANDICAPPED — Anyone with a physical or mental disability that substantially impairs or restricts one or more of such major life activities such as walking, seeing, hearing, speaking, working or learning.

HEALTH CARE FACILITY — A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including a general hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, chronic disease hospital, maternity hospital, birth center dispensary, home health care agency, personal care boarding home. All care for which a state license is required shall be provided by properly licensed personnel, including nurse practitioners. (Also see "institutional uses.")

HEALTH SERVICES — Establishments primarily engaged in furnishing medical, surgical or other services to individuals, including the offices of physicians, dentists and other licensed health practitioners, medical and dental laboratories, out-patient care facilities, blood banks and oxygen and miscellaneous types of medical supplies and services.

HEIGHT OF BUILDING — The vertical distance measured from the average elevation of the existing grade at the location of the building to the highest point of a flat or multilevel roof or, for gable hip or gambrel roofs, to mean height between the eaves and ridge. Residential chimneys, mechanical penthouses and similar projections not intended for human occupancy shall be excluded.

HELIPORT, COMMERCIAL — A landing area for helicopters which includes facilities for fueling, repair and storage of helicopters and which is licensed by the PADOT.

HELIPORT, PERSONAL USE — A heliport landing area (sometimes known as a helistop) licensed by the Pennsylvania Department of Transportation (PADOT) for the purpose of picking upon or discharging passengers or cargo. No fueling, helicopter repair or storage area(s) are permitted in conjunction with the operation of a personal use heliport.

HISTORIC EDUCATIONAL FACILITY — A facility operated on a not-for-profit basis by an organization or an individual for the purpose of providing an educational historic setting.

HISTORIC STRUCTURE — Any structure that is:

58. Editor's Note: See 35 P.S. § 10231.101 et seq.

59. Editor's Note: See 35 P.S. § 10231.101 et seq.

- 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 with historic preservation programs which have been approved by the Secretary of Interior.
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior.
 - (2) Directly by the Secretary of the Interior in States without approved programs.

HOME OCCUPATION — The accessory use of a residence involving the conduct of an art or profession, the offering of a service, the conduct of a business, or the production of handicrafts on a residential site, pursuant to the provisions of Article VII of this chapter. The use is incidental and secondary to the use of the dwelling for residential purposes, and shall not change the character of the residential use or adversely affect the uses permitted in the residential district of which it is a part.

HOMEOWNERS' ASSOCIATION (HOA) — A community association combining individual homeownership with shared use or ownership of common property and facilities. The homeowner owns the lot, including the interior and exterior of the individual home, while the association owns and maintains the common facilities.

HOTEL — An establishment provided transient accommodations, containing five or more rental rooms or suites, where access to rooms is provided through a lobby and internal hallways and the building height is more than two stories. Meeting rooms, banquet facilities and ancillary commercial shops are often provided within the building, with internal hallway access.

IMPERVIOUS COVERAGE — A surface coverage that prevents the infiltration and/or percolation of water into the ground. Impervious surfaces include, but are not limited to, streets, sidewalks, pavements, driveway areas or roofs. Any surface areas designed to be compacted gravel or crushed stone shall be regarded as impervious surface coverage. The percentage of impervious surface coverage is determined by dividing the square footage of impervious surface coverage by the net lot area. **[Amended 1-14-2010 by Ord. No. 2010-01]**

IMPROVEMENTS — The physical additions, installation and changes required to render land suitable for the use proposed, including streets, curbs, sidewalks, utilities and drainage facilities.

INDUSTRY — Those fields of economic activity, including fishing, hunting and trapping, mining, construction, manufacturing, transportation, communication, utility services and wholesale trade. (See "industry, light" and "industry, heavy.")

INDUSTRY, LIGHT — Industrial activities which are carried out entirely within an enclosed building and involve no outdoor processes or outdoor storage of primary raw materials.

INDUSTRY, HEAVY — Industrial activities which do not meet the definition of "light, industry."

INSTITUTIONAL USES — Uses with specialized definitions including the following:

- A. INTERMEDIATE CARE FACILITY — A facility that provides nursing care and related medication or other personal health services on a regular basis to individuals who do not require a degree of care or treatment which a hospital or skilled nursing care facility is designed to provide, but who, because of their mental or physical disability, require hospital or skilled nursing services within the context of a planned program of care and administrative management, supervised on a continuous twenty-four-hour basis in an institutional setting. [Skilled nursing and personal care facility definitions are drawn from state legislation (House Bill No. 1278,

effective December 22, 1988) regulating personal care facilities].

- B. PERSONAL CARE FACILITY — A premises in which food, shelter and personal assistance or supervision are provided for a period exceeding 24 hours, for four or more adults who are not relatives of the operator, and who do not require the services of a skilled nursing or intermediate care facility, but who do require assistance or supervision in matters such as dressing, bathing, diet or medication prescribed for self-administration.
- C. SKILLED NURSING CARE FACILITY or NURSING HOME — A premises in which nursing care and related medical or other health services are provided, for a period exceeding 24 hours, for two or more individuals, who are not relatives of the operator, who are not acutely ill or in need of hospitalization, but who, because of age, illness, disease, injury, convalescence or physical or mental infirmity need such care.
- D. CONTINUING CARE RETIREMENT COMMUNITY (CCRC) — A development, licensed as required, which: **[Added 6-13-2013 by Ord. No. 2013-02]**
 - (1) Is operated as an integrated unit on one or more adjacent parcels of land, under common ownership;
 - (2) Provides a range of housing, care and services to and for the elderly, handicapped and/or mentally ill, together with a variety of ancillary facilities intended to meet the social, recreational, cultural and religious needs of the residents; and
 - (3) Provides, as part of such care, three levels of health care, including independent living, assisted living (also referred to as a "personal care facility") and long-term and short-term skilled nursing care.
- E. TRADITIONAL NEIGHBORHOOD DESIGN (TND) OPTION WITHIN A CONTINUING CARE RETIREMENT COMMUNITY (CCRC) — A mix of diverse but compatible types of residential development provided as part of and only within a new or existing continuing care retirement community, whether proposed as part of the initial development of the continuing care retirement community or thereafter, and whether proposed on property which was part of such initial development or thereafter acquired for present or future use as part of such retirement community development. A particular traditional neighborhood design option within a continuing care retirement community may propose one or more dwelling types that will be added to existing or future proposed diverse but compatible housing in the continuing care retirement community. **[Added 6-13-2013 by Ord. No. 2013-02]**
- F. INDEPENDENT LIVING FACILITY — A residential facility which: (1) is designed and managed for adult residents who are elderly, handicapped and/or mentally ill, but who are independently mobile and not in need of supervision or the services of a skilled nursing home, personal care facility or intermediate care facility; and (2) provides self-sufficient residential opportunities for the residents while, at the same time, providing access to limited nonmedical services needed to sustain the activities of daily living. Such a facility may include single-family detached, single-family attached, or two-family buildings, elder cottages, and multifamily or apartment dwellings. **[Added 6-13-2013 by Ord. No. 2013-02]**

INSTRUMENT OF TRANSFER — The document provided by the Township for the transfer of development rights. **[Added 5-12-2011 by Ord. No. 2011-02]**

INTEGRATED INDUSTRIAL PARK DEVELOPMENT — A collection of adjacent parcels containing at least 15 acres and at least three light industrial uses, planned and developed as an integrated unit within the industrial zoning district.

JUNK — Includes refuse, rubbish, scrap and debris, whether recyclable or not, and made from any or all material other than solid waste as defined herein. It shall not include refuse or garbage kept in proper containers for the purposes of prompt disposal or collection.

JUNKYARD — Any outdoor establishment or place of business which is maintained, used or operated for storing, keeping, buying or selling junk, including junked motor vehicles and their parts.

KENNEL, ANIMAL — Any structure or premises in which more than four dogs or other domesticated small animals more than six months old are housed, groomed, bred, boarded, trained or sold.

LAND DEVELOPMENT — Any of the following activities:

- A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
 - (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure.
 - (2) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups or other features.
- B. A subdivision of land.
- C. Except that the following activities shall not be considered land development:
 - (1) The conversion of an existing single-family detached dwelling or single-family semidetached dwelling into not more than three residential units, unless such units are intended to be a condominium.
 - (2) The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building.

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.

LOADING SPACE — A space, accessible from a street, in a building or on a lot, for the temporary use of vehicles while loading or unloading materials or merchandise.

LOT — A designated parcel, tract or area of land established by a plat or otherwise permitted by law and to be used, developed or built upon as a unit.

LOT AREA, GROSS — Calculated land area contained within the deeded boundaries of a lot or tract.

LOT AREA, NET — Acreage available for development after subtracting, from gross lot area, areas of public and private rights-of-way, easements, ultimate rights-of-way, steep slopes (as defined in Article XV, Steep Slope Conservation District), riparian conservation corridor (as defined in Article XXIV, Riparian Conservation Corridor), floodplains (as defined in Article XVI, Floodplain Conservation District), existing watercourses, wetlands, ponds, lakes and access strips for flag lots. This definition shall be used to calculate net tract acreage, developable lot area. **[Amended 3-8-2007 by Ord. No. 2007-04; 9-10-2009 by Ord. No. 2009-07; 1-14-2010 by Ord. No. 2010-01]**

LOT, FLAG — A lot which conforms in all respects to the dimensional requirements of the zoning district in which it is located, except that the only road frontage and access is limited to an access strip. This definition does not include the commonly used wedge-shaped lots located on a cul-de-sac turnaround. Also known as a "rear lot" or "interior lot."

LOT LINE — Any property boundary line of a lot, further defined as follows:

- A. Front lot line is the line identical with the ultimate right-of-way line (also known as street line). For a flag lot, the front lot line shall be that boundary of the buildable part of the lot closest to and approximately parallel to the ultimate right-of-way line.
- B. Rear lot line is the line or lines most nearly parallel or concentric to the front lot line.
- C. Side lot lines are the lines most nearly perpendicular or radial to the front lot line. On a corner lot, the side lot

line shall be the line or lines most nearly perpendicular or radial to the higher classification of street, where applicable. The remaining line shall be considered the rear lot line.

D. A lot which fronts on more than one street shall have a front lot line on each street frontage.

LOT WIDTH — The horizontal distance between side lot lines, measured at the building line, parallel or concentric to the ultimate right-of-way line. For a corner lot, lot width shall be measured parallel or concentric to the ultimate right-of-way line of the higher classification of street, where applicable.

MANUFACTURED HOME — A transportable, single-family dwelling intended for permanent occupancy, office or place of assembly, contained in one or more sections, built on a permanent chassis which arrives at a site completed and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

MANUFACTURED HOME PARK — A parcel of land under single ownership which has been planned and improved for the placement of two or more manufactured homes for nontransient use.

MANUFACTURING — The process or operation of making wares or products from raw materials by hand or by the use of machine(s).

MEDICAL MARIJUANA ACT — Act 16 of 2016, 35 P.S. § 10231.101 et seq. (the "Act").**[Added 8-10-2017 by Ord. No. 2017-01]**

MEDICAL MARIJUANA FACILITY — A dispensary facility or a grower/processor facility.**[Added 8-10-2017 by Ord. No. 2017-01]**

MINI-PARK — An area, ranging in size from 2,500 to 10,000 square feet, designed to meet passive or active recreational needs of the immediately surrounding community.**[Added 5-14-2015 by Ord. No. 2015-02]**

MOBILE HOME — A transportable, single-family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separate for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation. May not meet local building codes but does meet the standards of the U.S. Department of Housing and Urban Development, as indicated by the Structural Engineering Bulletin(s) provided to the Board of Supervisors by the applicant.

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

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

MODULAR HOME — A single-family dwelling unit for permanent occupancy, made by assembling one or more factory-produced, three dimensional sections into one integral building, not capable of easily being separated for repeated towing, whose construction materials must conform to those of conventionally-built units, as required by the Township's building code (Chapter 112), and must be placed on a permanent foundation. A copy of the Structural Engineering Bulletin(s) must be provided to the Board of Supervisors, indicating approval of the dwelling or its occupants by the U.S. Department of Housing and Urban Development.

MOTEL — An establishment providing transient accommodations, containing more than five rental rooms or suites, where access to rooms is from directly outside the building. Building height is typically only one or two stories, and the facility is generally served by a central office rather than a lobby.

MOTOR VEHICLES SALES AGENCY — A commercial use for the sale and repair of motor vehicles, including new and used cars, trucks, recreational vehicles, and/or farm equipment; having both indoor and outdoor display areas and providing maintenance and repair services for vehicle owners.

MOTOR VEHICLES — All vehicles propelled or drawn by power other than muscular power and intended for use on public highways or in agricultural activities.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the date of this chapter, and includes any subsequent improvements thereto.

NO-IMPACT, HOME-BASED BUSINESS — A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling, and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with a 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 of inventory of a substantial nature.
- D. There shall be no outside appearance of the 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, which is 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 25% of the habitable floor area.
- H. The business may not involve any illegal activity.

NONCONFORMING LOT — A lot the area or dimension of which was lawful prior to the adoption or amendment of this chapter, but which 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 manifestly not designed to comply with the applicable use or extent of use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such structure was lawfully in existence prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation. Such nonconforming structures include nonconforming signs.

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

OCTAVE BAND — A means of dividing the range of sound frequencies into octaves in order to classify sound according to pitch.

OPEN SPACE — Public or private land and/or water designated for the use and enjoyment of Township residents and/or the general public, incorporating natural features such as woodland, stream or meadows and including Township parks, trails and other recreational facilities. Also includes "common open space," as defined below, and other private lands which are available for the use of Township residents (i.e., through access easements). Also known as "open land."

OPEN SPACE, COMMON — A parcel or parcels of land within a development site designed and intended for the use or enjoyment of the residents of the development, not including streets, off-street parking areas, and areas set aside for public facilities. Common open space shall be substantially free of structures but may contain such recreational facilities for residents as are shown in the approved development plan.

PARK — Any area which is predominately open space, is used principally for active or passive recreation, and is not used for a profit-making purpose.

PARKING FACILITIES — Outdoor areas or specially designed buildings or garages used for the storage of vehicles.

PARKING SPACE — A reasonably level area outside a street right-of-way, available for the parking of one motor vehicle and consisting of an all-weather surface, either covered garage space or uncovered parking lot space, which has access from a street, alley or driveway, exclusive of passageways, driveways or other means of circulation or access. **[Amended 1-14-2010 by Ord. No. 2010-01]**

PARTICULATE MATTER — Material other than water which is suspended in or discharged into the atmosphere in a finely divided form, as a liquid or solid.

PENNSYLVANIA MUNICIPALITIES PLANNING CODE — The Municipalities Planning Code, originally enacted as Act 247 of 1968, which establishes the basic authority for the exercise of municipal land use controls in Pennsylvania. All subsequent amendments are included. Abbreviated as "MPC" or "Act 247."

PERMIT — A document issued by the proper authority authorizing the applicant to undertake specified activities.

- A. BUILDING PERMIT — A permit indicating that a proposed construction, alteration or reconstruction of a structure is in accordance with construction provisions of the Building Code (see Chapter 112, Article II), and which authorizes an applicant to commence with said construction, alteration or reconstruction.
- B. USE AND OCCUPANCY PERMIT — Generally, a permit issued upon completion of the construction of any structure, indicating that the premises comply with the provisions of this chapter; or issued in approval of a reoccupancy, a new use, or a change in use of buildings or land, indicating compliance with this chapter. Informally known as a "zoning permit."

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.

PERSONAL SERVICES — A business which provides a service oriented to personal needs, and not primarily involving retail sales of goods or professional advisory services. Includes barber, beauty salon, bakery, tailor, dressmaker, shoe repair, photographer, travel agent, jewelry and watch repair or similar service uses.

PLACE OF WORSHIP — A building or buildings designed and constructed primarily for organized religious services and accessory uses associated therewith. Includes church, chapel, synagogue, temple and other forms of terminology.

PLAN — A graphic representation of a proposal for subdivision and/or land development, including necessary written notes.

PLANNING COMMISSION — The Upper Frederick Township Planning Commission.

PRINCIPAL BUILDING — A building in which is conducted the principal use of the lot on which it is located.

PRINCIPAL USE — The single dominant use or single main use on a lot.

PROFESSIONAL OFFICE — A building in which services are performed by a member of a profession, including an accountant, architect, author, community planner, dentist, engineer, insurance agent, landscape architect, lawyer, notary, optometrist, physician, undertaker, real estate broker/appraiser, licensed health practitioner or ordained clergy.

PROPERTY LINE — A recorded boundary of a lot. Any property line which abuts a street or other public way shall be measured from the right-of-way.

PUBLIC HEARING — A formal meeting held pursuant to public notice by the Board of Supervisors, Planning Commission or other Township agency, intended to inform and obtain public comment, prior to taking action in accordance with the Pennsylvania Municipalities Planning Code, as amended.

PUBLIC MEETING — A forum held pursuant to notice under the act of July 3, 1986, (P.L. 388, No. 84), known as the "Sunshine Act." (. . . any prearranged gathering of an agency which is attended or participated in by a quorum of the members of an agency, held for the purpose of deliberating agency business or taking official action.")

PUBLIC NOTICE — Notice published once a week for two successive weeks in a newspaper of general circulation in the Township. Such notice shall state the time and place of the hearing and particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.

RECEIVING DISTRICT — One or more districts in which the development rights of parcels in the sending district may be used.[**Added 5-12-2011 by Ord. No. 2011-02**]

RECEIVING PARCEL — A parcel of land in the receiving district that is the subject of a transfer of development rights, where the owner of the parcel is receiving development rights, directly or by intermediate transfers, from a sending parcel, and on which increased density, and/or intensity, or an otherwise nonpermitted use, is allowed by reason of the transfer of development rights.[**Added 5-12-2011 by Ord. No. 2011-02**]

RECREATION AREAS — The following definitions apply to recreation areas and facilities as governed by this chapter:

- A. **ACTIVE RECREATION AREAS** — Generally includes areas used for group or team activities, especially those involving sports or playground equipment, and generating significant movement and/or noise from participation. May include hiking, biking and fitness trails.
- B. **PASSIVE RECREATION AREAS** — Generally includes areas for quiet, individual or small group activity ranging from sitting areas through hiking/biking trails and may include a variety of activities such as fishing, birdwatching, picnicking and sunbathing.
- C. **PLAYFIELD** — A neighborhood or park play area for informal active recreation purposes such as ball games and other activities requiring a large lawn area, away from homes or other buildings to reduce potential for conflicts between active recreation and residential use.
- D. **PLAYGROUND** — A confined, developed, neighborhood or park play area primarily for use by school-age children with or without supervision and equipped with a variety of traditional and/or nontraditional play equipment, permanently affixed to the land.
- E. **TOT LOT** — A confined, developed, neighborhood or park play area primarily for use by preschool children under the supervision of parents or guardian.

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.

RELATIVE — A parent, child, stepparent, stepchild, grandparent, grandchild, brother, sister, half-brother, half-sister, stepbrother, stepsister, first cousin, aunt, uncle, niece or nephew.

RESIDENTIAL DENSITY LIMIT — The maximum permitted ratio of dwelling units to land area in a particular zoning district.

REVERSE FRONTAGE LOTTING — Lotting which extend between two streets of differing classifications, with vehicular access provided from the lesser street, in order to promote traffic flow and safety on the greater street.

SALVAGE — See "waste."

SANITARY SEWER SYSTEM — A centralized sanitary sewer system or a comparable common or package sanitary sewer facility approved by the appropriate governmental health agency.

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

SATELLITE USE — A commercial establishment in a shopping center, located in a freestanding building independent of other buildings and frequently near the road frontage of the center. Satellite uses are generally characterized by a need for nearby parking, rapid customer turnover and vehicular service bays or drive-through services.

SENDING DISTRICT — One or more districts in which the development rights of parcels in the district may be designated for use in one or more receiving districts. **[Added 5-12-2011 by Ord. No. 2011-02]**

SENDING PARCEL — A parcel of land in the sending district that is the subject of a transfer of development rights, where the owner of the parcel is conveying development rights of the parcel, and on which those rights so conveyed are extinguished and may not be used by reason of the transfer of development rights. **[Added 5-12-2011 by Ord. No. 2011-02]**

SEWAGE FACILITIES, CENTRAL — A sewage disposal system in compliance with all state and local regulations, approved by the Pennsylvania Department of Environmental Protection, an applicable sewer authority and providing service to multiple customers. Includes "public sewer facilities and common sewage facilities."

SEWAGE FACILITIES, COMMON — A sewage disposal system independent of the public sewer system, serving more than one residence or business through a community treatment plant, land application system or similar "satellite" system.

SEWER FACILITIES, PUBLIC — The central sewage system operated by a municipal authority.

SHOPPING CENTER — A group of commercial establishments, planned and developed as an integrated architectural and functional unit, providing convenient onsite parking and controlled, common vehicular and pedestrian access.

SIGN — Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images. Sign types and sign-related terms are further defined in Article XX, herein.

SINGLE AND SEPARATE OWNERSHIP — The ownership of a contiguous land area as one or more lots by one owner, whether a person, partnership, corporation or other legal entity, irrespective of the fact that parts of the land may have been acquired at different times or that the area may have been divided into parts on any plan or plat.

SOIL SURVEY — The Montgomery County Soil Survey of 1967, prepared by the Soil Conservation Service of the United States Department of Agriculture, as amended.

SPECIAL EXCEPTION — A form of permitted use, authorized by this chapter, under the jurisdiction of the Zoning Hearing Board. The Zoning Hearing Board is empowered to grant permission for special exceptions, consistent with the public interest, in compliance with standards and procedures established in this chapter.

SPECIALIZED RETAIL — Retail shops and stores selling gifts, novelties, flowers, books, periodicals, jewelry, apparel, tobacco, toys, crafts, hobby supplies, cameras and film, stationary and antiques stores. Stores in excess of 7,500 square feet in a single structure are not included in this use. Adult uses are excluded.

STEEP SLOPE — A grade of 15% or greater as determined by the soil survey or accurate contour mapping. Fifteen percent is a change in elevation of 15 feet within 100 feet of horizontal distance, or the equivalent rate of change within a shorter or longer distance.

STORY — That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, the space between the floor and ceiling next above it and including those basements used for the principle use.

STREAM, PERENNIAL — A stream with a defined channel carrying water at least 90% of the time. The known perennial streams in the Township are identified on the Upper Frederick Township Riparian Corridor Conservation Map. **[Added 9-10-2009 by Ord. No. 2009-07]**

STREAM, INTERMITTENT — A stream which carries water only a portion of the year and which may cease to flow occasionally or seasonally because bed seepage and/or evapotranspiration exceed the water supply. Those intermittent streams with an upstream drainage area of 75 acres or more, measured from where the stream exits the subject property, shall also be subject to the requirements of the Riparian Corridor Conservation District. **[Added 9-10-2009 by Ord. No. 2009-07]**

STREET — A public or private right-of-way serving primarily as a means of vehicular and pedestrian travel, furnishing access to abutting properties, and which may also be used for utilities, shade trees and stormwater control. Includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private.

STREET LINE — A line identical with the ultimate right-of-way line.

STREET RIGHTS-OF-WAY — Rights-of-way for street purpose are defined as follows:

- A. EQUIVALENT RIGHT-OF-WAY — A street right-of-way required to be reserved where private streets function, in accordance with the street classifications contained in Chapter 240, Subdivision and Land Development.
- B. LEGAL RIGHT-OF-WAY — The street right-of-way legally in the public domain at the time a plan is submitted.
- C. ULTIMATE RIGHT-OF-WAY — The street right-of-way projected as necessary for adequate handling of anticipated maximum traffic volumes.

STRUCTURE — Any man-made object having an ascertainable, stationary location on or in land or water, whether or not affixed to the land. For floodplain management purposes, a structure means anything constructed or erected on the ground or attached to the ground including, but not limited to, buildings, sheds, manufactured homes and other similar items.

SUBDIVISION — The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other division of land, including changes in existing lot line 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 10 acres, not involving any new street or easement of access or any residential dwelling shall be exempted.

- A. CONVENTIONAL LOTTING, SUBDIVISION or DEVELOPMENT — Conventional lotting spreads similar-sized, minimum dimension building lots rather uniformly across an entire tract, provides no open space or recreation areas, and includes wetlands, floodplains and/or steep slopes in yard areas. The maximum number of lots is determined by "fitting-in" as many lots as can be done in compliance with the dimensional standards of the zoning district.
 - (1) Piecemeal subdivision is a form of conventional lotting where only one or a few building lots at a time are subdivided off from a large tract without an overall plan.
 - (2) Conventional lotting may also be done to create a few "oversized" lots rather than many minimum sized rates.
- B. FLEXIBLE LOTTING, SUBDIVISION or DEVELOPMENT — Flexible lotting predetermines the

maximum number of building lots, then permits their creation at standards that allow design flexibility, facilitate preservation of natural features, provide visual variety and areas for recreation and permit clearly defined neighborhoods in a subdivision.

- (1) Clustering is a form of flexible lotting that requires common open space areas.
- (2) Lot averaging is a form of flexible lotting that permits preservation of open space on privately owned lots, some of which may be significantly larger than the minimum dimensional standards require.

SUBSTANTIAL CONSTRUCTION — Construction on an approved project is recognized as having begun when foundation footings are poured or other structural supports are installed and such footings or supports have passed any required inspection.

SUPERVISORS — The duly-elected governing body of Upper Frederick Township. Also known as the Board of Supervisors.

SWIMMING POOL — A body of water or receptacle for water having a depth at any point greater than 30 inches which is primarily used or intended to be used for swimming or bathing.

TATTOO PARLOR (INCLUDES BODY PIERCING STUDIO) — An establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following:**[Added 3-8-2007 by Ord. No. 2007-04]**

- A. Placing of designs, letters, figures, symbols or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; or
- B. Creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

TDR CERTIFICATE — The Township's documentation of the number of development rights that can be severed from a specific property in the sending area.**[Added 5-12-2011 by Ord. No. 2011-02]**

TELECOMMUNICATIONS — The science or technology of communications by electronic transmission of impulses as by telegraph, cable, telephone, radio, television, microwave, earth station broadcast/cable television communications and other similar technology not otherwise enumerated and as may evolve after enactment of this article.

TEMPORARY OR SEASONAL OCCUPANCY — The use of any premises or structure for living and/or sleeping purposes for less than 100 consecutive days in any calendar year.

TOWNSHIP DESIGNEE — An employee or consultant of the Township designated by the Township to represent the Township's interests. A designee may include the Township Engineer, Township Planner, Township Zoning Officer and the Township Solicitor.**[Added 5-12-2011 by Ord. No. 2011-02]**

TRANSFER OF DEVELOPMENT RIGHTS — The procedure prescribed by this chapter whereby the owner of a parcel in the sending district may convey development rights to the owner of a parcel in the receiving district or other person or entity, whereby the development rights so conveyed are extinguished on the sending parcel and may be exercised on the receiving parcel in addition to the development rights already existing regarding that parcel or may be held by the receiving person or entity.**[Added 5-12-2011 by Ord. No. 2011-02]**

ULTIMATE DEVELOPMENT PLAN — A plan required under the neighborhood lotting requirements found in the R-80 Land Preservation District, showing the design of all roads, neighborhoods, lots and open space areas as the applicant intends them to be when the tract is ultimately developed to provide the maximum permitted number of lots.

ULTIMATE RIGHT-OF-WAY LINE — The dividing line between a lot and the outside limit of the ultimate right-of-way of a public street. Identical with street line. See "traffic-related" definitions in § 285-74 of this chapter.

UTILITY FACILITIES — Above ground structures or facilities (other than buildings, unless such buildings are used for storage incidental to the operation of such structures or facilities) owned by a governmental entity, a

nonprofit organization, corporation or any entity defined as a public utility for any purpose by the Pennsylvania Public Utilities Commission and used in connection the production, generation, transmission, delivery, collection or storage of water, sewage, electricity, gas, oil or communication signals. Excepted are utility transmission lines and supporting structures.

VARIANCE — The granting of permission by the Zoning Hearing Board to use or alter land or structures which requires a variation from the strict application of a requirements of this chapter. Variances are granted only if specific requirements are met, in accordance with the provisions of this chapter.

VEGETATIVE COVER — The land area devoted to vegetative coverage, including lawns, trees, shrubs, flowers and gardens.

VEHICLE DISPLAY AREA — An open area, other than a street or parking area, used for display, sale or rental of new or used motor vehicles, recreational vehicles or boats in operable condition, and where no major repairs are done.

VIEWSHED — A geographical area that is visible from one or more viewing points that is considered valuable or worth preserving for aesthetic reasons, including all surrounding points that are within the line of sight of the viewing point.**[Added 5-14-2015 by Ord. No. 2015-02]**

VISUAL SCREEN — A barrier whose purpose is to obscure a view; generally comprised of plant materials suitable for the purpose.

WAREHOUSE, MINI — A building or group of buildings situated in a controlled-access compound which are divided into individual separate access units which are rented or leased for the storage of tangible personal property.

WAREHOUSE — A building or group of buildings primarily used for the commercial storage, transfer and distribution of products and materials.

WASTE — See Article XXI, Solid Waste Disposal and Recycling, for the definition of "waste" and other waste-related terms.

WATER SUPPLY SYSTEM — A system designed to transmit water from a source to users, in compliance with the requirements of the appropriate state agencies and the local authorities. Includes public water facilities and common water facilities.

WATERCOURSE — A place intended or used for the directed surface flow of water, including permanent and intermittent streams, brooks, creeks, channels, ditches, swales and rivers.

WETLANDS — Areas that are 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 and similar areas. Wetlands are considered a body of water, which are included in the definition of regulated waters of the Commonwealth.**[Amended 9-10-2009 by Ord. No. 2009-07]**

WHOLESALE BUSINESS — Places of business primarily engaged in selling merchandise to retailers to industrial, commercial, institutional or professional business users or to other wholesalers or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WOODLANDS — Areas, groves or stands of mature or largely mature trees (i.e., larger than six inches in caliper) covering an area greater than 1/4 of an acre, or groves of mature trees (greater than 12 inches in caliper) consisting of more than 10 individual specimens.

YARD — The area(s) of a lot which must remain free of buildings or other structures, and may be used as lawn or planted area, parking or driveway space, in compliance with the provisions of this chapter. A yard is measured at right angles from the right-of-way or lot line to the nearest building wall. Architectural elements such as cornices, entrance hoods, overhangs or eaves may extend no more than three feet into the required yard area. Yard is further defined as follows:

A. **FRONT YARD** — A yard which extends across the full width of a lot, for a depth equal to the minimum

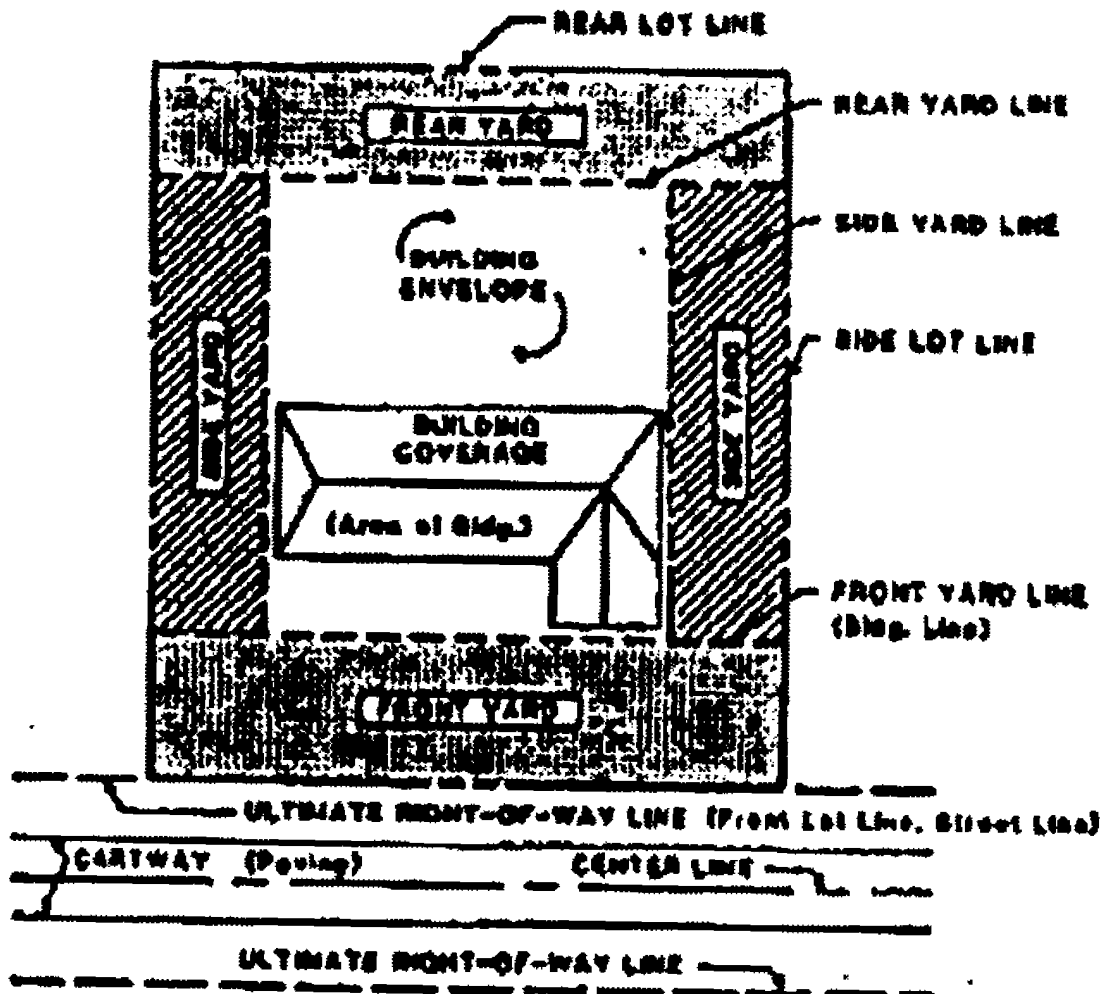
front yard setback distance required by the specific regulations of this chapter, measured from the ultimate right-of-way line.

- B. REAR YARD — A yard which extends across the full width of a lot, for a depth equal to the minimum rear yard setback distance required by the specific regulations of this chapter, measured from the rear lot line.
- C. SIDE YARD — A yard which extends along a side lot line from the required front yard to the required rear yard, the minimum width of which shall be the minimum specified by the regulations of this chapter, measured from the side lot line.

YARD LINE — A line which locates and delineates the minimum yard setback requirements, measured from the ultimate right-of-way, rear and side lot lines.

ZONING OFFICER — The administrative officer charged by the Board of Supervisors with the duty of enforcing the provisions of this chapter.

ILLUSTRATION OF SELECTED ZONING ORDINANCE DEFINITIONS



ARTICLE VI
Nonconforming Status

§ 285-42. Nonconforming status. [Amended 11-9-1995 by Ord. No. 95-8]

All buildings, structures, uses of land, uses of buildings, lots and signs that do not conform to all of the applicable regulations of the district in which they are located or other applicable requirements of this chapter shall be considered as nonconforming provided that:

- A. They lawfully existed on the date of passage of this chapter.
- B. They lawfully existed on the date of passage of a text or map amendment to this chapter, which amendment caused the nonconforming status.

§ 285-43. Nonconforming classifications. [Amended 11-9-1995 by Ord. No. 95-8]

- A. Nonconforming use. The existing lawful use of land and/or buildings and/or structures upon the land which does not conform to any of the permitted uses of the district in which it is located, and which has not been authorized by the issuance of a variance.
- B. Nonconforming building or structure. Any existing lawful building or structure that does not conform to the height, location, size, bulk or other dimensional requirements of the district in which it is located. This does not include signs.
- C. Nonconforming lot. Any existing lawful lot which does not conform to the area and/or width requirements for lots in the district in which it is located.
- D. Nonconforming signs. Any sign, billboard or advertising device lawfully existing at the time of the passing of this chapter that does not conform in use, location, height or size with the regulations of this chapter shall be considered a nonconforming sign and may continue in such use in its present location.
- E. Temporary nonconforming use. A temporary nonconforming use, which will benefit the public health or welfare or promote proper development of a district in conformity with the intent of this chapter, may be permitted for a period of not more than 90 days on the approval of an application for a special exception by the Zoning Hearing Board.

§ 285-44. Nonconforming regulations. [Amended 11-9-1995 by Ord. No. 95-8; 1-8-2004 by Ord. No. 04-01]

The following regulations shall govern all properties to which nonconforming status is applied:

- A. Nonconforming status may continue, and a property may continue to be used as nonconforming, until it complies with the requirements of this chapter.
- B. Change of use.
 - (1) A nonconforming use may be changed to another nonconforming use which is equally appropriate or more appropriate to the district in which the property is located, and is no more detrimental than the existing nonconforming use, as a special exception by the Zoning Hearing Board.
 - (2) A nonconforming use shall not be changed to another nonconforming use of a lower (less restrictive) land use classification.
 - (3) If a nonconforming use is changed to a conforming use, then the previous nonconforming status shall become null and void in accordance with Subsection C, below.
- C. Discontinuance. A nonconforming use, when discontinued, may be resumed any time within one year from such discontinuance, but not thereafter. The resumption may be of the same class or use, but shall not be less

appropriate or more detrimental than the previous nonconforming use.

D. Extension or expansion. A nonconforming use, building or structure, not including signs, may be extended or expanded in compliance with the following:

(1) The parcel on which extension or expansion occurs shall include only that lot, held in single and separate ownership, on which the use, building or structure existed at the time it became nonconforming. Expansion onto adjoining lots is prohibited.

(2) Nonconforming use of a building may be extended throughout the building.

(3) A nonconforming use may be extended to a new building on the same lot, in compliance with Subsection D(4) and (5), herein, and provided that the nonconforming use continues in the existing building.

(4) Physical expansion of a nonconforming building or a nonconforming use shall be permitted only one time, and shall be limited to 25% of the gross floor area of the existing building.

(5) In addition to Subsection D(1), (2), (3) and (4), above, nonconforming uses must comply with the following:

(a) Extension and/or expansion as permitted in Subsections D(1), (2), (3) and (4), above, shall be permitted by special exception only to the extent that all new construction shall comply with the dimensional standards of the district in which the use is located or the district in which the use is permitted, whichever is more restrictive.

(b) When a nonconforming use is expanded, the applicant must comply with all performance standards of the district in which the use is permitted or the district in which the use is located, whichever is more restrictive. The performance standards include, but are not limited to, the following:

[1] Parking.

[2] Landscaping.

[3] Lighting.

[4] Signage.

[5] Noise.

[6] Building and impervious surface coverage. **[Amended 1-14-2010 by Ord. No. 2010-01]**

(6) In addition to Subsection D(1), (2), (3) and (4), above, in cases where a building or structure is nonconforming as to front, side or rear yard setbacks, an addition may be built on a line with the existing building, as long as it does not create an additional encroachment into a required yard. Any further encroachment with regard to required setbacks will require a variance. Any expansion under this section shall comply with the following standards:

(a) Expansion shall not be permitted to extend closer to the road ultimate right-of-way than the front wall of the existing dwelling closest to the road.

(b) Expansion shall not be permitted to create a new violation of the minimum side yard setback. An existing dwelling that violates the side yard may be expanded to the rear along the side yard building setback established by the wall of the existing building.

(c) An existing dwelling that violates the rear yard may be expanded to the sides along the rear yard building setback established by the rear wall of the existing building.

E. Additional building regulations. The following regulations shall apply to buildings:

- (1) When new ordinance provisions are adopted and affect planned construction which has not been completed:
 - (a) Buildings under construction, to the extent of completion of footings, may be completed as nonconforming buildings provided that valid building permits have been issued for those buildings.
 - (b) Buildings not yet under construction shall be built in conformance to this chapter.
 - (c) The use or uses of such buildings shall comply with the permitted uses for the district in which they are located.
- (2) Nonconforming primary structures damaged or destroyed by fire, explosion, accident or calamity (as contrasted to deterioration due to time or neglect) may be reconstructed and used as before, provided that:
 - (a) The reconstructed building shall not exceed the dimensions of the damaged or destroyed building, including height, width, depth and volume.
 - (b) Building reconstruction shall be started within one year from the date the building was damaged or destroyed, and shall be carried out without interruption.
 - (c) The building will pose no hazards to safety by virtue of its location.
- (3) Legally condemned nonconforming buildings shall not be rebuilt or used except in conformance with this chapter.

F. Development of nonconforming lots. A single-family detached dwelling unit may be constructed on a nonconforming lot in a residential district in accordance with the dimensional requirements of the district. Relief from dimensional requirements which present a hardship may be sought through the Zoning Hearing Board variance procedure.

G. Contiguous undeveloped lots. Where two or more contiguous lots are held in single ownership, which lots are individually not of the required minimum area or width for the district in which they are situated, such lots may be developed only in groups thereof in order to provide the minimum lot area and width required. When all lots in single ownership are combined and still do not meet area and/or width requirements, they may be considered a single nonconforming lot in accordance with Subsection F, herein.

H. Nonconforming signs. If and when a nonconforming sign is replaced, the new sign shall comply with the requirements of this chapter. "Replacement" shall not include simply revising the text or color of the sign, but shall refer to structural replacement and/or relocation of the sign.

§ 285-45. Administration. [Amended 11-9-1995 by Ord. No. 95-8]

A. Registration. The Zoning Officer shall maintain a list and map of properties with nonconforming status, including uses, buildings, structures, lots and signs. For each property identified, the Zoning Officer shall have on file a written record documenting the evidence and reasoning that led to the assignment of nonconforming status.

B. Jurisdiction. In all matters pertaining to nonconforming status, the Zoning Officer shall make the initial determination.

- (1) The Zoning Officer may seek the advice of the Township Planning Commission, Township Solicitor and/or others in making a determination.
- (2) If it cannot be determined by means of positive documentation that a use or structure was in lawful existence at the time an ordinance or amendment would have rendered it nonconforming, the Zoning

Officer must refuse to confer nonconforming status.

- (3) If the applicant disagrees with the Zoning Officer's determination, the applicant may appeal to the Zoning Hearing Board as provided by law.
- (4) Appeals to the Zoning Hearing Board may be in the following forms:
 - (a) Request for an interpretation to determine whether or not the subject property qualifies as nonconforming.
 - (b) Request for special exception, as applicable under nonconforming regulations.
 - (c) Request for a variance from the nonconforming regulations otherwise applicable to the subject property.

ARTICLE VII
General Regulations

§ 285-46. Applicability of regulations.

The regulations contained in this article shall apply to the entire Township for the subjects covered herein. However, if a conflict occurs between the standards of the general regulations and any other standards of this chapter then the more restrictive standards shall apply. Subdivision and/or land development proposals are further regulated by Chapter 240, Subdivision and Land Development, of the Code of the Township of Upper Frederick. The following activities, among others, are considered land development:

- A. Addition of one or more buildings (except accessory buildings) to a lot which contains an existing building.
- B. Division of one or more buildings into spaces for leasehold, ownership or other forms of tenancy (except for residential conversions resulting in three or less dwelling units).
- C. Construction of one nonresidential building on a lot.

§ 285-47. Water supply and sewage disposal.

All development in the Township shall be served by water supply and sewage disposal facilities which are appropriate for the type of land use, physical characteristics of the land, location in the Township, and availability of existing water and sewage systems, and shall be further regulated by the requirements below:

- A. Individual onlot facilities. Individual onlot water supply and sewage disposal facilities shall be used in all zoning districts where central water and/or sewer facilities are not available. Written proof of compliance with the applicable state regulations must be provided to the Zoning Officer before occupancy permits will be issued.
- B. Facilities serving more than one lot, dwelling, use or building. Facilities under this heading may be classified as "common," "shared" or "central," and include public water supply and public sewage disposal, and shall comply with the following:
 - (1) These facilities shall not be located on building lots, but shall be located on a separate lot used only for these utilities, or for utilities and open space.
 - (2) Written proof of compliance with the applicable state regulations must be provided to the Zoning Officer before occupancy permits will be issued for development served by these facilities.
 - (3) These facilities shall comply with the requirements of § 285-54 herein regarding ownership and maintenance of common elements.
 - (4) Offsite central water and/or sewage facilities must be used for development when they are available.

§ 285-48. Access to public street.

Unless otherwise specified in this chapter, each and every lot shall abut a public street for at least 50 feet at the right-of-way line of the public street; and said 50 feet must be usable for purposes of ingress and egress to the lot.

§ 285-49. Corner lots.

A front yard setback shall be measured from the ultimate right-of-way for each lot line abutting a public or private right-of-way. The lot lines intersecting ultimate rights-of-way shall be treated as side lot lines. All other lot lines shall be considered rear lot lines.

§ 285-50. Flag lotting. [Amended 3-8-2007 by Ord. No. 2007-04]

The concept of flag lotting is permitted under this chapter in accordance with the following criteria and in compliance with § 285-48, Access to public street, other applicable requirements of this chapter, and the flag lotting provisions of Chapter 240, Subdivision and Land Development:

- A. Minimum lot area. No less than 80,000 square feet in net lot area shall be permitted as a flag lot. The access strip portion of the flag lot is not to be considered when calculating the net lot area.
- B. Front, side and rear yards. Front, side and rear yards shall all be in compliance with the dimensional standards applicable to the type of lot as listed below:
 - (1) Lot under conventional lotting (minimum net lot area of 80,000 square foot): 50 feet.
 - (2) Lot under rural lotting (minimum thirty-acre gross lot area): 150 feet.
- C. Shared driveways serving more than one single-family detached dwelling are prohibited.
- D. The access strip portion of the flag lot may not exceed 400 feet in length. All driveways shall satisfy the slope requirements of Chapter 235, Article III, Driveway Construction, of the Upper Frederick Township Code.
- E. Only one flag lot is permitted in any subdivision. Furthermore, in that subdivision, no additional flag lots shall be permitted in the future.

§ 285-51. Refuse collection facilities.

In all zoning districts, on land developed for nonresidential uses, refuse collection facilities must be provided by the applicant, either inside the building(s) or within an area enclosed by either walls or opaque fencing.

- A. These facilities shall be architecturally compatible with the building(s).
- B. Walls or fencing shall be designed to shield the refuse facilities from direct view from adjacent properties, to a height of at least six feet.
- C. These facilities shall be designed in a manner which can accommodate large collection trucks.
- D. Landscaping is encouraged around these facilities.
- E. Refuse facilities attached to, detached from or within buildings shall be subject to same building setback requirements.

§ 285-52. Landscaping and buffering.

All proposals subject to the requirements of this chapter shall be landscaped and buffered from adjacent properties in compliance with the requirements of Chapter 240, Subdivision and Land Development, of the Code of the Township of Upper Frederick.

§ 285-53. Open space regulations.

When open space or open land is required to be permanently preserved for common benefit and use by the requirements of this chapter, the regulations of this section shall apply.

- A. Open space characteristics. Open space shall be characterized by one or more of the following:
 - (1) Active and/or passive recreation areas.
 - (2) Environmentally sensitive and attractive areas such as:

- (a) Woodlands.
- (b) Lakes, ponds, streams.
- (c) Floodplain as defined in this chapter.
- (d) Slopes exceeding 15% as delineated by the Montgomery County Soil Survey, by accurate contour mapping on the applicant's plan, or otherwise in accordance with Article XV, Steep Slope Conservation District, of this chapter.
- (e) Farmland which is to be continued in agricultural use.
- (f) Riparian Corridor Conservation District. **[Added 9-10-2009 by Ord. No. 2009-07]**

B. Open space design requirements. Permanently preserved open space shall:

- (1) Be designed as a continuous system of usable areas, interspersed among groupings of residential dwelling units, wherever practicable.
- (2) Be interconnected with common open space areas on abutting parcels wherever possible.
- (3) Be provided with safe and convenient access by adjoining public road frontage or other rights-of-way or easements capable of accommodating pedestrian, bicycle and maintenance vehicle traffic and containing appropriate access improvements.
- (4) Be provided with sufficient perimeter parking when necessary, as in public recreation areas.
- (5) Be comprised of areas not less than 50 feet in width and not less than 11,000 square feet of contiguous area, except that individual tot-lots shall be included in the total required open space area.
- (6) Be designed so that not more than 25% of the open space is used as buffers between development and existing roads, and no more than 50% is floodplain, as defined herein.
- (7) Not be divided by crossing of public or private roads except where necessary for proper traffic circulation.
- (8) When required, open space includes Riparian Corridor Conservation area. The RCC area shall be vegetated in accordance with § 240-37F(6), Riparian Corridor Conservation District Vegetation Requirements, of the Subdivision and Land Development Ordinance. **[Added 9-10-2009 by Ord. No. 2009-07]**

C. LPD standards. The following shall apply under the standards of the R-80 Land Preservation District (LPD):

- (1) In addition to the standards of § 285-53, proposals shall comply with the neighborhood open space and open land standards found in the R-80 Land Preservation District regulations.
- (2) For proposals under LPD, if any conflict exists between the requirements of § 285-53 and the LPD standards, then the LPD standards shall prevail.

D. Offer of dedication. All common open space and recreation facilities required by this chapter may be offered for dedication to the Township, although the Township need not accept any such offers.

E. Required recreation facilities. The applicant shall install recreation facilities in the open space in conformance with the requirements of Chapter 240, Subdivision and Land Development, of the Code of the Township of Upper Frederick, regarding recreational facilities.

F. Height limitation of fences and walls. No fence or wall over six feet in height, except a retaining wall, or a wall of a building permitted under the terms of this chapter, shall be erected within any of the open spaces

required by this chapter unless that portion of the fence or wall which exceeds six feet in height has a ratio of open area to solid area of at least 4:1. The Zoning Hearing Board may authorize by special exception the erection of walls or fences of greater height in such cases as may be necessary to provide adequate protection, shielding or screening of open storage or equipment areas.

§ 285-54. Private ownership and maintenance of common elements.

Common elements including, but not limited to, open space, recreation, sewer, water and stormwater management facilities which will not be publicly owned, shall be subject to a form of ownership established in private agreements acceptable to the Board of Supervisors. Such private ownership including, but not limited to, corporate, individual, condominium, landlord or fee-simple home or landowners' association, shall be governed by the following:

- A. Access to and use of these common elements may be restricted to the property owners or tenants within the development, and their guests, unless the Township accepts public dedication of all or any part of any open space.
- B. Perpetual maintenance shall be guaranteed by trust indenture or similar instrument, or by deeding the open space to a land trust or conservancy or similar organization, as approved by the Board of Supervisors, which instrument or deed shall be referenced on the final plan:
 - (1) Shall be recorded with the Montgomery County Recorder of Deeds simultaneously with the final plan.
 - (2) Shall restrict the open space from development, by deed restriction, granting the Township the right to enforce the restrictions.
 - (3) Shall include provisions for:
 - (a) Bonds posted by the developer to cover expenses incurred before formation of a homeowner's association.
 - (b) Adjustment of association fees to account for inflation and increase costs.
 - (c) A reserve fund to cover capital improvement and/or unforeseen major maintenance requirements.
 - (d) Funding of professional management, expert consultants and supplies.
 - (e) Township review and approval of revisions to any part at any time.
 - (4) Shall authorize the Township to maintain the common elements and assess the private ownership 100% of such maintenance, or foreclose on said bonds or funds to cover said maintenance, if private ownership fails to function as required in the private agreement.
 - (a) The Township may, at the discretion of the Board of Supervisors, decide to relieve the private ownership organization of some or all of its maintenance responsibilities in the event of a functional failure that has or threatens to have undesirable impact on surrounding property owner or the general public.
 - (b) The necessity for continued Township maintenance shall be reviewed at public hearing within one year of the Township having assumed the responsibility, and if the private ownership is demonstrated to have resumed the capability of maintenance, the responsibility shall revert to the private ownership. If the private ownership cannot demonstrate capability, a public hearing shall be held on an annual basis until maintenance can be resumed by the private ownership or until dedication of the common elements is accepted by the Township.
 - (c) Any administrative, capital, labor or operating costs incurred by the Township in assuming the maintenance responsibilities of the private ownership organization shall be recoverable from the

owner of property, individually or collectively, in the subject development.

- C. Review of maintenance budget. At the time a preliminary plan for subdivision or land development is submitted, the developer shall submit to the Township a budget for the maintenance of open space, and reimburse the Township for the cost of a professional to assess the budget for future adequacy.

§ 285-55. Projections into required yards.

No building and no part of a building shall be erected within or shall project into any required yard in any district, except that:

- A. An unenclosed porch, not more than 14 feet in height, may be erected to extend into a required front or rear yard setback a distance of not more than 10 feet, provided that in no case shall it extend into such front or rear yard more than 1/2 the required depth of the yard.
- B. A terrace, patio, deck, platform or landing place, not covered by a roof, canopy or trellis, which does not extend above the level of the first floor of the building, may be erected to extend into a required side or rear yard a distance of not more than 12 feet, provided that it shall not extend into such yard more than 40% of the required depth or width of the yard.
- C. A carport may be erected over a driveway in a required side yard, provided that such structure is:
 - (1) Not more than 14 feet in height and 20 feet in length.
 - (2) Entirely open on at least three sides, exclusive of the necessary supporting columns and customary architectural features.
 - (3) At least three feet from the side lot line.
- D. A buttress, chimney, cornice, pier or pilaster of a building may project not more than 18 inches into a required yard.
- E. Open, unenclosed fire escapes, steps, bay windows and balconies may project no more than three feet into a required rear yard.

§ 285-56. Lighting.

No lighting of private property shall be permitted that shall cause a hazard or a nuisance to abutting roads and properties.

- A. When lighting is observed to be a potential hazard or nuisance regarding public roads, the Township Zoning Officer shall make a determination as to the need to relocate, diminish, reorient or remove the light fixtures in question, with the advice of the Township Engineer. The determination shall be made mainly in terms of the effect of the lighting on traffic safety, such as from glare or brightness interfering with a driver's ability to see safely.
- B. When lighting is observed to be a potential hazard or nuisance to an abutting property, the Zoning Officer shall make a determination as in Subsection A, above, when requested by the effected property owner. The following shall be used as criteria:
 - (1) No light shall shine directly into the windows of a building on abutting property.
 - (2) No light shall shine directly onto the ground or improvements thereof of an abutting property.
 - (3) Incidental light may be permitted to fall on abutting property.

§ 285-57. Environmental assessment statement.

Where an environmental assessment statement is required by this chapter, it shall be submitted to the Board of Supervisors in compliance with regulations and shall contain the information that follows:

- A. A description of all proposed facilities.
- B. A physical description of the environment affected including, but not limited to, summary technical data and maps and diagrams adequate to permit an assessment of potential environmental impact by commenting agencies and the public. Highly technical and specialized analyses and data should be attached as appendices or footnoted with adequate bibliographic references.
- C. The interrelationship and cumulative environmental (including economic) impact of the proposed facilities and other solid waste disposal facilities shall be stated with adequate technical analysis.
- D. The sources of data used to identify, quantify or evaluate any and all of environmental consequences must be expressly noted.
- E. Specific data relating to the impact of the proposed facilities on natural and man-made local storm drainage facilities and areas.
- F. Specific data relating to the impact of the proposed facilities on sanitary sewage disposal.
- G. Specific data relating to the impact of proposed facilities on the existing floodplain areas of the Township, including details of any measures or precautions which may have to be taken in order to provide adequate flood control in the Township.
- H. A statement of any probable adverse environmental effects which cannot be avoided-such as water or air pollution, undesirable land use patterns, damage to life systems, congestion, threats to public health, safety or welfare or other consequences adverse to the environment. Included for purposes of contrast should be a clear statement of how other avoidable adverse effects will be mitigated.
- I. The relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity. This section should contain a brief discussion of the extent to which the proposed action involves short-term environmental gains at the expense of long-term losses, or the converse, and an explanation of the extent to which the proposed action forecloses future options. In this context, the words short-term and long-term should be viewed in terms of the environmentally significant consequences of the proposed action.
- J. The aesthetic impact of the proposed action including its impact upon visual quality of the surrounding community.
- K. An analysis of the success and/or failure of similar projects, if the proposed project is a nonconventional nature. Determination of the conventional or nonconventional character of the proposed project will be made by the Township Board of Supervisors as advised by the Township Engineer.
- L. A statement of any effects on desirable employment, taxes and property values.
- M. A statement of any effects on desirable community growth.
- N. A statement describing the location and impact of the project on nearby recreation areas.
- O. In developing the above data, applicant shall convey the required information succinctly in a form easily understood both by members of the public and by public decision-makers, giving attention to the substance of the information conveyed rather than the particular form, or length or detail of the statement. Statements should indicate, at appropriate points in the text, any underlying studies, reports and other information obtained and considered by the applicant in preparing the statement. Care should be taken to insure that the

statement remains an essentially self-contained instrument capable of being understood without the need for cross reference.

- P. Each environmental statement should utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and decision-making which may have an impact on the environment. Application of such an approach should help assure a systematic evaluation of reasonable alternative courses of action and their potential social, economic and environmental consequences.
- Q. Such other reasonable information as reasonably required by the Board of Supervisors, Township Planning Commission, Township Engineer and/or Township Solicitor.

§ 285-58. Environmental protection.

- A. All uses shall be developed and operated in a manner that preserves the quality of the existing environment and of any natural amenities present on the site.
- B. All uses shall provide for the preservation and the minimum destruction of natural drainage areas, minimum grading and destruction of the ground surface, the preservation of substantial stands of trees and forested areas and the preservation of attractive views and any other natural features existing on the site.
- C. No land or structure in any zoning district shall be used or occupied in any manner that creates any:
 - (1) Dangerous, injurious, noxious or otherwise objectionable condition.
 - (2) Fire, explosive or other hazards.
 - (3) Heat, electromagnetic or other radiation.
 - (4) Noise or vibration.
 - (5) Smoke, dust, odor or other form of air pollution or any other condition in such manner or in such amount as to adversely affect the reasonable use or value of the surrounding area or adjoining premises or be dangerous to public health or safety.

§ 285-59. Public utilities.

The provisions of this chapter shall not be so construed as to limit or interfere with the construction, installation, operation and maintenance of public utility structures or facilities in existence at the time of passage of this chapter, or which may hereafter be located with public easements or rights-of-way designated for such purposes. The location of any such construction not within a public easement or right-of-way, however, unless specifically provided for in this chapter, shall be subject to approval of the Zoning Hearing Board, which shall give consideration to the effect of such constructions or installation upon the public safety and the character of the adjacent neighborhood.

§ 285-60. Effect of private covenants.

Nothing herein contained shall be construed to render inoperative any enforceable restriction established by covenants running with the land, and which restrictions are not prohibited by or are not contrary to the regulations herein established.

§ 285-61. Conditional use. [Amended 6-13-2002 by Ord. No. 02-09]

An application for any conditional use as specified in the various parts of this chapter shall be considered by the Township Supervisors according to the following procedure:

A. Application.

- (1) The application shall be submitted in writing to the Township Planning Commission.
- (2) The application shall include the request for approval of a conditional use and sufficient information to document compliance with the applicable standards of this chapter; a tentative sketch plan of the proposed development shall be included.
- (3) The Township Planning Commission shall submit one copy of the application to the Montgomery County Planning Commission for its advisory review, one copy to the Township Board of Supervisors, and other copies to agencies and/or technical consultants whose review may be relevant.

B. Public hearing.

- (1) The Board of Supervisors shall schedule a public hearing within 60 days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of this time limit. The hearing shall be conducted by the Board, or the Board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board; however, the applicant may, prior to the decision of the hearing, waive the decision or findings by the Board and accept the decision or findings of the hearing officer as final.
- (2) Public notice of the public hearing, stating the time, place and the particular nature to be considered, shall be published twice in a newspaper of general circulation in the Township. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.
- (3) The Board of Supervisors shall consider the comments and recommendations of the Township and County Planning Commissions, other advisors and those present at the public hearing prior to deciding to approve or deny the proposed use. In allowing a conditional use, the Board of Supervisors may attach such reasonable conditions and safeguards, in addition to those expressed in this chapter, as it may deem necessary to implement the purposes of this chapter.
- (4) In deciding all applications for conditional uses the Board of Supervisors shall be guided by the following standards and criteria:
 - (a) The proposed use shall be one permitted by conditional use and one that will conform to the applicable regulations of the district in which it is located.
 - (b) The proposed use shall be considered in light of the general standards for Zoning Hearing Board decisions in § 285-35 of this chapter.
- (5) The Board of Supervisors shall render a written decision on the application within 45 days after the last hearing in which the Board considered the application.
- (6) The procedure to be followed by the Board of Supervisors in rendering a decision shall be the same as followed by the Zoning Hearing Board and as set forth in § 285-34.

§ 285-62. Accessory uses. [Amended 8-9-2001 by Ord. No. 01-1]

The following accessory uses, shall be permitted, subject to the additional requirements herein.

A. Uses accessory to agriculture.

- (1) Greenhouses, barns and machine sheds, preparation of products produced on the premises for sale and/or use at other locations.
- (2) Retail sale of agricultural and/or horticultural products on a minimum tract of five acres in compliance

with the following:

- (a) At least 75% of such products shall have been grown on the property on which they are offered for sale.
- (b) At least three parking spaces shall be provided, plus one additional space for each 200 square feet of building area over 600 square feet.
- (c) Buildings, whether permanent or seasonal, shall meet the required setbacks of the district in which they are located, and no parking area, sign, display or other structure shall intrude into the legal right-of-way of any public road. Buildings shall include stands, carts, wagons, sheds or other movable structures.
- (d) Maximum building coverage to house retail sales shall be .5% of the gross acreage of the property, with a maximum building coverage as an accessory use to be 5,000 square feet.
 - [1] More than 5,000 square feet shall be considered a primary use and shall be permitted only within the CB Commercial Business District.
 - [2] All structures, including stands, sheds, barns, etc., with customer access shall be included in calculating building coverage.
- (e) Vehicular access and parking shall comply with the requirements of § 285-155, Parking and circulation requirements of the CB Commercial Business District.

(3) Keeping of livestock in conjunction with agriculture, in accordance with the following:

- (a) Livestock and/or other animals may be kept as part of an agricultural operation provided that the property on which they are kept is at least 10 acres in size, and setback requirements of the district or § 285-74, herein, whichever are greater, are met.
- (b) The number of animals permitted shall comply with the rate standards of Subsection B(9)(b), herein. Such an operation shall be completely enclosed by fencing; and any building or enclosure used in conjunction with such an operation shall provide setbacks in compliance with the district in which they are located, or § 285-74, herein, whichever are greater.
- (c) Operation of an animal feed lot shall not be permitted in any district.

B. Uses accessory to dwellings. The following uses are permitted by right, however, approval as a special exception by the Zoning Hearing Board shall be required for uses that exceed the stated capacities or sizes, or that would involve use or storage of items other than those listed:

- (1) Home occupations, subject to the provisions of § 285-65, herein.
- (2) Detached private structure, with a total floor area of not more than 1,200 square feet.
- (3) Private parking spaces, not to exceed four per dwelling unit (not counting garage spaces).
- (4) Shelter for not more than four traditional house pets, none of which will grow to be larger than a large dog.
- (5) Noncommercial greenhouse of less than 750 square feet in floor area.
- (6) Detached storage sheds for garden equipment, household goods and/or sporting goods owned and used by the residents of the dwelling, with a total floor area of not more than 1,200 square feet.
- (7) Noncommercial swimming pool or other recreational facilities, excluding facilities for use of motorized recreation vehicles.

- (8) Barn, stable or other building whether or not used for livestock, on a lot at least two acres in area, subject to Subsection B(9), below and the building setback standards of § 285-74, herein.
- (9) Keeping of horses and other large animals such as cattle, sheep or goats, not in conjunction with agriculture, in accordance with the following:
 - (a) A minimum lot size of two acres is required to keep such animals.
 - (b) Such animals may be kept at the following rates:

	On a Minimum Two Acre Lot	For Each Additional Acre
Horses, cows or other animals of a similar size	1 animal	1 animal
Sheep, goats or other animals of a similar size	4 animals	4 animals

These regulations shall be interpreted to mean one horse or one cow or four goats per unit of land

- (10) Satellite dish, in accordance with the provisions of § 285-67.
- C. Uses accessory to noncommercial recreational use. Customary recreation, refreshment and service uses and buildings in any noncommercial recreational area.
- D. Other accessory uses. Accessory uses other than those listed may be permitted in compliance with the requirements for principal uses in the district in which they are located and which they are accessory to.
- E. Any other building not specified in Subsections A through D of this section, used for an accessory which exceeds 1,200 square feet in total floor area shall require a special exception from the Zoning Hearing Board, and shall be subject to the setbacks required by § 285-74, herein.

§ 285-63. Parking of commercial vehicles in residential district.

Routine parking of not more than two commercially registered vehicles with not more than four axles each, which are used regularly or frequently for business purposes shall be permitted. Routine parking of more than two such vehicles shall constitute a business operation and shall not be permitted in a residential district.

§ 285-64. Child day care facilities.

No structure or premise shall be used for the provision of child day care except in accordance with the provisions of this section.

- A. Any provision of child day care shall comply with the Articles IX and X of the Public Welfare Code, Act of June 13, 1967 (P.L. 31), as amended.
- B. A family day care home or group day care home shall be a permitted use in any zoning district, provided a copy of the certificate of compliance issued by the Department of Public Welfare shall be provided to the Zoning Enforcement Officer prior to the initiation of day care use.
- C. A day care center shall be a special exception use in any zoning district, and a copy of the certificate of compliance issued by the Department of Public Welfare shall be provided as a part of the special exception application.
- D. Child day care facilities shall meet the parking requirements found in §§ 285-168 and 285-170.

§ 285-65. Home occupation.

- A. Home occupations are the accessory use of a residence involving the conduct of an art or profession, the offering of a service, the conduct of a business or the production of handicrafts on a residential site. The use is incidental and secondary to the use of the dwelling.
- B. All proposed home occupation uses, including the expansion or replacement of an existing use or structure, shall conform with the performance standards below, as well as all other applicable Township, state and federal regulations.
 - (1) The home occupation and its associated structures shall conform with all applicable dimensional standards for the zoning district.
 - (2) Home occupations shall be conducted entirely within the residence, and the area used for the home occupation shall not exceed 25% of the gross floor area of the residence, except that the Zoning Hearing Board may permit the use of an accessory structure or the use of more than 25% of the residence by special exception where all other requirements of this section are met.
 - (3) The home occupation shall in no way cause the residential appearance or character of the premises to differ from the surrounding residential area. Home occupations shall not be conducted in such a manner as to produce noise, dust, vibration, glare, smoke or smell, electrical interference, fire hazard, traffic or any other nuisance not typically experienced in the zoning district where the property is located.
 - (4) No use shall require internal or external construction features or the use of electrical, mechanical or other equipment that would change the fire rating of the structure or in any way significantly increase the fire danger to neighboring structures or residences.
 - (5) Signs shall conform to the provisions of Article XX of this chapter.
 - (6) No outside storage of material, goods, supplies or equipment related to the operation of the home occupation shall be allowed. All storage shall take place within a walled structure.
 - (7) Merchandise shall be limited only to products manufactured or substantially altered on the premises or to incidental supplies necessary for the conduct of the home occupation. Items shall not be purchased offsite for resale.
 - (8) The home occupation shall have no more than two nonresident employees.
 - (9) Any need for parking generated by the home occupation shall be met off-street and in the side or rear yard of the structure in accordance with Article XIX of this chapter.
 - (10) No more than one home occupation per adult resident shall be allowed.
 - (11) Home occupations that attract customers, clients or students to the premises shall not be allowed in multifamily dwellings.

§ 285-66. Bed-and-breakfast accommodations.

Bed-and-breakfast accommodations may be operated as home occupations in single-family detached, owner-occupied buildings, subject to the following regulations:

- A. Bed-and-breakfast accommodations require approval of a special exception from the Zoning Hearing Board.
- B. A bed-and-breakfast enterprise shall have no more than five guest bedrooms, accommodating no more than 10 guests at any one time; no paying guest shall stay on any one visit for more than 30 days.
- C. One off-street parking space for each guest bedroom shall be provided in a side or rear yard.
- D. Meal service is limited to one daily meal per paying overnight guest. Owners shall comply with all federal,

state and local requirements for the preparation, handling and serving of food.

- E. Owner shall maintain a current guest register.
- F. Bed-and-breakfast accommodations may not sell alcoholic beverages.
- G. Each bed-and-breakfast facility shall be equipped with smoke detectors and fire extinguishers in accordance with the requirements of the Pennsylvania Department of Labor and Industry and with the stipulations of the Township Fire Code. Guests shall be provided with information regarding the floor plan of the building and the location of emergency exits.
- H. If the facility is served by an onsite sewage system, the owner must obtain written approval from the Township Sewage Enforcement Officer confirming the adequacy of the system to serve the increased demand resulting from the facility.
- I. A bed-and-breakfast use shall not be permitted on a lot with an area less than 80,000 square feet.

§ 285-67. Wireless communications facilities; small wireless facilities. [Amended 9-14-2000 by Ord. No. 00-3; 12-11-2014 by Ord. No. 2014-02; 3-8-2018 by Ord. No. 2018-01; 1-14-2021 by Ord. No. 2021-01]

A. Purpose.

- (1) The purpose of this section is to establish uniform standards for the siting, design, permitting, maintenance, and use of commercial and noncommercial wireless communications facilities in Upper Frederick Township. While the Township recognizes the importance of wireless communications facilities in providing high quality communications service to its residents and businesses, the Township also recognizes that it has an obligation to protect public safety and to minimize the adverse visual effects of such facilities through the standards set forth in the following provisions.
- (2) By enacting this section, the Township intends to:
 - (a) Permit with minimal restriction the noncommercial, accessory use of radio and satellite dish antennas;
 - (b) Promote the health, safety, and welfare of Township residents and businesses with respect to commercial wireless communications facilities;
 - (c) Provide for the managed development of wireless communications facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both Township residents and wireless carriers in accordance with federal and state laws and regulations;
 - (d) Establish procedures for the design, siting, construction, installation, maintenance and removal of communications support structures and communications antenna in the Township, including facilities both inside and outside the public rights-of-way;
 - (e) Address new wireless technologies, including, but not limited to, distributed antenna systems, data collection units, cable Wi-Fi, and other wireless communications facilities;
 - (f) Encourage the co-location of wireless communications facilities on existing structures rather than the construction of new tower-based structures;
 - (g) Protect Township residents from potential adverse impacts of wireless communications facilities and preserve, to the extent permitted under law, the visual character of established communities and the natural beauty of the landscape; and
 - (h) Update the Township's wireless facilities regulations to incorporate recent changes in federal and state laws and regulations.

- B. Definitions. The definitions found herein apply only to this Wireless Communications Facilities Ordinance and the regulations found herein.

ACCESSORY EQUIPMENT — Any equipment serving or being used in conjunction with a wireless communications facility or wireless support structure. The term includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets, and storage sheds, shelters, or similar equipment.

AMATEUR RADIO (also called HAM RADIO) — The use of designated radio frequency spectra for purposes of private recreation, noncommercial exchange of messages, wireless experimentation, self-training, and emergency communication.

APPLICANT — Any person that applies for a wireless communication facility building permit, zoning approval, and/or permission to use the public right-of-way (ROW) or other Township-owned land or property.

CO-LOCATION — The mounting of one or more communications antenna on an existing communications tower, or on any structure that already supports at least one communications antenna, including the mounting of small wireless facility(ies) on existing utility poles or small wireless facility poles.

COMMUNICATIONS ANTENNA (ANTENNA) — Any system of wires, rods, discs, panels, flat panels, dishes, whips or other similar devices used for the transmission or reception of wireless signals, which may include an omnidirectional antenna (rod), directional antenna (panel), parabolic antenna (disc) or any other wireless antenna, including small wireless facility(ies). Communications antenna further includes, but is not limited to, related equipment. Communications antenna shall not include support structures for antenna or any related equipment that is mounted to the ground or at ground level. This definition shall not include private residence mounted satellite dishes or television antennas or amateur radio equipment, including, without limitation, AM or citizen band radio antennas.

COMMUNICATIONS SUPPORT STRUCTURE (SUPPORT STRUCTURE) — Any structure that is used for the purpose of supporting one or more communications antenna, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, utility poles and light poles, and small cell towers and mini-towers. DAS hub facilities are considered to be communications support structures.

COMMUNICATIONS TOWER — Any structure that is used for the purpose of supporting one or more antenna or small wireless facility(ies), including, but not limited to, self-supporting lattice towers, guy towers and monopoles, utility poles and light poles. DAS hub facilities are considered to be communications towers.

DISTRIBUTED ANTENNA SYSTEM (DAS) — Network of spatially separated antenna sites connected to a common source that provides wireless service within a geographic area or structure.

EMERGENCY — A condition that: 1) constitutes a clear and immediate danger to the health, welfare, or safety of the public; or 2) has caused or is likely to cause facilities in the right-of-way to be unusable and result in loss of the services provided.

FCC — Federal Communications Commission.

HEIGHT OF A SUPPORT STRUCTURE — The vertical distance measured from the ground level, including any base pad, to the highest point on a support structure, including antenna mounted on the support structure and any other appurtenances.

MONOPOLE — A communications support structure or site which consists of a single pole structure, designed and erected on the ground or on top of a structure, to support communications antenna and connecting appurtenances.

PERSON — Any individual, organization, or other legal entity.

RIGHT-OF-WAY (ROW) — The surface of and space above and below any real property in the Township in which the Township has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area or property under the control of the Township,

and any unrestricted public or utility easements established, dedicated, platted, improved or devoted for utility purposes, but excluding lands other than streets that are owned by the Township. The phrase "in the right(s)-of-way" means in, on, over, along, above and/or under the right(s)-of-way. For the purpose of this section, ROW shall include streets and roads owned by Upper Frederick Township, Montgomery County, the Commonwealth of Pennsylvania, and any other Pennsylvania state agency.

SIGNIFICANT GAP or GAP IN SERVICE — An area where wireless communication coverage does not exist for any wireless communication operator. The existence or nonexistence of a gap in wireless coverage, and the size thereof, shall be a factor in the Township's decision on an application for installation of any WCF.

SMALL WIRELESS FACILITY POLE — A freestanding structure or other structure not classified as a wireless support structure that could support the placement or installation of small wireless facility(ies) if approved by the Township.

SMALL WIRELESS FACILITY(IES) — A wireless communications facility that meets the following conditions:

- (1) The communications facility is:
 - (a) Mounted on a structure 50 feet or less in height, including the antennas; or
 - (b) Is mounted on a structure no more than 10% taller than other adjacent structures; or
 - (c) Does not extend the existing structure on which it is located to a height of more than 50 feet or by more than 10%, whichever is greater.
- (2) Each antenna associated with the facility is no more than three cubic feet in volume.
- (3) The volume of all other equipment associated with the structure, whether ground-mounted or pole-mounted, and including the wireless equipment associated with the antennas and any pre-existing associated equipment on the structure, is cumulatively no more than 28 cubic feet. As used in this subsection, the following associated ancillary equipment are not included in the calculation of equipment volume:
 - (a) Electric meter.
 - (b) Concealment elements.
 - (c) Telecommunications demarcation box.
 - (d) Grounding equipment.
 - (e) Power transfer switch.
 - (f) Cut-off switch.
 - (g) Vertical cable runs for the connection of power and other services.
- (4) The facility does not require FCC antenna structure registration.
- (5) The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified by the FCC.

STEALTH TECHNOLOGY — Camouflaging methods applied to wireless communications support structures, antenna and other facilities which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted antenna, building-mounted antenna painted to match the existing structure, and facilities constructed to resemble trees, shrubs, and light poles.

SUBSTANTIAL CHANGE —

- (1) Any increase in the height of a communications support structure by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, except that the mounting of the proposed wireless communications facility may exceed the size limits set forth in the WBCA or the Upper Frederick Township Zoning Ordinance if necessary to avoid interference with existing antenna; or
- (2) Any further increase in the height of a communications support structure which has already been extended by more than 10% of its originally approved height or by the height of one additional antenna array.

WBCA — Pennsylvania Wireless Broadband Collocation Act (53 P.S. § 11702.1 et seq.).

WIRELESS — Transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.

WIRELESS COMMUNICATIONS FACILITY (WCF) — The antenna, nodes, control boxes, support structures, poles, conduits, wires, fibers, hubs, ducts, pedestals, electronics, network components, signal conversion equipment, and other equipment used for the purpose of transmitting, receiving, distributing, providing, or accommodating commercial wireless communications services.

WIRELESS SUPPORT STRUCTURE — A freestanding structure, such as a tower-based wireless communications facility or any other support structure that could support the placement or installation of a wireless communications facility if approved by the Township, not including small wireless facility(ies) poles.

C. Noncommercial antennas and satellite dishes.

- (1) Permitted uses. Antennas and satellite dishes for home use, ham radio, citizen band (CB) radio, and two-way or one-way radio for public safety are permitted in all zoning districts.

- (a) Ground-mounted. Permanent, extendable, retractable, or telescoping ground-mounted support structures and accompanying antenna that is accessory to a permitted or special use are permitted by right in all zoning districts and may be erected to a maximum height of 65 feet above mean ground level, provided same may only be located in a side or rear yard.
- (b) Roof-mounted.

[1] Antennas and satellite dishes may be erected on the roof of a principal or accessory building in any residential district to a maximum height of 25 feet above the maximum height of the building on which it is located.

[2] Roof-mounted antenna and satellite dishes may be erected in any residential district when the following criteria are met:

[a] Demonstration by the applicant that ground mounting and compliance with the applicable yard, setback, and height restrictions would result in the obstruction of the antenna's reception window; further, such obstruction involves factors beyond the applicant's control.

[b] The height of the proposed installation does not exceed the maximum height restriction imposed upon primary and accessory uses within the district.

[c] Only one antenna or satellite dish may be permitted per lot.

[d] No satellite dish may exceed 12 feet in diameter.

[e] Antennas and satellite dishes shall be neutral in color and, to the extent possible, compatible with the appearance and character of the neighborhood.

(2) Standards for antennas and satellite dishes.

- (a) No antenna or satellite dish shall be located in the front yard setback or any yard area abutting a street in any district. If ground mounted, the dish or antenna shall be located in the side or rear yard of the lot. The antenna or satellite dish shall be installed in the location that will shield its view from the street or from neighboring properties to the greatest extent feasible. If mounting on a building, same shall not extend more than three feet into a side or rear yard and may not extend into a front yard or any yard area abutting a street in any district.
- (b) No antenna or satellite dish shall be permitted within that portion of a yard required to be a landscaped buffer area by any provision of this section.
- (c) When ground mounted, the antenna or satellite dish shall be screened from public streets or adjoining residential districts or uses by the installation of a fence, or by planting evergreen trees or shrubs which form a complete visual barrier.
- (d) No dish shall exceed 12 feet in diameter. No roof-mounted dish shall project more than eight feet from the roof. No ground-mounted dish shall exceed 12 feet in height.
- (e) No more than one satellite dish shall be permitted on any lot. If more than one antenna is required, it shall be placed on a shared structure with other antennas.

D. General requirements for all communications antenna.

- (1) The following regulations shall apply to all small wireless facility(ies) and communications antenna that do not substantially change the physical dimensions of the wireless support structure to which they are attached:
 - (a) Site plan. The applicant shall submit to the Township a site plan for all wireless communications facilities showing the antenna, antenna support structure, building, fencing, landscape buffering, access, landscaping and other requirements of Chapter 240, Subdivision and Land Development, and shall obtain a permit from the Township Zoning Officer.
 - (b) Prohibited on certain structures. Communications antenna shall not be located on single-family dwellings, two-family dwellings, multifamily dwellings, or any accessory residential structure.
 - (c) Standard of care. Communications antenna shall be designed, constructed, installed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. Antenna shall at all times be kept and maintained in good condition, order and repair by qualified and trained maintenance, construction, and inspection personnel, so that the same shall not endanger the life of any person or any property in the Township.
 - (d) Accessory equipment. Ground-mounted related equipment greater than three cubic feet shall not be located within 50 feet of a lot in residential use or zoned residential.
 - (e) Wind. All communications antenna structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222-E, as amended).
 - (f) Public safety communications. No communications antenna shall interfere with public safety

communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.

- (g) Aviation safety. Communications antenna shall comply with all federal and state laws and regulations concerning aviation safety.
- (h) Radio frequency emissions. No communications antenna may, by itself or in conjunction with other antenna, generate radio frequency emissions in excess of the standards and regulations of the FCC, including, but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
- (i) Historic buildings. No communications antenna may be located on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or is eligible to be so listed, or is listed on the official historic structures and/or historic districts list maintained by the Township, or has been designated by the Township to be of historical significance.
- (j) Maintenance. The following maintenance requirements shall apply:
 - [1] The communications antenna shall be fully automated and unattended on a daily basis and shall be visited only for routine maintenance, inspection, or emergency repair.
 - [2] Such maintenance, inspection and repairs shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Township's residents.
 - [3] All maintenance, inspection, and repair activities shall utilize the best available technology for preventing failures and accidents, and shall only be performed by trained and qualified personnel.
- (k) Removal. In the event that use of a communications antenna is discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned antenna or portions of antenna shall be removed as follows:
 - [1] All abandoned or unused antenna and accessory facilities shall be removed within two months of the cessation of operations at the site unless a time extension is approved by the Township.
 - [2] If the antenna or accessory facility is not removed within two months of the cessation of operations at a site, or within any longer period approved by the Township, the antenna and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the antenna. If said owner fails to pay for the cost of removal within 30 days, the Township may proceed to recover its costs through any proceeding in law or equity against the owner of the antenna, or by liening the property where the antenna was located, or by pursuing any other legal remedy available to the Township as authorized under the provisions of the Second Class Township Code⁶⁰ or by any other applicable local, state, or federal law or regulation.
- (l) Retention of experts. The Township may hire any consultant and/or expert necessary to assist the Township in reviewing and evaluating the application for approval of the antenna and, once approved, in reviewing and evaluating any installation and any potential violation of the terms and conditions of this section. The applicant and/or owner of the antenna shall reimburse the Township for all reasonable costs and fees of said consultant and/or expert.

60. Editor's Note: See 53 P.S. § 65101 et seq.

- (m) Insurance. Each person that owns or operates a communications antenna shall provide the Township with a certificate of insurance, naming the Township as an additional insured, and evidencing general liability coverage in the minimum amount of \$2,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the communications antenna.
 - (n) Indemnification. Each person that owns or operates a communications antenna shall, at its sole cost and expense, indemnify, defend, and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the communications antenna. Each person that owns or operates a communications antenna shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a communications antenna. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
 - (o) Reservation of rights. In accordance with applicable law, the Township reserves the right to deny an application for the construction or placement of any communications antenna for various reasons, including, but not limited to, visual impact, design, and safety standards.
 - (p) Inspection. The Township reserves the right to inspect any antenna to ensure compliance with the provisions of this section and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which an antenna is located at any time, upon reasonable notice to the operator, to ensure such compliance.
 - (q) Replacement. When future technology avails itself with radiation suppressant devices and/or equipment that is less harmful to humans, such equipment shall be installed to replace dated small wireless facility(ies), communications antenna and accessory facilities and equipment as soon as possible, but in no event later than 180 days after notification by the Township.
 - (r) Small wireless facilities spacing. Minimum spacing between small wireless facilities shall be 300 feet between wireless communications facility installations. Small wireless facilities shall not be located within 100 feet of an adjacent existing residence.
 - (s) Professional services agreement. A consultant professional services agreement, on a form provided by the Township, shall be signed by the applicant and submitted with any wireless communications facility, to cover all costs and expenses incurred by the Township for application and plan review and processing by its professional consultants. No application shall be deemed submitted until the signed consultant professional services agreement has been provided to the Township. No permit shall be issued until the applicant has fully reimbursed the Township for all costs and expenses incurred by the Township for application and plan review and processing by its professional consultants.
- (2) The following regulations shall apply to all communications antenna that DO NOT substantially change the wireless support structure to which they are attached:
- (a) Applicants for small wireless facility(ies) and applicants proposing the modification of an existing communications tower, in order to co-locate an antenna, shall obtain a permit from the Township Zoning Officer. In order to be considered for such permit, the Applicant must submit a permit application to the Township Zoning Officer.

- (b) Permit fees. The Township may assess permit fees directly related to the Township's actual costs in reviewing and processing the application and for overseeing and inspecting the antenna installation as well as future inspections, monitoring and related costs. Such fees shall be adopted by resolution of the Board of Supervisors. For applications that fall under the WBCA, the fees assessed shall not exceed the maximum fees established thereunder.
- (c) Timing of approval.
 - [1] Within 30 calendar days of receipt by the Township of an application for a communications antenna which does not substantially change the physical dimensions of the wireless support structure to which it is to be attached, the Township shall notify the applicant in writing of any information that may be required to complete such application. Within 60 calendar days of receipt of a complete application, the Township shall make its final decision of whether to approve the application, and shall advise the applicant in writing of such decision. If additional information is requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the Township's sixty-day review period.
 - [2] Within 10 calendar days of receipt by the Township of an application for small wireless facility(ies) which are to be collocated on existing wireless support structures, the Township shall notify the applicant in writing of any information that may be required to complete such application. Within 60 calendar days of receipt of a complete application, the Township shall make its final decision of whether to approve the application, and shall advise the applicant in writing of such decision. If additional information is requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the Township's sixty-day review period.
 - [3] Within 30 calendar days of receipt by the Township of an application for small wireless facility(ies) which proposes the construction of a new small wireless facility(ies) pole, the Township shall notify the applicant in writing of any information that may be required to complete such application. Within 90 days of receipt of a complete application, the Township shall make its final decision on whether to approve the application and shall advise the applicant in writing of such decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the Township's ninety-day review period.
- (3) The following regulations shall apply to all communications antenna that DO substantially change the wireless support structure to which they are attached:
 - (a) Permit required. An applicant proposing the substantial modification of an existing communications support structure shall first submit an application and obtain a zoning permit and a building permit from the Township.
 - (b) Permit fees. The Township may assess zoning and Building permit fees directly related to the Township's actual costs in reviewing and processing the application and for overseeing and inspecting the antenna installation and/or modification of the existing support structure, as well as future inspections, monitoring, and related costs. Such fees shall be adopted by resolution of the Board of Supervisors. For applications that fall under the WBCA, the fees assessed shall not exceed the maximum fees established thereunder.
 - (c) Timing of approval. Within 30 calendar days of the date that an application for a communications antenna is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. Within 90 calendar days of receipt of a completed application, the Township shall make its final decision on whether to approve the application and shall advise the applicant in writing of such decision. If additional information was

required by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the Township's ninety-day review period. The ninety-day period set forth herein is automatically modifiable as and when necessary to remain consistent with any applicable and controlling state or federal law or regulation.

- E. Requirements for communications antenna outside the public right-of-way. The following additional regulations shall apply to all communications antenna located outside the public right-of-way:
- (1) Location. Communications antenna are permitted in the (CB) Commercial Business and (I) Industrial Zoning Districts. Communications antenna in such districts may only be mounted to an existing building, an existing utility pole, an existing communications support structure, or an existing public utility transmission pole or other structure.
 - (a) Whenever a communications tower, wireless support structure, communications antenna and/or accessory facilities and equipment is proposed to be located outside of the public right-of-way, a copy of an easement agreement from the property owner on whose property the facilities are to be located shall be provided as part of the application process.
 - (2) Development regulations. Communications antenna shall be co-located on existing structures, such as existing buildings or communications support structures, whenever possible, subject to the following conditions:
 - (a) To the extent permissible by law, such antenna does not exceed the lesser of a total maximum height of 12 feet, or the maximum height permitted in the underlying zoning district.
 - (b) If the antenna applicant proposes to locate the related equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
 - (c) A security fence satisfactory to the Township of not less than 10 feet in height shall surround any separate communications equipment building. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use. A lock box shall be provided for emergency access.
 - (3) Design regulations.
 - (a) Communications antenna shall employ stealth technology and be treated to match the supporting structure in order to minimize aesthetic impact. The application of the stealth technology chosen by the antenna applicant shall be subject to the approval of the Board of Supervisors.
 - (b) The total height of any support structure and mounted antenna shall not exceed the maximum height permitted in the underlying Zoning District. To the extent permissible by law, the height of an antenna shall not exceed the lesser of a total maximum height of 12 feet, or the maximum height permitted in the underlying zoning district.
 - (c) In accordance with industry standards, all communications antenna applicants must submit documentation to the Township justifying the total height of the antenna structure. Such documentation shall be analyzed in the context of such justification on an individual basis.
 - (d) Noncommercial usage exemption. Township citizens utilizing satellite dishes, amateur radios, and antenna for the purpose of maintaining television, telephone, radio communications, and/or internet connections at their respective residences shall be exempt from these design regulations.
 - (4) Removal; replacement; modification.
 - (a) The removal and replacement of communications antenna and/or accessory equipment for the purpose of upgrading or repairing the antenna is permitted, so long as such repair or upgrade does

not increase the overall size or number of antenna.

- (b) Any material modification to a wireless communications facility shall require a prior amendment to the original permit or authorization.
- (c) Replacement. When future technology avails itself with radiation suppressant devices and/or equipment that is less harmful to humans, such equipment shall be installed to replace dated communications antenna and accessory facilities and equipment as soon as possible, but in no event later than 180 days after notification by the Township.

F. Requirements for communications antenna inside the public right-of-way. The following additional regulations shall apply to all communications antenna located in the public right-of-way:

(1) Location.

- (a) Communications antenna shall be permitted in areas in which all utilities are located aboveground, regardless of the underlying zoning district, so long as such antenna are located on existing structures and/or utility poles in the ROW.
- (b) With the approval of the Township, communications antenna may also be installed on Township property, such as, but not limited to, traffic signal poles, streetlight poles, mast arm devices, or other traffic control devices.
- (c) Whenever communications antenna are installed on Township property, reasonable rental compensation shall be paid to the Township by the applicant or owner in accordance with the Township's annual fee schedule.

(2) Co-location. Communications antenna in the ROW shall be co-located, whenever possible, on existing poles, such as existing utility poles, traffic light poles, or streetlight poles. If co-location is not technologically feasible, the applicant shall locate its communications antenna on existing utility poles, traffic signal poles, or streetlight poles that do not already act as communications support structures.

(3) Design requirements.

- (a) Antenna installations located above the surface grade in the public ROW including, but not limited to, those on streetlights and joint utility poles, shall consist of equipment components that are no more than six feet in height and that are compatible in scale and proportion to the structures upon which they are mounted.
- (b) All accessory equipment shall be located underground unless the applicant demonstrates to the satisfaction of the Township that to do so would not be technologically or economically feasible. In that case, all accessory equipment shall be the smallest and least visibly intrusive equipment available and regularly in use in the industry.
- (c) Accessory equipment that cannot be located underground shall be treated to match the supporting structure. Antenna and accessory equipment shall be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted. Antenna must be located using stealth technology as approved by the Township. No more than four antenna may be placed on a pole.

(4) Compensation for ROW use. In addition to permit fees described above, every communications antenna, and all accessory equipment located in the ROW is subject to the Township's right to fix annually a fair and reasonable compensation to be paid for use and occupancy of the ROW. The amount of such compensation for ROW use shall be directly related to the Township's actual ROW management costs including, but not limited to, the costs of the administration and performance of all application reviewing, inspecting, permitting, supervising and other ROW management activities by the Township.

The owner of each communications antenna shall pay an annual fee to the Township to compensate the Township for its costs incurred in connection with the activities described above. The annual ROW use fee for communications antenna shall be established by resolution of the Township Board of Supervisors and shall be based on the Township's actual ROW use and management costs as applied to such communications antenna.

- (5) Time, place and manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all communications antenna in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.
- (6) Equipment location. Accessory equipment for communications antenna shall, whenever practical, be located underground. If the Township determines that doing so would not be technologically or economically feasible, given industry standards and norms, same shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW, as determined by the Township. In addition:
 - (a) In no case shall ground-mounted equipment, walls, or landscaping be located within 36 inches of the exposed back of the curb or within an easement extending onto a privately owned lot.
 - (b) Ground-mounted equipment that cannot be located underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township, giving due concern and consideration to the safety of pedestrians, vehicular traffic, and the traveling public.
 - (c) Required electrical meter cabinets that cannot be located underground shall be screened to blend in with the surrounding area to the satisfaction of the Township.
 - (d) Any graffiti on the support structure or on any accessory equipment shall be removed at the sole expense of the owner within 10 business days of notice of the existence of the graffiti.
 - (e) Any plans for proposed underground installation of accessory equipment shall be reviewed and approved in advance by the Township.
- (7) Relocation or removal of facilities. Within 60 days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, an owner of an antenna in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any antenna when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
 - (a) The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way;
 - (b) The operations of the Township or other governmental entity in the right-of-way;
 - (c) Vacation of a street or road or the release of a utility easement; or
 - (d) An emergency as determined by the Township.

G. General requirements for all communications support structures. The following regulations shall apply to all communications support structures:

- (1) Standard of care. A communications support structure shall be designed, constructed, installed,

operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Any communications support structure shall at all times be kept and maintained in good condition, order and repair by qualified and trained maintenance, construction, and inspection personnel, so that the same shall not endanger the life of any person or any property in the Township.

- (2) Permit required. An applicant proposing the construction of a new communications support structure or the modification to an existing communications support structure shall first submit an application and obtain a zoning permit and a building permit from the Township.
- (3) Permit fees. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application and for overseeing and inspecting the support structure installation and maintenance, as well as the future inspections, monitoring and related costs. Such fees shall be adopted by resolution of the Board of Supervisors. For applications that fall under the WBCA, the fees assessed shall not exceed the maximum fees established under the WBCA.
- (4) Wind. A communications support structure shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222-E, as amended).
- (5) Design. A communications support structure shall be designed to have the least practical adverse visual effect on the areas which can view it.
- (6) Height. A communications support structure shall be designed at the minimum functional height. All communications support structure applicants must submit documentation to the Township justifying the total height of the structure. The maximum total height of any communications support structure, which is not located in the public ROW, shall not exceed 200 feet, as measured vertically from the ground level to the highest point on the structure, including antenna and subsequent alterations. Equipment buildings, cabinets and ground-mounted accessory structures shall not exceed 15 feet in height.
- (7) Accessory equipment. A telecommunication equipment building, equipment cabinet, or any other structure associated with a communications support structure, shall meet the height and setback requirements for principal buildings in the zoning district in which the building is located, except as otherwise noted in the Upper Frederick Township Zoning Ordinance.
- (8) Public safety communications. No communications support structure shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- (9) Maintenance. The following maintenance requirements shall apply:
 - (a) Any communications support structure shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 - (b) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of Township residents.
 - (c) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- (10) Radio frequency emissions. No communications support structure may, by itself or in conjunction with

other wireless communications facilities, generate radio frequency emissions in excess of the standards and regulations of the FCC, including, but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled, "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.

- (11) Historic buildings or districts. No communications support structure may be located on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, or is included in the official historic structures and/or historic districts list maintained by the Township.
- (12) Signs. All communications support structures shall post a sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency.
- (13) Lighting. No communications support structure shall be artificially lighted, except as required by law. Support structures shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. Strobe lights are not to operate between sunset and sunrise.
- (14) Noise. Communications support structures shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and applicable Township ordinance guidelines, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.
- (15) Aviation safety. Communications support structures shall comply with all federal and state laws and regulations concerning aviation safety.
- (16) Retention of experts. The Township may hire any consultant and/or expert necessary to assist the Township in reviewing and evaluating the application for approval of the support structure and, once approved, in overseeing and monitoring all installations and in reviewing and evaluating any potential violation of the terms and conditions of this section. The applicant and/or owner of the support structure shall reimburse the Township for all reasonable costs of said Township's consultants.
- (17) Timing of approval. Within 30 calendar days of the date that an application for a communications support structure is filed with the Township, the Township shall notify the applicant in writing of any information that may be required to complete such application. All applications for communications support structures shall be acted upon within 150 days of the receipt of a fully completed application for the approval of such communications support structure, and the Township shall advise the applicant in writing of its decision. If additional information was requested by the Township to complete an application, the time required by the applicant to provide the information shall not be counted toward the 150-day review period.
- (18) Nonconforming uses. Nonconforming communications support structures which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location, but must otherwise comply with the terms and conditions of this section. Co-location of antenna on existing nonconforming support structure is permitted.
- (19) Removal. In the event that use of a communications support structure is planned to be discontinued, the owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned support structures or portions of support structures shall be removed as follows:
 - (a) All unused or abandoned communications support structures and accessory facilities shall be removed within six months of the cessation of operations at the site unless a time extension is approved by the Township.

- (b) If the support structure and/or accessory facility is not removed within six months of the cessation of operations at a site, or within any longer period approved by the Township, the support structure and accessory facilities and equipment may be removed by the Township and the cost of removal assessed against the owner of the support structure. If said owner fails to pay for the cost of removal within 30 days, the Township may proceed to recover its costs through any proceeding in law or equity against the owner of the support structure, or by liening the property where the support structure was located, or by pursuing any other legal remedy available to the Township as authorized under the provisions of the Second Class Township Code⁶¹ or by any other applicable local, state, or federal law or regulation.
 - (c) Any unused portions of communications support structures, including antenna, shall be removed within six months of the time of cessation of operations. The Township must approve all replacements of portions of a communications support structure previously removed.
- (20) FCC license. Each person that owns or operates a communications support structure shall submit to the Township a copy of its current FCC license, including the name, address, and emergency telephone number for the operator of the facility.
 - (21) Insurance. Each person that owns or operates a communications support structure greater than 50 feet in height shall provide the Township with a certificate of insurance, naming the Township as an additional insured, evidencing general liability coverage in the minimum amount of \$5,000,000 per occurrence and property damage coverage in the minimum amount of \$5,000,000 per occurrence covering the communications support structure. Each person that owns or operates a communications support structure 50 feet or less in height shall provide the Township with a certificate of insurance evidencing general liability coverage in the minimum amount of \$2,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering each communications support structure.
 - (22) Indemnification. Each person that owns or operates a communications support structure shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the communications support structure. Each person that owns or operates a communications support structure shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of communications support structure. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
 - (23) Engineer's seal. All plans and drawings for a support structure shall contain a seal and signature of a professional structural engineer, licensed in the Commonwealth of Pennsylvania, certifying that the site and design shall be in strict compliance with all current and applicable federal and state technical and safety codes.
- H. Requirements for support-structure-based facilities outside the right-of-way. The following additional regulations shall apply to support-structure-based wireless communications facilities located outside the right-of-way:
- (1) Development regulations:
 - (a) Location. No support structure shall be located in an area in which all utilities are underground,

61. Editor's Note: See 53 P.S. § 65101 et seq.

except as permitted by this section. The following additional regulations shall apply:

- [1] Support structures are permitted in the (CB) Commercial Business District and (I) Industrial Zoning District.
 - [2] Support structures are permitted on Township and Township-owned property, including Township Fire Company property.
 - [3] Support structures shall not be placed within 100 feet of any area in which all utilities are underground.
- (b) Gap in coverage. An applicant for a support structure must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area and that the type of WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or nonexistence of a gap in wireless coverage shall be a factor in the Township's decision on an application for approval of support structures.
 - (c) Sole use on a lot. A support structure shall be permitted as a sole use on a lot, provided that the lot shall meet the minimum lot area of the district in which it is located.
 - (d) Combined with another use. A support structure may be permitted on a property with an existing use, or on a vacant parcel in combination with another use, except residential, subject to the following conditions:
 - [1] The existing use on the property may be any permitted use in the applicable district, and need not be affiliated with the WCF.
 - [2] Minimum lot area. The minimum lot shall comply with the requirements for the applicable zoning district, and shall be the area needed to accommodate the communications support structure and guy wires, the equipment building, security fence, and buffer planting if the proposed communications support structure is greater than 50 feet in height. If a security fence is put in place, a lock box shall be provided for emergency access.
 - [3] Minimum setbacks. The foundation and base of any communications support structure shall be set back from property lines in accordance with the minimum setbacks applicable to the zoning district where the property is located.
- (2) Setbacks. All parts of the communications support structure shall be set back a minimum of 100 feet from the property line on the larger parcel on which the leased parcel is located, plus one foot for each foot of height of support structure and antenna beyond 100 feet.
 - (3) Notice. Upon submission of an application for a communications support structure, the applicant shall mail notice to all owners of every property within 500 feet of the proposed facility. The applicant shall provide proof of the notification to the Township.
 - (4) Leased parcels. Copies of lease agreements and easements necessary to provide access to the buildings or structure for installation and placement of the equipment cabinet or equipment building shall be provided to the Township. Recording of a plat of subdivision shall not be required for the leased parcel on which the communications support structure is constructed, provided the equipment building is proposed to be unmanned, the required easement agreement for access is submitted for approval by the Township, and the equipment building is less than 1,000 square feet.
 - (5) Co-location and siting. The applicant must demonstrate that the wireless communications equipment planned for the proposed communications support structure cannot be accommodated on an existing or approved structure or building, or on Township property. The applicant shall demonstrate that it contacted the owners of tall structures, buildings, and support structures in excess of 50 feet, within a

1/2 of a mile radius of the site proposed, sought permission to install an antenna on those structures, buildings, and support structures and was denied for one of the following reasons:

- (a) The proposed antenna and related equipment would exceed the structural capacity of the existing building, structure or support structure, and its reinforcement cannot be accomplished at a reasonable cost.
 - (b) The proposed antenna and related equipment would cause radio frequency interference with other existing equipment for that existing building, structure, or support structure and the interference cannot be prevented at a reasonable cost.
 - (c) Such existing buildings, structures, or support structures do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.
 - (d) A commercially reasonable agreement could not be reached with the owner of such building or support structure.
- (6) Identification of nearby structures. Any application for approval of a communications support structure shall include a comprehensive inventory of all existing support structures and other suitable structures within a two-mile radius from the point of the proposed support structure, unless the applicant can show to the satisfaction of the Township that a different distance is more reasonable, and shall demonstrate conclusively why an existing support structure or other suitable structure cannot be utilized.
- (7) Design regulations:
- (a) The communications support structure shall employ the most current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the stealth technology chosen by the communications support structure applicant shall be subject to the approval of the Township.
 - (b) Any height extensions to an existing communications support structure shall require prior approval of the Township. The Township reserves the right to deny such requests based upon lawful considerations related to the character of the Township.
 - (c) Any proposed communications support structure shall be designed structurally, electrically, and in all respects to accommodate both the communications support structure applicant's antenna and comparable antenna for future users.
 - (d) Any communications support structure over 50 feet in height shall be equipped with an anticleimbing device, as approved by the manufacturer.
- (8) Surrounding environs:
- (a) The applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the communications support structure shall be preserved to the maximum extent possible.
 - (b) The applicant shall submit a soil report to the Township complying with the standards of Appendix I: Geotechnical Investigations, ANSI/TIA-222, as amended, to document and verify the design specifications of the foundation of the communications support structure, and anchors for guy wires, if used.
- (9) Fence/screen:
- (a) A security fence satisfactory to the Township having a minimum height of 10 feet shall completely surround any communications support structure greater than 50 feet in height, as well as guy wires, or any building housing communications support structure equipment. If a security fence is used,

- a lock box shall be provided for emergency access.
- (b) Landscaping shall be installed to screen and buffer the support structure and any ground level features, such as an equipment building, from adjacent properties.
 - (c) A ten-foot-wide buffer yard consisting of dense evergreen hedge planted so that the leaves or needles will touch an adjacent plant at maturity around the perimeter of the security fence on the leased parcel. The buffer yard required in the applicable (CB) Commercial Business District or (I) Industrial Zoning District must be planted around the perimeter of the parcel from which the leased parcel is separated.
- (10) Accessory equipment:
- (a) Ground-mounted equipment associated to, or connected with, a communications support structure shall be screened from public view using stealth technologies, as described above.
 - (b) All utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district.
- (11) Additional antenna. As a condition of approval for all communications support structures, the applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate antenna on communications support structures where technically and economically feasible. The owner of a communications support structure shall not install any additional antenna without obtaining the prior written approval of the Township.
- (12) Access road. An access road, turnaround space and parking shall be provided to ensure adequate emergency and service access to communications support structure. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the communications support structure owner shall present documentation to the Township that the property owner has granted an easement for the proposed facility. The access road shall be a minimum of 20 feet in width and shall be improved with a bituminous or concrete surface approved by the Township, for its entire length at a minimum of 12 feet in width.
- (13) Parking. For each communications support structure greater than 50 feet in height, there shall be two off-street parking spaces. Each parking space shall be improved with a dust-free, all-weather surface. Said parking spaces shall have minimum dimensions of 10 feet by 20 feet.
- (14) Reservation of rights. In accordance with applicable law, the Township reserves the right to deny an application for the construction or placement of any communications support structure for numerous factors, including, but not limited to, visual impact, design, and safety standards.
- (15) Inspection. The Township reserves the right to inspect any communications support structure to ensure compliance with the provisions of this section and any other provisions found within the Township Code or state or federal law. The Township and/or its agents shall have the authority to enter the property upon which a communications support structure is located at any time, upon reasonable notice to the operator, to ensure such compliance.
- (16) Engineer inspection report. The owner of any communications support structure greater than 50 feet in height shall submit to the Township proof of an annual inspection conducted by a structural engineer at the owner's expense and an updated support structure maintenance program based on the results of the inspection. Any structural faults shall be corrected immediately and reinspected and certified to the Township by a structural engineer at the support structure owner's expense.

(17) Land development plan. Township approval of a land development plan shall be required for all support structures in excess of 50 feet in height. All stormwater requirements are applicable.

I. Requirements for communications support structures inside the public right-of-way. The following additional regulations shall apply to any WCF support structure located in the right-of-way:

(1) Location. The location of support structures is limited to the following rights-of-way:

(a) An applicant must first attempt to site a proposed support structure along the following corridors, provided the proposed support structure is not situated within 100 feet of an area in which all utilities are underground:

[1] Principal arterial roads:

Pennsylvania Route 29; and

Pennsylvania Route 73

(b) If the Township determines that it is not technologically or economically feasible to locate the proposed support structure along the corridors mentioned above, given industry standards and norms, the proposed support structure may be located along the roads listed below where utilities are aboveground, provided that the proposed support structure is not sited within 100 feet of an area in which utilities are underground.

[1] Collector roads:

[a] Major collector:

Perkiomenville Road

Neiffer Road

[b] Minor collector:

Fagleysville Road

Hill Road

[2] Local road:

Little Road

(c) No communications support structure sited in the public ROW shall be located in the front facade zone of any structure.

(2) Gap in coverage. An applicant for a communications support structure must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area and that the type of communications support structure being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or nonexistence of a gap in wireless coverage shall be a factor in the Township's decision on an application for approval of communications support structures in the ROW.

(3) Notice. Upon submission of an application for a communications support structure, the applicant shall mail notice to all owners of every property within 500 feet of the proposed facility. The applicant shall provide proof of the notification to the Township.

(4) Co-location and siting. The applicant must demonstrate that the wireless communications equipment planned for the proposed communications support structure cannot be accommodated on an existing or approved structure or building, or on Township property. The applicant shall demonstrate that it

contacted the owners of tall structures, buildings, and support structures within a 1/4 of a mile radius of the site proposed, sought permission to install an antenna on those structures, buildings, and support structures, and was denied for one of the following reasons:

- (a) The proposed antenna and related equipment would exceed the structural capacity of the existing building or support structure, and its reinforcement cannot be accomplished at a reasonable cost.
 - (b) The proposed antenna and related equipment would cause radio frequency interference with other existing equipment for that existing building or support structure, and the interference cannot be prevented at a reasonable cost.
 - (c) Such existing buildings or support structures do not have adequate location, space, access, or height to accommodate the proposed equipment or to allow it to perform its intended function.
 - (d) A commercially reasonable agreement could not be reached with the owner of such building or support structure.
- (5) Time, place and manner. The Township shall determine the time, place and manner of construction, maintenance, repair and/or removal of all communications support structures in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Township and the requirements of the Public Utility Code.
- (6) Equipment location. Communications support structures and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. In addition:
- (a) In no case shall ground-mounted equipment, walls, or landscaping be located within 18 inches of the face of the curb.
 - (b) Ground-mounted equipment that cannot be undergrounded shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township.
 - (c) Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
 - (d) Any graffiti on the support structure or on any accessory equipment shall be removed at the sole expense of the owner within 10 business days of notice of the existence of the graffiti.
 - (e) Any plans for underground vaults related to communications support structures shall be reviewed and approved in advance by the Township.
- (7) Design regulations.
- (a) The communications support structure shall employ the most current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the stealth technology chosen by the communications support structure applicant shall be subject to the approval of the Township.
 - (b) Communications support structures in the public ROW shall not exceed 40 feet in height.
 - (c) Any height extensions to an existing communications support structure shall require prior approval of the Township, and shall not increase the overall height of the communications support structure to more than 40 feet. The Township reserves the right to deny such requests based upon aesthetic and land use impact, or any other lawful considerations related to the character of the Township.

- (d) Any proposed communications support structure shall be designed structurally, electrically, and in all respects to accommodate both the applicant's antenna and comparable antenna for future users.
- (8) Reservation of rights. In accordance with applicable law, the Township reserves the right to deny an application for the construction or placement of any communications support structure in the ROW for numerous factors, including but not limited to visual impact, design, and safety standards.
- (9) Additional antenna. As a condition of approval for all communications support structures in the ROW, the applicant shall provide the Township with a written commitment that it will allow other service providers to co-locate antenna on communications support structures where technically and economically feasible. The owner of a communications support structure shall not install any additional antenna without obtaining the prior written approval of the Township.
- (10) Relocation or removal of facilities. Within 60 days following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a communications support structure in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any communications support structure when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
 - (a) The construction, repair, maintenance or installation of any Township or other public improvement in the right-of-way;
 - (b) The operations of the Township or other governmental entity in the right-of-way;
 - (c) Vacation of a street or road or the release of a utility easement; or
 - (d) An emergency as determined by the Township.
- (11) Compensation for ROW use. In addition to permit fees described above, every communications support structure and all accessory equipment located in the ROW is subject to the Township's right to fix annually a fair and reasonable compensation to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Township's actual ROW management costs, including, but not limited to, the costs of the administration and performance of all application reviewing, inspecting, permitting, supervising and other ROW management activities by the Township. The owner of each communications support structure shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described above. The annual ROW use fee for communications support structures shall be established by resolution of the Township Board of Supervisors and shall be based on the Township's actual ROW use and management costs as applied to such communications support structure.

J. Miscellaneous.

- (1) Police powers. The Township, by granting any permit or taking any other action pursuant to this section, does not waive, reduce, lessen or impair the lawful police powers vested in the Township under applicable federal, state and local laws and regulations.
- (2) Violations and penalties. Any person who violates or permits a violation of this section of the chapter shall, upon being found liable therefor in a civil enforcement proceeding, pay a fine of not more than \$600, plus all court costs, including reasonable attorneys' fees, incurred by the Township in the enforcement of this section. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgement pursuant to the applicable Rules of Civil Procedure. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

K. Waiver provision. The Township Board of Supervisors may waive any siting standards set forth in this section where the applicant demonstrates that the strict enforcement of said standard:

- (1) Will prohibit or have the effect of prohibiting any interstate or intrastate telecommunications service pursuant to 47 U.S.C. § 253(a); or
- (2) Will prohibit or have the effect of prohibiting personal wireless service pursuant to 47 U.S.C. § 332(c)(7)(B)(i)(II); or
- (3) Will violate any requirement set forth in the FCC Order entitled, "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment." WT Docket No. 17-79, and WR Docket No. 17-84; or
- (4) Will prohibit, or have the effect of prohibiting, the ability of an entity to provide utility service to any prospective customer within the Township.

§ 285-68. Kennels.

Kennels, where specified as a permitted use in the district regulations, are subject to the following provisions:

- A. A minimum lot size of five acres shall be provided.
- B. No animal shelter or run shall be permitted within 100 feet of any property line or 200 feet of any other dwelling.
- C. A total screen buffer shall be provided along property boundaries with residential uses, to control noise and odor.
- D. The total number of dogs per acre shall not exceed five per acre, not including dogs under six months old.

§ 285-69. Residential conversions.

The Zoning Hearing Board may grant a special exception for the conversion of any existing single-family detached dwelling or its accessory structures into no more than two additional dwelling units, subject to the following restrictions:

- A. Minimum unit size. The minimum size of each existing or newly created dwelling unit shall be a minimum of 400 square feet plus 100 square feet for each bedroom. For example:

Number of Bedrooms in Unit	Minimum Square Footage Required Per Unit
0 (Efficiency)	400
1	500
2	600

- B. Number of units permitted.
 - (1) Minimum lot size. In order to qualify for residential conversion, the existing dwelling unit must be located on a parcel with sufficient gross area to provide:
 - (a) The minimum lot size required for a single-family dwelling in the zoning district where the dwelling is located; plus,
 - (b) Forty thousand square feet for each proposed conversion unit.
 - (2) Total units. Regardless of the size or number of existing dwelling units, the total number dwelling units

on any one parcel after conversion shall not exceed three.

- (3) Restriction from development. Within 30 days of having obtained a use and occupancy permit for any conversion unit(s), the applicant shall record with the Montgomery County Recorder of Deeds deed restrictions, easements or private covenants which shall be acceptable to the Township Solicitor for the purpose of permanently restricting from further subdivision or land development the land area required by Subsection B(1).

C. Location. Conversion of an existing single-family detached dwelling shall be a permitted use in any zoning district.

D. General standards.

- (1) There shall be no external alteration of the building except as may be necessary for reasons of safety or improved design for otherwise permitted units. Any alterations shall reflect the architectural character of the existing building. Fire escapes and outside stairways shall, where practicable, be located to the rear of the building.
- (2) Each dwelling unit shall have two direct means of access to the outdoors or to a hall which directly accesses the outdoors.
- (3) The off-street parking requirements of Article XIX must be met. All dwelling units shall share the existing driveway entrance(s) to the existing dwelling unit.
- (4) All dwelling units shall be provided with smoke detectors and fire extinguishers. A dwelling unit located at or above the second story of a converted structure must have a fire escape.
- (5) If onsite sewage systems are to be used, the applicant must submit evidence to the Zoning Hearing Board showing that the total number of occupants in the converted dwelling unit will not exceed the capacities of the existing sewage systems. The Sewage Enforcement Officer shall review and approve any proposed expansion or addition of systems.

§ 285-70. Adult use standards and criteria.

The following standards and criteria shall govern adult uses as defined and permitted in this chapter:

- A. ⁶²No adult use shall be considered to be a permissible change of use, in conformance with Article VI, Nonconforming Status, unless the subject property is located in a district where adult uses are permitted, and can be shown to comply with the regulations, standards and criteria of this section.
- B. Adult uses shall be housed in completely enclosed buildings, designed and used in a manner which prevents the viewing of adult use activities or materials from outside the building. No exterior display of products, activities or shows shall be permitted, except for a sign which identifies the name of the establishment and its hours of operation, in conformance with the requirements of Article XX, Signs, of this chapter.
- C. If any portion of a use meets the definition of "adult use," then that portion must comply with the requirements of this section.
- D. A fifty-foot screening buffer shall be provided along the side and rear lot lines, or when the property abuts residential or institutional uses, but with plantings of an initial minimum height of six feet. **[Added 6-14-2007 by Ord. No. 2007-06]**
- E. The use shall not include the sale or display of obscene or other sexual materials, as defined by the Pennsylvania Crimes Code (18 Pa.C.S.A. § 5903), as amended, and interpreted by applicable court decisions.

62. Editor's Note: Former Subsection A, which restricted the location of adult uses in relation to residences, parks, churches and schools, which immediately preceded this subsection, was repealed 3-8-2007 by Ord. No. 2007-04.

[Added 6-14-2007 by Ord. No. 2007-06]

- F. For public health reasons, private or semiprivate viewing booths of any kind are prohibited. This specifically includes, but is not limited to, booths for viewing adult movies or nude dancers. **[Added 6-14-2007 by Ord. No. 2007-06]**

§ 285-71. Surface mining and quarrying.

- A. Where permitted by district regulations, surface mining and quarrying shall be permitted only on sites of more than 25 acres.
- B. No quarrying or mining activity shall take place with 500 feet of any property boundary.
- C. Mining and quarrying activities shall take place only between the hours of 7:00 a.m. and 7:00 p.m., and shall not take place on Sundays or legal holidays.
- D. Trucks shall be covered when leaving the site, and shall not create dusty conditions beyond the boundaries of the subject property.
- E. The perimeter of the property shall be sufficiently fenced to prevent entry of unauthorized personnel.
- F. The mining or quarrying operation shall be surrounded by a vegetative buffer sufficient to provide year around screening from view from any public road.

§ 285-72. Heliports. [Amended 9-10-1998 by Ord. No. 98-5]

Heliports shall be permitted when authorized by the Board of Supervisors as a conditional use in the Rural Preservation, R-80, R-60, Commercial-Business or I Industrial Districts, or at an airport licensed by the Federal Aviation Administration (FAA), only when licensed by the Pennsylvania Department of Transportation (PADOT), Bureau of Aviation, and otherwise in compliance with applicable federal regulations.

- A. No portion of a heliport, including buildings, storage, maintenance and landing area, may be within 250 feet of a property line of a residentially or institutionally-used property.
- B. Appropriate fencing shall be provided by the applicant to restrict pedestrian and vehicular access to the heliport.
- C. Development shall otherwise be in accordance with the requirements of the district in which the heliport is located.
- D. A heliport may not be used unless a valid Township conditional use permit is in effect.
 - (1) Helicopter, balloon, ultra-light or other aircraft landing or takeoff from nonheliport, nonairport or any other site without a valid conditional use permit may only be allowed when it is done:
 - (a) With written approval of the Board of Supervisors.
 - (b) In conjunction with a special event, such as an athletic contest, a holiday celebration, parade or similar activity, after reasonable advance notice has been given to the Township of the intention to do so.
 - (c) On an occasional or infrequent basis from an unprepared site either as a business accessory use or as an industrial aid.
 - (d) When necessary for law enforcement purposes or for medical emergencies.
 - (2) The applicant shall apply to the Board of Supervisors for a tentative approval of the conditional use.

- (3) Following tentative approval, the applicant shall secure all necessary state and federal licenses and permits. The applicant may submit plans for land development approval for the heliport at the same time.
 - (4) After securing all necessary state and federal licenses and permits, and receiving land development approval for the heliport plan, the Board of Supervisors will grant final approval to the conditional use application.
 - (5) When located in residential zoning districts, the site:
 - (a) Shall comply with the requirements herein applicable to sites in other zoning districts.
 - (b) Shall be used only by executive type helicopters.
 - (c) Shall be located not closer than 250 feet from the closest property line.
 - (6) The permit shall be renewable annually.
 - (7) The permit shall be automatically revoked:
 - (a) If the Bureau of Aviation, PADOT, revokes the heliport's license or refuses to relicense the heliport after one of its periodic inspections.
 - (b) If the FAA withdraws or revokes its approval, if initially required.
 - (c) Thirty days after the Zoning Officer has notified the permit holder in writing that the heliport is no longer in compliance with the Township's permit requirements, provided that the noncompliance has not been corrected within those 30 days.
 - (8) When the heliport's permit and/or license has been revoked, the operator shall close the by site publishing and posting notices to that effect, and employing such visual markers as are customary for this purpose.
 - (9) Other aircraft. Other aircraft such as balloons, ultra-lights, etc., may take off and land only at properly licensed airports or heliports. Heliport use for these purposes shall be permitted only when authorized by the Board of Supervisors as a conditional use. The Board of Supervisors may limit the hours of operation and number of aircraft involved as part of their approval.
- E. Any airport or heliport operations or landings or takeoffs not in compliance with these requirements shall be a violation of this chapter, subject to the enforcement remedies found in § 285-17, herein.

§ 285-73. Traffic impact study.

- A. Intent. A traffic impact study is intended to enable the Township to assess the traffic impacts of a proposal. Specifically, its purpose is to:
 - (1) Identify any traffic problems that may be created in the existing highway network as a result of the proposal.
 - (2) Delineate solutions to potential problems and to present improvements to be incorporated into the proposal or into the highway and/or public transit systems within the study area.
 - (3) Assist in the protection of air quality and the conservation of energy, and to encourage the use of public transit where available.
- B. Preparation of study. The traffic impact study shall be prepared by a qualified traffic engineer and/or transportation planner with the cost borne by the applicant. The procedures and standards for the traffic impact study are set forth below.

C. Applicability.

- (1) A traffic impact study shall be submitted with all requests for change of zoning, special exception, conditional use and as part of the preliminary plan application for all subdivisions and/or land developments and/or planned residential developments when the proposed use and/or development involves 30 or more dwelling units or 25,000 square feet of nonresidential floor area.
 - (a) Proposals which would not be required to produce a traffic impact study by reason of size, above, must produce a study if the expected number of trips generated per day exceeds 1,000.
 - (b) The anticipated number of trips per day shall be determined through the use of Institute of Transportation Engineers (ITE) Trip Generation Report (Third Edition, as amended). The proposed use or development shall be identified using the appropriate ITE land use code. Where doubt exists, the applicant shall seek guidance from the Planning Commission.
- (2) An application which requires a traffic impact study shall not be considered complete until the traffic impact study is submitted to the appropriate review body in accordance with the provisions of this section.
- (3) The appropriate review body, at its discretion, may require any other subdivision, land development, zoning change, special exception or conditional use application to be accompanied by a traffic impact study.
- (4) The Board of Supervisors may waive the requirement for a traffic impact study where, in the opinion of the Board, the proposal is not expected to create a significant traffic impact.

D. General requirements and standards.

- (1) Site description. The site description shall include the size, location, proposed land uses, construction staging and completion date of the proposed land development. If the development is residential, types of dwelling units shall also be included. The general site description shall also include probable socioeconomic characteristics of potential site users to the extent that they may affect the transportation needs of the site, e.g., number of senior citizens. A brief description of other major existing and proposed land development within the study area shall be provided.
- (2) Transportation facilities description. The description shall contain a full documentation of the proposed internal and existing external transportation system:
 - (a) This description shall include proposed internal vehicular, bicycle and pedestrian circulation, all proposed ingress and egress locations, all internal roadway widths and rights-of-way, parking conditions, traffic channelizations and any traffic signal or other intersection control devices at all intersections within the site.
 - (b) The report shall describe the entire external roadway system within the study area. Intersections in the study area shall be identified and illustrated, any existing and proposed public transit services and facilities within a one mile radius of the site shall also be documented.
 - (c) All future highway improvements, including proposed construction and traffic signalization, shall be indicated. This information shall be obtained from the Pennsylvania Department of Transportation's twelve-year Highway and Bridge Program and from the Township. Any proposed roadway improvements associated with surrounding proposed development shall be noted.
- (3) Existing traffic conditions. Existing traffic conditions shall be measured and documented for all roadways and intersections in the study area and shall include:
 - (a) Current average daily traffic volumes, peak highway hour(s) traffic, and peak development-

- generated hour(s) traffic.
- (b) Manual traffic counts at all intersections in the study area, encompassing the peak highway and development generated hour(s) with documentation included as a technical appendix to the report.
 - (c) Delay analysis based upon existing volumes, performed during the peak highway hour(s) and the peak development-generated hour(s), for all roadways and intersections in the study area.
 - (d) Volume/capacity (v/c) analysis for all intersections having a level of service D, E, or F or which should be reasonably expected to have such a level of service after the proposed development. Volume/capacity ratios and delay levels of service shall be determined for each location according to the 1985 Highway Capacity Manual, as amended.
 - (e) The date or dates when any and all traffic counts were made.
 - (f) Analysis of the adequacy of the existing roadway system to serve the current traffic demand. Roadways and/or signalized intersections experiencing levels of service E or F, and v/c ratios greater than or equal to 1.0 shall be noted as deficient. Unsignalized or undersignalized intersections with levels of service E or F shall be noted as deficient.
- (4) Impact of development.
- (a) Estimation of vehicular trip generation to result from the proposal shall be completed for the average daily peak highway hour(s) and peak development-generated hour(s). All turning movements shall be calculated.
 - (b) These generated volumes shall be distributed to the study area and assigned to the existing roadways and intersections throughout the study area. Provide documentation of all assumptions used in the distribution and assignment phases. Traffic volumes shall be assigned to individual access points.
 - (c) Pedestrian volumes shall also be calculated, if applicable. If school crossings are to be used, pedestrian volumes shall be assigned to each crossing.
 - (d) Note any characteristics of the site that will cause particular trip generation or distribution problems.
- (5) Analysis of impact.
- (a) The total future traffic shall be calculated and shall consist of the existing traffic volume expanded to the project completion year using an annual background growth factor plus the development-generated traffic and the traffic generated by other proposed developments in the study area.
 - (b) The annual background growth factor shall be determined using the projected rates of population and employment growth as determined by Montgomery County Planning Commission and the average annual traffic growth of the area's roadways as determined from the Delaware Valley Regional Planning Commission's "Highway Network Coverage Traffic Counts" and current twenty-four-hour traffic counts.
 - (c) Delay analysis shall be conducted using the total future demand and the future roadway capacity. If staging of the proposed development is anticipated, calculations for each stage of completion shall be made.
 - (d) Analysis shall include the peak highway hour(s) and peak development-generated hour(s) for all roadways and intersections in the study area. Delay calculations shall be completed for all intersections and proposed access points to the development. A volume/capacity (v/c) analysis shall be conducted for all intersections having a future level of service D, E or F.

- (e) All access points and pedestrian crossing shall be examined as to the feasibility of installing traffic signals. This evaluation shall compare the projected traffic and pedestrian volumes to the warrants for traffic signal installation.

(6) Conclusions and recommendations.

- (a) Levels of service (LOS) and volume/capacity (v/c) ratios shall be listed for all roadways and intersections. All roadways and intersections showing a level of service E or F, and v/c ratios equal to or greater than 1.0 shall be considered deficient.
- (b) The proportion of site-generated traffic to total future traffic shall be identified at each lane group that is considered deficient. Specific recommendations for the elimination of all deficiencies shall be listed and shall include: internal circulation design, site access location and design, external roadway intersection design and improvements, traffic signal installation and operation including signal timing, and transit design improvements.
- (c) All physical roadway improvements shall be illustrated.
- (d) Signal timing shall be evaluated for any intersection with a level of service D, E or F, but a volume/capacity (v/c) ratio less than 1.0. Warrants for signalization shall be examined for unsignalized or undersignalized intersections with levels of service E or F.
- (e) Existing and/or future public transit service shall also be addressed and any transportation management techniques which would be available to the proposed development shall be identified. A listing of all actions to be taken to encourage public transit usage for development generated trips and/or improve existing service, if applicable, shall be included.

E. Traffic-related definitions. As used in this section, the following terms shall have the meanings indicated:

CAPACITY ANALYSIS — Intersection approach capacity is the maximum rate of vehicular flow that can pass through an intersection under prevailing roadway, traffic and signalization conditions. The analysis compares the actual or projected traffic volume to the intersection capacity and results in a volume/capacity (V/C) ratio.

LEVEL-OF-SERVICE — Level of service (LOS), as described in the 1985 Highway Capacity Manual (Special Report 209, Transportation Research Board, as amended), is a qualitative measure of the operational conditions within a traffic stream and their perceptions by motorists. Levels of service are defined in terms of delay for signalized intersections and reserve capacity for unsignalized intersections. Six levels of service (A through F) are defined for each type of facility, with LOS "A" representing least congested operating conditions and LOS "F" representing a breakdown in operating conditions.

MAJOR INTERSECTION — The intersection of any arterial or collector street with any other arterial or collector street as defined by the Highway Classification Map of the Township or the equivalent document of adjacent municipalities where appropriate. The transportation engineer shall seek guidance from the Planning Commission prior to the initiation of the traffic impact study to insure agreement on the location of major intersections.

OFF-SITE TRANSPORTATION IMPROVEMENTS — Other transportation-related improvements which are generally not contiguous with the property being developed and not required as an onsite improvements but found to be necessary, partly or wholly as a result of the proposed development.

ON-SITE TRANSPORTATION IMPROVEMENTS — All improvements on or adjacent to the development site in the public right-of-way required to be constructed by the developer pursuant to any ordinance, resolution or requirement of the Township.

PUBLIC TRANSIT — Transportation services for the general public provided by a common carrier of passengers generally but not necessarily on a regular route basis, by a public authority or a private operator offering service to the public.

STUDY AREA — The study shall be defined by two concentric circles at each access point:

- (1) The first circle shall have a radius of 1/2 mile from each access point and shall include all intersections along all roadways on which the tract has frontage and all major intersections on all other roadways.
- (2) The second circle shall have a radius of one mile from each access point and include all major intersections on all roadways on which the tract has frontage. In the case that no major intersections are encountered on frontage roadways within either the 1/2 mile or one mile radius areas, the study area shall be extended along frontage roadways to at least the first major intersection in each direction.
- (3) Proposals that will generate more than 2,500 new average daily trips shall expand the first concentric circle to a one mile radius and the second circle to a two mile radius.
- (4) All intersections identified in the study area should be examined, even if the intersections are located outside of the Township. The transportation engineer shall seek guidance from the Planning Commission prior to the initiation of the traffic impact study to insure agreement on the study area boundaries.

TRIP — A one way trip into or out of the premises, and not what is commonly referred to as a "round trip."

- (1) TRIP GENERATION RATES — The total count of trips to and from a study site per unit of land use, as measured by parameters like dwelling units or acres. The Institute of Transportation Engineer (ITE) Trip Generation Report (Third Edition, as amended) shall be referenced to determine specific rates.

WARRANTS FOR TRAFFIC SIGNAL INSTALLATION — A series of tests which detail the minimum traffic or pedestrian volumes or other criteria necessary for the installation of a traffic signal. These warrants are contained in the Manual on Uniform Traffic Control Devices for Streets and Highways (U.S. Department of Transportation, Federal Highway Administration, 1978, as amended).

§ 285-74. Additional dimensional standards. [Amended 7-8-1993 by Ord. No. 93-1; 8-9-2001 by Ord. No. 01-1]

The following dimensional standards shall apply in all districts for the types of uses, structures, facilities and/or boundaries specified:

- A. No farm building or other structure for the keeping or raising of livestock or poultry, for storing of farm or other products regardless of kind, or for storing of farm or other machinery shall be erected nearer than 100 feet to any right-of-way, to any public or private wells, on or off the subject property, or to any property line or lot line. In addition, a 50 feet setback shall be required from any dwelling unit.
- B. All swimming pools or ponds shall be set back a minimum of 25 feet from any lot line or ultimate right-of-way line.
- C. Unless specified otherwise, the following maximum height limitations shall apply:
 - (1) For any dwelling: 35 feet.
 - (2) For any building accessory to a dwelling: 14 feet.
 - (3) For barns, silos or other major agricultural buildings: 60 feet.
 - (4) For any other nonresidential building or structure. Forty feet, except that such height may be increased, as a special exception, to a maximum of 60 feet or such increased height as may be warranted when approved by the Zoning Hearing Board for such unoccupied structures such as water towers, antennas, chimneys and steeples, provided that the minimum setback of the structure from ultimate rights-of-way, property lines and/or other structures shall be not less than the height of the tall structure, measured to its highest point.

D. Buildings or structures accessory to dwellings shall comply with the following setback standards:

(1) For uses identified in § 285-62B(2), (4), (5), (6), (7) and (11): **[Amended 3-8-2007 by Ord. No. 2007-04]**

(a) For buildings with nonconforming setbacks, the front yard setback shall be equivalent to the line established by the front of the dwelling.

(b) For lots which conform to the size requirements of the district in which they are located, the front yard setbacks shall be that of the underlying district.

(c) Side and rear yards.

[1] Rear yard: 10 feet minimum, except that:

[a] If a structure has a total floor area of over 750 square feet, it shall meet the minimum rear yard for a principal building.

[b] A detached structure that has a total floor area less than 250 square feet, and has a maximum overall height of 12 feet, shall have a minimum rear yard of three feet.

[2] Side yard. The side yard setback shall be the minimum side yard for a principal building, or the actual side yard established by the existing principal building on the lot, whichever is less restrictive, except that a detached structure that has a total floor area less than 250 square feet, has a maximum overall height of 12 feet and is accessory to a dwelling shall have a minimum side yard of three feet.

[3] Setback between buildings. If an applicant proposes to have two accessory buildings that the total floor area added together would not comply with the setbacks of this section, or the total floor area added together exceed 1,200 square feet, then a five-foot minimum setback shall apply between each such accessory building and between the principal and each accessory building.

[4] Setbacks for swimming pools: refer to Subsection B.

(2) For uses identified in § 285-62B(8) and (9) and any accessory use that requires a special exception, the standards of Subsection A, herein, shall apply.

§ 285-75. Flexible lotting subdivisions.

A. All subdivisions using a flexible lotting concept, as defined in this chapter and regulated under the various residential districts, herein, shall divide the entire tract on which subdivision is proposed into the following categories:

(1) Permitted lotting types including conventional, pre-neighborhood, neighborhood, estate and rural lots, in compliance with the dimensional and development requirements of the applicable district.

(2) Common open land/open space as defined and regulated in this chapter.

(3) Road and utility rights-of-way.

B. Any proposed parcel which does not qualify under the criteria regulating Subsections A(1), (2) or (3), above, shall not be permitted.

§ 285-76. Elder cottages. [Added 11-14-1996 by Ord. No. 96-6]

The Zoning Hearing Board may grant a special exception for the installation and use of no more than one elder

cottage on the same lot as an existing single-family detached dwelling in every residential district subject to the following requirements:

- A. Minimum lot size. In order to qualify for installation of an elder cottage, the existing dwelling unit must be located on a lot of 85,000 square feet or larger.
- B. Occupancy.
 - (1) At least one occupant of the elder cottage must be over 62 years of age or must be unable to live independently because of mental or physical illness or disability.
 - (2) At least one occupant of the principal residence and at least one occupant of the elder cottage must be related by blood, marriage or adoption.
 - (3) In no case shall there be more than two occupants of the elder cottage.
 - (4) The owner of the principal residence must live in one of the dwelling units on the lot.
- C. Size.
 - (1) The minimum area of the unit shall be 280 square feet for one occupant and 400 square feet for two occupants.
 - (2) The maximum area of the unit shall be 900 square feet.
 - (3) The maximum height of the unit shall be 16 feet or one story.
- D. Setbacks. The elder cottage shall meet a minimum setback of 25 feet from the side and rear lot lines.
- E. Location. The elder cottage shall be placed in the side or rear yard of the lot no less than 15 feet from the principal residence on the lot. In no case shall the elder cottage be placed in the front yard of the lot.
- F. Lot coverage. The total building coverage and impervious surface coverage shall not exceed the maximum requirements for the zoning district in which the elder cottage is located. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- G. Parking. At least one off-street all weather parking space shall be provided for the elder cottage in addition to that required for the principal dwelling. However, no new driveway shall be permitted for the elder cottage.
- H. Utilities.
 - (1) For sewage disposal, water supply and all other utilities, the elder cottage shall be physically connected to those systems serving the principal dwelling. No separate utility systems or connections shall be constructed or used.
 - (2) If the utility systems are not to be expanded, the applicant shall provide evidence to the Zoning Hearing Board showing that the utility systems are designed to accommodate the total number of occupants of both units.
 - (3) If the utility systems are to be expanded, expansion approvals are to be submitted.
 - (4) All connections and additions to existing onsite sewer systems are subject to the review and approval of the Sewage Enforcement Officer.
 - (5) The applicant shall provide the Township with a performance bond of an amount set by resolution of the Board of Supervisors to ensure adequate sewage disposal and potable water supply. In the event that there is a sewage failure and there is no repair within 30 days after notice by the Township, the use of the elder cottage will be discontinued immediately.

- I. Temporary nature.
- (1) The elder cottage must be removed from the lot and the lot must be restored to its original conditions within 90 days after the elder cottage is no longer a legally permitted use.
 - (2) The applicant shall provide the Township with a performance bond in an amount set by resolution of the Board of Supervisors to be used by the Township to remove the unit if the applicant fails to do so within the time frame set forth above.
 - (3) If the Township is forced to remove the unit, then the Township retains the right to sell the elder cottage unit and to expend any sums generated by such sale.
 - (4) The elder cottage shall be placed on a temporary foundation of easily removable materials so that the lot may be restored to its original use after removal, with as little expense as possible.
 - (5) No permanent fencing, walls or other structures (such as a breezeway between the primary residence and the elder cottage) that might impede removal of the elder cottage shall be installed on the single-family lot.
- J. Application procedures. Applicants wishing to install an elder cottage on their property must submit an application for special exception to the Zoning Hearing Board, which shall include the information required by Article IV of this chapter the following:
- (1) A site development plan at a scale not less than one inch equals 20 feet that shows the following information:
 - (a) The property boundary lines.
 - (b) The location of the existing principal dwelling, existing accessory buildings and the proposed elder cottage.
 - (c) Minimum set back lines as specified in the zoning district in which the elder cottage is proposed.
 - (d) Dimensions from the property boundary lines and all existing buildings to the proposed elder cottage.
 - (e) Lot area.
 - (f) Total square footage of the proposed elder cottage.
 - (g) Total building and impervious surface coverage for all existing buildings and the proposed elder cottage. **[Amended 1-14-2010 by Ord. No. 2010-01]**
 - (h) The location, size and extent of all underground utilities and the connection of these utilities to the proposed elder cottage.
 - (i) Existing right-of-way and easements within the property boundary lines.
 - (j) The location of the boundary of the Floodplain Conservation District, slopes in excess of 15%, wetlands or other natural features that may affect the location of the elder cottage or its parking area.
- K. Permit. Applicants wishing to install an elder cottage on their property must obtain a permit from the Township to operate such a use. Each permit will expire on December 31 of each year and may only be renewed by making application for a new permit. The annual fee for the elder cottage use permit shall be set by resolution of the Board of Supervisors. Each permit application shall be accompanied by a certificate, in the form of an affidavit, verifying that:

- (1) The occupant of the principal dwelling will reside in either the principal dwelling or the elder cottage for as long as both units exist on the property.
- (2) At least one occupant of the elder cottage is either over 62 years of age or is unable to live independently because of mental or physical illness or disability. If the occupant of the elder cottage is unable to live independently because of mental or physical illness and is under 62 years of age, then the applicant shall provide a certificate of disability from a medical doctor.
- (3) At least one occupant of the principal residence and at least one occupant of the elder cottage is related by blood, marriage or adoption.
- (4) The owner of the principal residence agrees that the elder cottage shall be removed from the property within 90 days after it is no longer occupied by a person who qualifies for the use and occupancy permit.
- (5) The owner of the principal residence agrees that the Township may remove the unit and sell it to defray its costs if the unit is not removed within 90 days after the elder cottage ceases to be a legal use.

L. Additional installation requirements.

- (1) Foundation. The elder cottage shall be placed on a temporary foundation including, but not limited to, pressure treated timbers or piers of concrete block.
- (2) Anchoring. The elder cottage shall be physically anchored to the ground via an anchoring system designed to resist a minimum wind velocity of 90 miles per hour.
- (3) Skirts. All elder cottages shall have skirts installed for the purpose of screening the underside of manufactured homes by forming an extension of the vertical exterior walls of the home and covering the entire distance between the bottom of the exterior walls and the ground elevation below. The skirts must complement the appearance of the elder cottage and must be compatible with the single-family home unless the foundation of the elder cottage fulfills the same purpose.
- (4) Hitch. The hitch or tow bar attached to an elder cottage for transport purposes must be removed.

§ 285-77. Tattoo parlors. [Added 3-8-2007 by Ord. No. 2007-04]

- A. Tattoo parlors and related businesses shall comply with all applicable state and county regulations.
- B. No tattoo parlor or related business shall be considered to be a permissible change of use, in conformance with Article VI, Nonconforming Status, unless the subject property is located in a district where tattoo parlors are permitted, and can be shown to comply with the regulations, standards and criteria of this section.

§ 285-77.1. Potential inability to develop to maximum density. [Added 1-14-2010 by Ord. No. 2010-01]

There is no guarantee that a parcel of land can be developed to the maximum density, and the physical constraints of a development, a landowner's choice of dwelling style/footprint, or other factors may limit the landowner's ability to develop the maximum number of dwelling units permitted by the maximum density calculation. A development plan of a landowner shall still be required to comply with all applicable minimum requirements of the Zoning District in which the property is located.

§ 285-77.2. Commercial solar energy systems. [Added 7-18-2019 by Ord. No. 2019-01]

All commercial solar energy systems installed, operated and/or modified within the Township after the effective date of this section shall comply with the following provisions, as applicable:

- A. The design, installation, operation and maintenance of commercial solar energy systems shall conform to all applicable federal, state and Township construction, electrical and safety industry standards, including, but

not limited to, the International Fire Code, the National Electrical Code, the Pennsylvania Uniform Construction Code, Act 45 of 1999,⁶³ as amended, and its accompanying regulations, and the Public Utility Commission's interconnection rules and regulations.

- B. Such use shall have a minimum lot size of five acres, and a maximum of 20 acres.
- C. All on-site electrical distribution lines shall be placed underground, to the extent possible.
- D. Commercial solar energy systems shall comply with the setback regulations of the underlying zoning district.
- E. No part of a ground-mounted commercial solar energy system or its support structures shall exceed a height of 20 feet.
- F. The area of any ground-mounted commercial solar energy system shall be considered impervious material and calculated as part of the lot coverage as established by the underlying zoning district and as regulated by the Upper Frederick Township Stormwater Management Ordinance.⁶⁴ The area of lot coverage attributable to a commercial solar energy system shall be measured as the entire area of the system (e.g., width X length) in a horizontal plane projected vertically upon the ground. Such coverage may be less than the actual surface area of the system due to slanted or angled installation.
- G. Ground-mounted commercial solar energy systems shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system, or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.
- H. For all commercial solar energy systems mounted on a pitched roof, there shall be provided a two-foot minimum setback from the roof ridgeline for the roof-mounted solar modules to allow space for firefighters to penetrate the roof to create ventilation.
- I. For all commercial solar energy systems mounted on a flat roof, a three-foot setback for a minimum of two roof edges shall be provided for roof-mounted solar panels to ensure that firefighters may access the roof in a quick and safe manner.
- J. All mechanical equipment of commercial solar energy systems, including any structure for batteries or storage cells, shall be completely enclosed by a minimum eight-foot-high fence with a self-locking gate, and provided with screening in accordance with the landscaping and screening provisions of the Code of the Township of Upper Frederick.
- K. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- L. Commercial solar energy systems mounted on the roof or wall of any building shall be subject to the maximum height regulations of the underlying zoning district.
- M. Commercial solar energy systems shall be located on a lot or parcel in a manner that ensures solar access without reliance on adjacent properties. If solar access from adjacent properties is required, the applicant shall submit documentation of adjacent property owner(s) agreement to the Zoning Officer using a solar easement.
- N. Commercial solar energy systems shall be located on a building, lot or parcel in a manner that does not direct concentrated solar radiation or glare onto any neighboring property or public way.
- O. Commercial solar energy systems shall not be used to display advertising of any type, and may only display signage when consistent with this chapter and when said signage identifies the manufacturer and/or installer, or provides warning statements.

63. Editor's Note: See 35 P.S. §§ 7210.101 through 7210.1103.

64. Editor's Note: See Ch. 228, Stormwater Management.

- P. A commercial solar energy system, and all materials, structures and accessory equipment installed with that system, that has not been in use for commercial generation purposes for six months shall be removed completely within 90 days of the issuance of an enforcement action. The Township may require evidence of energy production upon request. Upon removal, the site shall be cleaned, restored and revegetated to blend with the existing surrounding vegetation, and to prevent soil erosion and downgradient sedimentation. If a commercial solar energy system remains nonfunctional or inoperative for a continuous period of one year, and has not been removed, the system may be deemed to be abandoned, and may constitute a public nuisance as determined by the Township Zoning Officer.
- Q. A commercial solar energy system owner shall post a bond or other financial security in a form acceptable to the Township at the time of zoning approval to cover the cost of equipment removal. Any and all additional or unanticipated costs of the system removal, including the full cost in the event the bond has expired or is insufficient, shall be the responsibility of the owner of the solar system.
- R. As a condition of approval for any commercial solar energy system project, the applicant/owner must:
- (1) Obtain land development approval for the installation.
 - (2) Provide proof that it has secured all necessary interconnections, land acquisitions, and/or easements necessary to undertake and complete the project.
 - (3) Replace any trees in kind that are removed in order to make way for any component of the commercial solar energy system.

ARTICLE VIII
Establishment of Districts

§ 285-78. Establishment of zoning districts. [Amended 9-10-1998 by Ord. No. 98-5; 12-8-2005 by Ord. No. 05-09]

- A. For the purposes of this chapter, Upper Frederick Township is hereby divided into zoning districts which are designated as follows:
- (1) RP - Rural Preservation District.
 - (2) R-80 Land Preservation District.
 - (3) R-60 Medium Density Residential District.
 - (4) R-40 High Density Residential District.
 - (5) IR Institutional and Recreational District (Overlay).
 - (6) CB - Commercial Business District.
 - (7) I - Industrial District.
 - (8) SS - Steep Slope Conservation District (Overlay).
 - (9) FP - Floodplain Conservation District (Overlay).
 - (10) Riparian Corridor Conservation District (RCC). **[Added 9-10-2009 by Ord. No. 2009-07]**
- B. The locations and boundaries of these districts are shown on the Upper Frederick Township Zoning Map which is hereby made a part of this chapter. The Zoning Map and all the notations, references and other data thereon shall be as much a part of this chapter as if fully described herein.
- (1) The designation of LI - Light Industrial District on the Township Zoning Map shall be changed to I - Industrial District.

§ 285-79. District boundaries.

District boundaries are shown on the Zoning Map to follow one or more of the following:

- A. Center lines of streets, lanes, utility company rights-of-way and railroad rights-of-way.
- B. Property lines.
- C. Municipal boundary lines.
- D. Where uncertainty exists as to the location of any district boundary line, the Zoning Officer shall determine its exact location guided by the following:
 - (1) Lines which appear to follow center lines, property lines or municipal boundary lines shall be construed to follow those lines.
 - (2) For questions concerning which particular property line a district boundary line follows, the Zoning Officer shall confer with the Township Planning Commission for a determination.

§ 285-80. Federal and state owned property.

Whenever federal or state-owned property is included in one or more zoning districts, it shall be subject to the

provisions of this chapter only insofar as permitted by the Constitution and laws of the United States of America and of the Commonwealth of Pennsylvania.

§ 285-81. Exemption with certificate of public convenience.

In accordance with § 619 of the Pennsylvania Municipalities Planning Code, as amended, the provisions of this chapter 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 public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the Township have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of a party to the proceedings.

ARTICLE IX
RP - Rural Preservation District

§ 285-82. Declaration of legislative intent.

In expansion of the declaration of legislative intent found in Article I, § 285-2, of this chapter, and the statement of community development objectives found in Article I, § 285-3, of this chapter, it is the intent of this article to maintain the rural character of certain portions of the Township, and promote the preservation of land and waterways which because of location or natural features have a unique character by:

- A. Minimizing the amount of new urban or suburban development which occurs in the portions of the Township that are now rural in character, and to blend that which does occur unobtrusively into the rural environment.
- B. Discouraging the location of nonrural uses which do not blend with and complement the rural character.
- C. Maintaining a sufficiently low density and intensity of uses here to make unnecessary the provision of suburban-type improvements, services, facilities and infrastructure.
- D. Avoiding inducement to further extend existing suburban development by leapfrog or infill development.
- E. Preserving from development natural amenities including prime agricultural soils and farms, woodlands, floodplains, steep slopes, stream valleys and rock outcrops.
- F. Encouraging retention of woodlands, hedgerows, and other vegetation to moderate the effects of storms, absorb pollutants and noise, shelter wildlife and provide a diverse natural environment.
- G. Maintaining rural vistas, especially from public areas such as roads and waterways.
- H. Locating housing units and other nonrural uses where they are least visible and hidden by topography or vegetation and thus minimize perceived density.

§ 285-83. Permitted uses. [Amended 9-14-2000 by Ord. No. 00-3; 8-14-2003 by Ord. No. 03-04]

A building may be erected, altered or used, and a lot may be used or occupied for the following purposes and no other:

- A. Single-family detached dwelling, using conventional lotting under the standards contained in § 285-85, herein, or under the standards of the Land Preservation District (LPD) when applied as an overlay in compliance with § 285-86, herein.
- B. Agriculture.
- C. Accessory uses, in compliance with § 285-62 of this chapter.
- D. Natural open space uses of a passive nature and conducted out-of-doors, including wildlife sanctuary, forest preserve, nature center, arboretum, hiking, bicycling or bridle trails.
- E. Game farm, fish hatchery or similar uses designed for the protection or propagation of wildlife.
- F. Wholesale plant nurseries.
- G. Signs in conformance with Article XX.
- H. Cellular communication tower, subject to the provisions of § 285-67C.
- I. No-impact, home-based business.
- J. Commercial solar energy system by conditional use, pursuant to § 285-77.2. [Added 7-18-2019 by Ord. No.

2019-01]

- K. Commercial solar energy system as a matter of right on property owned by Upper Frederick Township. **[Added 7-18-2019 by Ord. No. 2019-01]**

§ 285-84. Special exception uses.

The following uses are permitted where authorized by approval of a special exception by the Zoning Hearing Board, in compliance with § 285-87, herein:

- A. Swimming club, day camp, resident camp, tennis court, golf course, country club and other recreational facility of an outdoor nature, whether open to the public or restricted to private membership.
- B. Equine riding academy or boarding stable.
- C. Outdoor meeting place for cultural or artistic endeavors such as concerts or exhibitions.
- D. Wholesale greenhouses.

§ 285-85. Dimensional standards for conventional lotting.

Conventional lotting in this district shall be subject to the following standards:

- A. Minimum lot size: 217,800 square feet (five acres) gross lot area; 80,000 square feet net lot area. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- B. Minimum width at front building line: 300 feet.
- C. Minimum front yard: 100 feet.
- D. Minimum side yard: each 50 feet.
- E. Minimum rear yard: 100 feet.
- F. Maximum building coverage: 7%.
- G. Maximum height.
 - (1) For any dwelling: 35 feet.
 - (2) For any building accessory in any dwelling use: 14 feet, not exceeding one story.
 - (3) For any nonresidential building or other structure: 35 feet, except that such height may be increased to a maximum of 60 feet or such increased height as may be warranted when approved by the Zoning Hearing Board for such structures as water towers, barns, silos, chimneys and stacks, provided that for every foot of height in excess of 35 feet there shall be added to each yard requirement one corresponding foot of width or depth.
- H. Flag lots are permitted for tracts of land with a minimum size of 30 acres, if such lots exist at the time of the adoption of this subsection, and meet the dimensional requirements of this chapter, and the standards outlined in § 285-50. **[Added 3-8-2007 by Ord. No. 2007-04]**

§ 285-86. Standards for LPD lotting. [Amended 8-14-2003 by Ord. No. 03-04]

Land in the RP District may be subdivided in accord with the standards contained in Article X, Land Preservation District, of this chapter, with the exception that the following requirements shall supersede the LPD standards in the Rural Preservation District.

- A. Single-family detached dwellings shall be permitted by right at a maximum density of one dwelling unit per five acres of net lot area, as neighborhood lotting, otherwise in compliance with §§ 285-91 and 285-94. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- B. For nonneighborhood lots taking access from an existing road external to the subdivision, minimum dimensions shall be those of § 285-85, herein.
- C. The following LPD standards do not apply to LPD development in the RP District:
 - (1) Section 285-89A and B, Permitted uses.
 - (2) Section 285-96, Conditional use standards and criteria.
 - (3) Section 285-98, Preneighborhood lotting standards and criteria.
 - (4) Section 285-99, Rural lotting standards.

§ 285-87. Special exception standards.

Applications for uses permitted by special exception in § 285-84 must be accompanied by materials demonstrating compliance with the following:

- A. Appropriate use. The function of the proposed facility shall be appropriate to the location proposed and not one which would more logically be located in another district. The proposed use shall not have adverse impacts on neighboring uses due to noise, glare, odor, dust, vibration or similar negative effect.
- B. Natural features. The buildings and uses shall preserve to the maximum extent possible all floodplains, stream valleys, steep slopes, woodlands, prime agricultural soils, and similar environmentally sensitive areas and shall be planned to minimize perceived density or intensity of development. After development, the site shall retain an essentially rural or open character. Easements may be requested by the Board of Supervisors for interconnection of trails and natural features of Township-wide significance.
- C. Road capacity. The existing rural road system shall be capable of accommodating peak traffic generated by the facility in a safe and efficient manner or be capable of being improved to that level of accommodation without jeopardizing the rural character of the road system.
- D. Visual compatibility. The proposed facility must demonstrate visual compatibility with its rural surroundings, or provide plans to provide visual buffering with vegetative species compatible with existing species on the site.
- E. Parking setback. No parking area shall be closer than 50 feet to any property boundary or right-of-way.
- F. Building coverage shall not exceed 10% of the gross tract acreage.
- G. Paving coverage shall not exceed 10% of the gross tract acreage.

ARTICLE X
R-80 Land Preservation District

§ 285-88. Declaration of legislative intent.

In expansion of the declaration of legislative intent found in Article I, § 285-2, of this chapter, and the statement of community development objectives found in Article I, § 285-3, of this chapter, the primary purpose of the R-80 Land Preservation District (LPD) is to preserve open land, sensitive natural areas, and rural community character that would be lost under conventional development. In addition, the intent of this district is to permit a reasonable amount of residential development in the form of small, compact neighborhoods of single-family detached homes in an open space setting, located and designed to reduce the perceived intensity of development, preserve natural features and farmland, and provide privacy and neighborhood identity. Specific objectives are as follows:

- A. To provide for a variety of lotting opportunities consistent with the primary purpose of this district.
- B. To preserve open land, including those areas containing unique and sensitive natural feature such as woodlands, steep slopes, streams, floodplains and wetlands, by setting them aside from development.
- C. To preserve scenic views and elements of the Township's rural character, and to minimize perceived density, by minimizing view of new development from existing roads.
- D. To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs and the amount of paving required for residential development.
- E. To create compact neighborhoods with direct visual access to preserved open land, with amenities in the form of neighborhood open space, and with a strong neighborhood identity.
- F. To implement the goals of the Township's comprehensive plan and open space/recreation plan.
- G. To reduce erosion and sedimentation by the retention of existing vegetation and the minimization of development on steep slopes.
- H. To create new woodlands through natural succession and reforestation where appropriate, and to encourage the preservation and improvement of habitat for various forms of wildlife.
- I. To preserve areas of the Township with productive agricultural soils for continued or future agricultural use, by preserving blocks of land large enough to allow for efficient farm operations.
- J. To provide for the preservation and maintenance of open land within the Township to achieve the above-mentioned goals and for active or passive recreation use by residents.
- K. To provide standards for preservation of open land and neighborhood lotting to be used in this and other residential districts.

§ 285-89. Permitted uses. [Amended 7-8-1993 by Ord. No. 93-1; 11-14-1996 by Ord. No. 96-6; 9-14-2000 by Ord. No. 00-3; 8-14-2003 by Ord. No. 03-04]

Land in the R-80 Land Preservation District may be used for the following purposes:

- A. Residential development and related open land.
 - (1) Single-family detached dwellings shall be permitted at a maximum density of one dwelling unit per two acres of net lot area. **[Amended 1-14-2010 by Ord. No. 2010-01]**
 - (a) Conventional lotting.

- [1] On tracts of less than 10 acres in size, existing as of the date of adoption of this chapter, single-family detached dwellings are permitted under the conventional lotting standards found in § 285-94A, herein, with no required common open land, although a portion of the tract may be set aside as open land, if desired. No more than one dwelling is permitted per individual lot.
- [2] On tracts of 10 acres or more, single-family detached dwellings are permitted under the conventional lotting found in § 285-94A, herein, with no required common open land, only when authorized by the Board of Supervisors as a conditional use, in compliance with § 285-96, herein. If not authorized as a conditional use, the lotting shall comply with Subsection A(1)(b), Neighborhood lotting, below.
 - (b) Neighborhood lotting. Tracts of 10 acres or more shall be planned for ultimate development of single-family detached dwellings in compliance with the neighborhood design standards found in § 285-91, herein, with at least 75% of the tract preserved as open land. Ultimate development plans may be phased in compliance with § 285-97, herein. Prior to planning for ultimate development, limited subdivision may be permitted in compliance with Subsection A(1)(c), Preneighborhood lotting, below.
 - (c) Preneighborhood lotting. As a one-time option, tracts of 10 acres or more which are otherwise subject to the neighborhood design standards of § 285-91, herein, may be subdivided to create from one to four new building lots in compliance with the standards and criteria contained in § 285-98, herein.
- (2) Open land shall be permitted when comprising a portion of a residential development, as specified above and according to the requirements of § 285-92, herein.
- B. Rural lotting. Tracts of 60 acres or more may be subdivided into rural lots of a minimum of 30 acres each, in compliance with the rural lotting standards found in § 285-99, herein, for the following purposes:
 - (1) Agricultural activities of the following types:
 - (a) The cultivation, harvesting and sale of crops and related farm products.
 - (b) The raising and sale of livestock or flow, along with associated pasture and grazing land.
 - (c) Orchards, nurseries, greenhouses and related horticultural uses.
 - (2) Single-family detached dwellings, one per rural lot.
 - (3) Open space uses, primarily passive in nature, including wildlife sanctuary, forest preserve, nature center and similar uses.
 - (4) Game farm, fish hatchery, hunting or fishing preserve; or similar uses designed for the protection or propagation of wildlife.
 - (5) Parks and recreation areas in compliance with the standards and criteria of Article XIV, Institutional and Recreational District, when approved by the Board of Supervisors in compliance with § 285-123 of Article XIV.
- C. Agriculture.
- D. Accessory uses. Accessory uses shall be permitted on the same lot with and customarily incidental to any permitted use, in compliance with § 285-62, Accessory uses, of this chapter.
- E. Elder cottages, as defined herein, are only permitted by special exception, subject to the regulations contained in § 285-76 of this chapter.

- F. Cellular communication tower, subject to the provisions of § 285-67C.
- G. No-impact, home-based business.

§ 285-90. Inventory, analysis and optional and required sketch plans.

The initial formal application for any subdivision shall include an inventory and analysis of the site. The following site elements shall be inventoried and mapped in sufficient detail to allow evaluation of the plan relative to the intent of this district. Where a conflict occurs between these standards and those of Chapter 240, Subdivision and Land Development, the stricter requirement shall prevail.

- A. Physical resources. Identification of resources associated with the natural environment of the tract, including geology, topography, soils, hydrology and vegetation. These features shall be mapped at a scale of not less than one inch equals 100 feet, and shall be briefly described. The maps shall include:
 - (1) Topographic contours at ten-foot intervals, showing rock outcrops and slopes of more than 15%, in compliance with the Steep Slope Conservation District, Article XV, of this chapter. Applicants are encouraged to use two-foot contours drawn from aerial photographic sources because of their increased accuracy and practicality.
 - (2) Soil type locations and a table identifying soil characteristics relating to agricultural capability, seasonal high water table, depth to bedrock and suitability for onsite disposal systems, as per the Montgomery County Soil Survey.
 - (3) Hydrologic characteristics of the site, including surface water bodies, floodplains and hydric soils. If a wetlands survey is not provided initially, it shall be provided as part of the preliminary plan submission.
 - (4) Vegetation of the site, defining location and boundaries of woodland areas and vegetation associations in terms of species and size.
- B. Land use. Current land use and land cover (cultivated areas, paved areas, pastures, etc.), all buildings and structures on the land, and all encumbrances, such as easements or covenants.
- C. Visual resources. Scenic views onto the tract from surrounding roads and public areas, as well as view of scenic features from within the tract.
- D. Cultural and historic resources. Brief description of historic and cultural character of buildings, and structures, if applicable.
- E. Context. General outlines of buildings, land use and natural features such as water bodies or wooded areas, roads and property boundaries within 500 feet of the tract. This information may be presented on an aerial photograph at a scale of not less than one inch equals 400 feet.
- F. Optional sketch plan. The applicant is strongly urged but not required to submit a sketch plan based on the inventory and analysis for any development in the land preservation district, in order to resolve design issues before investing in engineered preliminary plans.
- G. Required sketch plan. A sketch plan for ultimate development shall be submitted and approved prior to phasing of preliminary or final plans in accord with § 285-97, herein.

§ 285-91. Neighborhood design standards. [Amended 7-8-1993 by Ord. No. 93-1]

The following standards to apply to all residential development proposed under § 285-89A(1)(b), Neighborhood lotting, herein:

- A. All lots shall be grouped into neighborhoods which shall contain at least five, but not more than 25 lots, and are surrounded by open land.

- B. The maximum or minimum number of lots in a neighborhood may be increased or decreased, and neighborhoods may be assembled into larger groupings with the approval of the Board of Supervisors. However, the applicant must demonstrate that such an alternative plan is more appropriate for the tract in question, and will meet both the general intent and design standards of this chapter, rather than being intended solely for economic savings.
- C. Neighborhoods are defined by the outer perimeter of contiguous lotted areas or abutting roads and may contain lots, roads and neighborhood open space.
- D. A plan may contain one or more neighborhoods.
- E. The outer boundaries of each neighborhood shall meet the neighborhood setback requirements specified in § 285-94C, herein.
- F. Neighborhoods shall be located on areas of the tract which are relatively free of sensitive environmental features. At a minimum, neighborhoods shall not encroach upon:
 - (1) Floodplain or wetlands.
 - (2) Lands designated for open space in the Township Comprehensive Plan, Open Space and Recreation Plan or Official Map.
 - (3) Steep slopes, as regulated by the Steep Slope Conservation District, Article XV of this chapter.
- G. Disturbance to woodlands, hedgerow, mature trees or other significant vegetation shall be minimized.
- H. Prime farmland soils, and large tracts of contiguous land, suitable for agricultural use, shall be preserved when the Board of Supervisors determines this to be a priority for a tract of land or area of the Township.
- I. Neighborhoods shall be defined and separated by open land in order to provide direct access to open space and privacy to individual yard areas. Neighborhoods may be separated by roads if the road right-of-way is designed as a parkway and meets the setback requirements in § 285-94C, herein.
- J. Views of neighborhoods and developed areas of estate lots from exterior roads shall be minimized by the use of changes in topography, existing vegetation or additional landscaping.
- K. All lots in a neighborhood shall take access from interior roads, rather than roads exterior to the tract.
- L. All lots in a neighborhood shall face neighborhood open space or other open land (directly or across a road) to either the front or the rear for a distance of no less than 30 feet.
- M. Neighborhood open space standards. A neighborhood with 10 or more residential lots must provide neighborhood open space which shall:
 - (1) Count as part of the minimum 75% open land requirement.
 - (2) Be provided at the rate of 1,000 square feet per lot in the neighborhood it serves.
 - (3) Be central to the neighborhood it serves.
 - (4) Provide a minimum of 100 feet of road frontage in the neighborhood it serves.
 - (5) Be permitted to contain stormwater detention basins or parking areas, but these shall not be included in the required 1,000 square feet per lot.
 - (6) Take the form of a "parklet," landscaped island or "village green."
 - (a) Parklet.

- [1] Road frontage on one side, other open land on at least one side.
- [2] Should contain walking, sitting, tot-lot and lawn areas and other elements to create a visual and social focal point for the neighborhood.

(b) Landscaped island.

- [1] Surrounded by roads.
- [2] May be used as a media divider between two one-way cartways; minimum width 35 feet.
- [3] May be used in the center of an enlarged turnaround area of a cul-de-sac road.
- [4] May be used as a visual focal point and/or landscaped divider.

(c) Village green. A parklet located within an landscaped island.

N. Neighborhood recreation area standards. Each neighborhood with five or more residential lots shall be provided with a neighborhood recreation area in compliance with the following standards:

- (1) Neighborhood recreation areas shall be provided at the rate of 4,000 square feet per lot, with a minimum of 40,000 square feet per neighborhood, suitable for active noncommercial recreation use adjacent to the neighborhood.
- (2) Neighborhood recreation areas shall be improved by the developer of the subdivision and shall be maintained by the subdivision's homeowners association.
- (3) These areas shall count as part of the minimum required 75% open land, and shall be provided in addition to the neighborhood open space.

§ 285-92. Open land standards. [Amended 7-8-1993 by Ord. No. 93-1]

Under the neighborhood standards, 75% of each tract is required to be set aside as protected open land and shall meet the following standards:

A. The following uses are permitted in open land areas:

- (1) Conservation of open land in its natural state (for example, woodland, fallow field or managed meadow).
- (2) Agricultural uses, including raising of crops or livestock, and farm buildings.
- (3) Neighborhood open space as specified in § 285-91M, herein.
- (4) Passive noncommercial recreation including, but not limited to, trails, picnic areas, community gardens and lawn areas:
- (5) Active noncommercial recreation areas intended to serve one or more neighborhoods, such as playfields, playgrounds and courts, meeting the setback requirements in § 285-94C, herein.
- (6) Water supply and sewage disposal systems for neighborhoods, the entire development, or for individual estate lots when located entire within the lot being served.
- (7) Pasture for recreation horses (at a rate not exceed one horse per two acres).
- (8) Easements for drainage, access, sewer or water lines or other public purposes.
- (9) Stormwater management facilities for the proposed development, or for a larger area in compliance with a watershed stormwater management plan (adopted in accord with Act 167, the Stormwater Management Act of 1978).

- (10) Parking areas of 10 or fewer spaces where necessary to serve active recreation facilities.
- (11) Above-ground utility and road rights-of-way, except that their land areas shall not count toward the required minimum 75% total open land requirement.
- (12) Estate lots, in compliance with § 285-94B, herein.

B. Open land areas shall be located and designed to:

- (1) Protect site features identified in the inventory and analysis as having particular value, in compliance with the intent of this chapter.
- (2) Comply conceptual with the recommendations of the Township's Open Space Plan and/or Comprehensive Plan, where specified.
- (3) Maximize common boundaries with open land on adjacent tracts as shown in the comprehensive plan or as otherwise required by the Board of Supervisors in the interest of good planning and design.

C. Safe and convenient pedestrian and maintenance access shall be provided to open land areas that are not used for agricultural purposes.

- (1) Each neighborhood shall provide one centrally located access point per 25 lots, a minimum of one lot wide.
- (2) Access to open land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations.
- (3) Public access to estate lots is not required.

D. The following are prohibited in open land areas:

- (1) Use of motor vehicles except within approved driveways and parking areas. Maintenance, law enforcement, emergency and farm vehicles are permitted, as needed.
- (2) Cutting of healthy trees, regrading, topsoil removal, altering, diverting or modifying watercourses or bodies, except in compliance with a land management plan for the tract in question, conforming to customary and accepted standards of forestry, erosion control and engineering.

E. Natural features shall generally be maintained in their natural condition, but may be modified to improve their appearance, functioning, or overall condition, as recommended by experts in the particular area being modified. Permitted modifications may include:

- (1) Reforestation.
- (2) Woodland management.
- (3) Meadow management.
- (4) Buffer area landscaping.
- (5) Streambank protection.
- (6) Wetlands management.

§ 285-93. Ownership and maintenance of common facilities and open land. [Amended 7-8-1993 by Ord. No. 93-1]

A. Ownership and maintenance of common facilities and open land shall be provided for in accordance with the regulations in § 285-54 of this chapter. In addition, all open land shall be permanently restricted from future

subdivision and development that is inconsistent with the standards of § 285-92, Open land standards, herein, and further restricted by use of open land easements among at least three parties consisting of Upper Frederick Township, the subdivision's homeowners' association, and one or more conservation and open space oriented organizations such as land trusts and conservancies including, but not limited to, the following: the Natural Lands Trust, the Brandywine Conservancy, the Perkiomen Valley Watershed Association and the Montgomery County Conservancy.

- B. In accord with § 285-54 of this chapter, the following methods of ownership may be used, either individually or in combination:
- (1) Fee simple dedication to the Township, although the Township need not accept the offer of dedication.
 - (2) Condominium association.
 - (3) Homeowners' association.
 - (4) Easements for Township or county open space purposes.
 - (5) Transfer to a private conservation organization, including various forms of conservation easements.
 - (6) Deed restrictions and/or easements on estate lots.
 - (7) Other methods acceptable to the Board of Supervisors.
- C. Maintenance. Unless otherwise agreed to by the Board of Supervisors, the cost and responsibility of maintaining common facilities and open land shall be in compliance with § 285-54 of this chapter. If the facilities are not properly maintained, the Township may assume responsibility of maintenance and assess costs as stipulated in § 285-54 of this chapter.

§ 285-94. Density and dimensional standards. [Amended 7-8-1993 by Ord. No. 93-1; 8-14-2003 by Ord. No. 03-04]

All development and use of land within the R-80 Land Preservation District, except rural lotting, shall comply with the applicable requirements of this section.

- A. Single-family detached dwellings.
- (1) Single-family detached dwellings in compliance with § 285-89A(1): **[Amended 1-14-2010 by Ord. No. 2010-01]**

	Conventional	Neighborhood
Minimum tract size	—	10 acres
Minimum common open space land (% of gross lot area)	—	75%
Maximum density (based on net lot acreage)	1 DU/2 acres	1 DU/2 acres
Minimum lot size	80,000 square feet	16,000 square feet [see Subsection A(4), below]
Maximum lot size	—	2 acres
Minimum lot width	200 feet	90 feet
Minimum front yard	200 feet	25 feet
Minimum side yard	40 feet each	25 feet each
Minimum rear yard	60 feet	25 feet

	Conventional	Neighborhood
Maximum building coverage (% of net lot area)	5%	15%

- (2) For conventional lotting, the installation of sidewalks along roads external to the site may be waived by the Board of Supervisors when the applicant provides an easement 50 feet wide along the street's ultimate right-of-way for trail, path or walkway use.
- (3) If central sewers and water are available, tracts of less than 10 acres may be developed in strict compliance with the "neighborhood" standards of this district, including small lots taking access from a new, internal road, and providing large setbacks from tract boundaries and ultimate right-of-way.
- (4) The minimum required lot size of 16,000 square feet may be reduced to 12,000 square feet by special exception where site design would be unduly restricted by one or more of the following:
 - (a) Excessive site coverage by:
 - [1] Steep slopes as defined in Article XV of this chapter.
 - [2] Floodplain, wetlands or bodies of water.
 - [3] Bouldery terrain or rock outcroppings, including areas classified by the Soil Survey of Montgomery County as limited by stones and shallow depth to bedrock.
 - [4] Woodlands.
 - [5] Riparian Conservation Corridor. **[Added 1-14-2010 by Ord. No. 2010-01]**
 - (b) Desire to retain most of the site in agriculture.
 - (c) Unusual shape or dimensions of a tract that restrict the layout of lots.
 - (d) Constraints imposed by preneighborhood and/or estate lots.
 - (e) Constraints imposed by existing residential or agricultural buildings.

B. Estate lot standards. When estate lots are proposed, as permitted under § 285-92A(12), herein, the following standards shall apply:

- (1) Estate lot dimensional standards.
 - (a) Minimum lot size: four acres (gross lot area); 80,000 square feet net lot area. **[Amended 1-14-2010 by Ord. No. 2010-01]**
 - (b) Maximum lot size: 15 acres (gross lot area). **[Amended 1-14-2010 by Ord. No. 2010-01]**
 - (c) Minimum lot width: 200 feet.
 - (d) Minimum building setback from all lot boundaries: 50 feet (applies to principal and accessory buildings).
 - (e) Maximum building coverage. 5% of estate net lot areas (applies to principal and accessory buildings). **[Amended 1-14-2010 by Ord. No. 2010-01]**
- (2) Developed area/open land.
 - (a) The maximum area of an estate lot that may be developed to include one dwelling, accessory structures, paved areas, lawns and other residentially landscaped areas and similar improvements

shall be 50% of the estate lot area, and shall not count toward the 75% open land requirements.

(b) The remaining estate lot area (50%) shall be retained in its natural state or be used for agriculture, reforestation, managed meadow or other open land uses permitted under § 285-92A, herein, and may be counted toward the minimum 75% open land requirement of § 285-94A(1).

(3) Number of estate lots permitted.

(a) For tracts of less than 60 acres, one estate lot is permitted.

(b) For larger tracts, the following maximums apply:

[1] Sixty or more acres: two estate lots.

[2] Ninety or more acres: three estate lots.

[3] One hundred twenty or more acres: four estate lots.

[4] For each additional increment of 30 acres, add one estate lot.

(4) The dwelling on an estate lot shall be counted toward the maximum density permitted under the ultimate development plan for the tract.

(5) The lot shall be restricted by permanent deed restrictions and open land easements against further subdivision and development or use inconsistent with the open land standards of § 285-92, herein.

(6) Ultimate development.

(a) Estate lots shall be permitted only as a part of an ultimate development plan, or as a phase of an ultimate development plan, which is drawn in compliance with the neighborhood design standards found in § 285-91, herein.

(b) Dwellings and the developed areas of estate lots shall not encroach upon floodplains, wetlands or steep slopes.

C. Neighborhood setbacks. The outer boundaries of all neighborhoods shall meet the following setbacks. The boundary is defined as the outer edge of lots abutting open land, or of roads adjacent to the fronts of those lots.

(1) From external road ultimate rights-of-way as defined by the Township: 200 feet.

(2) From all other tract boundaries: 100 feet.

(3) From cropland or pasture land: 100 feet.

(4) From buildings or barnyards housing livestock: 300 feet.

(5) From all other residential neighborhoods and from estate lot property line: 100 feet.

(6) From wetlands, floodplains or watercourses: 25 feet.

(7) From active recreation areas such as courts or playing fields (not including tot-lots): 150 feet.

(8) All setback areas along external roads, including areas on estate lots, shall be landscaped according to the standards of Chapter 240, Subdivision and Land Development, in order to preserve scenic views and integrate the neighborhood into the surrounding landscape. Suggested methods compatible with rural character included deciduous reforestation, hedgerows and/or naturalistic plantings and land forms.

(9) Setback standards may be reduced by the Board of Supervisors under the following circumstances:

- (a) Setbacks from external roads may be reduced to a minimum of 100 feet if the applicant can demonstrate, to the satisfaction of the Board of Supervisors, that existing vegetation and/or topography form an effective visual buffer along these roads, or where natural features seriously constrain strict compliance with the two-hundred-foot requirement, and additional landscaped buffering will be provided to reduce the visual impacts, acceptable to the Board of Supervisors.
- (b) All other setbacks may be reduced to half of the requirements specified above if the applicant can demonstrate, to the satisfaction of the Board of Supervisors, that reduced setbacks improve the plan's compliance with the neighborhood design standards in § 285-91, herein, the intent of this chapter, and other goals of the comprehensive plan.

D. Application of neighborhood setbacks to other lotting.

- (1) The neighborhood setbacks of Subsection C(1), (2) and (5) shall also apply to the entire lot area of preneighborhood lots and estate lots so that ultimate development of the tract shall be completely surrounded by a band of common open land suitable for buffer, recreation and/or trail purposes.
- (2) An exception to Subsection D(1), above, may be made for an estate lot intended to contain an existing farmstead, if a minimum fifty-foot open land easement is provided along the estate lot boundaries in the areas that would otherwise comprise the required neighborhood setbacks.
- (3) Flag lots for conventional lotting are permitted for tracts of land existing at the time of the adoption of this subsection, which meet the dimensional requirements of this chapter, and the standards outlined in § 285-50. **[Added 3-8-2007 by Ord. No. 2007-04]**

§ 285-95. Sewage and water facilities.

A. Water supply.

- (1) Dwellings on lots of 40,000 square feet or more may be served by individual onlot wells.
- (2) All other dwellings shall be served by centralized water supply facilities.

B. Sewage disposal.

- (1) Dwellings on lots of less than 80,000 square feet shall be served by centralized, common or shared sewage disposal systems.
- (2) When common or shared sewage disposal systems use a portion of the open land area, easements shall be required, as appropriate.

C. All sewage disposal shall conform to the Townships Official Sewage Facilities Plan (Act 537), as amended, and may include the following alternatives:

- (1) Public sewers where available.
- (2) Individual onlot systems, employing subsurface disposal or spray irrigation on open land.
- (3) Centralized, community or shared systems employing subsurface disposal or spray irrigation on open land or stream discharge.

§ 285-96. Conditional use standards and criteria for conventional lotting. [Amended 7-8-1993 by Ord. No. 93-1]

In order to use conventional lotting on tracts of 10 acres or more for single-family detached dwellings with no common open land, in compliance with § 285-89A(1)(a)[2], herein, the applicant must demonstrate to the satisfaction of the Board of Supervisors, conformance with the following standards and criteria:

- A. The tract in question is unsuitable for neighborhood development due to factors such as the size or shape of the tract or the location of natural features.
- B. Where the property is wholly or partially in agricultural use, that the property is not feasible for continued or future agricultural use due to its physical characteristics. Existing features such as soil conditions, rock outcroppings, wooded areas, the tract's shape or size, past farming activities, and suitability for efficient use of farm machinery shall be considered.
- C. The proposed development will not have a disruptive effect on the existing topography, floodplains, wetlands, mature woodlands or other natural features on the site.
- D. A complete environmental and visual inventory of the site has been submitted, as specified in § 285-90, herein.
- E. The proposed development shall be consistent with good design principles and land development practices. Specifically, it shall be designed to minimize view of dwellings from exterior roads and to avoid "stripping out" of lots along these roads. Minimum building setback lines from the external road ultimate right-of-way and other tract boundaries shall be as required in § 285-94C(1) and (2), herein.
- F. The tract in question can be developed in a manner consistent with community goals as expressed in the Comprehensive Plan/Open Space Plan.

§ 285-97. Phasing of ultimate development.

When an ultimate development plan for a tract has been approved as a sketch plan, and has been made a part of a binding subdivision and land development agreement between the applicant and the Township, then the preliminary and final plans may be implemented in phases in compliance with the following:

- A. Phases shall be logically delineated along defined limits including tract, neighborhood and open land area boundaries, estate lot lines and ultimate right-of-way lines of streets internal and external to the development.
- B. A phase may contain one or more of the following in logical combinations:
 - (1) Neighborhood.
 - (2) Estate lot.
 - (3) Open land area.
 - (4) Road right-of-way.
- C. An ultimate development plan may be phased in a variety of ways depending on the goals of the owner/subdivider including:
 - (1) All estate lots or all neighborhood lots, with required open land.
 - (2) A mix of estate lots and neighborhood lots, with required open land.
 - (3) One or more estate lots and/or neighborhoods, with the remaining land functioning as a large residual parcel, such as may be retained as farmland, although the ultimate development plan may show additional lotting of the residual parcel.
 - (4) Other combinations that may be approved by the Board of Supervisors, upon recommendation of the Township Planning Commission.
- D. Every lot proposed in the ultimate development plan shall be subject to the overall legal agreements regarding all the elements of the ultimate development plan including, but not limited to:

- (1) Maximum number of lots, lot and road layout and open land areas.
- (2) Membership, rights and responsibilities regarding a homeowner's association or other similar entity.
- (3) Water supply and sewage disposal.
- (4) Future phases, including phased construction of neighborhoods in accordance with the approved ultimate plan.

§ 285-98. Preneighborhood lotting standards and criteria. [Amended 7-8-1993 by Ord. No. 93-1]

Preneighborhood lotting permits creation of a limited number of new building lots prior to submission of ultimate development plans under the neighborhood design standards, without compromising the beneficial aspects of this district to preserve rural character and invaluable natural features. Therefore, preneighborhood lotting shall be permitted on tracts of 10 acres or more in compliance with the process, standards and criteria of this section. The applicant shall do the following:

- A. Determine the number of new building lots permitted from the following table.

Total Gross Tract Acres	New Building Lots Permitted
10 to 14.9	1
15 to 24.9	2
25 to 34.9	3
35 or more	4

- (1) One existing dwelling may remain on the residual tract area, in addition to creating new building lots.
 - (2) Not more than four new building lots shall be permitted in any case because five new lots constitutes a neighborhood, as defined herein, which should be designed in compliance with the neighborhood design standards, herein.
- B. Prepare an inventory and analysis as required by § 285-90, herein, and submit a sketch plan for subdivision of preneighborhood lots in compliance with the standards of Chapter 240, Subdivision and Land Development. Following agreement on the sketch plan concept, preliminary plans should be submitted.
- (1) Minimum lot size: 50,000 square feet.
 - (2) Maximum lot size: 80,000 square feet.
 - (3) Minimum lot width: 150 feet (may be measured as width or depth).
 - (4) Minimum building setback from all lot boundaries: 50 feet.
- C. Locate the lots in a manner that will not interfere with ultimate development under the neighborhood design standards, herein. The applicant is advised that the use of preneighborhood lots may limit ultimate development of the tract to fewer total lots than would be possible without the use of preneighborhood lots.
- D. Provide only one vehicular access to the new lots which shall be either:
- (1) Suitable and reserved for future use as access to the ultimate development.
 - (2) Replaced by revised access internal to the ultimate development when available.
- E. Ensure that onlot water supply and sewage disposal can be provided for each lot.
- F. Sign written agreements with the Township and deed restrict the preneighborhood lots and residual parcel to

the effect that:

- (1) The original tract area prior to preneighborhood lotting shall be used as the basis for ultimate development under the neighborhood design standards, herein.
- (2) Preneighborhood lots shall be included in the total number of lots permitted under ultimate development.
- (3) The approval of one or more preneighborhood lots has been exercised as a one time option, and that any further subdivision shall comply with § 285-89A(1)(b), Neighborhood lotting, which includes preparation of an ultimate development plan and preservation of at least 75% of the entire original tract as open land.
- (4) These arrangements and deed restrictions shall be noted or referenced on the recorded plan for preneighborhood lotting and the written agreements shall be referenced on the deeds for preneighborhood lots, the residual parcel and all future lotting of the original tract.
- (5) These lots may be required to connect into community systems when provided under neighborhood lotting.

§ 285-99. Rural lotting standards. [Amended 7-8-1993 by Ord. No. 93-1; 8-14-2003 by Ord. No. 03-04]

Rural lotting permits limited subdivision of large tracts into small tracts for the purposes listed in § 285-89B, herein, and future subdivision under neighborhood lotting standards, listed in § 285-89A, herein, and shall comply with the following standards:

- A. The applicant shall prepare an inventory and analysis as required by § 285-3, herein, and is encouraged to submit a sketch plan for subdivision of rural lots in compliance with Chapter 240, Subdivision and Land Development, and the standards herein. Following agreement on the sketch plan concept, preliminary plans should be submitted.
- B. Each rural lot shall be appropriately configured and contain suitable land areas for future subdivision under the neighborhood lotting and design standards, herein, and comply with the following standards.
 - (1) Every lot resulting from a rural lotting subdivision shall provide a minimum gross acreage of 30 acres, a minimum width of 500 feet for the full depth of the lot and a minimum depth of 500 feet for the full width of the lot.
 - (2) Setbacks, Location of Buildings and Other Improvements:
 - (a) Neighborhood setbacks required by § 285-94C(1) and (2), shall be provided along the entire perimeter of a rural lot.
 - (b) Building setbacks shall be 50 feet from the neighborhood setbacks, toward the interior of the tract, for principal and accessory buildings.
 - (c) The applicant is advised that the location of buildings and other improvements on a rural lot should consider their future impacts on ultimate development of the parcel.
 - (3) If a rural lot cannot meet these standards, it shall be permanently deed restricted against future subdivision because of its severe constraints.

§ 285-100. Flag lotting requirements. [Added 4-13-2000 by Ord. No. 00-1; amended 3-8-2007 by Ord. No. 2007-04]

Flag lots are permitted for tracts of land existing at the time of the adoption of this section, which meet the dimensional requirements of this chapter, and the standards outlined in § 285-50.

ARTICLE XI
R-60 Medium Density Residential District

§ 285-101. Declaration of legislative intent.

In expansion of the declaration of legislative intent found in Article I, § 285-2 of this chapter, and the statement of community development objectives found in Article I, § 285-3, of this chapter, it is the intent of this article to:

- A. Allow for a transition of residential densities from higher densities within and immediately abutting the Villages of Frederick and Obelisk to rural densities in other areas of the Township.
- B. Allow concentration of dwelling units at a density that would permit efficient future provision of community or central water supply and sewage disposal.
- C. Permit conventional lotting at reasonable standards where central water supply and sewage disposal are not available.
- D. Require the preservation of natural features, farmland or other open space when central water supply and sewage disposal are available or provided to a subdivision.
- E. Provide density and dimensional standards that provide for flexibility in site design, preservation of open space, and the appearance of a lower intensity of development than would be expected in more intense districts such as R-40, CB and LI.
- F. To provide density incentives for the use of development rights transferred pursuant to Article XXV. **[Added 5-12-2011 by Ord. No. 2011-02]**

§ 285-102. Permitted uses. [Amended 9-14-2000 by Ord. No. 00-3; 8-14-2003 by Ord. No. 03-04]

A building may be erected, altered or used, and a lot may be used or occupied for the following purposes and no other:

- A. Single-family detached dwellings, including the alternative types of village houses and lot line dwellings, in compliance with § 285-104A and B, herein.
- B. Single-family semidetached dwellings (twins) in compliance with § 285-104B, herein.
- C. Single-family attached dwellings, when approved as a conditional use, in compliance with §§ 285-104B and 285-106, herein.
- D. Agriculture.
- E. Open space uses including park and recreation areas for nonintensive uses when located in the open space area preserved in development proposals under § 285-104B, herein, including hiking, bicycling or bridle trails, picnic areas, playing fields and similar uses, and golf courses, but excluding driving ranges and miniature golf, and excluding other intensively used commercial outdoor recreation and facilities.
- F. Natural areas and related uses including wildlife sanctuary, forest preserve, educational nature center, game farm, fish hatchery, hunting or fishing preserve or similar uses for the protection and propagation of wildlife.
- G. Accessory uses in compliance with § 285-62 of this chapter.
- H. Signs in compliance with Article XX of this chapter.
- I. Cellular communication tower, subject to the provisions of § 285-67C.
- J. No-impact, home-based business.

§ 285-103. Special exception uses. [Amended 11-14-1996 by Ord. No. 96-6]

The following uses are permitted where authorized by approval of a special exception by the Zoning Hearing Board in compliance with § 285-107, herein:

- A. Fire station or emergency response center.
- B. Community center, service clubs or lodges only for members and their guests.
- C. Wholesale greenhouses.
- D. Elder cottages as defined herein, subject to the regulations of § 285-76.

§ 285-104. Density and dimensional standards. [Amended 7-8-1993 by Ord. No. 93-1; 8-13-1998 by Ord. No. 98-4; 8-14-2003 by Ord. No. 03-04; 9-8-2005 by Ord. No. 05-08]

Subdivision, development and use of land within the R-60 Residential District shall comply with the following requirements:

- A. When onlot sewage disposal is used, plans shall provide sufficient onlot sewage disposal areas in compliance with DEP regulations, and shall comply with the following standards:
 - (1) Minimum net lot area: 60,000 square feet. **[Amended 1-14-2010 by Ord. No. 2010-01]**
 - (2) Minimum lot width:
 - (a) On existing roads external to the tract: 200 feet.
 - (b) On new roads internal to the tract: 160 feet.
 - (3) Minimum yards.
 - (a) Front.
 - [1] On existing roads external to the tract: 100 feet.
 - [2] On new roads internal to the tract and flag lots: 60 feet.
 - (b) Side: 30 feet each.
 - (c) Rear: 60 feet.
 - (4) Maximum building coverage (% of net lot area): 10%. **[Amended 1-14-2010 by Ord. No. 2010-01]**
 - (5) The Board of Supervisors may request the granting of easements to permit interconnection of open space or natural features of Township-wide significance, in accord with the Township's Open Space and Recreation Plan or policies.
- B. When central water supply and sewage disposal are used, the standards in the following table shall apply: **[Amended 1-14-2010 by Ord. No. 2010-01]**

	Single-Family Detached Cluster	Village House, Lot Line and Single-Family Semidetached	Single-Family Attached
Maximum density (based on net lot acreage)	0.75 DU per net lot acre	0.75 DU per net lot acre	0.75 DU per net lot acre
Minimum common open space (% of gross tract acreage)	50%	50%	65%

	Single-Family Detached Cluster	Village House, Lot Line and Single-Family Semidetached	Single-Family Attached
Minimum lot area per dwelling unit	12,000 square feet	9,000 square feet	3,000 square feet
Minimum lot width per dwelling unit	90 feet	75 feet	25 feet
Minimum yards:			
Front	25 feet	25 feet	25 feet
Side			
Village house	25 feet each	15 feet one side	25 feet on end units
Lot line	25 feet each	30 feet one side	25 feet on end units
Single-family semidetached	25 feet each	35 feet one side	25 feet on end units
Rear	35 feet	35 feet	35 feet
Maximum building coverage (% of net lot area)	18%	18%	50%

- (1) For lot line and single-family semidetached units, a five-foot wide maintenance easement shall be required on the adjacent lot where it is needed for access to the exterior walls.
- (2) For single-family attached dwellings that are not lotted, the plan shall be drawn with dashed lines equivalent to the required lot and yard minimums to ensure proper building spacing, setbacks, usable areas and emergency access, although the equivalent lot areas shall not be privately owned or individually transferred.
- (3) For single-family attached dwellings, the Board of Supervisors shall require an emergency accessway, 20 feet wide, between ends of buildings and behind buildings, which may be independent of the lot areas or be located on easements on the lots.
- (4) Not more than six single-family attached dwelling units may be attached to form one building.

C. Flag lots are permitted for tracts of land existing at the time of the adoption of this subsection, which meet the dimensional requirements of this chapter, and the standards outlined in § 285-50. **[Added 3-8-2007 by Ord. No. 2007-04]**

D. Density Bonus. Increased density is available for projects with public water and public sewer systems with the use of transferable development rights as follows: **[Added 5-12-2011 by Ord. No. 2011-02]**

- (1) Maximum density. The maximum density shall be increased to densities allowed in Table 1, TDR Density Bonuses, of § 285-217B.
- (2) Dimensional standards. Dimensional standards for units developed with TDRs shall conform to Subsections B and C of § 285-111 and § 285-112, Additional standards, of Article XII, R-40 High Density Residential District.

§ 285-105. Additional standards.

The following additional standards shall apply to subdivisions and land developments proposed in the R-60 Residential District:

- A. Inventory, analysis and sketch plan. Applicants for all proposals shall conduct an inventory and analysis of the site, and are encouraged to submit optional sketch plans for informal review, in compliance with § 285-90, Inventory, analysis and optional and required sketch plans, of the R-80 Land Preservation District of this chapter.
- B. Neighborhood design standards. Proposals served by central water and sewer shall comply with the neighborhood design standards found in § 285-91 of this chapter, with the following exceptions:
 - (1) Village houses, lot line dwellings and twins need not comply with the twenty-five-lot maximum number of lots in a neighborhood (§ 285-91A).
 - (2) Neighborhood open space shall count toward the appropriate percentage of required open space for the type of R-60 development proposed [as opposed to the 75% requirement of § 285-91M(1)].
 - (3) Neighborhoods shall comply with the neighborhood setbacks of § 285-94C, except that active recreation areas may be as close as 75 feet from neighborhood boundaries, or may be located within neighborhoods when designed as neighborhood parks.
- C. Open space standards. Proposals served by central water and sewer shall comply with the § 285-92, Open land standards, with the following exceptions:
 - (1) The applicable percentage of open space/open land for R-60 proposals shall be as specified in § 285-104, herein, rather than the 75% required in § 285-92.
 - (2) Estate lots shall comply with the standards of § 285-94B, with the following exceptions:

- (a) Minimum lot size and maximum developed area:

Tract Size	Minimum Lot Size	Maximum Developed Area
(acres)	(acres)	(acres)
Under 15	2	1
15 or more	5	1.5

- (b) The maximum developed area shall not be counted in satisfying the minimum required open space requirement.

§ 285-106. Conditional use standards for single-family attached dwellings.

Single-family attached dwellings shall be permitted only when authorized as a conditional use by the Board of Supervisors in compliance with the following standards and criteria:

- A. Conditional use may be authorized when it provides an appropriate means of preserving exceptionally desirable site characteristics such as scenic views, sensitive natural features, large areas of prime agricultural soils, mature woodlands or sites of historical or cultural significance.
- B. Conditional use may be authorized when it provides an appropriate means of developing a site that is severely constrained by natural features and/or tract configuration.
- C. An application shall be filed and processed in accord with § 285-61, Conditional use application, of this chapter.
- D. The application shall be accompanied by the site inventory and analysis in compliance with § 285-90 of this chapter, and sufficient sketch plans to show how development of single-family attached dwellings would achieve the goals envisioned in Subsection A and B, above.

- E. Following conditional use approval, plans shall be submitted and processed in compliance with Chapter 240, Subdivision and Land Development.

§ 285-107. Special exception standards.

Applications for uses permitted by special exception in § 285-103 must be accompanied by materials demonstrating compliance with the following:

- A. Appropriate use. The function of the proposed facility shall be appropriate to the location proposed and not one which would more logically be located in another district. The proposed use shall not have adverse impacts on neighboring uses due to noise, glare, odor, dust, vibration or similar negative effect.
- B. Natural features. The buildings and uses shall preserve to the maximum extent possible all floodplains, stream valleys, steep slopes, woodlands, prime agricultural soils and similar environmentally sensitive areas and shall be planned to minimize perceived density or intensity of development. After development, the site shall retain an essentially rural or open character. Easements may be requested by the Board of Supervisors for interconnection of trails and natural features of Township-wide significance.
- C. Road capacity. The existing road system shall be capable of accommodating peak traffic generated by the facility in a safe and efficient manner or be capable of being improved to that level of accommodation without jeopardizing the rural character of the road system.
- D. Visual compatibility. The proposed facility must demonstrate visual compatibility with its rural surroundings, or provide plans to provide visual buffering with vegetative species compatible with existing species on the site.
- E. Parking setback. No parking area shall be closer than 50 feet to any property boundary or right-of-way.
- F. Building coverage. Shall not exceed 20% of the net tract acreage. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- G. Impervious surface coverage. Shall not exceed 40% of the net tract acreage. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- H. Dimensional standards.
 - (1) Minimum lot size: 217,800 square feet (five acres) gross lot area. **[Amended 1-14-2010 by Ord. No. 2010-01]**
 - (2) Minimum width at front building line: 300 feet.
 - (3) Minimum front yard: 100 feet.
 - (4) Minimum side yard: Each 50 feet.
 - (5) Minimum rear yard: 100 feet.
 - (6) Maximum height.
 - (a) For any dwelling: 35 feet.
 - (b) For any building accessory to any dwelling use: 14 feet, not exceeding one story.
 - (c) For any nonresidential building or other structure, 35 feet, except that such height may be increased to a maximum of 60 feet or such increased height as may be warranted when approved by the Zoning Hearing Board for such structures as water towers, barns, silos, chimneys and stacks provided that for every foot of height in excess of 35 feet there shall be added to each yard requirement one corresponding foot of width or depth.

ARTICLE XII
R-40 High Density Residential District

§ 285-108. Declaration of legislative intent.

In expansion of the declaration of legislative intent found in Article I, § 285-2 of this chapter and the statement of community development objectives found in Article I, § 285-3, of this chapter. It is the intent of this chapter to:

- A. Permit and encourage a variety of dwelling types that will provide housing for a range of income levels, age groups and lifestyles within the Township.
- B. Permit and encourage high density residential development within and immediately surrounding the villages of Frederick, Obelisk and Perkiomenville, allowing preservation of rural areas of the Township in lower density districts.
- C. Allow concentration of dwelling units in areas that would permit efficient future provision of community or central water supply and sewage disposal.
- D. Permit conventional lotting at reasonable standards where central water supply and sewage disposal are not available.
- E. Require the preservation of natural features and other open space when central water supply and sewage disposal are available or provided to a subdivision or land development.
- F. Provide density and dimensional standards that provide for flexibility in site design and preservation of open space, and encourage attractive development at the highest densities to be compatible with the generally rural character of the Township.
- G. To provide density incentives for the voluntary use of transferred development rights. **[Added 5-12-2011 by Ord. No. 2011-02]**

§ 285-109. Permitted uses. [Amended 9-14-2000 by Ord. No. 00-3; 2-14-2002 by Ord. No. 02-4; 8-14-2003 by Ord. No. 03-04]

A building may be erected, altered or used, and a lot may be used or occupied, for the following purposes and no other:

- A. Single-family detached dwellings served by onlot sewage disposal, in compliance with § 285-111A, herein.
- B. Single-family detached and two-family dwellings, in compliance with § 285-111B, herein.
- C. Single-family attached dwellings, in compliance with § 285-111C, herein.
- D. Multifamily dwellings, in compliance with § 285-111D, herein.
- E. Open space uses including parks and recreation areas for nonintensive uses, when located in the open space areas preserved in development proposals under § 285-111B and C, herein; including hiking, bicycling or bridle trails, picnic areas, playing fields and similar uses, and golf courses, but excluding driving ranges and miniature golf, and excluding other intensively used commercial outdoor recreation and facilities.
- F. Natural areas and related uses including wildlife sanctuary, forest preserve, educational nature center, game farm, fish hatchery, hunting or fishing preserve, or similar uses for the protection and propagation of wildlife.
- G. Accessory uses in compliance with § 285-62 of this chapter.
- H. Signs in compliance with Article XX of this chapter.
- I. Mobile home park, in compliance with Article XIII of this chapter.

- J. Agriculture.
- K. Cellular communication tower, subject to the provisions of § 285-67C.
- L. Historic educational facility, subject to the following regulations:
 - (1) A tract of land on which the historic educational facility is located shall have a minimum of four acres.
 - (2) The required number of off-street parking spaces shall be calculated using the schedule established for institutional uses.
 - (3) A sketch plan shall be filed with the Township for review by the Code Enforcement Officer and Township Engineer to confirm compliance with all other Township ordinances and rules and regulations.
- M. No-impact, home based business.

§ 285-110. Special exception uses. [Amended 11-14-1996 by Ord. No. 96-6]

The following uses are permitted where authorized by approval of a special exception by the Zoning Hearing Board, in compliance with § 285-113, herein:

- A. Fire station or emergency response center.
- B. Club, fraternity house or lodge for members and their guests only.
- C. Community center, noncommercial park or athletic field.
- D. Elder cottages as defined herein, subject to the regulations of § 285-76.

§ 285-111. Density and dimensional standards. [Amended 7-8-1993 by Ord. No. 93-1; 8-13-1998 by Ord. No. 98-4; 7-10-2003 by Ord. No. 03-02; 8-14-2003 by Ord. No. 03-04]

Subdivision, development and use of land within the R-40 Residential District shall comply with the following requirements:

- A. When onlot sewage disposal is used, plans shall provide sufficient onlot sewage disposal areas in compliance with DEP regulations, and shall comply with the following standards:
 - (1) Minimum net lot area: 40,000 square feet. **[Amended 1-14-2010 by Ord. No. 2010-01]**
 - (2) Minimum lot width.
 - (a) On existing roads external to the tract: 200 feet.
 - (b) On new roads internal to the tract: 140 feet.
 - (3) Minimum yards.
 - (a) Front.
 - [1] On existing roads external to the tract: 75 feet.
 - [2] On new roads internal to the tract and on flag lots: 50 feet.
 - (b) Side: 30 feet each.
 - (c) Rear: 50 feet.

(d) Maximum building coverage (% of net lot area): 10%. **[Amended 1-14-2010 by Ord. No. 2010-01]**

(e) Easements may be requested by the Board of Supervisors to permit interconnection of open space or natural features of Township-wide significance, in accord with the Township's open space and recreation plan or policies.

B. When central water supply and sewage disposal are used, the standards in the following table shall apply to single-family detached and two-family dwelling types: **[Amended 1-14-2010 by Ord. No. 2010-01]**

	Single-Family Detached Cluster	Village House, Lot Line and Two-Family
Maximum density (based on net lot acreage)	1.75 DU per net lot acreage	2.5 DU per net lot acreage
Minimum common open space (% of gross tract acreage)	35%	25%
Minimum net lot area per dwelling unit	10,000 square feet	7,500 square feet
Minimum lot width per dwelling unit	80 feet	60 feet
Minimum yards:		
Front	25 feet	25 feet
Side		
Village house	20 feet each	10 feet each dwelling
Lot line	20 feet each	30 feet one side
Two-family	20 feet each	15 feet for each
Rear	30 feet	30 feet
Maximum building coverage (% of net lot area)	18%	18%
Additional permitted building coverage for balconies, decks, entranceway coverage and similar building attachments	10%*	10%*

NOTES:

*A maximum of 5% can be impervious surface coverage.

(1) For lot line and single-family semidetached units a five-foot wide maintenance easement shall be required on the adjacent lot where it is needed for access to the exterior walls.

C. Single-family attached dwelling served by central water supply and sewage disposal shall comply with the following standards:

(1) Minimum tract size: 10 acres gross lot area; 80,000 square feet net lot area. **[Amended 1-14-2010 by Ord. No. 2010-01]**

(2) Maximum density: five dwelling units per net lot acre. **[Amended 1-14-2010 by Ord. No. 2010-01]**

(3) Minimum common open space: 35% of the gross lot area. **[Amended 1-14-2010 by Ord. No. 2010-01]**

- (4) Minimum net lot area: 2,000 square feet. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- (5) Minimum lot width: 20 feet.
- (6) Minimum yards.
 - (a) Front: 20 feet (see Subsection C(11) below).
 - (b) Side: 25 feet on end units.
 - (c) Rear: 30 feet.
- (7) Maximum building coverage (% of net lot area): 50%. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- (8) For single-family attached dwellings that are not lotted, the plan shall be drawn with dashed lines equivalent to the required lot and yard minimums to ensure proper building spacing, setbacks, usable areas and emergency access, although the "equivalent lot areas" shall not be privately owned or individually transferred.
- (9) For single-family attached dwellings, the Board of Supervisors shall require an emergency accessway, 20 feet wide, between ends of buildings and behind buildings, which may be independent of the lot areas or be located on easements on the lots.
- (10) No more than six single-family attached dwelling units may be attached to form one building, except that a maximum of 25% of the number of buildings proposed may contain up to eight dwelling units when approved by the Board of Supervisors upon favorable recommendation by the Township Planning Commission.
- (11) The following building and parking setbacks shall apply to single-family attached dwellings and if a conflict occurs with other standards, these standards shall govern:
 - (a) Building setbacks.
 - [1] From roads.
 - [a] Seventy-five feet from external road ultimate right-of-way.
 - [b] Fifty feet from ultimate right-of-way for roads internal to the development.
 - [2] From common parking areas: 20 feet from edge of paving.
 - [3] From access drives: 20 feet from edge of paving.
 - [4] From tract boundaries: 40 feet.
 - (b) Parking. Parking may be provided as privately owned spaces on individual lots or as commonly-owned parking areas conveniently located among townhouse buildings. Parking setbacks:
 - [1] From tract boundary: 20 feet.
 - [2] From ultimate right-of-way: 10 feet.
 - [3] From edge of private street or another parking area: 10 feet.
 - [4] From buildings: 20 feet.
- (12) Buffers. A planting area, 25 feet in width, shall be provided along the side and rear tract boundaries, planted with evergreens, shrubbery and other suitable vegetation of sufficient density to provide a total visual screen between the proposed development and adjacent property. Every effort shall be made to

retain existing natural screening by topography and vegetation.

D. Multifamily dwellings shall be served by central water supply and sewage disposal and shall comply with the following standards:

- (1) Minimum gross lot size: 10 acres. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- (2) Maximum density: six dwelling units per net lot acre. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- (3) Minimum common open space: 35% of the gross lot acreage. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- (4) Maximum building coverage: 15% of the net lot acreage. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- (5) Maximum horizontal building dimension: 150 feet.
- (6) Minimum distance between buildings: 60 feet.
- (7) Building setbacks.
 - (a) From roads: 75 feet from any ultimate right-of-way.
 - (b) From common parking areas: 20 feet from edge of paving.
 - (c) From access drives: 20 feet from edge of paving.
 - (d) From tract boundaries: 40 feet.
- (8) Parking area setbacks.
 - (a) From tract boundary: 20 feet.
 - (b) From ultimate right-of-way: 10 feet.
 - (c) From edge of private street or another parking area: 10 feet.
 - (d) From buildings: 20 feet.
- (9) Buffers. A planting area, 25 feet in width shall be provided along the side and rear tract boundaries, planted with evergreens, shrubbery and other suitable vegetation of sufficient density to provide a total visual screen between the proposed development and adjacent property. Every effort shall be made to retain existing natural screening by topography and vegetation.

E. Density bonus. Increased density is available for projects with public water and sewer systems with the use of transferable development rights as follows: **[Added 5-12-2011 by Ord. No. 2011-02]**

- (1) Maximum density. The maximum density shall be increased to densities allowed in Table 1, TDR Density Bonuses, of § 285-217B.
- (2) Dimensional standards. The standards in the following table shall apply.

		Single-Family Detached Cluster	Village House, Lot Line, and Two-Family	Single-Family Attached
a.	Minimum common open space (% of gross tract area)	25%	20%	25%
b.	Minimum net lot area	7,500 square feet	5,000 square feet	2,000 square feet
c.	Minimum lot width	75 feet	50 feet	20 feet

		Single-Family Detached Cluster	Village House, Lot Line, and Two-Family	Single-Family Attached
d.	Minimum yards			
	Front	25 feet	25 feet	20 feet
	Side	15 feet	10 feet each dwelling	15 feet on end units
			20 feet one side	
	Rear	30 feet	30 feet	30 feet
e.	Maximum building coverage (% of net lot area)	18%	18%	50%
f.	Additional permitted building coverage for balconies, decks, entranceway coverage and similar building attachments*	10%	10%	-

* A maximum of 5% can be impervious surface coverage

- (3) Additional standards for single-family attached units. In addition to the standards provided in the table above, single-family attached units shall also conform to § 285-111C(8), (9), (10), (11), and (12).

§ 285-112. Additional standards.

The following additional standards shall apply to subdivisions and land development proposed in the R-40 Residential District:

- A. Inventory, analysis and sketch plan. Applicants for all proposals shall conduct an inventory and analysis of the site, and are encouraged to submit optional sketch plans for informal review, in compliance with § 285-90, Inventory, analysis and optional and required sketch plans, of the R-80 Land Preservation District of this chapter.
- B. Neighborhood design standards. Proposals served by central water and sewer shall comply with the neighborhood design standards found in § 285-91 of this chapter, with the following exceptions:
- (1) Village houses, lot line dwellings, and twins need not comply with the twenty-five-lot maximum number of lots in a neighborhood (§ 285-91A).
 - (2) Neighborhood open space shall count toward the appropriate percentage of required open space for the type of R-40 development proposed [as opposed to the 75% requirement of § 285-91M(5)].
 - (3) Neighborhoods shall comply with the neighborhood setbacks of § 285-94C, except that active recreation areas may be as close as 75 feet from neighborhood boundaries, or may be located within neighborhoods when designed as neighborhood parks.
 - (4) Multifamily developments shall not be required to comply with the neighborhood design standards.
- C. Open space standards. Proposals served by central water and sewer shall comply with the § 285-92, Open land standards, with the following exceptions:
- (1) The applicable percentage of open space/open land for R-40 proposals shall be as specified in § 285-111, herein, rather than the 75% required in § 285-92.

(2) Estate lots shall comply with the standards of § 285-94B, with the following exceptions:

(a) Minimum lot size and maximum developed area. **[Amended 1-14-2010 by Ord. No. 2010-01]**

Tract Size	Minimum Lot Size	Maximum Developed Area
(gross lot area in acres)	(gross lot area in acres)	(net lot area in acres)
Under 15	2	1
15 or more	5	1.5

(b) The maximum developed area shall not be counted in satisfying the minimum required open space requirement.

§ 285-113. Special exception standards.

Applications for uses permitted by special exception in § 285-110 must be accompanied by materials demonstrating compliance with the following:

- A. Appropriate use. The function of the proposed facility shall be appropriate to the location proposed and not one which would more logically be located in another district. The proposed use shall not have adverse impacts on neighboring uses due to noise, glare, odor, dust, vibration or similar negative effect.
- B. Natural features. The buildings and uses shall preserve to the maximum extent possible all floodplains, stream valleys, steep slopes, woodlands, prime agricultural soils and similar environmentally sensitive areas and shall be planned to minimize perceive density or intensity of development. After development, the site shall retain an essentially rural or open character. Easements may be requested by the Board of Supervisors for interconnection of trails and natural features of Township-wide significance.
- C. Road capacity. The existing road system shall be capable of accommodating peak traffic generated by the facility in the safe and efficient manner or be capable of being improved to that level of accommodation without jeopardizing the functioning of the road system.
- D. Visual compatibility. The proposed facility must demonstrate visual compatibility with its surroundings or provide plans to provide visual buffering with vegetative species compatible with existing species on the site.
- E. Parking setback. No parking area shall be closer than 50 feet to any property boundary or right-of-way.
- F. Building coverage shall not exceed 20% of the net lot area. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- G. Impervious surface coverage shall not exceed 40% of the net lot area. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- H. Dimensional standards.
 - (1) Minimum lot size: 130,680 square feet (three acres) gross lot area; 65,340 square feet (1 1/2 acres) net lot area. **[Amended 1-14-2010 by Ord. No. 2010-01]**
 - (2) Minimum width at front building line: 250 feet.
 - (3) Minimum front yard: 50 feet.
 - (4) Minimum side yard: each 50 feet.
 - (5) Minimum rear yard: 75 feet.
 - (6) Maximum height.

- (a) For any dwelling: 35 feet.
- (b) For any building accessory to any dwelling use: 14 feet, not exceeding one story.
- (c) For any nonresidential building or other structure, 35 feet, except that such height may be increased to a maximum of 60 feet or such increased height as may be warranted when approved by the Zoning Hearing Board for such structures as water towers, barns, silos, chimneys and stacks, provided that for every foot of height in excess of 35 feet there shall be added to each yard requirement one corresponding foot of width or depth.

ARTICLE XIII
MHP Mobile Home Park Development

§ 285-114. Declaration of legislative intent.

The following is an expansion of the declaration of legislative intent contained Article I, § 285-2, of this chapter and the community development objectives contained in Article I, § 285-3, of this chapter. It is the intent of the MHP Mobile Home Park Development Regulations to establish standards of performance and promote the desirable benefits which planned mobile home parks may have upon the community. It is also the intent of this article to ensure the interdependency and compatibility of proposed mobile home park developments with essential public sewer and water facilities and surrounding land uses in the Township. Further, it is the intent of this article to:

- A. Provide for better quality and greater variety in type, design and layout of mobile home park developments than has been evident in many mobile home parks in the past by enforcing uniform standards, desirable criteria and innovative site design approaches.
- B. Provide for a diversity in housing types and prices.
- C. Provide more affordable housing to all residents of Upper Frederick Township.

§ 285-115. Use regulations.

With respect to single-family mobile home dwelling units or a mobile home park development as defined in this chapter, the following use regulations shall apply:

- A. General regulations. A single-family mobile home is a permitted use in any residential district, provided that it meets the applicable requirements for single-family detached dwellings.
- B. Mobile home park requirements. Mobile home parks are permitted use only in the R-40 Residential District, provided that they are placed on a permanent foundation and that the requirements outlined in this article are met.
- C. Accessory uses. Accessory uses and structures customarily incidental to the maintenance, servicing and well-being of mobile home park residents shall be permitted only as part of an approved development plan for the mobile home park site.
- D. Commercial uses prohibited. Commercial uses are prohibited in all mobile home parks.

§ 285-116. Development regulations. [Amended 8-14-2003 by Ord. No. 03-04]

The following density, area, width and yard regulations shall apply to any proposed mobile home park development.

- A. Minimum acreage. A proposed mobile home park development site shall have a minimum of 10 contiguous gross acres. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- B. Density. The proposed mobile home park development shall have a maximum density of four dwelling units per net lot acre. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- C. Area, width and yard regulations. The following regulations shall apply:
 - (1) Lot size. No mobile home lot shall be less than 6,000 square feet in net lot area. **[Amended 1-14-2010 by Ord. No. 2010-01]**
 - (2) Lot width. No mobile home lot shall be less than 60 feet wide.

- (3) Front yard. No mobile home lot shall have front yard of less than 20 feet measured from the street ultimate right-of-way line. No more than four homes in a row shall have the same front setback, and the variations in front setbacks shall be at least four feet.
 - (4) Rear yard. No mobile home lot shall have a rear yard of less than 20 feet.
 - (5) Side yard. Each mobile home lot shall have two side yards which shall not be less than 30 feet in aggregate width nor less than 10 feet in minimum width.
 - (6) Corner lots. Each corner lot shall have two front yards, two side yards, and no rear yards.
 - (7) Building coverage. Building coverage shall not exceed 30% of the total net lot area. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- D. Setbacks. The following setbacks shall be required for mobile homes in mobile home park developments.
- (1) From any lot line adjacent to the MHP boundary line: 50 feet.
 - (2) From the street ultimate right-of-way line of.
 - (a) Road interior to the park: 20 feet.
 - (b) Roads of feeder or higher classification exterior to the park: 20 feet.
 - (c) All other road exterior to the park: 20 feet.
 - (3) From any common parking area: 20 feet.
 - (4) From any other off-street parking, including driveways: five feet.
- E. Clustering of mobile home lots. Mobile home parks that are 20 acres in size or larger shall be divided into clusters of 40 lots, with each cluster separated from adjoining clusters by a seventy-five-foot-wide strip of open space. Whenever possible, this strip of open space shall be used for the mobile home park's pedestrian circulation.
- F. Height of units. No mobile home shall exceed the height of 25 feet.
- G. Parking.
- (1) Not less than two off-street automobile parking spaces shall be required for each mobile home dwelling unit.
 - (2) If a twenty-six-foot width is used on interior roads and parking is allowed on these roads, then a visitor parking area is not required. Wherever a twenty-foot paving width is used, three-tenths parking spaces per dwelling unit on the twenty-foot roads must be provided in an off-street visitor parking area.
 - (3) Any parking area of five or more cars shall not be located closer than 10 feet from any lot line or 15 feet from a street ultimate right-of-way line.
 - (4) For parking areas with 10 or more parking spaces, not less than 10% of the area devoted to parking facilities shall consist of interior parking lot landscaping.

§ 285-117. General requirements.

In the proposed mobile home park the following general requirement shall apply:

- A. Utilities. All dwelling units within the mobile home park development shall be served by a public, central or community sanitary sewage disposal system and by public, central or community water supply facilities. All utility lines (electric, telephone, etc.) serving the mobile home park subsequent to the enactment of this

chapter shall be placed underground.

- B. Signs. Signs shall be permitted subject to the provisions of Article XX of this chapter.
- C. Access. Provision shall be made for sale and efficient ingress and egress to and from public streets and highway servicing the mobile home park development without causing undue interference or confusion with the normal traffic flow. The Planning Commission shall satisfy itself concerning the adequacy of the thoroughfare to carry the additional traffic generated by the proposed development, as well as to the street frontage of the proposed development.
- D. Provision of open space and recreation areas. Provision shall be made for onsite open space and recreation areas according to the following standards:
 - (1) At least 25% of the gross area of any tract proposed for mobile home park development must remain as permanent open space, exclusive of any roads or parking.
 - (2) At least 25% of the required open space area shall be devoted to active recreation.
 - (3) This open space must also meet the requirements of §§ 285-52 and 285-53 of this chapter.
- E. Common areas and facilities. The provision of certain facilities serving the entire development, such as parking lots, interior pedestrian ways, driveways, lighting facilities, landscaped planting areas, buffers and open space and recreation facilities, etc., are hereby encouraged and may be located either on individual lots or in common areas.
- F. Landscaped planting areas. Shade trees shall be provided along street frontage occupied by a mobile home park development developed subsequent to the enactment of this chapter. The use of landscaped planting areas by the mobile home park developer throughout the proposed mobile home park is encouraged.
- G. Buffer area. A mobile home park development developed subsequent to the enactment of this chapter shall provide a landscaped, planted buffer area of at least 15 feet in depth, designed for screening from view any residential, commercial and industrial uses which are adjoining and contiguous to the development.
- H. Pedestrian circulation. All mobile home park development shall provide pedestrian walkways that may parallel roads, where they shall only be required on one side, or they may form a separate but coordinated system away from streets.

ARTICLE XIV
IR - Institutional and Recreational District

§ 285-118. Legislative intent.

In expansion of the declaration of legislative intent found in Article I, § 285-2, of this chapter, and the statement of community development objectives found in Article I, § 285-3, of this chapter, it is the intent of this article to:

- A. To provide suitable areas within the Township to accommodate medical, educational, religious or similar institutional uses and park and recreation uses.
- B. To provide design and regulatory standards for institutional and recreational facilities which will ensure the compatibility of adjacent uses and which will minimize any adverse traffic or environmental impacts.

§ 285-119. Establishment of overlay district.

The Institutional and Recreational District shall be an overlay to the underlying districts as shown on the Zoning Map. The following provisions shall also apply to the overlay district:

- A. The provisions of the Institutional and Recreational District shall serve in place of the underlying district provisions.
- B. In the case of conflict between the provisions or requirements of this district and those of any underlying district, the provisions of this district shall apply.
- C. A change in the underlying zoning shall not affect the classification of any land zoned as the Institutional and Recreational District.
- D. The Institutional and Recreational District shall be applied only when approved by the Board of Supervisors in compliance with § 285-123, herein.

§ 285-120. Permitted uses.

- A. Township buildings and facilities.
- B. Township, county, state and federal parks and open space including, but not limited to, the Upper Perkiomen Valley Park, held for conservation, recreation and open space preservation and limited to uses of a nonintensive nature including picnic areas, playing fields, bridle trails, hiking, bicycling, fishing, ice skating, overnight camping, wildlife sanctuary, boating, playgrounds, tennis and golf courses, but excluding driving ranges and miniature golf, and excluding any intensively used outdoor recreation areas and facilities, especially those of a commercial character.
- C. Commercial solar energy system, pursuant to § 285-77.2. **[Added 7-18-2019 by Ord. No. 2019-01]**

§ 285-121. Special exception uses.

- A. Public and/or private schools, elementary through college levels, subject to the following requirements:
 - (1) The proposed use shall have direct access to a feeder or higher classification street according to the adopted ultimate right-of-way map.
 - (2) The proposed site shall not be subject to any hazard or nuisance such as toxic matter, flooding, excessive noise or odor, as determined by the Board of Supervisors.
 - (3) No outdoor play areas or athletic field or courts shall be located closer than 200 feet from any property line or street ultimate right-of-way line and areas for spectator sports involving public access shall be located not closer than 500 feet from any property line or street ultimate right-of-way line, and these

outdoor facilities shall be fenced and sufficiently screened to protect the neighborhood from excessive noise and other disturbances.

- (4) Residential uses may be permitted only as accessory uses, incidental to the educational functions of the school, and may include dormitories and other types of housing, located only on the school's campus.
 - (5) Schools shall not be permitted in any areas zoned RP - Rural Preservation District.
- B. Community center, senior citizens center or similar facility, provided the use shall not be conducted as a private for profit business and no outdoor recreation area shall be located closer than 200 feet to any lot line. Not permitted in areas zoned RP - Rural Preservation.
- C. Library, museum or historical site open to the public.
- D. Place of worship and adjunct dwelling units for clergy and support staff, including accessory social, recreational, day-care, and educational uses directly administered by the institution. Cemeteries, when owned and operated by a religious institution. **[Amended 4-10-2008 by Ord. No. 2008-05]**
- E. Institutional headquarters of a registered nonprofit organization.
- F. Medical, surgical or rehabilitation hospital, subject to the following additional requirements:
- (1) The proposed site shall have direct access to a feeder or higher classification street and shall not have driveway access to local or residential streets whenever possible. The adopted ultimate right-of-way map shall be used to determine street classifications.
 - (2) Existing residential areas shall not be infringed upon by significant increases in traffic volumes from the proposed facility as determined by the applicant's traffic impact study.
 - (3) The proposed site shall not be subject to any hazard or nuisance such as toxic matter, flooding, excessive noise, or odor, as determined by the Board of Supervisors.⁶⁵
- G. Concessions on public lands including refreshment stands, boat rentals, stables for boarding or renting horses and similar activities whenever Township regulations are not preempted by another jurisdiction. Concessions shall be subject to the following additional requirements:
- (1) Concessions shall be buffered from residential districts or uses and shall not use amplified sound.
 - (2) Concessions shall be located at least 500 feet from any residential property line.
 - (3) Vehicular traffic through residential neighborhoods shall be avoided to reduce neighborhood traffic hazards.
 - (4) Moveable or vehicular concessions are prohibited.

§ 285-121.1. Conditional uses. [Added 6-13-2013 by Ord. No. 2013-02]

- A. The following uses shall be allowed by conditional use:
- (1) Licensed institution for housing and care of the elderly, handicapped or mentally ill, including personal care, intermediate care and skilled care facilities, and necessary support staff, subject to the requirements of the Fair Housing Act, as amended, and further including a continuing care retirement community (CCRC).

65. Editor's Note: Former Subsection G, Licensed institution for housing and care of the elderly, handicapped or mentally ill, which immediately followed this subsection, was repealed 6-13-2013 by Ord. No. 2013-02. This ordinance also provided for the renumbering of former Subsection H as Subsection G.

- (2) Traditional neighborhood design (TND) option within a continuing care retirement community on land only within the R-40 High Density Residential District, in accordance with § 285-124B.
- B. In addition to the requirements specifically applicable to uses permitted by conditional use under Subsection A above, applications for a conditional use under Subsection A shall satisfy and be evaluated by the Board of Supervisors in accordance with the criteria of § 285-124.
- C. In the event that an application for conditional use under this § 285-121.1 is filed, a separate application for the Institutional and Recreational District under § 285-123 for the proposed use shall not be required. An application for a conditional use under this § 285-121.1 shall also be considered an application for the Institutional and Recreational District under § 285-123 for the proposed use, and the grant of the conditional use application shall have the same force and effect as the grant of an application under § 285-123 for the proposed use.

§ 285-122. Dimensional standards (permitted, special exception and conditional uses). [Amended 1-14-2010 by Ord. No. 2010-01; 6-13-2013 by Ord. No. 2013-02]

Permitted, special exception and conditional uses shall comply with the following table unless a specific standard is specified elsewhere in this article for the use:

- A. Minimum lot size: four acres gross lot area; 80,000 square feet net lot area.
- B. Minimum lot width at building setback lines.
 - (1) Two hundred feet for lots under 10 acres.
 - (2) Four hundred feet for lots 10 acres or more.
- C. Minimum street frontage: 100 feet.
- D. Minimum building setback.
 - (1) From ultimate right-of-way: 100 feet.
 - (2) From all other property lines: 50 feet.
- E. Maximum building height: 40 feet (three stories).
- F. Maximum building coverage (net lot area): 30%.
- G. Maximum impervious surface coverage (net lot area): 40%.
- H. Minimum vegetation, trees or landscaping (gross lot area): 30%.
- I. Minimum distance between buildings: 50 feet.
- J. Minimum parking area setbacks.
 - (1) From ultimate right-of-way.
 - (a) Parking area with less than 100 spaces: 50 feet.
 - (b) Parking area with more than 100 spaces: 100 feet.
 - (c) For parking areas with less than 50 spaces, the Zoning Hearing Board may reduce the setback by special exception, to not less than 10 feet.
 - (2) From buildings: 20 feet.

- (3) From property lines: 35 feet.

§ 285-123. Application for Institutional and Recreation District.

Applications for the Institutional and Recreational District shall satisfy the following criteria and the standards of § 285-124, herein:

- A. A community impact analysis shall be submitted to the Township containing the following information for review by the Township Planning Commission and the Board of Supervisors:
 - (1) The compatibility of the proposed development with land uses that are adjacent to the site, and consistency with the Township Comprehensive Plan.
 - (2) The impact of the proposed development on sensitive natural areas including floodplains, steep slopes, woodlands, waterways, recreational areas and conservation areas.
 - (3) The impact of the development on public utilities, including sewage disposal, water supply, solid waste disposal, storm drainage and electrical utilities; and the provision of police and fire protection.
 - (4) A traffic impact study shall be submitted as required by § 285-73, when required by the Board of Supervisors.
 - (5) Documentation of onsite or offsite improvements proposed to alleviate any projected negative impacts of the development.
- B. The use shall not generate undue and/or extraneous noise, noxious odors, air pollution or glare, or result in pedestrian-vehicular conflict or other safety hazards to people or property. Outdoor recreation facilities shall only be permitted where the noise generated by the use will have a minimal impact on nearby residential uses.
- C. Outdoor storage, waste disposal and loading areas shall be screened from streets and adjacent uses to preserve the character of the surrounding area. Such activities shall be located to the rear of structures. The location and design of parking areas shall be in harmony with preserving the general appearance and character of the area.
- D. If the evidence provided by the applicant regarding Subsections A, B and C, above, is sufficient to convince the Board of Supervisors that the proposal is suitable, then the Institutional and Recreational District shall be applied to the applicant's land, and development plans may be submitted in compliance with applicable Township regulations. The Upper Frederick Township Zoning Map shall be amended in accordance with the provisions of the Pennsylvania Municipalities Planning Code to apply the standards of the Institutional and Recreational District to those areas approved by the Board of Supervisors. **[Amended 4-10-2008 by Ord. No. 2008-05]**
- E. Once the Supervisors have approved a proposal as being suitable for the Institutional and Recreational District, and the Upper Frederick Township Zoning Map is changed to so designate, only the use proposed by the application submitted under this section shall be permitted without further application to the Board of Supervisors. **[Added 4-10-2008 by Ord. No. 2008-05]**

§ 285-124. Development standards. [Amended 6-13-2013 by Ord. No. 2013-02]

Uses in the Institutional and Recreational District shall comply with the development standards below:

- A. Uses in the Institutional and Recreational District shall comply with the development standards below:
 - (1) Traffic and access. The applicant shall demonstrate that satisfactory provisions are made to prevent traffic congestion and hazards to the surrounding area. Provisions shall be made for safe and efficient ingress and egress to and from the development. A traffic impact study may be required for any use in

this district to demonstrate the adequacy of the access points and streets for accommodating the traffic generated by the proposed use. Existing residential areas shall not be infringed upon by significant volumes of traffic from the proposed use.

- (2) Water. If expected demand for water is in excess of 500 gallons per day, the applicant shall demonstrate to the Board of Supervisors that a well on the site will not adversely affect existing water supply systems in the area.
- (3) Neighborhood impact. The impact of the proposed use on the surrounding properties and neighborhood shall be considered. The use shall not adversely affect the general welfare or orderly development of the general neighborhood in which it is proposed. The scale, form and appearance of structures and open space should be compatible with the general character of the residential area.

B. Traditional neighborhood design option within a continuing care retirement community. A traditional neighborhood design option within a continuing care retirement community development shall comply with the following development standards and other provisions. Such development standards and provisions shall apply to that portion of the CCRC land on which the TND option development is proposed, except for the maximum lot and density regulations of Subsection B(5) below, which shall apply to the entire CCRC land and the existing development thereof as proposed for further development under the TND option. Additionally, upon completion of the TND option development, the area and height regulations of Subsection B(6) below, and the minimum parking regulations of Subsection B(7) below, shall apply to any further development of the CCRC land whether within or without the TND option development.

- (1) Legislative intent. Consistent with and in furtherance of the legislative intent specified in § 285-118, the traditional neighborhood design option within a continuing care retirement community is primarily intended to do the following:
 - (a) Promote a mix of diverse but compatible types of residential development within a new or existing community which provides housing and care for the elderly, handicapped or mentally ill.
 - (b) Avoid development that could cause inefficient patterns of land use.
 - (c) Encourage a blend of open space areas and a mix of housing types at medium to high densities to serve the age group of the community.
 - (d) Provide for safe and convenient pedestrian, bicycle and vehicle circulation.
 - (e) Encourage the creation of a sense of place and a community spirit that promotes social interaction and volunteerism.
- (2) Establishment of design option. The traditional neighborhood design option within a continuing care retirement community shall be permitted in the Institutional and Recreational District as an overlay to the underlying R-40 High Density Residential District only. The following provisions shall also apply to the design option:
 - (a) The provisions of the traditional neighborhood design option within a continuing care retirement community, as set forth in this Subsection B shall serve in place of the underlying R-40 High Density Residential District provisions and the provisions of § 285-122.
 - (b) In the case of conflict between the provisions or requirements of the traditional neighborhood design option within a continuing care retirement community, as set forth in Subsection B, and the provisions or requirements of the underlying R-40 High Density Residential District or other provisions or requirements of this article or chapter, the provisions or requirements of this Subsection B shall apply.
- (3) Process. A development for a traditional neighborhood option within a continuing care retirement

community shall be permitted on land only within the R-40 High Density Residential District and only upon the grant of a conditional use for the development as provided by § 285-121.1.

- (4) Dwelling types. The following dwelling types shall be permitted within the traditional design option for continuing care retirement community (CCRC):
 - (a) Apartment.
 - (b) Multifamily building.
 - (c) Single-family attached, including multiplex and townhouse.
 - (d) Single-family detached dwelling.
 - (e) Two-family building, including duplex and twin.
 - (f) Elder cottage.
- (5) Lot and density regulations.
 - (a) A development for a traditional neighborhood option within a continuing care retirement community shall be permitted within a continuing care retirement community which is operated as an integrated unit on all or part of a tract of land having a minimum gross lot area of 40 acres. The tract of land may consist of one parcel of land having a minimum gross lot area of 40 acres. The tract of land may also consist of two or more adjacent parcels of land, under common ownership, having a combined minimum gross lot area of 40 acres, whether or not the parcels were acquired at the time of the initial development of the continuing care retirement community or thereafter. If the tract of land consists of two or more parcels, the developer, as a part of the approval of a development for the TND option within a CCRC, shall be required to consolidate all parcels into one parcel.
 - (b) The maximum density shall be no more than six dwelling units per developable acre. For purposes of such density, each independent living unit/cottage shall be equal to one dwelling unit.
 - (c) The maximum building coverage of all dwelling units shall not exceed 30% of the net lot area.
 - (d) The maximum impervious coverage shall not exceed 50% of the net lot area.
 - (e) Not less than 60% of the gross lot area at the time of subdivision or land development approval shall be retained as vegetation, trees or landscaping.
- (6) Area and height regulations.
 - (a) The minimum building setback from access drives shall be 30 feet from the center line. Front-load garages (whether or not detached garages) along access drives (facing the access drive) shall be set back a minimum of 20 feet from the back of the sidewalk (the edge of the sidewalk away from the access drive).
 - (b) The minimum building setback from any alley shall be three feet from the edge of the pavement.
 - (c) The minimum building setback from any legal and/or ultimate right-of-way shall be 100 feet.
 - (d) The minimum building setback from all property lines shall be 50 feet.
 - (e) The minimum building separation requirements shall be as follows:
 - [1] For single-family detached, two-family building, elder cottage or single-family attached containing three units or fewer, the following standards shall apply:

- [a] Distance between side faces of buildings: 15 feet.
 - [b] Distance between side and front and/or rear faces of buildings: 30 feet.
 - [c] Distance between front and rear faces of buildings: 50 feet.
 - [d] Distance between front faces of buildings: 50 feet.
 - [e] Distance between rear faces of buildings: 30 feet.
 - [f] Distance between corners of buildings: 15 feet.
- [2] For apartment, multifamily building or single-family attached, containing more than three dwelling units, the following standards shall apply:
- [a] Distance between side faces of buildings: 25 feet.
 - [b] Distance between side and front and/or rear faces of buildings: 50 feet.
 - [c] Distance between front and rear faces of buildings: 50 feet.
 - [d] Distance between front faces of buildings: 50 feet.
 - [e] Distance between rear faces of buildings: 50 feet.
 - [f] Distance between corners of buildings: 25 feet.
- (f) The minimum side or rear yard requirement for an accessory structure or building shall be five feet.
 - (g) The maximum building height shall not exceed 40 feet or three stories.
- (7) Minimum parking.
- (a) Single-family detached, single-family attached, two-family building or elder cottage dwelling units: 1 1/2 spaces per dwelling unit.
 - (b) Multifamily or apartment dwelling units: one space per dwelling unit.

§ 285-125. Buffers.

In order to enhance the aesthetic character of the community, suitable vegetation shall be planted along streets, between lots and between zoning districts as follows:

- A. Screening buffer. Screening buffers shall be provided where institutional uses abut property developed and used for residential purposes. The screen buffer area shall be a minimum of 25 feet in width along the property line and shall contain hedge, evergreen trees, shrubbery or other suitable vegetation of sufficient planted density to provide a total visual screening consistent with the topography, the existing vegetation and the use of adjacent land. Whenever possible, the owner shall make every effort to retain existing natural screening, such as trees, shrubbery and topography. Screening buffers must be developed in accordance with the provisions of Chapter 240, Subdivision and Land Development.
- B. Softening buffers. Softening buffers shall be provided when institutional uses abut any other property lines. The minimum number of trees and shrubs shall be as follows, planted either formally or in imaginative groupings:
 - (1) One shade tree per 100 feet of property line.
 - (2) One evergreen and one flowering tree, or three flowering or evergreen shrubs per 150 feet of property

line.

ARTICLE XV
SSC - Steep Slope Conservation District

§ 285-126. Declaration of legislative intent.

In expansion of the declaration of legislative intent found in Article I, § 285-2, of this chapter, and the statement of community development objectives found in Article I, § 285-3, of this chapter, it is the intent of this article to:

- A. Conserve and protect areas of steep slope from inappropriate development and excessive grading.
- B. Avoid negative impacts caused by erosion, stream siltation, soil failure leading to structural collapse, damage or sanitary conditions.
- C. Minimize danger to public health and safety by promoting safe and sanitary drainage, conservation and construction practices.
- D. Permit and encourage the use of steep slope areas for open space purposes, so as to constitute a harmonious aspect of the continuing physical development of the Township.

§ 285-127. Establishment of overlay district.

- A. Overlay concept. The Steep Slope Conservation District (SSC) shall function as an overlay on any and all districts now or hereinafter enacted in the Township.
 - (1) The SSC District shall have no effect on the permitted uses in the underlying zoning district, except where uses located with the district are in conflict with permitted uses set forth in this article.
 - (2) In those areas where the SSC District applies, the SSC requirements shall superseded the requirements of the underlying zoning districts.
 - (3) Changes in the underlying zoning district(s) shall have no effect on the boundaries of the SSC District.
- B. Boundary definition. The boundaries of the SSC District are defined and established as those areas having slopes of 15% or greater, as delineated on topographical maps prepared by a registered professional engineer or surveyor and reviewed by the Township Engineer.
 - (1) Areas of steep slope defined in Subsection B, may be plotted on a map which may be made a part of this chapter and be known as the "Steep Slope Conservation District Map of Upper Frederick Township," and which will indicate the approximate boundaries of the SSC District.
 - (2) In the absence of a topographical survey prepared by a registered professional engineer or surveyor, whenever there is a difference between the SSC District Map and the USGS topographical map, the USGS map shall determine the boundary of the SSC District, upon review by the Township Engineer. However, where there is a difference between the SSC District map and a topographical survey prepared by a registered professional engineer or surveyor, that topographical survey shall determine the boundaries of the SSC District upon review by the Township Engineer.
 - (3) Changes in the boundaries of the SSC District shall be plotted, if feasible, on the SSC District Map as amendments thereto.
- C. Boundary interpretation and appeals. An initial determination as to whether the SSC District applies to a given parcel shall be made by the Zoning Officer or the Township Planning Commission.
 - (1) Any party aggrieved by the decision of the Zoning Officer or Planning Commission, either because of an interpretation of the exact location of the district boundary or because the criteria used in delineating the boundary is or has become incorrect due to changes to topography, may appeal said decision to the Zoning Hearing Board as provided for by this chapter.

- (2) The burden of proving the incorrectness of the Zoning Officer's or Planning Commission's decision shall be upon the appellant.

§ 285-128. General regulations. [Amended 8-13-1998 by Ord. No. 98-4]

- A. On those lands having a slope of 15% or greater, only those uses permitted in § 285-129A and B shall be considered. All applications for development of steep slope areas for uses under § 285-129B shall be accompanied by an erosion and sediment control plan, notwithstanding the minimum acreage requirements of the Clean Streams Law, P.L. 1987, as amended. The plan shall comply with the practices set forth in the Soil Erosion and Sediment Control Manual of the Pennsylvania Department of Environment Protection, as amended, as well as other recognized conservation practices.
- B. In evaluating the application, the Township Planning Commission, Township Engineer and Zoning Hearing Board (as applicable) shall consider the following:
 - (1) Extent and severity of steep slopes on the site.
 - (2) Extent and proposed disturbance of existing vegetative cover on the site.
 - (3) Soil types and underlying geology of the site.
 - (4) Length or extent of steep slopes both on the site in question and on adjacent lands within 200 feet of the site.
 - (5) Evidence that the proposed development, any impervious surface, and the resultant disturbance to the land and existing vegetative cover will not cause excessive run-off and/or related environmental problems.

§ 285-129. Use regulations. [Amended 8-13-1998 by Ord. No. 98-4]

- A. Permitted conservation uses. The following uses shall be permitted in the SSC District without the submission of an erosion and sediment control plan:
 - (1) Wildlife sanctuary, woodland preserve, arboretum, passive recreation areas (including parks but excluding enclosed structures).
 - (2) Game farm or hunting preserve for the protection and propagation of wildlife, excluding enclosed structures.
 - (3) Forestry and reforestation in accordance with recognized soil conservation practices.
 - (4) Pasture and controlled grazing of animals in accordance with recognized soil conservation practices.
 - (5) Recreational uses, including parks with activities such as hiking, bicycle and equestrian trails, camps and picnic areas, excluding enclosed structures.
 - (6) Outdoor plant nursery or orchard in accordance with recognized soil conservation practices.
 - (7) Cultivation and harvest of crops in accordance with recognized soil conservation practices.
 - (8) Nonstructural accessory uses necessary to the operation and maintenance of the above-permitted structures.
- B. Special exceptions. The following uses shall be permitted by special exception from the Zoning Hearing Board, upon submission of an erosion and sediment control plan and supporting evidence; provided, however, that alternative placements on nonsteep slope areas have been carefully evaluated and can be demonstrated to be inappropriate or unfeasible:

- (1) Front, side and rear yards and required lot area in the underlying zoning district.
- (2) Sealed public water supply wells with approval of the Pennsylvania Department of Environmental Protection.
- (3) Sanitary or storm sewers and stormwater detention basins with the approval of the Township Engineer and the Department of Environmental Protection.
- (4) Underground utility transmission lines.
- (5) Onsite sewage disposal systems, when approved by the Department of Environmental Protection.
- (6) Extractive uses and borrow pits in accordance with recognized conservation practices.
- (7) Roads, access driveways and parking facilities, when no viable alternative alignment or location is feasible.

C. Prohibited uses. The following uses are prohibited in the SSC District:

- (1) Freestanding structures, buildings and retaining walls or swimming pools, unless the applicant can demonstrate to the Zoning Hearing Board that the proposal will be sound from architectural, engineering and environmental perspectives and will have no adverse impacts on the health, safety and welfare of the community.
- (2) The filling or removal of topsoil except when related to an activity related to an approved special exception use.
- (3) Solid waste disposal or recycling use.
- (4) Junkyards or other outdoor storage uses.

§ 285-130. Special exception application.

In addition to that information typically required for applications to the Zoning Hearing Board, the applicant shall supply the following with an application to the Board:

- A. A plan by a registered professional engineer or surveyor which accurately located the proposed use with respect to the SSC District boundaries and existing development within 200 feet of the proposed use, together with all pertinent information describing the proposal, topographical survey, contour elevations at five-foot intervals and the erosion and sediment control plan required by this article.
- B. The following as deemed necessary by the Zoning Hearing Board:
 - (1) Plan view of the site, conforming to the preliminary plan requirements of Chapter 240, Subdivision and Land Development.
 - (2) Topographic survey showing contour elevations at five-foot contours as well as typical tract cross-sections at a scale of one inch equals 100 feet or larger. In addition, typical tract cross-sections at a vertical and horizontal scale deemed appropriate by the Township Engineer.
 - (3) Specifications of building materials and construction including filling, grading, materials storage, water supply and sewage disposal facilities.
 - (4) Proposed modifications to the existing topography and vegetative cover, as well as the means of accommodating stormwater runoff.
 - (5) Documentation of any additional engineering and/or conservation techniques designed to alleviate environmental problems created by the proposed activities.

§ 285-131. Special exception criteria.

In considering a special exception application, the Zoning Hearing Board shall consider the following:

- A. Relationship of the proposed use to the objectives set forth in § 285-126.
- B. Adverse effect to abutting or downstream properties.
- C. Evidence that:
 - (1) Proposed buildings or structures are of sound engineering design and that footings are designed to extend to stable soil and/or bedrock.
 - (2) Proposed roads, drives and parking areas are designed that land clearing and/or grading will not cause accelerated erosion. Both vertical and horizontal alignment of such facilities shall be so designed that hazardous conditions are not created.
 - (3) Proposed onlot sewage disposal facilities shall be properly designed and constructed in conformity with applicable regulations.
 - (4) Proposed nonagricultural displacement of soil shall be for causes consistent with the intent of this chapter and shall be executed in the manner that will not cause erosion or other unstable conditions.
 - (5) Surface runoff of water will not create unstable conditions, including erosion, and that appropriate stormwater management facilities will be constructed as necessary.

§ 285-132. Certificate of compliance.

No steep slope areas shall be occupied until a certificate of compliance has been issued by the Zoning Officer. The Zoning Officer shall request the applicant to submit certification by a registered professional engineer and/or land surveyor, as applicable, that the construction of any buildings or other improvements or any other changes were accomplished in compliance with this chapter. The Zoning Officer shall issue a certificate of compliance within 10 days of receipt of the certification from the applicant.

§ 285-133. Limit of municipal liability.

The granting of a use and occupancy permit or the approval of a subdivision or land development plan on or near the SSC District shall not constitute a representation, guarantee or warranty of any kind by the Township or any official or employee thereof regarding the practicability or safety of the proposed use and shall create no liability upon the Township, its officials or its employees. Protections provided by this chapter are reasonable for regulatory purposes and are based on engineering and scientific studies. This chapter does not imply that areas outside the SSC District are free from the adverse effect of erosion and sedimentation.

ARTICLE XVI
FPC - Floodplain Conservation District

§ 285-134. Declaration of legislative intent.

In expansion of the declaration of legislative intent found in Article I, § 285-2, of this chapter, and the statement of community development objectives found in Article I, § 285-3, of this chapter it is the intent of this article to:

- A. Protect areas of floodplain subject to and necessary for the containment of flood waters.
- B. Minimize danger to public health by protecting water supply and natural drainage; to provide for the preservation of natural drainageways.
- C. Permit and encourage the retention of open space land while providing for such uses and development as are compatible with these objectives.
- D. Provide regulations to ensure eligibility for owners of flood prone properties in compliance with the requirement for Federal Flood Insurance.
- E. Establish certain restrictions which are necessary within the floodplains to protect the general health, welfare and safety of the community.
- F. Prevent the erection of structures in areas unsuitable by reason of danger from flooding.
- G. Minimize danger to public health by protecting surface and subsurface water supplies and promoting safe and sanitary drainage.
- H. Permit certain uses which can be appropriately located in the floodplain as herein defined and which will not impede the flow of storage of flood water, or otherwise cause danger to life and property at, above or below their locations along the floodway.
- I. Protect nonconforming properties of individuals who have developed or occupied land in a floodplain prior to enactment of this chapter.
- J. Protect the Township from unsuitable uses of land which may cause increased expenditures for public works and disaster relief and adversely effect the economic well being of the Township.
- K. Permit only those uses in the floodplain compatible with the preservation of natural conditions which are conducive to the maintenance of constant rates of water flow throughout the year.
- L. Provide sound floodplain management for the benefit of landowners adjacent to the floodplain and for other municipalities within the same watershed, and help protect them from the impact of improper development and the consequent increased potential for flooding.
- M. Protect the open floodplain to provide for the deposition of flood borne sediment.
- N. Protect drainage courses which carry abnormal flows of stormwater in periods of heavy precipitation.
- O. Require that any permitted structures in the floodplain, including public facilities, be constructed so as to be protected from flood damage in accordance with the requirements of the National Flood Insurance Program, P.L. 90-448, and the Pennsylvania Floodplain Management Act, P.L. 851, No. 166.

§ 285-135. Definition and establishment of district. [Amended 3-13-1997 by Ord. No. 97-2; 2-11-2016 by Ord. No. 2016-03]

- A. The Floodplain Conservation District is defined and its boundaries are established as set forth in Chapter 140, Floodplain Management, and more specifically, Article IV, Identification of Floodplain Areas.

- B. All activities within the Floodplain Conservation District shall conform with all applicable provisions and requirements of Chapter 140, Floodplain Management.

§ 285-136. Overlay concept.

The Floodplain District shall be an overlay on all zoning districts and shall function in accordance with the following:

- A. For any lot or portion thereof lying within the floodplain, the regulations of the Floodplain District shall take precedence over the regulations of the underlying district.
- B. Should the underlying zoning of any lot or any part thereof which is located in the Floodplain District be changed through any legislative or judicial action, such change shall have no effect on the overlying Floodplain District unless such change was included as part of the original application.
- C. Should the overlying Floodplain District be declared inappropriate to any lot through any legislative or judicial actions, such change shall have no effect on the underlying Zoning District.

§ 285-137. Permitted uses. [Added 2-11-2016 by Ord. No. 2016-03⁶⁶]

The following uses and no other will be permitted in the Floodplain Conservation District, provided that no structure is associated with the use except as specifically noted herein. All such uses shall be subject to the provisions and requirements of Chapter 140, Floodplain Management:

- A. Cultivation and harvesting of crops in accordance with recognized soil conservation practices.
- B. Pasture and grazing of land, including necessary fencing, all in accordance with recognized soil conservation practice. Fencing for pasture and grazing is permitted, provided that it shall be installed and oriented to maximize the passage of floating debris under flooding conditions as determined by the Zoning Officer.
- C. Open space uses, including wildlife sanctuary, woodland preserve, arboretum and similar uses.
- D. Passive recreation areas and passive parks, including bicycle, bridle and hiking trails.
- E. Forestry, lumbering and reforestation when reviewed and approved by the Montgomery County Conservation District.
- F. Utility transmission lines.
- G. Sealed water supply wells and water supply lines, whether public or private, when approved by the Township Engineer.
- H. Sealed sanitary sewers, whether public or private, when approved by the Township Engineer.
- I. Streambank stabilization.

§ 285-138. Prohibited uses. [Amended 2-11-2016 by Ord. No. 2016-03⁶⁷]

The following uses; or 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 are specifically prohibited in the Floodplain Conservation District:

- A. Landfills, dumps, junkyards.

66. Editor's Note: This ordinance also repealed former § 285-137, Permitted uses, amended 8-13-1998 by Ord. No. 98-4.

67. Editor's Note: This ordinance also repealed former § 285-138, Prohibited uses.

- B. Outdoor storage of vehicles and materials.
- C. New or substantially improved structures.
 - (1) In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:
 - (a) Will be used for the production or storage of any of the following dangerous materials or substances; or,
 - (b) Will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,
 - (c) Will involve the production, storage or use of any amount of radioactive substances;
 - (2) The following list of materials and substances are considered dangerous to human life, including, but not limited to:
 - (a) Acetone.
 - (b) Ammonia.
 - (c) Benzene.
 - (d) Calcium carbide.
 - (e) Carbon disulfide.
 - (f) Celluloid.
 - (g) Chlorine.
 - (h) Hydrochloric acid.
 - (i) Hydrocyanic acid.
 - (j) Magnesium.
 - (k) Nitric acid and oxides of nitrogen.
 - (l) Petroleum products (gasoline, fuel oil, etc.).
 - (m) Phosphorus.
 - (n) Potassium.
 - (o) Sodium.
 - (p) Sulphur, sulfur products.
 - (q) Pesticides (including insecticides, fungicides, and rodenticides).
 - (r) Radioactive substances, insofar as such not otherwise regulated.
- D. On-lot sewage disposal systems.
- E. The relocation, alteration, encroachment or improvement of any kind to any watercourse.

- F. Hospitals (public or private).
- G. Nursing homes, convalescent homes, any type of housing and/or care facilities for the elderly and/or physically and/or mentally disabled (public or private).
- H. Jails or prisons.
- I. Manufactured home parks or manufactured home subdivisions, and substantial improvements to existing manufactured home parks.
- J. Manufactured homes.
- K. All structures or additions to existing structures, buildings and retaining walls with the exception of those specifically allowed in §§ 285-137 and 285-140.
- L. The storage or use of recreational vehicles.
- M. Placement or storage of topsoil, grass clippings, and other similar earthen or organic materials.
- N. Sod farming.
- O. Detention basins.
- P. Sewer treatment plants and pumping stations.
- Q. Any use not specifically listed as a permitted use under § 285-137 or as a conditional use under § 285-140 shall be considered a prohibited use as determined by the Zoning Officer.

§ 285-139. Conditional uses. [Amended 2-11-2016 by Ord. No. 2016-03⁶⁸]

The following and no other uses are permitted when authorized as a conditional use by the Board of Supervisors; provided that such use shall meet the standards set forth in this article. Such use shall be permitted subject to such reasonable conditions and safeguards as the Board of Supervisors may determine. All conditional uses must meet the requirements of the underlying district.

- A. Game farm, fish hatchery, or hunting and fishing reserve, for the protection or propagation of wildlife.
- B. Active, public and private, recreational uses and activities, such as: parks, camps, picnic areas, golf courses, fishing, wildlife and nature preserves, boating clubs. Piers, docks, floats, or open shelters usually found in developed outdoor recreation areas are permitted when accessory to such uses. No enclosed structures, or structures that will interfere with the flow of flood waters, are permitted. Toilet facilities are permitted when connected to public water and sewage systems.
- C. Road, driveway, agricultural and utility crossings and associated culvert or bridge structures where the requirements of the Riparian Corridor Conservation District for Corridor Crossings are met (§§ 285-211 and 282-212).
- D. Development of elevated and flood-proofed buildings on brownfield sites in redevelopment areas encouraging economic revitalization.
- E. Storm sewers.
- F. Similar uses, as determined by the Zoning Officer.

68. Editor's Note: This ordinance also repealed former § 285-139, Permitted structures, amended 8-13-1998 by Ord. No. 98-4.
285:144

§ 285-140. Conditional use and variance procedures and conditions. [Amended 2-11-2016 by Ord. No. 2016-03⁶⁹]

Requests for conditional uses shall be considered by the Upper Frederick Township Board of Supervisors in accordance with the applicable procedures contained in Article VII of Chapter 285 and the following contained below. Requests for variances shall be considered by the Upper Frederick Township Zoning Hearing Board in accordance with the applicable procedures contained in Article VI of Chapter 285, Articles VI and VII of Chapter 140, and the following:

- A. No conditional use or variance shall be granted for any construction, development, use or activity within any floodway area/district that would cause any increase in the BFE (as defined by Chapter 240).
- B. No conditional use or variance shall be granted for any construction, development, use or activity within any AE Area/District without floodway (as defined by Chapter 240) that would, together with all other existing and anticipated development, increase the BFE at any point.
- C. No variance shall be granted for the specifically prohibited uses contained in § 285-138C, § 285-138F, § 285-138G, § 285-138H, and § 285-138I.
- D. If granted, a variance shall involve only the least modification necessary to provide relief.
- E. In granting any conditional use or variance, the Board of Supervisors and Zoning Hearing Board, respectively, 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 chapter.
- F. In reviewing any request for a variance, the Zoning Hearing Board shall consider, at a minimum, the following:
 - (1) That there is good and sufficient cause including:
 - (a) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the Zoning Ordinance⁷⁰ in the neighborhood or district in which the property is located;
 - (b) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance,⁷¹ and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
 - (c) That such unnecessary hardship has not been created by the appellant;
 - (d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
 - (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;

69. Editor's Note: This ordinance also repealed former § 285-140, Special exceptions, amended 8-13-1998 by Ord. No. 98-4.

70. Editor's Note: See Ch. 285, Zoning.

71. Editor's Note: See Ch. 285, Zoning.

(b) Nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.

G. Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that:

(1) The granting of the variance may result in increased premium rates for flood insurance.

(2) Such variances may increase the risks to life and property.

H. A complete record of all variance requests and related actions shall be maintained by the Township. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.

I. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the base flood.

§ 285-141. through § 285-149. (Reserved)⁷²

72. Editor's Note: Former §§ 285-141 through 285-149, regarding special exceptions, variances, and technical provisions, were repealed 2-11-2016 by Ord. No. 2016-03.

ARTICLE XVII

CB - Commercial Business District

[Amended 9-14-2000 by Ord. No. 00-3; 9-8-2005 by Ord. No. 05-08; 12-8-2005 by Ord. No. 05-09; 3-8-2007 by Ord. No. 2007-04; 1-14-2010 by Ord. No. 2010-01; 4-7-2011 by Ord. No. 2011-01a; 8-10-2017 by Ord. No. 2017-01]

§ 285-150. Declaration of legislative intent.

The following is an expansion of the declaration of legislative intent contained in Article I, § 285-2, of this chapter and the community development objectives contained in Article I, § 285-3, of this chapter. It is the intent of the CB - Commercial Business Districts to establish standards for the orderly and well planned establishment of commercial facilities. Further, it is the intent of this article to:

- A. Allow commercial facilities that meet the shopping and personal service needs of Township residents.
- B. Establish regulations that minimize conflicts between commercial facilities and adjacent residential and institutional properties.
- C. Provide for ample parking in commercial developments.
- D. Establish regulations that minimize congestion and hazardous traffic conditions resulting from commercial development.
- E. Locate commercial facilities in the village cores of the Township, near areas where higher density residential uses are permitted.

§ 285-151. Permitted uses.

A building or group of buildings may be erected or used, and a lot may be used or occupied, for any of the following uses, or a use of a similar character:

- A. Retail establishments for the sale of dry goods, variety merchandise, clothing, food, beverages, flowers, plants, drugs, hardware, books, furnishings, sale and repair of jewelry, optical goods, cameras and home appliances and similar uses.
- B. Personal service shop.
- C. Business or professional office; bank and financial institution.
- D. Restaurant.
- E. Indoor theater, indoor entertainment and recreation facilities.
- F. Notary, undertaking or funeral establishment.
- G. Post office.
- H. Hotel, motel, inn, bed-and-breakfast establishment.
- I. Emergency service facilities, including ambulance, police and firehouses.
- J. Shopping centers. Shopping centers are subject to the provisions of § 285-153 of this chapter. For the purposes of this chapter, "shopping centers" are defined as retail commercial areas with more than one use and over 30,000 square feet of building area, subject to the maximum building requirements in § 285-152 of this chapter.
- K. Off-premises signs.

- L. Apartments, not to exceed two, in buildings housing any of the uses permitted in this § 285-151.

§ 285-151.1. Conditional uses.

The following may be permitted by conditional use by the Board of Supervisors after review and recommendation from the Upper Frederick Township Planning Commission, subject to the provisions of §§ 285-61 and 285-157.1:

- A. Self-service storage facilities (miniwarehouses); wholesale, warehouse, storage or distribution center, or other similar uses.
- B. Offices, shops and storage for building, plumbing, electrical or other contractors or suppliers.
- C. Medical office.
- D. Agriculture, including associated buildings.
- E. Animal hospital.
- F. Minor automotive repair.
- G. Government use, such as a community center, public library, public utility facility.
- H. Cellular communication tower, subject to the provisions of § 285-67C.
- I. Dispensary facility.

§ 285-152. Dimensional standards.

- A. Minimum lot area: 40,000 square feet.
- B. Minimum lot width: 150 feet at the ultimate right-of-way.
- C. Minimum building setbacks:
 - (1) From the ultimate right-of-way line when parking is located between the building and the ultimate right-of-way line: 100 feet.
 - (2) From the ultimate right-of-way line when there is no parking between the building and the ultimate right-of-way line: 30 feet.
 - (3) From abutting properties that have residential or institutional uses or zoning: 30 feet.
 - (4) From all other abutting properties: 20 feet.
 - (5) From all other buildings on the same lot: 20 feet.
- D. Maximum impervious surface coverage: 70% of the net lot area.
- E. Maximum building coverage: 25% of the net lot area not to exceed 50,000 square feet for a single use, and 100,000 square feet for all uses on a site.

§ 285-153. Development standards for shopping centers.

- A. Minimum lot area: four acres.
- B. Minimum lot width: 250 feet at the ultimate right-of-way line.
- C. Minimum building setbacks.

- (1) From the ultimate right-of-way line when parking is located between the building and the ultimate right-of-way line: 100 feet.
 - (2) From the ultimate right-of-way line when there is no parking between the building and the ultimate right-of-way line: 40 feet.
 - (3) From abutting properties that have residential or institutional uses or zoning: 40 feet.
 - (4) From all other abutting properties: 30 feet.
- D. Maximum impervious surface coverage: 65% of the net lot area.
- E. Maximum building coverage: 20% of the net lot area.
- F. Parking and circulation requirements. Same as § 285-155, except:
- (1) Minimum parking setback: 25 feet from property and ultimate right-of-way lines.
 - (2) Parking areas shall be designed to separate through traffic from parking. Parking shall not be permitted along driveways which serve as entrance(s) or exit(s) to parking areas.

§ 285-154. Height regulations.

The maximum height of buildings and other structures erected or enlarged in this district shall be:

- A. For all residential buildings: 35 feet.
- B. For all other buildings: 40 feet, except that such height may be increased to a maximum of 60 feet or such increased height as may be warranted when approved by the Zoning Hearing Board; provided that for every foot of height in excess of 40 feet, there shall be added to each yard requirement one corresponding foot of width or depth, and provided that structures that are over 40 feet are not regularly used by people, such as chimneys, water towers, windmills, communication antennas, etc.

§ 285-155. Parking and circulation requirements.

- A. Parking capacity and design standards. Off-street parking facilities shall conform with the requirements of Article XIX of this chapter.
- B. Minimum parking setback: 20 feet from property and ultimate right-of-way lines.
- C. Parking lot landscaping: 10% of the parking area must be landscaped.
- D. Driveway and internal road setback: 20 feet from property lines.
- E. Driveway design standards.
 - (1) No more than one driveway per street frontage is permitted.
 - (2) When, in the opinion of the Township Engineer, it is in the interest of good traffic operation, the Board of Supervisors may permit one additional driveway entrance along a continuous site with frontage in excess of 400 feet.
 - (3) Where dual one-way driveways are used, they will be considered, for purposes of this section, to be equivalent to one standard, two-way driveway. Only one pair of one-way drives may be used per street frontage.
 - (4) When feasible, driveways shall be 150 feet from driveways on adjoining properties and street intersections.

- (5) When two adjacent property owners share a common driveway and cross-easements for this driveway, the Township will grant an incentive bonus to all affected properties consisting of an increase in this impervious surface coverage of each lot of 5%. If two or more property owners share a common driveway curb cut, individual driveways are prohibited unless a lot conforms with Subsection E(2) above.

§ 285-156. Buffer and landscaping.

- A. Screening buffer. Screening buffers shall be provided when a commercial property abuts a residential or institutional use or district. The screening buffer area shall be a minimum of 25 feet in width along the property line, and shall contain hedge, evergreen trees, shrubbery or other suitable vegetation of sufficient planted density to provide a total visual screening consistent with the topography, the existing vegetation, and the use of adjacent land. Whenever possible, the owner shall make every effort to retain existing natural screening, such as vegetation and topography. Screening buffers must be developed in accordance with the provisions of Chapter 240, Subdivision and Land Development.
- B. Softening buffer. Softening buffers shall be provided when a commercial property abuts a nonresidential use or district. The minimum number of trees and shrubs shall be as follows, planted either formally or in nontraditional groupings.
- (1) One shade tree per 100 feet of property line.
 - (2) One evergreen and one flowering tree or three flowering or evergreen shrubs per 150 feet of property line.
- C. Street trees. Along road rights-of-way, shade trees shall be planted a minimum distance of five feet beyond the ultimate right-of-way line inside the lot. Trees shall be planted not less than 40 feet apart nor more than 50 feet apart, and shall have a minimum caliper of 2 1/2 inches at time of planting.

§ 285-157. General regulations.

- A. Outdoor display and storage. All uses, except for parking and loading areas, shall be completely enclosed within a building, except as permitted in § 285-157.1E. 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 cannot be feasibly stored indoors. Such articles shall be stored adjacent to the building housing the tenant selling the articles, and shall be enclosed by either walls or opaque fencing that are at least six feet high and are designed to be architecturally compatible with the building. Any outdoor display areas shall be considered to be sales floor area for the purposes of computing building coverage and for computing parking requirements.
- B. Refuse areas. The design of buildings in the Commercial Zoning District shall either include a provision for the storage of refuse inside the building(s) or within an outdoor area enclosed by either walls or opaque fencing. Any refuse area outside the building shall be designed to be architecturally compatible with the building(s) and shall not interfere with nor be visible from circulation within the parking lot. Such walls or fencing shall be designed to shield the refuse areas from direct view of any adjacent property, and must be at least six feet high. No trash storage area shall be located within 10 feet of an adjacent nonresidential property line nor within 40 feet of a road right-of-way or residential lot line.
- C. Off-street loading. Adequate off-street loading and unloading space with proper access from a street, highway or common service driveway shall be provided for all commercial properties. All areas for loading and unloading of delivery trucks and other vehicles and for the servicing of establishments or shops by refuse collection, fuel and other service vehicles shall have adequate and unobstructed access from a street or service driveway, and shall be so arranged that they may be used without blocking or otherwise interfering with the use of automobile accessways, parking facilities or pedestrian ways. They shall also be so arranged that they

may be used without backing out onto a street. Service areas shall be screened from view from any abutting roadway, customer parking area or residential lot line by a twenty-foot-wide buffer strip suitably landscaped to provide screening.

§ 285-157.1. Development standards for conditional uses.

- A. Minimum building setbacks for buildings in excess of 10,000 square feet.
 - (1) From the ultimate right-of-way line of arterial streets: 150 feet.
 - (2) From all abutting properties: 40 feet.
- B. Maximum impervious surface coverage: 65% of the net lot area.
- C. Maximum building coverage: 20% of the net lot area.
- D. Parking and circulation requirements. Same as § 285-155, except:
 - (1) Minimum parking setback: 25 feet from property lines. Along arterial streets, parking shall be set back 100 feet from the ultimate right-of-way line.
 - (2) Parking areas shall be designed to separate through traffic from parking. Parking shall not be permitted along driveways which serve as entrance(s) or exit(s) to parking areas.
 - (3) When more than one street frontage exists, access shall be taken from the street with a lower classification.
- E. Outdoor storage in accordance with the following:
 - (1) Be located within the buildable area of the lot not to extend between buildings and public rights-of-way.
 - (2) Located in a confined area which shall not exceed 100% of the floor area of all buildings on the parcel.
 - (3) Shall be enclosed by either walls or opaque fencing at least six feet high.
 - (4) Buffered in accordance with § 285-165.
- F. Bay doors shall not face arterial roads.
- G. Dispensary facility.
 - (1) A dispensary facility must be owned and operated by a legally registered dispensary in the commonwealth, and possess a current and valid medical marijuana permit from the DOH pursuant to the Act.⁷³
 - (2) A dispensary facility may only dispense medical marijuana in an indoor, enclosed, permanent and secure building, and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.
 - (3) Dispensary facility may not operate on the same site that a grower/processor facility is located.
 - (4) Dispensary facility shall have a single secure public entrance, and shall implement appropriate security measures to deter and prevent the theft of medical marijuana and unauthorized entrance into areas containing medical marijuana, all of which shall be in accordance with the Act.⁷⁴
 - (5) Permitted hours of operation of a dispensary facility shall be as follows:

73. Editor's Note: See 35 P.S. § 10231.101 et seq.

74. Editor's Note: See 35 P.S. § 10231.101 et seq.

Monday	10:30 a.m. to 6:00 p.m.
Tuesday	10:30 a.m. to 6:00 p.m.
Wednesday	10:30 a.m. to 6:00 p.m.
Thursday	10:30 a.m. to 6:00 p.m.
Friday	10:30 a.m. to 6:00 p.m.
Saturday	10:30 a.m. to 6:00 p.m.
Sunday	Closed

- (6) A dispensary facility shall be a maximum of 3,000 gross square feet, of which no more than 500 square feet shall be used for secure storage of medical marijuana, and shall have an interior customer waiting area equal to a minimum of 25% of the gross floor area of the dispensary facility.
- (7) Dispensary facility shall:
 - (a) Not have a drive-through service;
 - (b) Not have outdoor seating areas;
 - (c) Not have outdoor vending machines;
 - (d) Prohibit the administering of, or the consumption of medical marijuana on the premises; and
 - (e) Not offer direct or home delivery service.
- (8) A dispensary facility may dispense only medical marijuana to certified patients and caregivers as set forth in the Act,⁷⁵ and shall comply with all lawful, applicable health regulations, including those of the DOH.
- (9) A dispensary facility may sell medical devices and instruments that are specifically needed for the administration of medical marijuana.
- (10) A dispensary facility may not be located within 1,000 feet of a property line of a public, private or parochial school, day-care center or church. This distance shall be measured in a straight line from the closest exterior wall of the building or portion thereof in which the business is conducted or proposed to be conducted, to the closest property line of the protected use, regardless of the municipality in which it is located.
- (11) Dispensary facility shall be a minimum distance of 1,000 feet from the next nearest medical marijuana facility. This does not include complementing or supporting businesses covered by different definitions. This distance shall be measured in a straight line from the closest exterior walls of the buildings or portions thereof in which the businesses are conducted or proposed to be conducted, regardless of the municipality in which it is located. This separation distance does not apply to the distance between the grower/processor facility and the specific dispensary facility they serve, or with which they partner.
- (12) Any medical marijuana facility lawfully operating pursuant to the Act⁷⁶ shall not be rendered in violation of these provisions by the subsequent location of a public, private or parochial school, day-care center or church.
- (13) All external lighting serving a dispensary facility must be shielded in such a manner to not allow light to be emitted skyward or onto adjoining properties.

75. Editor's Note: See 35 P.S. § 10231.101 et seq.

76. Editor's Note: See 35 P.S. § 10231.101 et seq.

- (14) Parking requirements will follow the parking schedule found in § 285-155 of the Upper Frederick Township Zoning Ordinance. Off-street parking regulations shall utilize those listed for medical and dental offices, including outpatient clinics.
- (15) A buffer planting is required where a dispensary facility adjoins a residential use or district pursuant to § 285-156 of the Upper Frederick Township Zoning Ordinance.
- (16) Entrances and driveways to a dispensary facility must be designed to accommodate the anticipated vehicles used to service the facility.
- (17) The dispensary facility shall require a site plan review and approval if it is utilizing an existing facility, and a land development review and approval if a new facility is being built and utilized pursuant to the Upper Frederick Township Code of Ordinances.
- (18) Any and all other provisions contained in the Act⁷⁷ affecting the construction, use and operation of a dispensary facility.

77. Editor's Note: See 35 P.S. § 10231.101 et seq.

ARTICLE XVIII
I - Industrial District

§ 285-158. Declaration of legislative intent. [Amended 9-10-1998 by Ord. No. 98-5]

In expansion of the declaration of legislative intent contained in Article I, § 285-2, of this chapter, and the community development objectives contained in Article I, § 285-3, of this chapter, it is the intent of the I-Industrial Districts to:

- A. Permit the well-planned development and nuisance-free operation of industrial facilities.
- B. Take advantage of highway access and visibility from major thoroughfares.
- C. Establish strict performance standards to control potentially adverse environmental effects resulting from development of permitted uses.
- D. Establish operational, dimensional and landscaping standards minimizing adverse impacts on surrounding uses and districts.
- E. Encourage integrated development of industrial parks.
- F. Provide for Township review of all development proposals to determine compliance with the standards of this article.
- G. Redefine certain types of industrial uses and establish strict performance for those uses.

§ 285-159. Permitted uses. [Amended 9-10-1998 by Ord. No. 98-5; 9-14-2000 by Ord. No. 003; 3-8-2007 by Ord. No. 2007-04]

Permitted uses are classified by intensity and potential for adverse offsite impacts. A building or groups of buildings may be erected or used, and a lot may be used or occupied, for any of the following uses, or any use of a similar character:

- A. Class I uses. Class I uses are light, less intense uses with relatively limited potential for adverse offsite impacts.
 - (1) ⁷⁸Business and professional offices.
 - (2) Integrated industrial park development.
 - (3) Wholesale, warehouse, storage or distribution center, provided no retail sales are made from these facilities, excluding those listed in § 285-83B and C.
 - (4) Scientific or industrial research, engineering, testing or experimental laboratory or similar establishment for research, training or product development.
 - (5) Printing and publishing.⁷⁹
 - (6) Fabrication, packing, assembly, light manufacturing.
 - (7) Offices, shops and storage for building, plumbing, electrical or other contractors; provided, that outdoor storage shall be prohibited.

78. Editor's Note: Original Sec. 2102A(1), regarding uses permitted in the CB District, which previously preceded this subsection, was repealed 6-14-2007 by Ord. No. 2007-06.

79. Editor's Note: Original Sec. 2102A(7), regarding establishments for motor vehicle sales, with vehicle service and repair as an accessory use, which previously followed this subsection, was repealed 3-8-2007 by Ord. No. 2007-04.

- (8) Agriculture.
 - (9) Kennels, animal hospitals.
 - (10) Public utility use.
 - (11) Fire stations and emergency response centers.
 - (12) Signs, subject to the provisions of Article XX of this chapter.
 - (13) Open space uses, primarily passive in nature, including wildlife sanctuary, forest preserve, nature center and similar uses.
 - (14) Game farm, fish hatchery, hunting or fishing preserve; or similar uses designed for the protection or propagation of wildlife.
 - (15) Government uses, post office, community center, public library, public utility facility.
 - (16) Special exception. The following uses are permitted when authorized as a special exception by the Zoning Hearing Board, subject to the standards of § 285-160 herein:
 - (a) Branch bank or similar institution.
 - (b) Day care center.
 - (c) Restaurant.
 - (17) Cellular communication tower, subject to the provisions of § 285-67C.
 - (18) Major and minor automobile repair. **[Added 8-10-2017 by Ord. No. 2017-01]**
- B. Class II uses. The following uses are permitted as a conditional use by the Board of Supervisors after review and recommendation from the Upper Frederick Township Planning Commission, subject to the provisions of § 285-161, including the dimensional standards of that section:
- (1) Manufacturing, fabrication, assembly, processing and packaging of natural and man-made materials, chemicals, synthetics and other organic and inorganic products.
 - (2) Commercial or personal use heliport when authorized as a special exception by the Zoning Hearing Board.
 - (3) Oil and chemical processing and storage.
 - (4) Extraction operation.⁸⁰
 - (5) Adult uses in accordance with the standards and criteria of § 285-70. **[Added 3-8-2007 by Ord. No. 2007-04]**
 - (6) Tattoo parlors in accordance with the standards and criteria of § 285-77. **[Added 3-8-2007 by Ord. No. 2007-04]**
 - (7) Except those uses identified in Attachment 1 of the Central Perkiomen Valley Regional Planning Commission Intergovernmental Cooperative Implementation Agreement,⁸¹ which are strictly prohibited, any lawful use not otherwise permitted in any other Zoning District in the Township. **[Added 1-14-2010 by Ord. No. 2010-01]**

80. Editor's Note: Original Sec. 2102B(5), Junkyards, and original Sec. 2102C, Solid waste disposal facilities, which previously followed this subsection, were repealed 3-8-2007 by Ord. No. 2007-04.

81. Editor's Note: A copy of said agreement is on file in the Township offices.
285:156

(8) Grower/processor facility. [Added 8-10-2017 by Ord. No. 2017-01]

- (a) Grower processor facility which grows medical marijuana must be owned and operated by a grower/processor legally registered with the commonwealth, and possess a current and valid medical marijuana permit from DOH pursuant to the Act.⁸²
- (b) Grower/processor facility which grows, stores, harvests or processes medical marijuana can only do so in an indoor, enclosed and secure building which includes electronic locking systems, electronic surveillance and other features required by the DOH. The grower/processor facility shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.
- (c) There shall be no more than one grower/processor facility per lot.
- (d) There shall be no emission of dust, fumes, vapors, odors or waste into the environment from any grower/processor facility where medical marijuana growing, processing or testing occurs.
- (e) Marijuana remnants and byproducts shall be secured and properly disposed of in accordance with the DOH policy or policies, and shall not be placed within any unsecure exterior refuse containers.
- (f) The grower/processor facility shall provide only wholesale products to other medical marijuana facilities. Retail sales and dispensing of medical marijuana and related products is specifically prohibited at the grower/processor facility.
- (g) All external lighting serving a grower/processor facility must be shielded in such a manner to not allow light to be emitted skyward or onto adjoining properties.
- (h) Parking requirements will follow the parking regulations found in § 285-163 of the Upper Frederick Township Zoning Ordinance.
- (i) A buffer planting is required where grower/processor facility adjoins a residential use or district in accordance with § 285-165 of the Upper Frederick Township Zoning Ordinance.
- (j) Entrances and driveways to a grower/processor facility must be designed to accommodate the anticipated vehicles used to service the facility.
- (k) The grower/processor facility shall require a site plan review and approval if it is utilizing an existing facility, and land development review and approval if a new facility is being built and utilized pursuant to the provisions of the Upper Frederick Township Code of Ordinances.
- (l) Any and all other provisions contained in the Act⁸³ affecting the construction, use and operation of a grower/processor facility.
- (m) Any medical marijuana facility lawfully operating pursuant to the Act⁸⁴ shall not be considered in violation of these provisions by the subsequent location of a public, private or parochial school, day-care center or church.

§ 285-160. Standards and criteria for Class I special exceptions. [Amended 9-10-1998 by Ord. No. 98-5]

The Zoning Hearing Board may authorize a use as a Class I special exception if it conforms with the following standards and criteria:

- A. The proposed special exception use(s) shall be primarily intended to serve the daily service needs of the

82. Editor's Note: See 35 P.S. § 10231.101 et seq.

83. Editor's Note: See 35 P.S. § 10231.101 et seq.

84. Editor's Note: See 35 P.S. § 10231.101 et seq.

employees of the I-Industrial District.

- B. The proposed special exception use shall meet the dimensional requirements and all other standards of the I-Industrial District for Class I uses. **[Amended 6-14-2007 by Ord. No. 2007-06]**
- C. The proposed special exception use shall be part of an integrated industrial park development.

§ 285-161. Dimensional standards. [Amended 9-10-1998 by Ord. No. 98-5; 3-8-2007 by Ord. No. 2007-04; 1-14-2010 by Ord. No. 2010-01]

The following table contains dimensional standards for standard industrial subdivisions and integrated industrial park development. In order to qualify as an integrated industrial park, a development must contain at least three uses on a total gross lot size of at least 15 acres.

	Class I	Class II	Integrated Industrial Park Development
Minimum net lot area	80,000 square feet	10 acres	40,000 square feet minimum; 80,000 square feet average
Minimum gross lot size			15 acres
Minimum lot width (feet)	200	750	150
Minimum building setbacks, measured from:			
The ultimate right-of-way (feet)	75	250	50
Abutting properties that have residential or institutional uses or zoning (feet)	100	250	100
All other abutting properties (feet)	50	250	35
Minimum vegetative area (gross lot area)	40%	40%	40%
Maximum building coverage (based on net lot area)	25% not to exceed 15,000 square feet for a single use	25% not to exceed 15,000 square feet for a single use	25% not to exceed 15,000 square feet for a single use

Exclusive of existing rights-of-way of public roads

§ 285-162. Height regulations.

The maximum height of buildings and other structures erected or enlarged in this district shall be 40 feet, except that such height may be increased to a maximum of 60 feet or such increased height as may be warranted when approved by the Zoning Hearing Board, provided that for every foot of height in excess of 40 feet there shall be added to each yard requirement one corresponding foot of width or depth, and provided that structures that are over 40 feet are not regularly used by people, such as chimneys, water towers, windmills, communications antennas, etc.

§ 285-163. Parking, circulation and loading requirements.

- A. Parking capacity and design standards. Off-street parking facilities shall conform with the requirements of Article XIX of this chapter.

- B. Minimum parking, driveway and internal road setbacks.
 - (1) From abutting properties that have residential or institutional uses or zoning: 30 feet.
 - (2) From all other abutting properties: 20 feet.
 - (3) From ultimate right-of-way lines: 20 feet.
- C. Parking lot landscaping: 10% of the parking area must be landscaped.
- D. Minimum loading area setbacks.
 - (1) From abutting properties that have residential or institutional uses or zoning: 30 feet.
 - (2) From all other abutting properties: 20 feet.
 - (3) From ultimate right-of-way lines: 75 feet.

§ 285-164. Performance standards. [Amended 8-13-1998 by Ord. No. 98-4]

All permitted uses in this district shall comply with the performance standards contained herein:

- A. Air pollution controls. All uses shall comply with the standards of the Air Pollution Control Act, 35 P.S. § 4001-4015, as amended, and the following standards:
 - (1) Smoke. Visible air contaminants shall not be emitted in such a manner that the opacity of the emissions is equal to or greater than 10% for a period or periods aggregating more than three minutes in any one hour; or equal to or greater than 30% at any time, and shall comply with Pa. Code, Title 25, Chapter 127.A(7), or its most recent update.
 - (2) Particulate, vaporous and gaseous emissions.
 - (a) No emission shall be made which can cause any damage to health, to animals or vegetation or other forms of property, or which can cause any excessive soiling at any point.
 - (b) No emission of particulate matter shall exceed 0.0115 grams per dry standard cubic foot, corrected to 7% oxygen. Provisions must be made to reduce dew point cycling and resulting damage to particulate control devices.
 - (c) For measurement of the amount of particles in gases resulting from combustion, standards correction shall be applied to a stack temperature of 500° F. and 50% excess air.
 - (3) Hazardous air emission. All emissions shall comply with National Emissions Standards for Hazardous Air Pollutants promulgated by the United States Environmental Protection Agency under the Federal Clean Air Act (42 U.S.C.S. § 7412) as promulgated in 40 CFR, Part 61, or its most recent update.
 - (4) Odor.
 - (a) No person shall cause, suffer or permit the emission into the outdoor atmosphere of any malodorous air contaminants from any source in such a manner that the malodorous are detectable outside the property of the person where the source is being generated.
 - (b) The prohibition on odors shall not apply to odor emissions arising from the premises of a farm operation.
 - (c) Any process which causes an odor emission shall be operated in a manner such that escaping odors are eliminated. Backup odor reduction equipment shall be maintained to support primary odor reduction equipment.

B. Noise control. At no point on the boundary of a nonindustrial zoning district shall the sound level of any operation exceed the described levels of the designated octave bands shown below for the districts indicated. Objectionable noises, due to intermittence, beat frequency or shrillness, shall be muffled so as not to become a nuisance to adjacent uses.

Octave Band in Cycles Per Second	Along Residential District	At any other point on the Lot
	Boundaries-Maximum Permitted Sound Level in Decibels	Boundary-Maximum Permitted Sound Level in Decibels
0 to 75	72	79
75 to 150	67	74
150 to 300	59	66
300 to 600	59	62
600 to 1,200	46	53
1,200 to 2,400	40	47
2,400 to 4,800	34	41
Above 4,800	32	39

C. Vibration control. No vibration which is discernible to the human sense of feeling shall be perceptible without instruments at any point beyond the lot line.

D. Glare or heat control. Any operation producing intense glare or heat shall be performed within any enclosed building or behind a solid fence in such manner as to be completely imperceptible from any point beyond the lot lines.

E. Control of radioactivity or electrical disturbance. There shall be no activities which emit dangerous or harmful radioactivity. There shall be no electrical disturbance (except from domestic household appliances) adversely affecting the operation of any equipment located beyond the property boundary of the creator of such disturbance.

F. Fire and explosive hazards. Flammable and explosive materials shall be stored used and transported in accordance with the applicable state and federal regulations regarding such materials and associated storage vessels.

G. Outdoor storage.

- (1) All outdoor storage facilities for fuel, flammable or explosive materials and raw materials shall be enclosed by a fence adequate to prevent the access of children and other members of the general public.
- (2) No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes or forces.
- (3) All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible or otherwise be attractive to rodents or insects shall be stored outdoors only in closed, sealed containers.
- (4) No materials or wastes of any form may be stored in a floodplain area.
- (5) Outdoor storage and refuse areas shall be setback 30 feet from abutting properties that have residential or institutional uses or zoning and 20 feet from all other abutting properties.
- (6) Outdoor storage and refuse areas are not permitted in the setback area measured from the ultimate right-of-way line.

- H. Waste disposal. No use shall be conducted in such a way as to discharge any treated or untreated sewage except as shall be approved by the Department of Environmental Protection and/or the Township Sewage Enforcement Officer, as appropriate; nor shall industrial wastes be stored, discharged, incinerated or otherwise disposed of except in conformance with the applicable state and federal regulations regarding solid and hazardous wastes.
- I. Public water service. Industrial uses shall be served by public water where available. Water shall be supplied from wells only after an approved or accepted geologic study furnished by the applicant and certification by a professional geologist that the underground water supply and levels will not be appreciably altered in such a way as to endanger the water level and supply for other properties. All water resources shall be approved by the Pennsylvania Department of Enforcement Protection.
- J. Electrical power. Every use shall be so designed and operated so that the service lines, substations, etc., shall conform to the most acceptable safety requirements recognized by the Pennsylvania Bureau of Labor and Industry, shall be so constructed, installed, etc., as to be an integral part of the architectural features of the plant, or if visible from abutting residential properties shall be concealed in accordance with the landscaping requirements below.

§ 285-165. Buffer and landscaping.

The following buffer and landscaping requirements shall apply to all industrial properties:

- A. Screening buffer. Screening buffers shall be provided when industrial properties abut residential or institutional uses or districts. The screening buffer area shall be a minimum of 25 feet in width along the property line and shall contain hedge, evergreen trees, shrubbery or suitable vegetation of sufficient planted density to provide a total visual screening consistent with the topography, the existing vegetation and the use of adjacent land. Whenever possible, the owner shall make every effort to retain existing natural screening, such as vegetation and topography. Screening buffers must be developed in accordance with the provisions of § 240-36 of Chapter 240, Subdivision and Land Development.
- B. Softening buffers. Softening buffers shall be provided when industrial properties abut nonresidential uses and districts. The minimum number of trees and shrubs shall be as follows planted either formally or in imaginative groupings:
 - (1) One shade tree per 100 feet of property line.
 - (2) One evergreen and one flowering tree, or three flowering or evergreen shrubs per 150 feet of property line.
- C. Open space use of buffer areas. When industrial property contains or abuts a stream valley, the minimum twenty-five-foot required buffer area shall be provided and shall be measured from the floodplain line or from the top of bank above the floodplain line, whichever is further away from the watercourse. This stream valley buffer strip shall be reserved for use a trail corridor for interconnection with Township or county trail system.
- D. Street trees. Along road rights-of-way, shade trees shall be planted a minimum distance of five feet beyond the ultimate right-of-way line inside the lot. Trees shall be planted not less than 40 feet apart nor more than 50 feet apart and shall have a minimum caliper of 2 1/2 inches at time of planting.

§ 285-166. Plan submittal requirements.

Plan submitted for development of uses in the I - Industrial District shall include the following in addition to the information required by Chapter 240, Subdivision and Land Development.

- A. A plot plan of the lot showing the location of all present and proposed buildings, drives, parking lots, stormwater management facilities and other constructed features on the lot; and all buildings, streets, alleys,

highways, stream and other topographical features of the lot and within 200 feet of any lot line.

- B. Architectural plans and elevations for any proposed buildings.
- C. A description of existing and proposed equipment, processes and products with engineer and architectural plans in sufficient detail to describe the production and control of effects regulated by the standards of this article.
- D. Engineering and architectural plans for the treatment and disposal of sewage and industrial waste.
- E. Designation of any fuels or potentially toxic or hazardous matter to be utilized and measures proposed to control access to, combustion of and emissions from those materials.
- F. The proposed number of shifts to be worked and the maximum number of employees on each shift.
- G. Landscaping plans in accordance with the provisions of this article.
- H. An environmental assessment statement when deemed necessary by the Board of Supervisors and/or Township Planning Commission, in accordance with the provisions of § 285-57 of this chapter.
- I. A traffic impact study when deemed necessary by the Board of Supervisors and/or Township Planning Commission, in accordance with the provisions § 285-74 of this chapter.
- J. Letters or certificates of approval showing compliance with all state and/or federal and other legal requirements.
- K. Any other pertinent data or evidence that the Planning Commission may require.

ARTICLE XIX
Off-Street Parking and Loading

§ 285-167. Declaration of legislative intent.

In expansion of the declaration of legislative intent contained in Article I, § 285-2, of this chapter and the community development objectives contained in § 285-3, of this chapter, it is the intent of the off-street parking and loading standards to:

- A. Set reasonable standards and provide reasonable controls to assure sufficient parking capacity for the uses of potential uses of land in the Township.
- B. Provide flexibility in the implementation of these standards by permitting construction of a reduced number of parking spaces under appropriate conditions.
- C. Prevent hazards to public safety caused by the intrusion of parking upon public rights-of-way.
- D. Provide design standards that will minimize the impact of parking lots on adjoining property owners.

§ 285-168. Required off-street parking facilities. [Amended 11-21-1991 by Ord. No. 91-3]

Any building or structure erected, altered or used and any lot used or occupied for any of the following purposes shall be provided with the minimum number of parking spaces set forth below, together with adequate driveways and street access in compliance with the requirements of Chapter 240, Subdivision and Land Development, of the Code of the Township of Upper Frederick.

Use	Requirement
Dwellings	
Single-family detached, two-family, multifamily	2 spaces per dwelling unit
Single-family attached (townhouses)	2.25 spaces per dwelling unit
Mobile homes	2 spaces per dwelling unit; 2.3 spaces per dwelling unit wherever a 20 foot paving width is used
Elderly housing	
Single-family detached, two-family, single-family attached	1.5 spaces per dwelling unit
Multifamily	1.25 spaces per dwelling unit
Institutional uses	
Places of assembly (theater, church, auditorium, stadium, etc.)	1 space per 4 seats
Nursing homes, sanitariums, convalescent homes, institutional homes for the care of the aged, children, etc.	3 spaces per 5 beds
Hospital, medical center	2 spaces per bed
Community center, library, museum or other similar place	1 space per 600 square feet of public area
Elementary school	1.75 spaces per classroom
High school	5 spaces per classroom
Group home	1 space per employee on the largest shift and 1 space per 4 residents

Use	Requirement
Commercial uses	
Retail stores, shopping centers, department stores, supermarkets, etc.	1 space per 200 square feet of gross floor area
Hotel, motel, rooming house, bed-and-breakfast	1 space per rental unit
Restaurant	1 space per 100 square feet of gross floor area
Theater, stadium	1 space per 4 seats
Doctor, dentist, patient-oriented professionals	6 spaces per professional
Offices	1 space per 250 square feet of gross floor area
Warehouse	1 space per employee on the largest shift or 1 space per 1,000 square feet of gross floor area, whichever is greater
Laboratory or industry	1 space per 450 square feet of gross floor area or 1 space per employee on the largest shift, whichever is greater

§ 285-169. Parking held in reserve. [Amended 8-13-1998 by Ord. No. 98-4]

If the number of spaces required by the § 285-168 is substantially larger than the number of spaces anticipated by the applicant, then the applicant may hold some of the parking in reserve in order to avoid unnecessary paving while ensuring adequate area for potential parking demands.

- A. Suitable area must be available on the site for 100% of the parking required by § 285-168, above.
- B. The number of spaces which must be paved initially may be reduced by up to 50% by the Township Supervisors, upon the recommendation of the Township Planning Commission.
- C. Suitable area must be reserved for the balance of the total number of spaces required by § 285-169; these spaces shall be constructed by the applicant if and when determined necessary by the Supervisors, upon the recommendation of the Township Planning Commission. The Supervisors may require the installation of these parking spaces under the following conditions:
 - (1) When there is evidence of a continued overflow of parking as installed by the applicant.
 - (2) When a reevaluation of the parking capacity shows that future parking needs will not be met. The parking capacity shall be reevaluated whenever there is a change in use, ownership, number of employees, number of residents, building size and/or land area.
- D. A financial guarantee in a format acceptable to the Township shall be provided by the applicant to cover the cost of installation of the parking spaces held in reserve. The financial guarantee shall be held for a period of one year, after which the Township Supervisors, in their sole discretion, with the advice of the Township Engineer, shall determine if additional parking spaces need to be installed to accommodate the parking requirements. Thereafter, the applicant shall have 60 days within which to install the additional spaces.
- E. To qualify for use of the reserve parking concept, the applicant shall provide evidence supporting reduced parking needs to the Township Planning Commission and Engineer for their review and recommendation.

§ 285-170. Design requirements.

All parking lots shall be operated and maintained in accordance with the following conditions:

- A. No parking shall be permitted within 10 feet of any property line. Also, no parking shall be permitted within the required width of a screening buffer.

- B. All parking areas must meet the requirements of Chapter 240, Subdivision and Land Development, § 240-20C.
- C. At least 10% of the parking area must be landscaped, in order to reduce impervious surface coverage, provide shade, control vehicular and pedestrian circulation and reduce the perceived size of the parking area. **[Amended 1-14-2010 by Ord. No. 2010-01]**
- D. Parking areas shall not be used for the sale, repair or dismantling of any vehicles, equipment, materials or supplies.
- E. Parking area shall be properly graded for drainage, surfaced with concrete, asphaltic concrete, asphalt, oil or any dust-free surfacing; and maintained in good condition, free of woods, dust, trash or debris.
- F. Parking areas shall be properly with entrances and exits located to minimize traffic congestion and the effect of headlight glare.
- G. Commercial and multifamily parking areas shall be provided with well or bumper guards located and arranged so that no part of any parked vehicles will extend beyond the boundaries of the parking lot.
- H. Lighting facilities, if any, shall be arranged so that they neither unreasonably nor unnecessarily disturb occupants of adjacent residential properties nor interfere with traffic by either location or glare.
- I. There shall be no more than one attendant shelter building containing not more than 50 feet of gross floor area and set at a distance of not less than 20 feet of any boundary of the parking lot which abuts a residential lot line.

§ 285-171. Required off-street loading and unloading facilities.

All commercial, industrial and institutional uses shall provide adequate off-street loading space.

§ 285-172. Declaration of legislative intent.

In expansion of, and in addition to, the declaration of legislative intent found in Article I, § 285-2, of this chapter, and the statement of community development objectives found in Article I, § 285-3, of this chapter, it is the intent of this article to:

- A. Recognize that signs perform an important function in identifying properties, businesses, services, residences, events and other matters of interest to the public.
- B. Set standards and provide controls that permit reasonable use of signs while restricting the potential adverse visual effects of signs on the character of the Township.
- C. Control the size, number, location and illumination of signs to reduce potential hazards caused by glare or obstruction of visibility, and to reduce visual clutter which results from competition among signs.
- D. Encourage signs which are attractively designed in order to enhance the economic value as well as the visual character of the various parts of the community.
- E. Establish criteria to encourage signs that are compatible with their surroundings, appropriate to the type of activity to which they pertain, complimentary to the architecture of the buildings involved, expressive of the identity of individual proprietors or of an integrated development's identity, and which are easily readable in the circumstances in which they are seen.

§ 285-173. Definitions. [Amended 12-8-2005 by Ord. No. 05-09]

As used in this article, the following terms shall have the meanings indicated:

BEACON LIGHT — Any light with one or more beams, capable of being focused in several directions and rotated or revolved automatically.

BUILDING FACADES — A portion of any exterior elevation of a building extending from grade to the top of the parapet wall, or eaves, and the entire width of the building elevation.

BACKGROUND AREA OF A SIGN — The entire background area of a sign upon which copy could be placed. In computing the area of a sign background, only that face or faces, which can be seen from any one direction at one time will be counted.

BUSINESS SIGN — A sign that directs attention to a business, profession, activity, commodity, service, product price or entertainment conducted, sold or offered upon the premises where such sign is located or with the building to which such sign is affixed.

CONSTRUCTION SIGN — A sign identifying individuals or companies involved in design, construction, wrecking, financing or development when placed upon the premises where work is under construction, but only for the duration of construction or wrecking.

DIRECT SIGN ILLUMINATION — A sign designed to give forth artificial light directly or through transparent or translucent material, from a source of light within the sign including, but not limited to, neon and exposed lamp signs.

DIRECTORY SIGN — A sign which indicates the name and/or address of the occupant, the address of the premises and/or identification of any legal business or occupation which may exist at the premises.

ELECTRONIC DISPLAY SCREEN — A sign, or portion of a sign, that displays an electronic image or video, which may or may not include text. This definition includes television screens, plasma screens, digital screens, flat screens, video boards, LED displays, fiber optic displays, holographic displays or other technologies of a similar

nature.[Added 10-11-2007 by Ord. No. 2007-09]

ELECTRONIC MESSAGE CENTER — Any sign, or portion of a sign, that uses changing lights to form a sign message or messages in text form wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. Such signs shall include the following modes of operation:[Added 10-11-2007 by Ord. No. 2007-09]

- A. **STATIC** — Signs which shall include no animation or effects simulating animation.
- B. **FADE** — Signs where static messages are changed by means of varying light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.
- C. **DISSOLVE** — Signs where static messages are changed by means of varying light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneous to the gradual appearance and legibility of the subsequent message.
- D. **TRAVEL** — Signs where the message is changed by the apparent horizontal movement of letters or graphic elements of the message.
- E. **SCROLLING** — Signs where the message is changed by the apparent vertical movement of the letters or graphic elements of the message.

FESTOON LIGHTING — A directly illuminated sign composed of either:

- A. A group of incandescent bulbs hung or strung overhead or on building structures; or
- B. Light bulbs not shaded or hooded or otherwise screened to prevent direct rays of light from shining on adjacent properties or rights-of-way.

FLASHING SIGN — An illuminated sign on which the artificial light is not maintained stationary and constant in intensity and/or color at all times when in use.

ILLUMINATED SIGNS — A sign in which a source of light is used in order to make the message readable. This definition shall include internally and externally lighted signs.

INDIRECT SIGN ILLUMINATION — A sign illuminated with a light so shielded that no direct rays therefrom are visible elsewhere on the lot where said illumination occurs. If such shielding device is defective, such sign shall be deemed to be a "directly illuminated sign."

MONUMENT SIGN — A permanent sign which identifies the name of a subdivision or land development which complies with the following:

- A. One freestanding sign may be located at each intersection of the development's streets with primary or secondary streets, the area of each sign not to exceed six square feet in area.
- B. One freestanding sign may be located at one main entrance to the development, not to exceed 25 square feet in area, or two signs not exceeding 15 square feet each, provided both signs display the same content, are identical in size, and are part of a landscaping feature.

OFF-PREMISES SIGN — A sign visible from a public way that directs attention to a business, commodity, service, entertainment, attraction or objects sold, offered or existing elsewhere than upon the same lot where the sign is displayed. The term "off-premises sign" shall include an outdoor advertising sign (billboard) on which space is leased or rented by the owner thereof to others for the purpose of conveying a commercial or noncommercial message.

ROOF LINE — The juncture of the roof and the perimeter wall of the structure.

SIGN AREA —

- A. The area of a sign shall mean the area of all lettering, wording and accompanying designs and symbols, together with the background on which they are displayed (whether such background is open or enclosed). The calculation of sign area must include the supporting frame work and/or bracing.
- B. Where the sign consists of individual letters, designs or symbols attached to a building, awning, wall or window, the area shall be that of the smallest rectangle which encompasses all the letters, designs and symbols.
- C. Where a sign consists of an identical double-face, only one side shall be considered in the calculation of area, but if the interior angle formed by the two faces is greater than 45°, then both sides of the sign shall be considered in the calculation of area.

SIGN HEIGHT — The distance from the highest portion of the sign to the mean grade at the base of sign.

SIGN STRUCTURE — Any structure which supports or is capable of supporting a sign, whether or not an integral part of a building.

SIGN TYPES —

- A. ANIMATED SIGN — A sign with action or motion, flashing or color changes requiring electrical energy, but not including wind-actuated elements such as flags, banners or novelty items.
- B. BUSINESS SIGN — An onpremises sign which advertises or otherwise directs attention to a business, commodity, service, industry or other activity which is sold, offered or conducted, other than incidentally.
- C. CONSTRUCTION SIGN — Any sign giving the name or names of principal contractors, architects and lending institutions responsible for construction on the site where the sign is placed.
- D. DIRECTIONAL SIGN — Incidental sign designed to guide or direct pedestrians or vehicular traffic.
- E. DIRECTORY SIGN — A sign on which the names and location of the occupants of the use of a building is given, including office building and church directories.
- F. FREESTANDING SIGN — A self-supporting sign resting on, or supported by means of, poles or standards, situated on the ground. **[Amended 10-11-2007 by Ord. No. 2007-09]**
- G. OFF-PREMISES SIGN — A sign which advertises or otherwise direct attention to an activity not on the same lot where the sign is located.
- H. ON-PREMISES SIGN — A sign which advertises or otherwise direct attention to an activity not on the same lot where the sign is located.
- I. PARALLEL WALL SIGN — A sign mounted parallel to a wall or other vertical building surface, but does not extend beyond the edge of any wall, roof line or other surface to which it is mounted, and does not project more than one foot from the surface to which it is mounted.
- J. PROJECTED WALL SIGN — Any sign mounted to a wall or other vertical surface other than a parallel sign, but does not project more than four feet from the surface to which it is mounted, nor project above the wall, roof line of surface to which it is mounted, or in any way interfere with normal pedestrian or vehicular traffic.
- K. REAL ESTATE SIGN — Any sign which is used to offer for sale, lease or rent the property on which the sign is placed.
- L. REVOLVING SIGNS — A sign which revolves 360°.
- M. ROOF SIGN — A sign erected upon or above a roof or parapet wall of a building, and which is wholly or partly supported by that building.

- N. TEMPORARY SIGN — A sign which advertises community or civic projects, construction projects, real estate for sale or lease or other special events on a temporary basis.
- O. VEHICULAR SIGN — Any vehicle to which a sign is affixed in such a manner that the carrying of the sign is no longer incidental to the vehicle's purpose, but becomes a primary purpose in itself. An example is an empty tractor trailer with advertising painted on its side, left for an extended period of time in front of the business premises that is advertised on the trailer.
- P. WINDOW SIGN — Any sign affixed to or visible through a window.

SPECIAL EVENT SIGN — Temporary, nonilluminated signs directing persons to temporary exhibits, shows, events, grand openings, sales, etc., may be erected subject to the following requirements:

- A. Banners, freestanding signs and signs on or in windows are permitted. Movable signs are not permitted.
- B. Total temporary sign area permitted per property shall not exceed four square feet.
- C. Signs on or in windows shall not exceed 50% of the window area.
- D. A maximum of two off-premises directional signs, not exceeding 10 square feet in sign area shall be permitted for any special event, provided that permission has been obtained from the property owner where the sign is to be placed.
- E. Signs shall not be posted more than 30 days prior to the advertised event, and must be removed no later than seven days following the event.

§ 285-174. General requirements. [Amended 12-8-2005 by Ord. No. 05-09]

Signs shall be permitted in all districts in compliance with the requirements of this article.

- A. Permit required. Prior to erecting, affixing, attaching or installing any sign on or to any building, structure or property, an application for a use and occupancy permit must be submitted to the Zoning Officer for review. The application shall include:
 - (1) A site plan showing the location of the sign in relation to buildings, structures, property lines and public or private rights-of-way. The width of street frontage(s) at the legal right(s)-of-way on the subject property shall be shown.
 - (2) A drawing of the proposed sign showing the specific dimensions of all elements of the sign, the specific copy, lettering, words, symbols and designs to be displayed, along with a written explanation of any illumination or unusual feature of the sign.
- B. Construction standards. Construction, choice of materials and installation of signs shall be in accordance with the standards of Chapter 112, Code Enforcement, Article II, as amended.
- C. Prohibited signs. The following types of signs or illumination of signs is prohibited in the Township:
 - (1) Flashing, revolving, nonstationary or animated signs, any signs with changeable copy, or any signs with electronic display screens. **[Amended 10-11-2007 by Ord. No. 2007-09]**
 - (2) Festoon lighting or beacon lights.
 - (3) Roof signs.
 - (4) Trailer signs.
 - (5) Illuminated temporary signs.

- (6) Vehicular signs which do not meet the requirements for a freestanding sign in the district where the vehicle is parked.
 - (7) Signs affixed with adhesives.
 - (8) Electronic message centers. **[Added 10-11-2007 by Ord. No. 2007-09]**
- D. Prohibition of hazards. Signs shall be so designed and located that they shall not create a hazard to vehicular traffic by any of the following:
- (1) Obscuring necessary visibility:
 - (a) Sign locations, sizes, types and colors shall comply with Pennsylvania Department of Transportation standards and not conflict with street, traffic and/or directional signs.
 - (b) Signs shall comply with the clear sight triangle regulations of Chapter 240, Subdivision and Land Development.
 - (2) Confusion with official street and/or traffic signs.
 - (3) Confusion with traffic control devices by reason of color, location, shape or other means.
 - (4) Creation of motion, glare or excessive brightness which may interfere with drivers' vision or be unnecessarily distracting.
- E. Public right-of-way. No sign other than official street signs, shall be erected or maintained within the legal right-of-way of any public road in the Township. No sign projecting over a public walkway shall be less than eight feet above the walk level at its lower edge.
- F. Location of signs.
- (1) No sign may be located in the side or rear yard or in a required buffer area adjacent to a zoning district with more restrictive sign requirements.
 - (2) No freestanding sign may occupy an area designated for parking, loading, walkways, cartways, driveways or other areas required to be unobstructed.
- G. Removal of signs. A sign shall be found to be in violation of this chapter, and may be required to be ordered removed by the Zoning Officer, under any of the following circumstances:
- (1) The sign has not been maintained in good condition and safe repair, and has deteriorated to the point of becoming a potential public safety hazard. The Zoning Officer shall specify a period of time in which the owner of the sign may repair or rehabilitate the sign, thereby effecting correction of the safety hazard.
 - (2) A sign is erected without an approved use and occupancy permit and does not comply with the requirements of this chapter.
- H. Illumination.
- (1) Signs may be illuminated, unless otherwise specified herein, only to the extent that is necessary to allow them to be seen and read at night at a distance not to exceed 500 feet for signs of 20 square feet or more in area, and 150 feet for signs less than 20 square feet in area.
 - (2) Professional sign of a health care practitioner, dentist, clergyman, justice of the peace, and such other person whose services are customarily considered essential in an emergency may be illuminated, provided that the illumination is white light not exceeding the equivalent of a 25 watt incandescent light source.

- I. Off-premises signs. Off-premises signs shall only be permitted under and subject to the following conditions:
- (1) Directional signs. Permitted with the written consent of the owner of the affected property, and as a special exception granted by the Zoning Hearing Board. Directional signs may be located at the nearest intersection with a Township road. Such sign may not exceed 10 square feet in sign area, and may display no more than the name of the subject business and its location, direction and distance.
 - (2) Political signs. Temporary, nonilluminated signs advertising political parties or candidates for elections shall be permitted, provided that the sign area does not exceed four square feet. Such sign shall not be displayed more than 30 days prior to an election, and must be removed no later than seven days following the election.
 - (3) Special event signs. One temporary, nonilluminated sign directing attention to temporary exhibits, shows or special events of a noncommercial nature, shall be permitted, per property, per street frontage, provided the sign does not exceed four square feet. Such signs shall not be displayed more than 30 days prior to the advertised event, and must be removed no later than seven days following the event.
 - (4) Service signs. Nonilluminated signs directing patrons, members or other audience to service clubs, churches or other nonprofit organizations shall be permitted, provided the area of such signs does not exceed four square feet. Such signs shall indicate only the name of the organization, and the place, date and time of the meetings.
 - (5) Official signs. Memorial or historical markers, official signs directing traffic, signs identifying communities and street names, legal notices and warnings, and other official signs authorized or erected by appropriate governmental authorities shall be permitted.
 - (6) Billboards and business signs. Off-premises signs advertising an establishment, merchandise, service or entertainment which is sold, produced, manufactured or furnished at a place other than on the property on which said sign is located shall be permitted only in the CB - Commercial Business District as a conditional use, provided that:
 - (a) Only one billboard or off-premises business sign is permitted per lot.
 - (b) Billboards or off-premises business signs shall not exceed a maximum height of 12 feet above ground level. The height shall be measured to the highest part of the sign or supporting structure.
 - (c) A billboard or off-premises business sign may be double-faced, with two advertising surfaces. Both surfaces shall be the same size and shape. The maximum sign area per side shall be 100 square feet.
 - (d) Each billboard or off-premises business sign shall comply with the following minimum setbacks:
 - [1] No billboard or off-premises business sign shall be erected within the ultimate right-of-way of any street, road or highway.
 - [2] Other than as established under Subsection I(6)(d)[4], 50 feet from any side or rear property line.
 - [3] One hundred fifty feet from any intersection on the same side of any public roadway, no billboard or off-premises business sign shall be erected or placed in any manner so as to interfere with or impede the unobstructed vision of a motor vehicle operator attempting to enter on or exit from any intersection, public or private roadway, or any driveway or parking facility.
 - [4] One hundred feet from any property line abutting a residential use.
 - [5] One thousand feet from any other billboard or off-premises business sign.

- [6] Forty feet from any building on the same side of the street as the proposed sign.
- (e) Each sign shall be erected on permanent footings and support structures that meet the standards of the Township Building Code, as amended.
 - (f) All billboards and off-premises business signs shall be maintained in a good and safe structural condition. The painted portion of all such signs shall be kept in good condition.
 - (g) The general area in the vicinity of all billboards and off-premises business signs shall be kept free and clear of sign material, debris and the area shall be maintained so as to adhere to any and all Township ordinances as now in effect or as hereinafter enacted or amended.
 - (h) Billboards and off-premises business signs may only be illuminated under the following conditions:
 - [1] The lighting or relighting of signs and billboards shall be based on control of illumination, glare, light pollution and light trespass. Illumination shall not exceed an average of 15 vertical maintained foot-candles based on the surface area of the sign with a maximum to minimum uniformity ratio not to exceed 6:1.
 - [2] Applications for signs and billboards for which illumination is proposed, shall be accompanied by a point plot of illuminances on the sign or billboard face, catalog cuts of proposed fixtures and glare reduction devices and a description of lamps, mounting locations, aiming angles, and proposed method for automatically extinguishing the lighting by 10:00 p.m.
 - [3] Lighting fixtures for signs and billboards shall be installed and aimed so as not to project their output into the windows of neighboring residences, adjacent uses, past the face of the sign or billboard, skyward or onto a public roadway.
 - [4] The illumination of billboards and off-premises signs between 10:00 p.m. and dawn shall be prohibited.
 - [5] Externally illuminated signs and billboards shall be lighted by fixtures mounted at the top of the sign or billboard and aimed downward unless otherwise approved by the Township Engineer. The fixtures shall be designed, shielded, fitted and aimed to limit the light pattern to the sign or billboard and not beyond.
 - [6] Rotating, pulsating or oscillating light sources, lasers, beacons or strobe lighting shall not be permitted.
 - (i) No billboard or off-premises business sign shall be erected, added to, altered or changed (content of copy) without the owner thereof having first obtained a zoning permit from the Township, which shall be issued by the Zoning Officer or other party designated by the Board of Supervisors. The zoning permit shall be renewable annually or upon a change to the face, information or content thereof, at a fee to be established by the Board of Supervisors from time to time by resolution of the Board. For all billboard or off-premises signs in excess of 50 square feet, the owner thereof shall also obtain a building permit which shall be issued by the Building Inspector, or other party designated by the Board of Supervisors, at a fee to be established by the Board from time to time by resolution. In addition, for all billboard and off-premises business signs, the applicant shall also provide a copy of a plan of the property or tract of land, prepared to scale, depicting dimensional limits of the sign face, the perimeter boundaries as taken from the deed for said tract, identifying the current owner of the tract, all adjacent owners, the location and dimensions of abutting streets, the proposed location of the sign area to be provided and all easements or utility installations affecting such site. The plan shall also depict the supporting structure and the specifications of the materials and methods of construction and maintenance to be employed, signed and certified by a

registered licensed professional engineer. Where lighting is proposed, the plan shall be submitted to the Township Engineer for review, and owner shall pay the fee as established by resolution of the Board of Supervisors for such a lighting review.

§ 285-175. Signs in residential districts. [Amended 12-8-2005 by Ord. No. 05-09]

The following provisions shall apply to all uses in residential districts and to residential uses in nonresidential districts.

A. Permitted onpremises signs.

(1) Real estate signs.

- (a) Individual properties. Nonilluminated onpremises real estate signs, provided the sign area does not exceed six square feet, and not more than two signs are placed upon any property in single and separate ownership, unless such property fronts upon more than one street, in which event not more than two such signs may be erected on each frontage.
- (b) Small developments. Nonilluminated onpremises sign advertising sale or rental of dwelling units in a development or subdivision of up to 10 dwelling units, provided that the sign area shall not exceed 15 square feet, and provided that not more than one such sign shall be erected within any such development.
- (c) Large developments. Nonilluminated onpremises sign advertising sale or rental of dwelling units in a development or subdivision of more than 10 dwelling units, provided that the sign area shall not exceed 30 square feet, and provided that not more than two such signs shall be erected within any such subdivision.

(2) Directional signs. Onpremises directional signs, provided that the area of any such sign shall not exceed three square feet.

(3) Private property signs. Nonilluminated, onpremises "No Trespassing" signs, "No Hunting" signs, and other similar signs indicating private ownership of roadways or other property, provided that the sign area shall not exceed two square feet and shall be spaced at intervals of not less than 100 feet.

(4) Construction signs. Temporary, nonilluminated, onpremises construction signs, provided:

- (a) The sign area shall not exceed eight square feet.
- (b) No more than one such sign for each contractor performing work on any one property shall be erected on that property.
- (c) All such signs shall be removed upon completion of the work.

(5) Business signs.

- (a) Home occupations. Nonilluminated, onpremises signs identifying and advertising bed-and-breakfasts, rooming houses and home occupations, provided that the sign are shall not exceed six square feet, and provided that not more than one such sign shall be erected on any one street frontage of any property in single and separate ownership.
- (b) Businesses in residential districts. Onpremises business signs for commercial, industrial, professional and office uses in residential zoning districts, provided that the sign are shall not exceed 20 square feet and no more than one such sign is erected on any one property in single and separate ownership.
- (c) Roadside stand sign. Nonilluminated onpremises sign advertising the sale of agricultural products

at a roadside stand, provided that the sign are shall not exceed eight square feet, and provided that not more than one such sign shall be placed on any one street frontage of any property in single and separate ownership.

- (6) Signs for residential complexes and institutional uses.
 - (a) Onpremises sign for a school, camp, church, health care facility, health care service, private club or other institution of a similar nature, displaying the name of the institution and its activities or services, provided that the sign area shall not exceed 15 square feet, and provided that not more than one such sign shall be erected on any street frontage of any property in single and separate ownership. Said sign shall be setback at least 1/3 the distance of any required yard from any property line or street line.
 - (b) Permanent signs which identify the name of a subdivision or land development shall be permitted in compliance with the following:
 - [1] One freestanding sign may be located at each intersection of the development's streets with primary or secondary streets, the area of each sign not to exceed six square feet in area.
 - [2] One freestanding sign may be located at one main entrance to the development, not to exceed 30 square feet in area, or two signs not exceeding 15 square feet each.
- (7) Monument signs. A permanent monument sign which identifies the name of a subdivision or land development is permitted, provided:
 - (a) One freestanding sign may be located at each intersection of the development's streets with primary or secondary streets, the area of each sign not to exceed six square feet in area.
 - (b) One freestanding sign may be located at one main entrance to the development, not to exceed 25 square feet in area, or two signs not exceeding 15 square feet each, provided both signs display the same content, are identical in size and are a part of a landscaping feature.

B. Height. The maximum height limit of any sign permitted in residential districts shall be six feet.

§ 285-176. Sign regulations for nonresidential districts.

The following provisions shall apply to all nonresidential uses in nonresidential districts:

- A. Permitted onpremises signs.
 - (1) Single occupancy business signs. Properties in single and separate ownership, with a single business premises, may have a sign or signs within the following limits on sign area:
 - (a) Twenty square feet of sign area for a business where the road frontage of the property (in single and separate ownership) upon which it is located is up to 40 feet.
 - (b) The sign area may be increased by one-square-foot every three additional feet of building frontage in excess of 40 feet.
 - (c) The total maximum sign area shall be exceed 40 square feet.
 - (d) In order to encourage users to provide the community with an attractive, unified outdoor advertising scheme, it is further provided that if the user chooses to mount a parallel sign(s) or awning sign(s), rather than freestanding or projecting sign, the maximum allowable sign area (calculated above) may be increased by 20%.
 - (2) Multiple-occupancy business signs. Properties in single and separate ownership, with multiple

businesses, tenants or franchise center as whole, and/or which is a directory sign for the establishments on the property, with a maximum sign area of 40 square feet.

(a) Each multiple-occupancy property may have a single freestanding sign which identifies the business or commercial center as a whole, and/or which is a directory sign for the establishments on the property, with a maximum sign area of 40 square feet.

(b) In addition, each individual business on the property may have a parallel or awning sign of no more than 20 square feet in area.

(3) Real estate signs. Nonilluminated onpremises sign no larger than 10 square feet in sign area. One such sign per road frontage is permitted.

(4) Construction signs. Temporary, nonilluminated construction signs shall not exceed 15 square feet in sign area, and shall be removed upon completion of the work. No more than one sign per contractor performing work on a property shall be permitted.

B. Height. The maximum height of signs in nonresidential districts shall be:

(1) Ten feet for freestanding signs for individual uses.

(2) Fourteen feet for freestanding shopping center signs and multiple directory signs.

(3) Seventy-five percent of the wall height for wall signs, measured on the wall upon which the sign is placed.

ARTICLE XXI
Solid Waste Disposal and Recycling

§ 285-177. Declaration of legislative intent.

In expansion of the statement of community development objectives found in Article I, § 285-3, of this chapter, it is the intent of this article to provide regulations for the processing, treatment, storage and disposal of solid waste in the Township encourage resource recovery, cogeneration of energy and recycling as a means of managing solid waste.

- A. To encourage resource recovery, cogeneration of energy and recycling as a means of managing solid waste.
- B. To protect the public health, safety and welfare from the impacts of transporting, processing, treating, storing and disposing of solid waste and recyclable materials by establishing reasonable and adequate performance standards for facilities permitted by this chapter.
- C. To provide standards and criteria governing the location and operation of solid waste disposal facilities and recycling facilities where they are specified as permitted uses in zoning districts.

§ 285-178. Definitions.

In addition to terms defined in Article V of this chapter, the following words and terms shall have the specified meanings in this chapter:

AFFECTED LANDS — Land affected during the lifetime of operations, including areas where disposal, storage, transfer, processing or composting actually occurs, support facilities, borrow areas, offices, equipment sheds, air and water pollution control and treatment systems, access roads, associated onsite or contiguous collection, transportation and storage facilities, closure and postclosure care and maintenance activities and other activities in which the natural land surface has been distributed as a result of or incidental to the operation of the facility.

APPLICANT — The terms "applicant" and "occupant" shall be synonymous and shall mean those individuals, authorities, private forms or others who are responsible for making application(s) to the Board of Supervisors and for operating the solid waste disposal facilities.

COMMUNITY DROP-OFF CENTER — A recycling facility for the collection, sorting and short-term storage of source-separated recyclable materials that handles less than 250 tons per year of those materials.

COMPOSTING — The process by which organic solid waste is biologically decomposed under controlled anaerobic or aerobic conditions to yield a humus-like product.

COMPOSTING FACILITY — A facility using land for processing of municipal waste by composting. The term includes affected lands, as defined herein. The term does not include a facility for composting residential municipal waste that is located at the site where the waste was generated.

DISPOSAL — The deposition, injection, dumping, spilling, leaking or placing of solid waste into or on the land or water in a manner that the solid waste or a constituent of the solid waste enters the environment, is emitted into the air, or is discharged to the waters of the commonwealth.

GENERAL COMPOSTING FACILITY — A composting facility other than a leaf composting facility.

INCINERATOR — An enclosed device using controlled combustion for the primary purpose of thermally breaking down solid waste.

INTERMEDIATE PROCESSING CENTER — A facility for the assembly, storing and/or and short-term storage of more than 250 tons per year of source-separated recyclable materials and any amount of salvaged material, generally in preparation for transfer to a materials processing center or primary user of those materials. Includes "junkyard."

LEAF COMPOSTING FACILITY — A facility for composting vegetative material, including leaves, garden

residue and clipped shrubbery and tree trimmings. The term does not include a facility that is used entirely or partly for composting grass clippings.

MATERIALS PROCESSING CENTER — An industrial operation that converts recyclable materials into a form suitable for use as a raw material.

OPERATOR — A person or persons engaged in solid waste processing or disposal.

PROCESSING — Any technology used for the purpose of reducing the volume or bulk of municipal or residual waste or any technology used to convert part or all of such waste materials for off-site reuse. Processing facilities include, but are not limited to, transfer facilities, composting facilities and resource recovery facilities.

RECYCLING — The collection, separation, recovery and sale or reuse of metals, glass, paper, leaf waste, plastics and other materials which would otherwise be disposed or processed as municipal waste, or the mechanized separation and treatment of municipal waste (other than through combustion) and creation and recovery of reusable materials other than a fuel for the operation of energy.

RECYCLING FACILITY — A facility employing a technology that is a process that separates or classifies municipal waste and create or recovers reusable materials that can be sold to or reused by a manufacturer as a substitute or supplement to virgin raw materials. The term includes affected lands, as defined herein. The term shall not mean transfer stations or landfills or solid waste nor composting facilities or resource recovery facilities.

RESOURCE RECOVERY FACILITY — A processing facility that provides for the extraction and utilization of materials or energy from municipal waste that is generated off-site, including a facility that mechanically extracts materials from municipal waste, a combustion facility that converts the organic fraction of municipal of municipal waste to usable energy, and any chemical and biological process that converts municipal waste into a fuel product. The term includes any facility for the combustion of municipal waste that is generated off-site, whether or not the facility is operated to recovery energy. The term includes affected lands, as defined herein. The term does not include:

- A. Any composting facility.
- B. Methane gas extraction from a municipal waste landfill.
- C. Any separation and collection center, drop-off point or collection center for recycling, or any source separation or collection center for composting leaf waste.

SALVAGING — The controlled removal or recycling of material from a solid waste processing or disposal facility.

SOLID WASTE MANAGEMENT ACT — The act of July 7, 1980 (P.L. 380, No. 97), as amended.

SOURCE SEPARATE RECYCLABLE MATERIALS — Materials that are separated from municipal waste at the point of origin for the purpose of recycling.

TRANSFER FACILITY — A facility which receives and temporarily stores solid waste at a location other than the generation site, and which facilitates the bulk transfer of accumulated solid waste to a facility for further processing or disposal. The term includes affected lands, as defined herein. The term does not include portable storage containers used for the collection of municipal waste.

WASTE — A material whose original purpose has been completed and which is directed to a disposal or processing facility or is otherwise disposed. The term does not include source-separated recyclable materials. Waste is further classified as follows, in accordance with Act 101, the Solid Waste Management Act.

- A. **AGRICULTURAL WASTE** — Poultry and livestock manure, or residual material in liquid or solid form generated in the production and marketing of poultry, livestock, furbearing animals and their products, if the agricultural waste is not hazardous. The term includes the residual materials generated in producing, harvesting and marketing of agronomic, horticultural and silvicultural crops or commodities grown on the premises of a farm operation.
- B. **CLEAN FILL** — Uncontaminated, nonwater-soluble, nondecomposable inert solid material used to level an

area or bring the area to grade. Includes uncontaminated soil, rock, gravel, brick, block and concrete, as well as waste from clearing, grubbing and excavation, including trees, brush, stumps and vegetative material.

- C. CONSTRUCTION/DEMOLITION WASTE — Solid waste resulting from the construction or demolition of buildings and other structures, including wood, plaster, metals, asphaltic substance bricks, block and unsegregated concrete. The term also includes dredging waste. The term does not include "clean fill" separated from other waste.
- D. HAZARDOUS WASTE —
 - (1) Municipal or agricultural waste which because of its quantity, concentration, physical, chemical or infectious characteristics may:
 - (a) Cause or significantly contribute to an increase in mortality or an increase in morbidity in either an individual or the total population.
 - (b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.
 - (2) The term does not include point sources subject to permits under § 402 of the Federal Water Pollution Control Act, as amended, or source, special nuclear or by-product material as defined by the U.S. Atomic Energy Act of 1954, as amended.
- E. MUNICIPAL WASTE — Garbage, refuse, industrial lunchroom or office waste or other material resulting from operation of residential, municipal, commercial or institutional establishments and from community activities; and sludge not meeting the definition of residual or hazardous waste from a municipal, commercial or institutional water supply treatment plan, wastewater treatment plant or air pollution control facility.
- F. RESIDUAL WASTE — Garbage, refuse or other discarded material or waste including solid, liquid, semisolid or contained gaseous materials resulting from industrial, mining and agricultural operations and sludge from an industrial, mining or agricultural water supply treatment facility, wastewater treatment facility or air pollution control facility, provided that it is not hazardous.
- G. SOLID WASTE — Waste, including municipal, residual or hazardous waste.

§ 285-179. Permitted uses. [Amended 8-13-1998 by Ord. No. 98-4]

The following types of solid waste disposal and recycling facilities, as defined herein, may be operated in the zoning districts where they are specified as conditional uses:

- A. Solid waste disposal facilities, including incinerators, composting facilities, resource recovery facilities, salvage operations and transfer facilities, provided:
 - (1) Prior to the onset of operation of a solid waste disposal facility, or expansion thereof, a permit must be obtained by the applicant from the Pennsylvania Department of Environmental Protection for the operation.
 - (2) The Board of Supervisors and/or its authorized representatives shall, from time to time, be permitted to inspect the solid waste disposal and/or recycling facilities and operations to assure continued compliance with this article, with the expenses of inspection to be borne by the facility operator.
 - (3) The Board of Supervisors reserves the right to own and operate any and all solid waste disposal facilities in the Township, including the rights to:
 - (a) Buy and/or lease land for these purposes.
 - (b) Choose operators such as Township employees or authorities or by contracting with private firms

or other legitimate means.

- (c) Enter into agreements with adjoining communities to handle their municipal waste.
- (d) Buy and/or lease equipment or contract with private firms who will provide, operate and maintain equipment for these purposes.

B. Recycling facilities, including community drop-off centers, intermediate processing centers and junkyard and material processing centers.

§ 285-180. Dimensional standards.

The following standards shall apply to all solid waste disposal facilities and recycling facilities:

A. For solid waste disposal facilities:

- (1) Minimum lot size and width, exclusive of existing rights-of-way of public roads. Ten acres with a minimum lot width of 750 feet.
- (2) Building setback from ultimate right-of-way, any zoning district boundary and any property boundary: 250 feet.
- (3) Side or rear setback for an accessory building not associated with the operation of the solid waste facility: 100 feet.

B. For recycling facilities, lot size and width, and building setbacks in conformance with the requirements of the zoning district that permits the use.

§ 285-181. Performance standards. [Amended 8-13-1998 by Ord. No. 98-4]

In addition to complying with the regulations of the U.S. Environmental Protection Agency, the Pennsylvania Department of Environmental Protection, and other applicable federal and state regulations, the following performance standards shall apply to solid waste and recycling facilities:

A. The use shall not:

- (1) Constitute a nuisance or damage to health or any property by reason of dissemination of noxious, toxic or corrosive fumes, smoke, odor, debris or dust in the immediately surrounding area or beyond the district boundary line.
- (2) Result in noise or vibration clearly exceeding the average intensity of noise or vibration occurring from other causes, measured at the property line.
- (3) Endanger surrounding areas by reason of radiation, fire or explosion.
- (4) Discharge any untreated or incompletely treated waste into any stream; or otherwise cause or contribute to the pollution of surface or underground waters.
- (5) Endanger the underground water level or supply for other properties.
- (6) Create an objectionable traffic condition on the highways or in an adjacent area; or generate a nuisance to surrounding property by reason of traffic.
- (7) Create any objectionable condition in an adjoining area which will endanger public health and safety or be detrimental to the environmental quality of the surrounding area.
- (8) Include a municipal waste landfill unless it is a part of a solid waste disposal facility, owned and operated by Upper Frederick Township or its agent, and is used only as an accessory to dispose of ash,

residues, reject material and other bypassed solid wastes as generated by a resource recovery and/or incineration facility.

- (9) Dispose of any solid waste other than municipal waste, as defined herein, and the ash, residue, reject material and other material generated from municipal waste.

B. Vehicular access for solid waste facilities:

- (1) Any public road used to provide direct access to a disposal operation for routine, daily use shall be paved and maintained in good condition, in compliance with the standards of the Pennsylvania Department of Transportation, for the type of heavy trucking which are necessary for operation.
- (2) The Board of Supervisors may designate safe and adequate access routes and prohibit the use of other roads, except for local trash pickup purposes.
- (3) The minimum paved cartway for access roads shall be 26 feet, with four-foot wide improved shoulders on both sides.
- (4) The access driveway into the disposal facility shall be of sufficient length that stopped disposal vehicles entering the facility are not stopped along the public road outside the facility.
- (5) The costs of upgrading and maintaining major access roads to the disposal operation shall be paid for by the disposal operation in a means suitable to the Supervisors. Assessments and/or dumping fees are examples of suitable methods.

C. Security. The site shall be fenced and served by lockable gates for security purposes. Scavenging shall not be permitted. In addition, appropriate precaution shall be taken to prevent trash from being scattered on the site by wind or other means. Fencing, walls and other enclosures may be required for this purpose. Any scattered litter shall be collected daily and be properly disposed.

D. Grading. The disposal operation site shall be graded and provided with appropriate drainage facilities to minimize run-off, prevent erosion and prevent collection of standing water, except in basins designed for that purpose.

E. Screening.

- (1) A solid waste disposal facility site, including all improvements thereon, shall be screened from view from adjoining residential or institutional uses or districts by a buffer zone of a minimum 200 feet between said site and improvements, and any adjoining property in which shall be placed a planting screen consisting of a variety of evergreen trees in a solid double row with a minimum height of nine feet so as to create a visual screening of said site and improvements from all adjoining real property, and shade trees, two-inch caliper by a minimum height of eight feet, informally arranged, in a number equivalent to one tree per 50 linear feet of buffer.
- (2) Materials collected, stored or processed at a recycling facility shall be screened from view from adjacent roads or properties by complete enclosure in a building, opaque screening by solid fencing, walls or dense vegetation, or by location on a site such that the operation is not visible or is screened by existing vegetation on the site.

F. Elevation. The highest elevation of the accessory landfill shall never exceed 35 feet above the highest point of natural elevation within the landfill area of the site before the disposal operation began. Final grading of the landfill area shall be done in a manner which leaves the site potentially useful. New landscaping shall be planted to protect against erosion and improve the appearance of the land after final grading.

G. Equipment housing. Equipment not in use shall be housed in onsite buildings.

H. Fire safety. All buildings shall be equipped with fire and smoke detection and extinguishing facilities in

compliance with the regulations of the Pennsylvania Department of Labor and Industry, the National Fire Protection Association and/or other more stringent regulations, if determined appropriate by the Board of Supervisors.

- I. Scales. An onsite scale shall be used to weigh all solid waste delivered to a site and accurate and complete records shall be maintained by the operator, and which records shall be available for inspection by the Board of Supervisors upon request.
- J. Availability of records. A certified copy of all reports, data, plans and other material or information required to be submitted to the Pennsylvania Department of Environmental Protection shall also be submitted to the Board of Supervisors.
- K. Tire cleaning. A tire cleaning area shall be provided on the access road within a solid waste disposal site. All tires on all trucks leaving the disposal site shall be cleaned. Runoff from the tire cleaning area shall be controlled in accordance with the provisions of the Pennsylvania Stormwater Management Regulations.
- L. Equipment cleaning. An equipment cleaning area shall be provided on the site. All equipment used in the disposal operation shall be cleaned daily to prevent odors and other nuisances or health hazards. All drainage from equipment cleaning area shall be managed so as to prevent water pollution, and shall be discharged to a sanitary sewer system or other facilities approved by the Board of Supervisors.
- M. Groundwater monitoring. At the site of a solid waste disposal facility, groundwater monitoring wells shall be required and shall be located both along the interior boundary lines of the buffer zone and outside the boundary lines of the site as determined by the PaDEP. Copies of PaDEP monitoring reports shall be promptly provided to the Board of Supervisors. Any unsafe conditions shall be reported immediately to the Board of Supervisors.
- N. Emergency systems. All solid waste disposal facilities, equipment and personnel shall be equipped with both an internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel, and a device immediately available at the scene of operations, such as a telephone or a handheld two-way radio, capable of summoning emergency assistance from local police and fire departments.
- O. Emergency access. A solid waste disposal facility site shall have at least one emergency access entrance, which shall be locked except when used during an emergency situation. The operator shall provide a key to this entrance to the Board of Supervisors.
- P. Sanitary toilet facilities, as approved by the Board of Supervisors, shall be constructed and made available for use by persons on the site.
- Q. The applicant shall demonstrate to the Board of Supervisors that:
 - (1) Adequate provisions will be made to reduce and minimize any objectionable elements to the degree necessary to insure that the proposed use(s) will not be noxious, hazardous or offense as define herein.
 - (2) The proposed use will comply with the other standards contained herein.
- R. In order to determine that adequate safeguards are provided, the Board of Supervisors may require that:
 - (1) The applicant submit necessary information, impartial expert judgments and written assurances.
 - (2) The applicant obtain the advice of appropriate local, state and federal agencies and of private consultants.
 - (3) The applicant's proposed use(s) comply with such tests or provides such safeguards in addition to those listed herein, as deemed necessary by the Supervisors, upon the advice of the Township Engineer.

§ 285-182. Additional criteria for considering conditional use applications.

In addition to complying with the standards of this article and of § 285-61, herein, applications for a conditional use for solid waste disposal facilities shall provide the information, comply with the requirements, and be evaluated by the Board of Supervisors in accordance with the standards, criteria, requirements and regulations of this section.

- A. Plan conformance. The applicant shall provide a statement identifying the relationship of the proposed use to land use plans, policies and controls for the affected area, including a statement as to how the proposed use may conform or conflict with the objectives and specific terms of existing or proposed federal, state, county and Township land use and/or solid waste plans, policies and controls, including a statement of the following:
 - (1) The primary and secondary effects of the use and its capacity to stimulate or induce changes in patterns of social and/or economic activities.
 - (2) The impact on existing community facilities and activities, changes in natural conditions, etc.
- B. Separation. No land shall be actively used for solid waste disposal within 300 feet of an existing residence, or within 1/4 of a mile of an existing school or institutional zoning district. Inactive buffer and/or landscaped areas of the waste disposal site may be counted toward the total separation.
- C. Traffic. The existing public road system must be able to accommodate the traffic generated by the use in a safe and efficient manner. Existing residential areas shall not be infringed upon by traffic from the proposed facility. In order to fully evaluate this, the Board of Supervisors may request a traffic impact statement in accordance with the provisions of § 285-73.
 - (1) The study must demonstrate that the proposed use will not adversely affect surrounding areas of traffic circulation generally in the Township; or else identify any traffic problems that might be caused or aggravated by the proposed use and delineate solutions to those problems. Based upon the findings of the study the Board of Supervisors may require other improvements both onsite and offsite, which would alleviate hazardous or congested situations directly attributable to the proposed development, as a condition of approval.
 - (2) The traffic impact study shall be prepared for a study area extending a minimum of one mile on all abutting roads from the entrance of the proposed disposal facility. This area may be modified at the discretion of the Board of Supervisors.
- D. Environmental assessment statement. An environmental assessment statement shall be submitted to the Board of Supervisors, in accordance with § 285-57 of this chapter.

§ 285-183. Conditional use application requirements. [Amended 8-13-1998 by Ord. No. 98-4]

An application for a conditional use for solid waste disposal facilities shall contain the date, information and drawings specified herein.

- A. A topographical drawing, prepared by a professional engineer, registered in the State of Pennsylvania, to a scale no greater than one inch equals 100 feet, showing:
 - (1) Locate of site relative to public roads.
 - (2) Owners of adjacent properties.
 - (3) Proposed fencing and improvements.
 - (4) Proposed screening and buffering.
 - (5) Cross sections showing the existing grades and the proposed grades upon completion and closure of the accessory landfill, if any.

- (6) Accessory landfill area within the site, to include staging of landfill development and the location of haul roads and access roads.
- (7) Location of equipment cleaning and tire cleaning areas.
- (8) Location of weighing scale, firefighting equipment and all facilities, including buildings.
- B. The names and current addresses of any and all persons who own any interest, real or equitable, in the real estate which is the subject of the application.
- C. The names and current addresses of any and all persons having any ownership interest in the operation of proposed operation, maintenance and use of the equipment or real estate in question.
- D. The names and current addresses of any and all persons having any ownership interest in any corporations or other business entities which may be set forth in Subsection B or C above, where such persons possess an ownership interest of 10% or more.
- E. The identities and qualifications of personnel designated to manage and operate the proposed facility, together with their intended responsibilities.
- F. All requirements of the Pennsylvania Solid Waste Management Act and regulations and standards of the Department of Environmental Protection relating to solid waste processing and disposal system are incorporated herein by reference, as well as any and all plans, applications, data, materials, studies and information to the Board of Supervisors as is required to be submitted to the Pennsylvania Department of Environmental Protection pursuant to said act, regulations and standards. All such materials shall be certified by the applicant to be true and correct copies of original materials filed with that Department.
- G. Statements indicating expected useful life of the accessory landfill site and the condition and proposed uses of said site upon termination of operation, including, but not limited to, any limitations on future uses due to decomposition gases.
- H. An access road survey, which shall include the following:
 - (1) Statement as to the estimated number of vehicles weighing over 20,000 pounds, loaded, which are expected to use the site on a daily basis during the first two years of operation.
 - (2) A plan indicating all roads anticipated to be used as access roads, as defined herein.

ARTICLE XXII
Oil and Gas Well Drilling and Operating

§ 285-184. Legislative intent.

To establish reasonable and uniform regulations, limitations, safeguards and controls for present and future operations related to exploring for, drilling for and the development, production, transportation and/or storage of oil, gas and other hydrocarbon substances within the Township; and to define the responsibility for compliance with this article, so that such activities may be conducted in harmony with other uses of land, thus protecting Township residents in the enjoyment and use of their property and providing for the public health, safety and general welfare.

§ 285-185. Definitions. [Amended 8-13-1998 by Ord. No. 98-4]

The terms uses in this chapter shall, unless the context indicates otherwise, have the respective meanings herein set forth:

APPROVED TYPE AND APPROVED DESIGN — Improvements, equipment or facilities of a type or design approved by the Commission, Fire Department or Township Engineer.

BLOWOUT — A sudden or violent escape of oil or natural gas, as from a drilling well when high formational pressure is encountered.

BLOWOUT PREVENTER — A mechanical, hydraulic, pneumatic or other device or combination of such devices secured to the top of a well casing including valves, fittings and control mechanisms connected therewith or a heavy casinghead control fitted with special gates or rams which can be closed around the drill pipe, or other tubular goods which completely closes the top of the casing and is designed for preventing blowout.

BUREAU — The Bureau of Oil and Gas Management, Department of Environmental Protection, or the Oil and Gas Division of the Department.

CASINGHEAD GAS — Any gas or vapor, or both gas and vapor indigenous to an oil stratum and produced from such stratum with oil.

CASING — A string or strings of pipe commonly placed in wells drilled for natural gas or petroleum.

CELLAR — An excavation around and above the top joint of the casing of a well.

COMMISSION — The Oil and Gas Conservation Commission of the Commonwealth of Pennsylvania.

CONDENSATE — Liquid hydrocarbons which were originally in the gaseous phase in the reservoir.

CORRELATIVE RIGHTS — The rights of each owner of oil and gas interest in a common pool or source of supply of oil or gas to have a fair and reasonable opportunity to obtain and produce his just and equitable share of the oil and gas in such pool or sources of supply without being required to drill unnecessary wells or incur other unnecessary expense to recover or receive such oil or gas or its equivalent.

COMPLETION OF DRILLING, REDRILLING AND REWORKING — Completion, for the purpose of this chapter, 30 days after the drilling, redrilling or reworking crew has been released through completion of its work or released by those employing said crew.

DERRICK — Any portable framework, tower, mast or structure which is or are required or used in connection with drilling reworking, operating or maintaining a well for the production of oil, gas or other hydrocarbons from the earth.

DESERTION — The cessation of operation at a drill site without compliance with the provisions of this chapter relating to suspended operations, idle wells or abandonment.

DRILLING — Digging or boring a new well for the purpose of exploring for, developing or producing oil, gas or other hydrocarbons or for the purpose of injecting gas, water or any other fluid or substance into the earth.

DRILLING EQUIPMENT — The derrick, together with all parts of and appurtenances to such structure, every

piece of apparatus, machinery or equipment used or erected, or maintained for use in connection with drilling.

DRILL SITE — The premises used during the drilling or reworking of a well or wells located thereon.

DRILLING UNIT — Includes spacing unit and shall mean the are designated in a spacing order as a unit or as designated by a drilling or unitization agreement and within which all operators have the opportunity to participate in the well or wells drilled thereon on a just and equitable basis.

FIRE DEPARTMENT — Any fire department, whether voluntary or otherwise, which has jurisdiction over any premises falling within the confines of this chapter.

FLUIDS — Any gas or liquid.

GAS — Any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarified state at standard temperature and pressure conditions. It shall also mean all natural gas and all other volatile hydrocarbons not herein defined as oil, including condensate because it was originally in a gaseous phase in the reservoir and shall include the gaseous components occurring in or derived from petroleum or natural gas.

GAS WELL — Any well drilled or to be drilled or used for the intended or actual production of natural gas.

IDLE WELLS — Whenever any oil well fails to produce at the quarterly rate of 20 barrels of crude oil or other hydrocarbon substances or at quarterly rate of 100,000 cubic feet of gas for sale, lease or storage for two successive calendar quarters, such well shall be classified as "idle."

LEASEHOLD ESTATE — A tract or tracts of land which by virtue of an oil and gas lease, fee or ownership, constitutes a single tract for the purpose of the development or operation thereof for oil or gas or both.

LESSEE — The person who has executed an oil or gas lease or sublease, or the owner of the land or minerals, or his heirs, executors, administrators or assigns or one who conducts or carries on any oil or gas exploration, development or operation thereof, or any person so operating for himself or others.

NEW WELL — A new well bore or new hole established at the ground surface and shall not include redrilling or reworking of an existing well which is not abandoned.

NONPARTICIPATING OPERATOR — Any operator who owns an interest in land included in a spacing unit, and who has not elected to participate in the drilling, equipping, completing and operating the well or wells to be drilled on such unit, and to share in the costs of the same.

OIL — Crude petroleum oil and all other hydrocarbons regardless of gravity produced at a well in liquid form by ordinary production methods but does not include liquid hydrocarbons which are originally in a gaseous phase in the reservoir.

OIL OPERATION — The construction, use or maintenance of any installation, facility or structure used, directly or indirectly, to carry out or facilitate one or more of the following functions: exploring, drilling, redrilling, development, reworking and repair, production, processing, extraction, enhanced recovery, stimulation, abandonment, storage or shipping of oil or gas from these subsurface of the earth.

OIL OPERATION SITE — The physical location where oil operations are conducted.

OIL WELL — Any well drilled, to be drilled or used for the intended or actual production of a liquid petroleum or petroleum products or for the intended or actual disposal of waste liquids, including solutions and liquids containing solids in suspension produced from any such well.

OPERATOR — Any owner of the right to develop, operate and produce oil and gas from the pool or any person drilling, maintaining, operating, pumping or in control of any well. However, if the operator, as herein defined, is different from the lessee under an oil or gas lease or any premises affected by the provisions of this chapter, then such lessee shall also be deemed to be an operator. In the event that there is no oil or gas lease in existence the owner of the fee estate in the premises shall also be deemed an operator. In the event that the oil is owned separately from the gas, the owner of the substance being produced or sought to be produced from the pool shall be considered as operator as to such pool.

OUTER BOUNDARY LINE — Where several contiguous parcels of land in one or different ownership are operated as a single oil or gas lease or operating unit, the term "outer boundary line" shall mean the exterior limits of the land included in the larger unit. In determining the contiguity of any such parcel of land, no street, road or alley lying within the lease or unit shall be deemed to interrupt such contiguity.

OWNER — A person who owns the legal or equitable title in and to the surface of the drill site or oil operation site.

PARTICIPATING OPERATOR — Any operator who own an interest in land included in a spacing unit, and who has elected to participate in the drilling, equipping, completing and operating the well to be drilled on such unit, and to share the costs of the same.

PERMIT — A drilling permit issued or sought to be issued under this chapter, authorizing the drilling of an oil well or gas well or other oil operations as herein defined.

PERSONS — Includes both the singular and the plural and shall mean any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any kind and includes any department, agency or instrumentality of the commonwealth, or any governmental subdivision thereof.

PERMITTEE — The person to whom is issued a permit authorizing the oil operations which are the subject matter of this chapter, and his or its administrators, executor, heirs, successors and assigns.

POOL — An underground reservoir containing a common accumulation of oil and gas or both not in communication laterally or vertically with any other accumulation of oil or gas.

PROCESSING — The use of oil operations for gauging, recycling, compressor repressuring, injection, reinjection, dehydration, stimulation, separation (including, but not limited to, separation of liquids from gas), shipping and transportation, and gathering oil, gas, other hydrocarbon substances, water or any combination thereof.

PRODUCER — The owner of the well or wells capable of producing oil or gas or both.

REDRILL — Recompletion of an existing well by deepening or sidetrack operations extending more than 150 feet from the existing well bore.

REWORKING — Recompletion of an existing well within the existing bore hole or by deepening or sidetrack operations which do not extend more than 150 feet from the existing well bore, or replacement of well liners or casings.

RIGHT-OF-WAY — Public rights-of-way including streets, easements and other property within the Township and which is dedicated to the use and benefit of the public.

ROYALTY OWNER — Any owner of oil or gas in place or oil or gas rights subject to a lease covering such oil or gas in place or oil and gas rights. Royalty owner also means any owner of an interest in an oil or gas such lease or the proceeds therefrom without obligating him to pay any costs under such lease. Royalty owner shall also mean the owner of any interest of the oil or gas in place or oil or gas rights who has not executed an oil or gas lease to the extent that such owner is not designated an operator.

SHUT-IN WELL — A well capable of producing in excess of the minimum requirements for an idle well, but which is not placed into production due to lack of market.

SURFACE OF IGNITION — Any flame, arc, spark or heated object or surface capable of igniting liquids, gases or vapors.

STORAGE RESERVOIR — That portion of any subterranean sand or rock stratum or strata into which gas is or may be injected for the purpose of storage or for the purpose of testing whether said stratum is suitable for storage.

SUMP OR SUMP PIT — An earthen pit lined or unlined for the discharge of oil field wastes.

TANK — A container, covered or uncovered, used in conjunction with the drilling or production of oil, gas or other hydrocarbons for holding or storing fluids.

TECHNICAL ADVISOR — Such person familiar through experience in, exposure to, or education in oil and gas well operations as may be retained from time to time by the Township.

TECHNICAL OR OIL AND GAS INDUSTRY WORDS OR PHRASES — Used herein or not specifically defined herein shall have that meaning customarily attributable thereto by reasonable and prudent operators in the oil and gas industry.

WASTE — The following shall be considered "waste":

- A. Physical waste as the term is generally understood in the oil and gas industry, which includes the following:
 - (1) Permitting the migration of oil, gas or water from the stratum in which it is found to other strata if such migration would result in a loss of recoverable oil or gas or both.
 - (2) The drowning with water of any stratum or part thereof capable of producing oil or gas in paying quantities except for secondary recovery purposes or in hydraulic fracturing or other completion practices.
 - (3) The unnecessary and excessive surface loss or destruction of oil or gas.
 - (4) The inefficient or improper use, or unnecessary dissipation of reservoir energy.
- B. The drilling of more wells than are reasonably required to recover efficiently and economically the maximum amount of oil and gas from a pool.

WELL — A hole or holes, bore or bores, to any sand, horizon, formation, strata or depth for the purpose of producing any oil, gas, liquid hydrocarbon, brine water, sulphur water or for use as an injection well for secondary recovery, disposal or any of them.

WELL SERVICING — The maintenance work performed within any existing well bore which does not involve drilling, re-drilling or reworking.

§ 285-186. Use regulations.

- A. Oil and gas wells and the drilling of such wells as permitted in all zoning districts provided they comply with all of the requirements of this chapter.
- B. In conjunction with and during drilling operations, trailers shall be permitted at the drilling site for the following temporary uses:
 - (1) Offices.
 - (2) Laboratory.
 - (3) Living quarters.

§ 285-187. General provisions.

- A. Administration. The Township Zoning Officer, or his duly appointed representative, is hereby authorized and directed to enforce the provisions of this article.
- B. Right-of-entry. Whenever necessary to enforce any of the provisions of this article, or whenever the Township Zoning Officer has reasonable cause to believe that there exists in any building or upon any premises any condition contrary to the provisions of this article, the Township Zoning Officer and/or a Township appointed technical advisor may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Township Zoning Officer by this article. If such entry is refused, the Township Zoning Officer shall have recourse to every remedy provided by law and equity to secure entry. No owner or occupant or any other persons having charge, care, custody or control of any building or premises shall fail or

neglect, after proper demand, to permit prompt entry therein by the Township Zoning Officer, or his representative, for any purpose pursuant to this article.

- C. Agent. Every operator and/or lessee of any well shall designate himself or an agent or agents, who is a resident of the Commonwealth of Pennsylvania, upon whom all orders and notices provided in this article may be served in person or by registered or certified mail. Upon application for a permit hereunder, such operator and/or lessee shall notify the Township Secretary of the name and address of said agent and shall within 10 days notify the Township Secretary in writing of any change in such agent or such mailing address unless operations within the Township are discontinued.
- D. Notice. Every person who acquire any well, property or site upon which operations which are the subject matter of this chapter exist, whether by purchase, transfer, assignment, lease, conveyance, exchange or otherwise, shall within 10 days after acquiring such well, property or site, notify the Township Secretary in writing of such acquisition. The notice shall contain the following:
 - (1) The name and address of the person acquiring such well, property or site.
 - (2) The name and location of the well, property or site.
 - (3) The date of acquisition.
 - (4) A description of the properties and equipment acquired; including a plot plan of the well, property or site.
 - (5) The name and address of any person designated to receive service of notice.
- E. Transfer of operator. The operator of every well shall notify the Township Secretary in writing of the transfer to another operator of such well for any purpose. Within 10 days after such transfer by reason of sale, assignment, transfer, conveyance or exchange, said notice shall be given and shall contain the following:
 - (1) The name and address of the person to whom such well was sold, assigned, transferred, conveyed or exchanged.
 - (2) The name and location of the well, property or site.
 - (3) The date of sale, assignment, transfer, conveyance or exchange.
 - (4) The date when possession was relinquished by the former operator.
 - (5) A description of the properties and equipment transferred including a plot plan of said property.

§ 285-188. Permit required.

It shall be unlawful and a violation of this chapter for any person to commence oil operations or to explore for oil and gas or drill, redrill, deepen, rework, activate or convert any well within Upper Frederick Township without a permit having been issued in accordance with the terms of this chapter. No permit shall authorize the drilling, redrilling, deepening, reworking, activating or converting of more than one well. A well shall be deemed to be drilled, redrilled, deepened, reworked, activated or converted within the Township when it is to be located on property within the Township that is to be used for the production of the well or when lands within the Township are made part of a pool drilling unit, or are subject to unitization agreement.

§ 285-189. Procedure for permit application review. [Amended 8-13-1998 by Ord. No. 98-4]

Any person desiring to drill or operate an oil or gas well in the Township shall make a permit application pursuant to this article.

- A. If the application meets the requirements of this article a permit will be issued to the operator of the well

drilling operation. This permit shall be prominently displayed at the well or well drilling site at all times.

- B. No permit will be issued unless the provisions of this article and the provisions of all the pertinent laws of the Commonwealth of Pennsylvania which are applicable to the operation or drilling or abandonment of oil or gas wells are met.
- C. The permit application will be reviewed by the Township Board of Supervisors at a public meeting to be scheduled no more than 60 days after the permit application is filed. After this review, the Board will make its recommendation to the Zoning Officer.
- D. At least 30 days prior to the public meeting, the Township Secretary will submit a copy of the application, along with all supporting documents, to the Township Planning Commission for their review and recommendation.
- E. The Township shall give notification of the public meeting according to § 285-32 of this chapter.
- F. At least 30 days prior to the public meeting, the Township Secretary will submit a copy of the DEP approved erosion and sedimentation control plan and the rehabilitation reclamation plan to the Township Engineer for his review and recommendation; the Township, at its discretion, shall also submit, at least 30 days prior to the public meeting, the erosion and sedimentation control plan, along with all supporting documents to the Montgomery County Planning Commission (MCPC), Soil Conservation Service, or any other technical agency for their review and recommendation.
- G. A separate application and supporting papers as hereinafter set forth in § 285-190 shall be submitted for each well proposed to be drilled.
- H. The Township Zoning Officer, after considering the recommendations of the Board of Supervisors, shall issue or deny the permit within 15 days of the public meeting.
- I. Should the application be rejected, the filing fee shall in any event be retained by the Township.
- J. The permit issued pursuant to this section shall entitle the applicant to drill the well as applied for.

§ 285-190. Permit applications. [Amended 8-13-1998 by Ord. No. 98-4]

Every application for a permit required pursuant to this chapter shall be in writing, signed by the operator or some person duly authorized to sign on his behalf; and it shall be filed with the Township Secretary. A separate application shall be made for each well to be drilled, redrilled, reworked, converted or activated and shall be accompanied by the application fee. The application shall include the following information:

- A. The date of the application.
- B. A legal description of the property.
- C. The name and address of the operator.
- D. A plot plan (three copies) which shall show the following:
 - (1) Proposed locations of all oil facilities on the oil operation site including, but not limited to, locations of the wells to be drilled, fractured, shot or produced together with locations of storage tanks, access roads, dikes, pipeline, compressors, separators, storage sheds and trailers.
 - (2) Name and address of the assessed owner of the surface rights, owner of the oil and gas rights, the oil and gas lessee, if any, and of the driller.
 - (3) Topographical lines and floodplain areas.
 - (4) Title, scale, north arrow, tax parcel number and date.

- (5) The location of and name or number of private access roads, and abutting streets and highways, occupied residences and commercial structures within 500 feet of the well; the location of all churches, hospitals, rest homes, schools, preschools, nurseries and places of public assembly within 500 feet of the well; all property lines, setback lines, building locations and water well locations on the subject tax parcel and all adjoining tax parcels and the location of all sewage systems on the subject tax parcel and all adjoining tax parcels.
 - (6) The ownership of adjacent properties and a location of buildings on adjacent properties.
 - (7) The location of all watercourses and boundaries of floodplain as defined by Article XVI of this chapter within 1,000 feet of the well. The location of all water wells within a one-thousand-foot radius of the proposed well which have not been previously located pursuant to Subsection D(5), above.
 - (8) Type of derrick, if any, to be used including the height thereof.
 - (9) Proposed route of ingress and egress to the proposed oil operations site.
 - (10) Copies of all permits and applications for permit obtained pursuant to the Oil and Gas Conservation Law of the Commonwealth of Pennsylvania, 58 P.S. § 401 et seq., and/or the Gas Operations Well-Drilling Petroleum and Coal Mining Act of the Commonwealth of Pennsylvania, 52 P.S. § 2101 et seq., if applicable, as well as the DEP approved erosion and sedimentation control plan.
 - (11) Landscape concept plan which meets the requirements of this chapter.
 - (12) A statement signed by the operator or applicant under penalty of perjury declaring that if an applicant is duly authorized to sign on behalf of the operator and file the application, and that the information contained in the application is true and correct.
- E. There shall be submitted with all applications for a permit two copies of the rehabilitation reclamation plan. If the information required for the rehabilitation reclamation plan is included in the DEP approved erosion and sedimentation control plan, a separate rehabilitation reclamation plan is not required. This plan must be put into execution within six months of the cessation of active drilling, fracturing or shooting of oil or gas wells, or the active removal of soil or gas, unless a new plan to restart these activities is submitted to the Township Secretary within six months of the date of cessation of activity at the site. The rehabilitation reclamation plan must contain the following information:
- (1) Location, dimensions and names of all trees, shrubs and ground cover which shall be planted to control soil erosion from wind and water.
 - (2) The method to be used in restoring ground level and topsoil depths to the original status on work areas, access roads and pipelines.
 - (3) The method and procedure to be used in plugging abandoned wells in accordance with this chapter or state regulations.
 - (4) The removal procedure for all stock piles, equipment, buildings, pipelines and fences.
 - (5) The application for permit shall also indicate the following:
 - (a) The method of transportation of all oil and/or gas from the well including, but not limited to, type of vehicle, capacity of tanker and route from drill site or route of pipeline, etc.
 - (b) The method in which records shall be kept on the drilling operation and also on the production operation of the well. The location of such records and a certification that the Township Secretary may have access to such records upon reasonable notice.
- F. Water analysis report. Each application for a permit shall be accompanied by a water analysis report

indicating the water quality of the area within a one-thousand-five-hundred-foot radius of the well site, which must be established prior to drilling, during drilling, during production and/or after abandonment. The water standards used shall be the United States Government EPA standards for primary drinking water Document #EPA 570/76-003; and, the secondary drinking water standards of the Congressional Federal Register of 7-19-1979 40 CFR, Part 143. The report shall contain the following information:

- (1) The names and addresses of all water well owners within a one-thousand-five-hundred-foot radius of the oil or gas well, who must be contacted by certified return receipt mail. Each such owner shall be offered the opportunity to have their water tested for the primary and secondary EPA standards as described above. The name, address and telephone number of the water testing laboratory with which the operator has a contact must be provided the water well owner and the Township. Water quality tests must be run by the applicant/operator prior to drilling, every 15 days after drilling starts and every six months after production or while waiting for production, and six months after the well is abandoned and the rehabilitation and reclamation has been completed. Any well owner who has not contacted the water testing laboratory within two weeks of receiving the certified mail is considered to not wish to participate in the water testing program. The cost of the water testing shall be borne by the oil well drilling operator making this application. A copy of this chapter must be included in the certified letter to the water well owner. The results of the mailing showing returned receipt cards and those well owners who requested well tests along with the initial results of those test must accompany the well permit applications. Those persons not requesting water tests must be listed by the applicant/operator and their return receipt cards must be submitted with the application.
- (2) All year-round streams within a 1,500 feet radius of the well site must have both EPA primary and secondary drinking water standards test completed; the results of which shall be submitted with the permit application, and shall have the same periodic testing as outlined in Subsection F(1), above.
- (3) Should there be no well within a 1,500 feet radius of the oil well drill site, then a monitor water well must be drilled by the applicant/operator of the site and within 300 feet of the oil well site. The well must be drilled to a depth of at least 90 feet and must be the first strata to establish a continuous flow of water of _____ gal/hr for a period of _____ hours. Primary and secondary water standards tests must be performed for this water well as described for the private wells in Subsection F(1), above.
- (4) The results of all water tests shall be kept on file with the application for the oil well drilling permit. If the water quality of any tested well is deemed to be adversely affected by the drilling and/or pumping operation, then that oil or gas shall be subject to the suspension of operation as established in this chapter.

§ 285-191. Bonds, letters of credit, indemnity and insurance.

- A. Irrevocable letter of credit and indemnity bond. Prior to the issuance of a permit for the commencement of operations, drilling, redrilling, deepening, reworking, converting or activating a well, the operator (and driller, if requested by the Township) shall provide the Township with an irrevocable letter of credit or indemnity bond, or certificate of deposit or cash and certificate of insurance as follows:
 - (1) An irrevocable letter of credit or indemnity bond in the principal sum of such amount to be determined by the Board of Supervisors of Upper Frederick Township but not less than \$50,000. The letter of credit or bond shall be executed by a reliable banking institution or insurance company authorized to do business in the Commonwealth of Pennsylvania, with the operator and/or driller as principal, running to the Township for the benefit of the Township and all persons concerned, conditioned that the operator and/or driller will comply with the terms and conditions of this chapter.
 - (2) Such letter of credit or bond shall become effective on or before the date it is filed with the Township and remain in force and effect for at least a period of three years subsequent to the expiration of the term of the permit issued; and in addition, the bond will be conditioned that the operator and/or driller will

promptly pay all legally imposed fines, penalties and other assessments imposed upon operator and/or driller by reason of his breach of any of the terms, provisions and conditions of this chapter and that the operator and/or driller will promptly clear all premises of all litter, trash, waste and other substances used, allowed or occurring in the operations and will after abandonment, or completion, grade, level and restore such property to the same surface conditions as nearly as possible as, existed when operations were first commenced and that the operator and/or driller will defend, indemnify and hold the Township, its officers, agents and employees harmless from any and all liability growing out of or attributable to the granting of such permit regardless of whether the liabilities caused in part by the Township, its officers, agents or employees or any of them. If, at any time, the Board of Supervisors shall deem an driller or operator's bond or letter of credit to be insufficient for any reason, it may require the operator and/or driller to file a new bond or increase the amount of such letter of credit.

- (3) Whenever the Township finds that a default has occurred in the performance of any requirement or condition imposed by this chapter, a written notice thereof shall be given to the operator. Such notice shall specify the work to be done, the estimated cost thereof and the period of time deemed by the Township to be reasonably necessary for the completion of such work. After receipt of such notice, the operator shall, within the time therein specified, either cause or require the work to be performed, or failing thereupon shall pay over to the Township 125% of the estimated cost of doing the work as set forth in the notice. The Township shall be authorized to draw against any irrevocable letter of credit which covers the oil operation site. Upon receipt of such monies, the Township shall proceed by such mode as deemed convenient to cause the required work to be performed and completed, but no liability shall be incurred therein other than for the expenditure of said sum in hand. In the event that the well has not been properly abandoned under the regulations of this article or the Commission, such additional money may be demanded from the operator as is necessary to restore the drill site in conformity with the regulations of this article. In the event that any letter of credit is drawn upon, the operator shall be required to post a new letter of credit in an amount to be determined by the Board of Supervisors prior to commencement of any further work on the drilling site.
- (4) In the event the operator does not cause the work to be performed and fails or refuses to pay over to the Township the estimated cost of the work to be done as set forth in the notice, or the bank refuses to honor any draft by the Township against the applicable bond or irrevocable letter of credit, the Township may proceed to obtain compliance and abate default by way of civil action against the operator, or by criminal action against the operator, or by both such methods. The posting of the letter of credit and/or the drawing upon same by Township shall in no manner be construed as a liquidated damage amount and the operator shall remain liable to Township in such amounts as may be necessary to obtain compliance and abate the default hereunder.
- (5) When the well or wells, covered by said irrevocable letters of credit, have been properly abandoned in conformity with all regulations of this chapter, and in conformity with all regulations of the Bureau and notice to that effect has been received by the Township or upon receipt of a satisfactory substitute, the irrevocable letter of credit issued in compliance with these regulations shall be terminated and canceled.

B. Insurance. In addition to the letter of credit required pursuant to this chapter, the operator shall carry a policy or policies of insurance issued by an insurance company or companies authorized to do business in the Commonwealth of Pennsylvania, such policy or policies in the aggregate shall provide for the following minimum coverages:

- (1) Standard comprehensive general liability covering the surface property owner, oil and gas owner, oil and gas lessee, operator and Township including coverage for premises, operations, blowout or explosion, products completed operations, blanket contractual liability, underground property damage, broad form property damage, independent contractors and personal injury. A certificate of insurance shall be given for the Township naming all of the above as insured.
 - (a) Bodily injuries \$500,000 each occurrence, \$1,000,000 aggregate.

- (b) Property damage \$500,000 each occurrence, \$1,000,000 aggregate.
 - (2) Standard comprehensive form of automobile liability, including coverage for owned, hired and nonowned vehicles:
 - (a) Bodily injury (each person): \$300,000.
 - (b) Bodily injury (each accident): \$1,000,000.
 - (c) Property damage: \$250,000 each occurrence.
 - (3) Excess liability (Umbrella Form) \$5,000,000, in excess of primary insurance.
 - (4) Worker's compensation in the statutory amount and employer's liability \$100,000 each accident.
 - (5) The insurance policies set forth in Subsection B, above, shall provide that they shall not be canceled without prior written notice to the Township Secretary at least 30 days prior to the effective date of such cancellation or such other time period as may be agreed upon by the Township Board of Supervisors.
 - (6) In the event such insurance policy or policies are canceled, the permit granted shall terminate on such date of cancellation and the operator's right to operate under such permit shall cease until the operator files additional insurance as provided herein.
- C. Certificate of deposit. The operator may substitute a certificate of deposit in lieu of the irrevocable letter of credit or indemnity bond set forth herein above upon the following conditions:
- (1) Such certificate of deposit shall be in such amount which shall be equal or greater than the amount of the irrevocable letter of credit or indemnity bond.
 - (2) Such certificate of deposit shall be issued by a bank, selected by the operator in Montgomery County, Pennsylvania, and shall be payable to the order of the bank (however, accrued interest thereon shall be payable to the operator and the bank shall be so instructed).
 - (3) Such certificate of deposit shall be delivered to the bank and evidence of the receipt thereof by the bank shall be submitted to the Township Secretary.
 - (4) Such certificate of deposit shall be governed by the same terms and conditions as irrevocable letters of credit as set forth in this chapter and bank shall be so instructed.

§ 285-192. Permits.

- A. Permit issuance. When a permit application has been reviewed by the Township and meet the requirements of this article, the Zoning Officer shall, upon receipt of the permit application and filing fees, issue a permit for the exploration for oil and gas or for drilling, redrilling, deepening, reworking, activating or converting of a well. Such permit shall constitute sufficient authority for exploration, drilling, redrilling, deepening, reworking, activating, converting, operation, production, gathering of production, maintenance, repair, testing, plugging and abandonment of the well, and for the construction and use of all facilities reasonably necessary or convenient in connection therewith, including gathering lines and discharge lines on the oil operations site by the permittee; provided; however, that a permit shall be renewed before such well may be reworked for purposes of redrilling, deepening or converting such well to a depth or use other than that set forth in the current permit for such well. Such to Subsection B, a permit shall be valid for one year from the date of issuance.
- B. Permit utilization. No permit issued hereunder shall be valid unless utilization of the privileges granted thereby be commenced within 180 days from and after the date of issuance of the permit, or if after commencement, such activity is suspended or abandoned at any time for a period of 180 days.

- C. Application and permit fees. Any application for a well permit will be accompanied by a filing fee. This fee is nonrefundable. Also, a separate permit fee shall be required before the permit will be issued. The amounts of these fee shall be set by a resolution of the Board of Supervisors.
- D. Annual renewal of permit. The Township Zoning Officer, along with the Township Engineer or other Township representative, shall inspect annually, and at such other times as the Township shall deem necessary, each producing well, shut-in well and suspended or idle well or any well deemed idle by this chapter for the purpose of ascertaining whether the well is being operated or maintained within the standards of this chapter. On the first day of September next after the issuance of a permit for drilling, re-drilling, reworking, activating or converting; on the first of September each year thereafter until the well has been abandoned, as provided in this article, an annual renewal of the permit shall be obtained from the Township for each and every well, including injection wells.
- E. Annual renewal of permit additional requirements.
 - (1) Fencing. An annual renewal of the permit shall not be approved for any well which is not enclosed by a fence which conforms to the specifications herein set forth.
 - (2) Landscaping. An annual renewal of the permit shall not be issued for any well which has not been landscaped to conform to the requirements of this chapter.
- F. New permit required for activation. No person shall activate or put into production any oil or gas well that is an idle well pursuant to this chapter, or any well whose drill site has been cleaned and restored in accordance with this chapter, or any shut-in well that does not have a currently valid drilling permit, unless an activation permit has been first obtained pursuant to the provisions of this chapter.
- G. Assignment of permit. Any permit issued pursuant to this chapter shall not be assigned, conveyed, sold, pledged or transferred. Any assignment, conveyance, sale, pledge or transfer of any permit issued pursuant to this chapter shall be void ab initio and shall void the permit.
- H. Persons liable for fees. Each of the persons whose duty is to obtain any permit shall be declared and made to be jointly and severally liable for the payment of the fees required to be paid.
- I. Violation of chapter. The Township shall consider any of the following a violation of this chapter (in accordance with Article II of this chapter):
 - (1) A permittee has failed, neglected or refused to perform, comply with and abide by any of the conditions of the permit.
 - (2) That permittee has failed, neglected or refused to comply with or abide by, or has in any way violated any of the provisions of this chapter, or of any other ordinances of the Township, or any other rule, order or regulation either directly or indirectly, by reason of or in connection with or incidental to his conduct of oil operations.
 - (3) If any of the permittee's operations or the continuance thereof upon the premises covered by there permit are a menace or hazard to the public or private property, or to any interest of the Township, or to the lives or safety of persons in the Township.
 - (4) Any of the permittee's operations or the continuance thereof upon the premises covered by the permit constitutes a public nuisance.
 - (5) If permittee shall have made any willful misrepresentation of fact in any application for any such permit or in any report or record required by this chapter to be filed or furnished by the permittee.

§ 285-193. Criteria.

The following criteria shall be met before a permit will be issued:

A. Derricks.

- (1) All derricks and portable masts used for drilling, re-drilling, deepening or reworking shall meet the standards and specifications of the American Petroleum Institute as they presently exist or may be amended hereafter.
- (2) All drilling, re-drilling, deepening or reworking equipment shall be removed from the oil operation site within 30 days following the completion of drilling, re-drilling, deepening or reworking unless otherwise permitted by the Commission or Township Board of Supervisors.

B. Well setbacks. It shall be unlawful to drill any well, the center of which at the surface of the ground is located:

- (1) Within 330 feet of the nearest outer boundary of the lease unit or drilling unit or within 200 feet from the boundary of any property which is not under lease by way of a surface or subsurface lease agreement.
- (2) Within 25 feet from any oil storage tank, or source of ignition.
- (3) Within 200 feet of any ultimate right-of-way of any public street, road or highway or future street.
- (4) Within 500 feet of any building used as dwelling, place of public assembly, institution or school unless written permission is provided by the owner of the structure.
- (5) Within 200 feet of a stream, spring, body of water or other natural watercourse, floodplain as defined in this chapter.
- (6) Within 200 feet of any private or public water well.
- (7) Within 300 feet of any nonresidential structure, unless written permission is provided by the owner of the structure.
- (8) Within 100 feet of a cemetery.

C. Additional safety regulations. Property owners, operators, lessees, their agents, servants, contractees and employees and all other persons drilling, fracturing, shooting or otherwise treating under explosive or high pressure conditions, oil and gas wells or engaged in the production of oil or gas, or both, shall at all times observe and comply with the following conditions:

- (1) All electrical equipment used in and about the operation of an oil or gas well shall be installed in accordance with accepted trade practices and all applicable state and Township regulations.
- (2) In the event any tank is located within 500 feet of a residence, or place of public assembly, a fire bank constructed of earth or other suitable material shall be built and maintained around said tank to contain excess oil in case of spillage, fire or other emergency. The pit established shall have a minimum capacity equal to 150% of the tank capacity.
- (3) A property lined slush pit shall be maintained to collect the tank drainage or drawoff.
- (4) A flare, if any, shall be at least eight feet in height, properly supported and shall be equipped with a windproof flare burner.
- (5) Where multiple tanks are used, they shall be connected in tandem.
- (6) All tank manholes shall be completely closed, locked and maintained in safe condition. All tanks shall be provided with adequate emergency venting.

- (7) During drill-in fracturing processes and completion, no person not authorized by the driller, operator or contractor shall be allowed on the drill site.
 - (8) Appropriate fencing as set forth herein below shall be maintained at all times.
 - (9) Well location shall be maintained in an orderly manner.
 - (10) No vehicle shall load oil from a storage tank while parking within a public highway right-of-way.
- D. Lights. No person shall permit or allow any lights located on any oil operation site to be directed in such a manner so that they shine directly on adjacent property or property in the general vicinity of the oil operation site. Drilling derricks or towers shall have aircraft warning lights which meet all applicable Federal Aviation Administration regulations.
- E. Signs. A sign shall be prominently displayed and maintained in good condition near or on the pumping unit or fence of each well, whether producing or not. Such sign shall be of durable material and, unless otherwise required by the Commission, shall have a surface area of not less than two square feet nor more than four square feet and shall be lettered with the following:
- (1) Well name and number.
 - (2) Name of operator.
 - (3) Telephone numbers of two persons responsible for said well who may be contacted in case of an emergency. In the event the drill site or leasehold is fenced it shall be sufficient if all entrances to said drill site or leasehold are posted with a sign.
- F. "No smoking" signs. "No smoking" signs of a durable material shall be posted and maintained in all locations approved or designated by the chief of the fire department. Sign lettering shall be four inches in height and shall be red on a white background or white on a red background.
- G. Waste removal. Rotary mud, drill cuttings, brine, oil or liquid hydrocarbons and all other oil field waste derived or resulting from, or connected with the drilling, redrilling, deepening or reworking of any well, shall be discharged into a portable steel tank. Unless otherwise directed by the Bureau, waste materials shall be removed from the operation site within 30 days from and after completion of drilling. No waste shall be disposed of in Upper Frederick Township.
- H. Unlined slush, sump, sump pits or skim ponds prohibited. No person shall own, operate, have possession of, be in control of, or maintain any well site, former well site or property on which an unlined slush, sump or sump pit or skim pond is located. The provisions of this section shall not apply to portable sump tanks.
- I. Access driveways and drill sites. Prior to the commencement of any drilling operations, all access driveways used for access to the drill site and the drill site itself shall be surfaced with crushed rock, gravel or ore, and shall be oiled and maintained to prevent dust and mud. In particular cases, these requirements governing surfacing of access driveways may be altered at the discretion of the Board of Supervisors after consideration of all circumstances including, but not limited to, the following, distances from public streets and highways; distances from adjoining and nearby property owners whose surface rights are not leased by the operator; the purpose for which the property of such owners is or may be used; topographical features; nature of the soil; and exposure to wind.
- J. Blowout prevention. In all cases, protection shall be provided to prevent blowout during oil operations as required by and in conformance with the requirements of the Bureau.
- K. Fences. Prior to the commencement of and during all operations, all oil operation sites and individual drill sites shall be completely enclosed by a chain link fence, masonry wall or other approved fencing material according to one of the following requirements:

- (1) The fence fabric shall be at least six feet in height.
- (2) Support posts shall be set in concrete and shall be embedded into the ground to a depth sufficient to maintain the stability of the fence.
- (3) The chain link fabric shall be galvanized steel wire with a minimum plating of 1.2 ounces of zinc per square foot of subsurface area or shall be coated with vinyl or plastic material, approved by the chief of the fire department.
- (4) The chain link fence fabric shall have a minimum thickness of 11 gauge.
- (5) The chain link fence fabric shall be two-inch mesh; provided, however, 3 1/2 inch mesh may be used on any fence where the fabric is interwoven with artificial screening material approved by the chief of the fire department.
- (6) Post and rails shall be standard galvanized, welded pipe, schedule 40 or thicker; provided, however, that nongalvanized drill pipe may be used if it exceeds schedule 40 in thickness.
- (7) All pipe and other ferrous parts, except chain link fabric and drill pipe, shall be galvanized inside and outside with plating which contains a minimum of 1.2 ounces of zinc per square foot of surface area.
- (8) Tension rods shall be 3/8 inch round steel bolt stock. Adjustable tighteners shall be turnbuckle or equivalent having a six-inch minimum take-up. Tension bars shall have a minimum thickness of 1/4 by 3/4 inch.
- (9) All fences shall have security extension arms at the top of such fences and such security extension arms shall be strung with galvanized barbed wire.

L. Masonry wall specifications. All masonry walls used to enclose in whole or in part any oil well site or oil operation site shall be constructed in accordance with standard engineering practices and shall meet the following specifications:

- (1) The walls shall be of a design compatible with the facilities, buildings and structures on and adjacent to the site.
- (2) The wall shall be at least six feet in height.
- (3) It shall be constructed in accordance with the provisions of Chapter 112, Code Enforcement, Article II.

M. Gate specifications. For oil operations and drill sites, all chain link fences and masonry walls shall be equipped with at least one gated area. The gated areas shall meet the following specifications:

- (1) Each gated area shall be not less than 12 feet wide and be composed of two gates, each of which is not less than six feet wide, or one sliding gate not less than 12 feet wide. If two gates are used, gates shall latch and lock in the center of the span.
- (2) The gates shall be of chain link construction which meets the applicable specifications or of other approved material which, for safety reasons, shall be at least as secure as chain link fence.
- (3) They shall be provided with a combination catch and locking attachment device for a padlock, and shall be kept locked except when being used for access to the site.
- (4) Hinges shall be heavy duty malleable iron or steel industrial service type with a 180° swing.

N. Muffling exhaust. It shall be unlawful for any person, owner or operator to discharge into the open air exhaust from any internal combustion engine, used in connection with the drilling of any well or for use on any production equipment unless it is equipped with an exhaust muffler, or mufflers or an exhaust muffler box constructed of noncombustible materials sufficient to suppress noise and prevent the escape of obnoxious

gases, fumes or ignited carbon or soot.

- O. Public nuisance declared. The foregoing sections notwithstanding, no person shall conduct any oil operation in a manner that would create an unreasonable noise, odor or vibration detrimental to the health, safety or welfare of the surrounding neighborhood or any considerable number of persons. Such operation is hereby declared to constitute a public nuisance and is in violation of this chapter.
- P. Fire prevention-sources of ignition. All electrical equipment used, installed or maintained within 50 feet of a drilling rig, or within 25 feet of any other oil operation shall be installed and maintained in accordance with all applicable state and Township regulations.
- Q. Oil storage tanks. Unless otherwise directed by the Bureau, all tanks used for the storage, production of oil or the disposal of wastewater shall conform to the following:
 - (1) API specifications. All tanks shall conform to American Petroleum Institute (API) specifications unless other specifications are approved by the chief of the fire department.
 - (2) Dikes and capacity requirements. All persons owning, operating or having control of storage tanks, clarifying tanks or tanks used in connection with the production of oil shall construct and maintain dikes around said tanks. Drainage dikes and walls shall be constructed and maintained to meet the standards of the Bureau and the National Fire Protection Association as they presently exist and may hereafter be amended.
- R. Removal of portable pulling masts and gin poles. All well servicing equipment, including portable pulling masts and gin poles, shall be removed from the leasehold, oil operation site or drill site within seven days after completion of a well servicing operation.
- S. Storage of equipment.
 - (1) No drilling, redrilling, reworking or other portable equipment shall be stored on the oil operation site which is not essential to the everyday operation of the oil well located thereon. This includes the removal of idle equipment unnecessary for the operation of such wells.
 - (2) Lumber, pipes, tubing and casing shall not be left on the oil operation site except when drilling or well servicing operations are being conducted on the site.
 - (3) It shall be illegal for any person, owner or operator to park or store any vehicle or item of machinery on any street, right-of-way or in any driveway, alley or upon any oil operation site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary for the maintenance of the oil well site or for gathering or transportation of hydrocarbon substances from the site.
- T. Motive power for pumping and drilling. Electric motors shall be used to drive all pumping and drilling units. Diesel generators shall power the electric motors. The use of line power from a utility company may be considered by the Board of Supervisors.
- U. Surface casing.
 - (1) All casing, tubing and equipment used in the drilling and completion of a well should be in good condition and adequate in strength for the depths to be drilled and the pressures that may be encountered.
 - (2) Lessee shall use a casing program which complies with oil and gas statutes and rules and regulations of the Commonwealth of Pennsylvania. (25 Pa. Code § 79.12 or as may hereafter be amended) whether or not said rules and regulations would be deemed applicable to the subject well, and which prevents the escape of oil, gas or water out of one stratum into another, the pollution of fresh water supplies and blowouts.

- (3) In addition to the above requirements the surface casing shall extend from the surface to a depth at least 75 feet below all fresh water zones known to exist in the field and adjacent area to protect them from contamination.
- (4) The production casing shall be of new or reconditioned seamless pipe of a grade and weight designed to withstand the greater of the following pressures to which the casing is planned to be stressed:
 - (a) The maximum anticipated rock pressure on any point in the casing string shall not stress the casing in yield greater than 75% of the API specified internal yield pressure of the pipe at minimum yield as shown in API.
 - (b) If the well is to be fractured, the casing shall be designed so that the fracture pressure anticipated at any point in the casing does not exceed the API specified internal yield pressure of the casing at minimum yield as shown in API Bulletin 5-C-2 or later amendments.
- (5) After cementing and before perforating or drilling in the casing shall be tested by pump pressure at the well head to a pressure 20% greater than the anticipated maximum pressure at the well head. If at the end of 30 minutes, pressure show a drop of 50 pounds per square inch or more, the casing shall be repaired sufficiently to withstand the pressure test described herein. After the corrective operation, the casing shall again be tested in the same manner.
- (6) All surface casing and production casing shall be cemented in the ground with good quality cement equaling or exceeding API specification in the manner hereinafter described.
- (7) Cementing of all casing strings shall be accomplished by pump and plug or another method approved by the Board of Supervisors.
- (8) An attempt shall be made to circulate the cement to the surface in cementing the surface casing. In the event that the cement cannot be circulated to the surface due to the presence of fractures or other lost circulation zones, lessee shall determine as accurately as possible the depth of the top of the cement in the annular space behind the casing and record it on the well record.
- (9) In wells where cement has not been circulated to the surface, there must be sufficient good quality cement in places in the annular space behind the casing to tightly hold the casing in place so that the escape of oil, gas or water from one stratum to another or to the surface does not occur behind the casing. The well operator, in such case, will make every reasonable effort and attempt to fill the annular space by introducing cement from the surface or other appropriate remedial action.
- (10) Cement shall be allowed to stand a minimum of 24 hours before drilling the plug or initiating tests.

V. Temporary trailers. Temporary trailers, as provided for in § 285-186 of this article, shall be equipped with adequate sanitary facilities. These facilities, and the management of all waste, must be approved by the Township Engineer.

§ 285-194. Screening.

- A. All oil wells and tanks, as defined in this article, shall be screened by a fence enclosure constructed on one of the following materials:
 - (1) A solid masonry wall.
 - (2) A chain link fabric with 3 1/2 inch mesh interwoven with opaque slats.
 - (3) Any other materials, compatible with surrounding uses, which effectively screen the oil operations site and are approved by the Board of Supervisors.
 - (4) All fencing, masonry walls, opaque slatting or other compatible materials, for use with chain link fabric,

shall be of a solid neutral color, compatible with surrounding uses, and maintained in a neat, orderly and secure condition.

- B. Screening-drilling, redrilling, reworking, converting and activation. Within 60 days of completion of drilling, redrilling, reworking or converting or within 60 days of activation of any idle well as defined in this chapter, such well shall be screened by a fence enclosure which conform to the requirements of this chapter, and regulations of the Commission.
- C. Landscaping. Within 60 days after completion of drilling or redrilling or within 60 days after activation of any idle well, any oil operation site, shall be landscaped in accordance with a plan submitted to and approved by the Board of Supervisors.

§ 285-195. Abandoned wells.

- A. Abandonment procedure. Whenever abandonment occurs pursuant to the requirements of the Bureau, or activity ceases at the well site for a period of 180 days, the person so abandoning shall be responsible for the restoration of the drill site and oil operation site to its original condition as nearly as practicable in conformity with the regulations of this chapter.
- B. Abandoned well requirement. The responsible party shall furnish the Township with:
 - (1) A copy of the approval of the Bureau, confirming compliance with all abandonment procedures under all applicable State Acts or regulations.
 - (2) A notice of intention to abandon under the provisions of this section and stating the date such work will be commenced. Abandonment may then be commenced on or subsequent to the date so stated.
- C. Abandoned well-surface requirements. Abandonment shall be approved by the Township after restoration of the drill site and the subsurface thereof has been accomplished in conformity with the following:
 - (1) The derrick and all appurtenant equipment thereto shall be removed from the drill site.
 - (2) All tanks, towers and other surface installations shall be removed from the drill site.
 - (3) All concrete, piping, wood and other foreign materials, regardless of depth, except surface casing, shall be removed from the drill site, unless otherwise directed by the Bureau.
 - (4) All holes and depressions shall be filled with clean, compatible soil. All oil, waste oil, refuse or waste material shall be removed from the drill site.
- D. Abandonment requirements prior to new construction. All abandoned and deserted wells or drill sites shall meet the most current abandonment requirements of the Bureau whether or not the Bureau would have jurisdiction over the well site, prior to the issuance of any building or grading permit for development of the property. The maximum extent practicable, new structures shall not be constructed directly over abandoned wells.

§ 285-196. Public nuisance.

Whenever the Township Zoning Officer determines that a public nuisance, as described in this article, exists on any property or in connection with any well, drill site or lease, he shall give notice to the property owner, the lessee of surface or mineral rights, the oil operator and the occupants of any such property to abate such nuisance, according to Article II of this chapter.

§ 285-197. Cleanup and maintenance.

- A. Cleanup after well servicing. After completion of well servicing or abandonment operations, the registered

operator of the well site shall clean the drill site area and repair all damage to public and private property caused by such surfacing or abandonment operations.

- B. Cleanup after spills, leaks and malfunctions. After any spill, leak or malfunction, the responsible party shall remove or cause to be removed to the satisfaction of the Township Engineer and/or chief of the fire department all oil and waste materials from any public or private property affected by such spill, leak or malfunction.
- C. Releasing of fluids. No person shall deposit, place, discharge or caused or permit to be placed, deposited or discharge any oil, naphtha, petroleum, asphaltum, tar, hydrocarbon substances or any refuse including wastewater and brine from any oil operation or the contents of any container used in connection with an oil operation in, into, or upon a public right-of-way, a storm drain, ditch or sewer; a sanitary drain or sewer; any body of water; or any private property in the Township.
- D. Freedom from debris. All property on which an oil well site is located shall at all times be kept free of: (a) debris; (b) pools of oil, water or other liquids; (c) weeds; (d) brush; (e) trash, or other waste material.
- E. Painting. All production equipment on the oil operation site shall be painted and maintained at all times, including pumping units, storage tanks, and buildings or structures. When requiring painting of such facilities, the Township Zoning Officer shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance. Paint shall be of a neutral color, compatible with surrounding uses.
- F. Gas emission or burning prohibited. No person shall allow or cause or permit gases to be vented into the atmosphere or to be burned by open flame except as provided by law or as permitted by the Bureau. If the venting of gases into the atmosphere or the burning of gases by open flame is authorized as provided by law or as permitted by the Bureau then such vent or open flame shall be located not closer than 300 feet to any building not necessary to oil operations.

§ 285-198. Technical advisor.

The Township may from time to time employ a technical advisor or advisors who are experienced or educated in the oil and gas industry. The function of such advisor shall be to advise the Township on matters relating to oil operations within the Township and the effect, both present and future, on the health, welfare, comfort and safety of the citizens of the Township. In the event such technical advisor is employed for the purpose of advising the Township relative to an operator's particular set of circumstances, case or request, any of which are not covered by this chapter or rules or regulations of the Commission, then the cost for such services of such technical advisor shall be assessed against and paid for by such operator in addition to any fees or charges assessed pursuant to this chapter.

§ 285-199. Township Solicitor.

In the event that the Township, pursuant to provisions of this chapter, must, for any reason, bring legal action against the operator of any oil or gas operations site, then the cost for such legal services shall be assessed against and paid for by such operator in addition to any fees or charges assessed pursuant to this chapter.

§ 285-200. Compliance with law.

Any violation of the laws of this Commonwealth of Pennsylvania or any rules, regulations or requirements of any state, federal government or federal regulatory body having jurisdiction in reference to drilling, completing, equipping, operating, producing, maintaining or abandoning an oil or gas well or related appurtenances, equipment or facilities, or in reference to firewalls, fire protection, blowout protection, safety protection or convenience of persons or property, shall also be a violation of this chapter and shall be punishable in accordance with the provisions hereof.

§ 285-201. Acceptance of permit and binding effect.

By acceptance of any permit authorized to be issued pursuant to this chapter, any operator or permittee expressly stipulates and agrees to be bound by this chapter and to comply herewith and that by reference, the terms of this chapter shall be deemed to be incorporated in any permit issued pursuant to this chapter with the same force and effect as if this chapter was set forth verbatim in such permit.

§ 285-202. Liability.

- A. Nothing herein contained shall operate to impose any liability on the Supervisors of Upper Frederick Township or said Township for damages which may result to any person, firm or corporation from the drilling of any well, or the hydrofracturing or shooting of any well for which permit is issued pursuant to this chapter.
- B. Any person, firm or corporation who or which shall drill, hydrofracture or treat any well under and by virtue of a permit herein provided for shall do so at his or its own peril, and shall be liable, if at all, to any party damaged thereby, without recourse to the Township of Upper Frederick or its Board of Supervisors.

**ARTICLE XXIII
Zoning Map Amendments**

§ 285-203. Zoning Map amendments.

Ordinance	Date	Description
2001-12	12-27-2001	Extending the IR - Institutional and Recreational District to include a certain parcel of land located on the easterly side of Traffic Route 29, being a portion of the land of Elsie E. Bardman, containing 20.648 acres
Res. 2002-08	10-10-2002	Extending the IR - Institutional and Recreational District to include a certain parcel of land located on the north side of Route 73, being a portion of the land of the Frederick Mennonite Community, containing 42.08 acres
Res. 2002-10	11-14-2002	Extending the IR - Institutional and Recreational District to include a certain parcel of land located on the south side of Route 73, being a portion of the land of St. Luke's Lutheran Church, containing 5.4414 acres
Ord. No. 2008-01	2-14-2008	<p>A. Reclassifying the following areas from R-40 High Density Residential to R-80 Land Preservation:</p> <ul style="list-style-type: none"> (1) In the vicinity of Deep Creek Road and Perkiomen Avenue (2) In the vicinity of Pa. Legislative Route 29 (Gravel Pike) on the east side of the intersection of Gravel Pike and Haywood Road (3) In the vicinity of Deep Creek Road and Perkiomenville Road (4) In the vicinity of Perkiomenville Road, south of Deep Creek Road <p>B. Reclassifying an area in the vicinity of Perkiomenville Road, Deep Creek Road and Locust Lane from CB Commercial Business to R-80 Land Preservation</p> <p>C. Reclassifying the following areas from CB Commercial Business to R-40 High Density Residential:</p> <ul style="list-style-type: none"> (1) In the vicinity of Deep Creek Road and Pa. Legislative Route 29 (Gravel Pike) (2) In the vicinity of Perkiomenville Road and Deep Creek Road <p>D. Reclassifying the following areas from R-60 Medium Density Residential to R-80 Land Preservation:</p> <ul style="list-style-type: none"> (1) In the vicinity of Perkiomenville Road, Faust Road and Brookside Way (2) In the vicinity of Fagleysville Road and Neiffer Road (3) In the vicinity of Clover Lane <p>E. Reclassifying an area in the vicinity of Fagleysville Road, Big Road (Route 73) and Perkiomenville Road from R-60 Medium Density Residential to CB Commercial Business</p>

Ordinance	Date	Description
Ord. No. 2009-05	7-9-2009	Changing the zoning classification of a certain 33.357± acre parcel of land located on the east side of Pennsylvania Legislative Route 29, as more fully set forth in the legal description attached hereto, made a part hereof and marked as Exhibit "A," ⁸⁵ from the current zoning classification of I – Industrial District to IR – Institutional and Recreational District.
Ord. No. 2011-07	10-13-2011	Changing the zoning classification of a certain 42.08± acre parcel of land located on the northeast side of Pennsylvania Legislative Route 73, as more fully set forth in the legal description attached hereto, made a part hereof and marked as Exhibit "A," ⁸⁶ from the current zoning classification of R-80 Land Preservation District and R-40 High Density Residential District to IR – Institutional and Recreational District.

85. Editor's Note: Exhibit A is on file in the Township offices.

86. Editor's Note: Exhibit A is on file in the Township offices.

ARTICLE XXIV
Riparian Corridor Conservation District (RCC)
[Added 9-10-2009 by Ord. No. 2009-07]

§ 285-204. Declaration of legislative intent.

In expansion of the declaration of legislative intent found in Article I, § 285-2 of this chapter, and the statement of community development objectives found in Article I, § 285-3 of this chapter, it is the intent of this article to:

- A. Provide reasonable controls governing the conservation, management, disturbance and restoration of riparian corridors.
- B. Improve surface water quality by reducing the amount of nutrients, sediment, organic matter, pesticides and other harmful substances that reach watercourses, wetlands, subsurface and surface water bodies by using scientifically-proven processes, including filtration, deposition, absorption, adsorption, plant uptake and denitrification, and by improving infiltration, encouraging sheet flow and stabilizing concentrated flows.
- C. Improve and maintain the safety, reliability and adequacy of the water supply for domestic, agricultural, commercial, industrial and recreational uses, along with sustaining diverse populations of aquatic flora and fauna.
- D. Preserve and protect areas that intercept surface water runoff, wastewater, subsurface flow and/or deep groundwater flows from upland sources and function to remove or buffer the effects of associated nutrients, sediment, organic matter, pesticides or other pollutants prior to entry into surface waters, as well as to provide wildlife habitat, moderate water temperature in surface waters, attenuate flood flow, and provide opportunities for passive recreation.
- E. Regulate the land use, siting and engineering of all development to be consistent with the intent and objectives of this article and with the best-accepted conservation practices and to work within the carrying capacity of existing natural resources.
- F. Assist in the implementation of pertinent state laws concerning erosion and sediment control practices, specifically Erosion Control, of the Pennsylvania Clean Streams Law, Act 394, P.L. 1987,⁸⁷ Chapter 102 of the Administrative Code, (as amended October 10, 1980, Act 157 P.L.), Title 25, and any subsequent amendments thereto, as administered by the Pennsylvania Department of Environmental Protection and the Montgomery County Conservation District.
- G. Conserve natural features important to land or water resources such as headwater areas, groundwater recharge zones, floodway, floodplain, springs, streams, wetlands, woodlands, prime wildlife habitats and other features that provide recreational value or contain natural amenities, whether on developed or undeveloped land.
- H. Work with floodplain, steep slope and other requirements that regulate environmentally sensitive areas to minimize hazards to life, property and riparian features.
- I. Recognize that natural features contribute to the welfare and quality of life of the Upper Frederick Township residents.
- J. Conserve natural, scenic and recreation areas within and adjacent to riparian areas for the community's benefit.

§ 285-205. Establishment of overlay district.

- A. Overlay concept. The Riparian Corridor Conservation District (RCC) shall function as an overlay on any and

⁸⁷. Editor's Note: See P.S. § 691.1 et seq.

all districts now or hereinafter enacted by the Township.

- (1) The RCC District shall have no effect on the permitted uses in the underlying zoning district, except where uses located within the district are in conflict with permitted uses, standards and intent set forth in this article.
- (2) In those areas where the RCC District applies, the RCC requirements shall supersede the requirements of the underlying zoning districts.
- (3) Changes in the underlying zoning districts shall have no effect on the boundaries of the RCC District.

B. Boundary definition. The boundaries of the RCC District are defined and established as those areas adjacent to perennial streams, intermittent streams, wetlands and waterbodies identified on a Riparian Corridor Conservation District Map maintained by Upper Frederick Township and incorporated herein by reference. In addition, upon submission of a land development plan, the applicant, at its expense, shall do any and all necessary testing to identify any area within the proposed project subject to the regulatory requirements of the Riparian Corridor Conservation District.

- (1) Zone 1 riparian buffer; a buffer a minimum width of 25 feet from each defined edge of watercourse at bank full flow, measured perpendicular to the edge of the watercourse. Applicable watercourses include all perennial streams, intermittent streams draining 75 acres or greater, wetlands and other nonagricultural waterbodies greater than 10,000 square feet unless specifically exempted.
 - (a) Zone 1 steep slopes. Where steep slopes greater than 15% are located within 25 feet of the defined edge of bank, the Zone 1 riparian buffer shall be measured 25 feet from the break in steep slope. When the combination of steep slopes and Zone 1 riparian buffer exceed 75 feet from edge of bank at full flow, the boundary of Zone 1 riparian buffer shall not extend beyond 75 feet from edge of bank at full flow.
 - (b) Exempt waterbodies. Manmade waterbodies created for use with agricultural activities are exempt.
- (2) Zone 2 riparian buffer; a buffer a minimum width of 50 feet from the outer edge of the Zone 1 riparian buffer, measured perpendicular to the edge of the Zone 1 riparian buffer. Applicable watercourses include all perennial streams identified on the Riparian Corridor Conservation District Map.
 - (a) Zone 2 steep slopes. Where steep slopes greater than 15% are located within Zone 2, the Zone 2 riparian buffer shall extend a minimum of 25 feet from the outer edge of steep slopes. When the combination of Zone 2 steep slopes and Zone 1 riparian buffer exceed 200 feet from edge of bank at full flow, the boundary of Zone 2 riparian buffer shall not extend beyond 200 feet from edge of bank at full flow.
 - (b) Zone 2 exempt waterbodies. All waterbodies not designated as a perennial stream on the Riparian Corridor Conservation District Map are exempt.
- (3) Zone 3 riparian buffer; a buffer a minimum width of 25 feet from the outer edge of the Zone 2 riparian buffer, measured perpendicular to the edge of the Zone 2 riparian buffer. In no case will the outer edge of the Zone 3 riparian buffer extend beyond 200 feet from the edge of the bank at full flow. Applicable watercourses include all perennial streams identified on the Riparian Corridor Conservation District Map.
 - (a) Zone 3 steep slopes. Where steep slopes greater than 15% are located within Zone 3, the Zone 3 riparian buffer shall extend a minimum of 25 feet from the outer edge of steep slopes. When the combination of steep slopes and Zone 1 and 2 riparian buffers exceed 200 feet from edge of bank at full flow, the boundary of Zone 3 riparian buffer shall not extend beyond 200 feet from edge of bank at full flow.

- (b) One-hundred-year floodplain. In cases where the one-hundred-year floodplain extends beyond 25 feet from the outer edge of the Zone 2 riparian buffer, the Zone 3 riparian buffer shall extend to the outer edge of the one-hundred-year floodplain, not to exceed 200 feet from edge of bank at full flow.
 - (c) Zone 3 exempt waterbodies. All waterbodies not designated as a perennial stream on the Riparian Corridor Conservation District Map are exempt.
- C. Boundary interpretation and appeals. An initial determination as to whether the RCC District applies to a given parcel shall be made by the Zoning Officer.
- (1) When an applicant disputes the Zone 1, 2 and/or 3 boundaries of the riparian corridor or the defined edge of a watercourse, surface water body or wetland, the applicant shall submit evidence to the Zoning Officer that shows the applicant's proposed boundary and provides justification for the proposed boundary.
 - (2) The Zoning Officer, with input from the Township Engineer and/or other advisors selected by the Board of Supervisors, shall evaluate all material submitted and provide a written determination within 45 days to the Board of Supervisors, Township Planning Commission and landowner or applicant.
 - (3) Any party aggrieved by any such determination or other decision or determination under this section may appeal to the Zoning Hearing Board under the provisions of § 285-30 of this article. The burden of proving the incorrectness of the Zoning Officer's decision shall be upon the appellant.

§ 285-206. Use regulations.

- A. Permitted uses. The following uses are permitted in Zone 1, 2 and 3 of the Riparian Corridor Conservation District as noted below.
- (1) Zone 1.
 - (a) Open space uses that are primarily passive in character shall be permitted to extend into the area defined as Zone 1, including:
 - [1] Wildlife sanctuaries, nature preserves, forest preserves, fishing areas, passive areas of public and private parklands and reforestation.
 - [2] Streambank stabilization.
 - [3] Removal of invasive species in accordance with the plan approved by the Township.
 - (2) Zone 2.
 - (a) Uses permitted in Zone 1.
 - (b) Open space uses, including wildlife sanctuaries, nature preserves, forest preserves, passive areas of public and private parklands, recreational trails and reforestation.
 - (c) Agricultural uses conducted in compliance with methods prescribed in the Department of Environmental Protection's Erosion and Sediment Pollution Control Manual, March 2000, as amended.
 - (d) Forestry in accordance with recognized soil conservation practices.
 - (e) Passive use without impervious surface areas, such as camps, campgrounds and picnic areas.
 - (3) Zone 3.

- (a) Uses permitted in Zones 1 and 2.
 - (b) Residential accessory structures having a total area equal to or less than 225 square feet.
 - (c) Fences.
 - (d) Required yard area.
- B. Conditional uses. The following, and no other uses, are permitted when authorized as a conditional use by the Board of Supervisors, provided that such use shall meet the standards set forth in this article. Such use shall be permitted subject to such reasonable conditions and safeguards as the Board of Supervisors may determine. All conditional uses must meet the requirements of the underlying district.
- (1) All zones.
 - (a) Corridor crossings:
 - [1] Agricultural crossings by farm vehicles and livestock.
 - [2] Driveways serving one or two single-family detached dwelling units, provided the mitigation requirements of § 285-211 are satisfied. The corridor crossing standards of § 285-212 should be considered during design of the driveway.
 - [3] Roadways, railroads and utilities, provided the mitigation requirements of § 285-211 and the corridor crossing design standards of § 285-212 are satisfied.
 - (2) Zone 3.
 - (a) Active recreation areas such as ball fields, playgrounds and courts, provided these uses are designed in a manner that will not permit concentrated flow of stormwater runoff. May include open shelters usually found in developed outdoor recreation areas. Toilet facilities may be acceptable when connected to public water and sewage systems. All impervious surfaces must provide mitigation measures in accordance with the requirements of § 285-211.
 - (b) Centralized sewer and/or water lines and public utility transmission lines running along the corridor. When proposed as part of a subdivision or land development, the mitigation requirements of § 285-211 shall be satisfied. In all cases, these lines shall be located as far from Zone 2 as practical.
 - (c) Golf courses. Applicable requirements of § 285-211 shall be satisfied.
 - (d) Accessory structures in excess of 225 square feet where the effects of these structures are mitigated by reestablishment of vegetation, as specified under § 285-211D, Mitigation measures, and § 240-37F(6) of the Subdivision and Land Development Ordinance.
- C. Prohibited uses. Any use or activity not authorized within § 285-206, herein, shall be prohibited within all Zones of the Riparian Corridor Conservation District. The following activities and facilities are specifically prohibited:
- (1) Zone 1.
 - (a) Clearing of existing vegetation, except where such clearing is necessary to prepare land for a use permitted under § 285-206, herein, and where the effects of these actions are mitigated by reestablishment of vegetation, as specified under § 240-37F(6) of the Subdivision and Land Development Ordinance.
 - (b) Storage of any hazardous or noxious materials listed in § 285-138 of the Code of the Township of Upper Frederick.

- (c) Use of fertilizers, pesticides, herbicides and/or other chemicals in excess of the manufacturer's instructions or in the absence of instructions per prescribed industry and/or the recommendations of the Montgomery County Conservation District.
 - (d) Roads or driveways, except where permitted as corridor crossings in compliance with § 285-212, herein.
 - (e) Motor or wheeled vehicle traffic in any area not designed to accommodate adequately the type and volume.
 - (f) Parking lots.
 - (g) Any type of permanent structure, except structures identified or needed for a use permitted in § 285-206, herein.
 - (h) Subsurface sewage disposal areas.
 - (i) Sod farming.
 - (j) Stormwater basins, including necessary berms and outfall facilities.
 - (k) Grading or regrading of lands, including the deposition of topsoils and the grading thereof, and the construction of retaining walls.
 - (l) Outlet installations for sewage treatment plants and sewage pumping stations.
- (2) Zones 2 and 3.
- (a) Clearing of existing vegetation, except where such clearing is necessary to prepare land for a use permitted under § 285-206, herein, and where the effects of these actions are mitigated by reestablishment of vegetation, as specified under § 240-37F(6) of the Subdivision and Land Development Ordinance.
 - (b) Storage of any hazardous or noxious materials listed in § 285-138 of the Code of the Township of Upper Frederick.
 - (c) Use of fertilizers, pesticides, herbicides and/or other chemicals in excess of the manufacturer's instructions or in the absence of instructions per prescribed industry and/or the recommendations of the Montgomery County Conservation District.
 - (d) Roads or driveways, except where permitted as corridor crossings in compliance with § 285-212, herein.
 - (e) Motor or wheeled vehicle traffic in any area not designed to accommodate adequately the type and volume, except for vehicles associated with maintenance of RCC District, agriculture and forestry.
 - (f) Parking lots.
 - (g) Any type of permanent structure, except structures identified or needed for a use permitted in § 285-206, herein.
 - (h) Subsurface sewage disposal areas.
 - (i) Sod farming.
 - (j) Stormwater basins, including necessary berms and outfall facilities.
 - (k) Outlet installations for sewage treatment plants and sewage pumping stations.

- (l) Grading or regrading of lands, including the deposition of topsoils and the grading thereof, and the construction of retaining walls.

§ 285-207. Application procedures.

- A. A zoning permit shall be required for all development and activity affecting the vegetation in the Riparian Corridor Conservation District. An application for a zoning permit shall be filed with the Zoning Officer, who shall make an initial determination on the application.
- B. For a use other than those permitted in § 285-206, an application seeking approval of a variance shall be forwarded to the Zoning Hearing Board, as appropriate, along with required studies or information and the findings of the Zoning Officer.

§ 285-208. Procedures for consideration of a conditional use or variance.

- A. All applications for approval of conditional uses shall be considered using standards listed in §§ 285-204, 285-61 and 285-35.
- B. For variance applications, applications shall be processed in accordance with Article IV, Zoning Hearing Board, of the Upper Frederick Township Zoning Ordinance. All applications for approval of variances shall be considered using standards listed in §§ 285-204, 285-35 and 285-36.

§ 285-209. Nonconforming structures and uses.

Nonconforming structures and uses of land within the Riparian Corridor Conservation District shall be regulated under the provisions of Article VI, Nonconforming Status, herein, except that the one-year time frame for discontinuance shall not apply to agricultural uses which are following prescribed best management practices for crop rotation.

§ 285-210. Inspection of Riparian Corridor Conservation District.

- A. Lands within or adjacent to an identified Riparian Corridor Conservation District will be inspected by the Zoning Officer and/or other representatives designated by the Upper Frederick Township Board of Supervisors when:
 - (1) A subdivision or land development plan is submitted.
 - (2) A building permit is requested.
 - (3) A change or resumption of nonconforming use is proposed.
- B. The District may also be inspected periodically by the Zoning Officer and/or other representatives designated by the Upper Frederick Township Board of Supervisors for compliance with an approved restoration plan, excessive or potentially problematic erosion, hazardous trees, or at any time when the presence of, or possibility of, an unauthorized activity or structure is brought to the attention of Upper Frederick Township officials.

§ 285-211. Management of the Riparian Corridor Conservation District.

- A. Removal of invasive plant species. Invasive plant species may be removed from the required Riparian Corridor Conservation District in accordance with § 240-37F(6), Riparian Corridor Conservation District Vegetation Requirements, of the Subdivision and Land Development Ordinance.
- B. Riparian corridor planting. When required, reestablishment of forest cover and woodland habitat shall be consistent with the requirements of the landscape regulations within § 240-37F(6), Riparian Corridor Conservation District Vegetation Requirements, of the Subdivision and Land Development Ordinance.

- C. Buffer averaging. The Board of Supervisors may approve an encroachment of development into Zone 3 if the following conditions exist:
- (1) The area of encroachment may not exceed 25% of the Zone 3 area.
 - (2) The area of encroachment must be found to be in a degraded condition by the Township.
 - (3) The area of encroachment must be offset at a 1:1 ratio by an area adjacent to the Zone 3 buffer with existing mature vegetation that will be preserved and designated as part of the riparian corridor.
- D. Mitigation measures. Uses permitted in § 285-206 involving corridor crossings or other encroachments within the riparian corridor shall be mitigated by increasing the area of the corridor as replacement for the area lost at a 1:1 ratio due to the encroachment or disturbance, so that the total corridor area (land area within Zones: 1, 2 and 3) for each applicable side of the stream or watercourse is equal to that required by § 285-205. The mitigation area shall be vegetated in accordance with § 240-37F(6), Riparian Corridor Conservation District Vegetation Requirements, of the Subdivision and Land Development Ordinance.

§ 285-212. Corridor crossings standards.

- A. Corridor crossing criteria. All corridor crossings permitted under § 285-206, herein, shall incorporate, as required, the following design standards:
- (1) The width of the right-of-way should not be greater than the minimum right-of-way width required by the Upper Frederick Township Subdivision and Land Development Ordinance.⁸⁸
 - (2) Crossings should be designed to cross the riparian corridor at direct right angles to the greatest extent possible in order to minimize disturbance of the corridor.
 - (3) Corridor crossings should be separated by a minimum of 1,000 feet of buffer length.
 - (4) Box culverts should be used in place of culverts when crossings would require a thirty-six-inch or greater diameter pipe. When culverts are installed, they should consist of slab, arch or box culverts, and not of corrugated metal pipe. Culverts should also be designed to retain the natural channel bottom to ensure the passage of water during low flow or dry weather periods.

§ 285-213. Use of technical terminology.

Technical terminology used in this article shall be interpreted to have the meanings used by recognized sources and experts in the fields of forestry, woodland or meadow management, streambank protection, wetlands management, erosion and sedimentation control, or other relevant fields.

88. Editor's Note: See Ch. 240.

ARTICLE XXV
Transfer of Development Rights
[Added 5-12-2011 by Ord. No. 2011-02]

§ 285-214. Declaration of legislative intent.

The purposes of this article include:

- A. Preservation of open space, scenic views, critical and environmentally sensitive areas, and natural hazard areas;
- B. Conservation of agriculture and forestry uses of land;
- C. Protection of lands and structures of aesthetic, architectural, and historic significance;
- D. Implementation of the Township and the Regional Comprehensive Plans;
- E. Ensure that the owners of preserved, conserved, or protected land may make reasonable use of their property rights by selling the development rights which can then be transferred and used in eligible zones;
- F. Provide a mechanism whereby development rights may be reliably transferred; and
- G. Ensure that development rights are transferred to properties in areas or districts that have adequate community facilities, including transportation, to accommodate additional development.

§ 285-215. Authority.

This article is enacted pursuant to the authority granted by Article VI, Zoning, Section 603, Ordinance Provisions, (c)(2.2), of the Pennsylvania Municipalities Planning Code.

§ 285-216. Establishment of sending and receiving districts.

- A. Sending districts. The following zoning districts shall be sending districts for the purposes of the transfer of development rights program:
 - (1) R-80 Land Preservation District.
 - (2) RP Rural Preservation District.
- B. Receiving districts. The following zoning districts shall be receiving districts for the purposes of the transfer of development rights program:
 - (1) R-60 Medium Density Residential District.
 - (2) R-40 High Density Residential District.

§ 285-217. Right to transfer development rights.

- A. Each transferor shall have the right to sever all or a portion of the development rights from the sending parcel and to sell, trade, or barter all or a portion of those rights to a transferee consistent with the Declaration of Legislative Intent of § 285-214 above.
- B. The transferee may retire (temporarily or permanently) the rights, resell them, or apply them to property in a receiving district in order to obtain approval for development at a density or at an intensity of use greater than would otherwise be allowed on the land, up to the maximum density or intensity of use indicated in Table 1. The purchase of one development right shall equal the right to develop one dwelling unit in the receiving district.

Table 1
TDR Density Bonuses (Dwelling Units Per Net Acre)

Dwelling Unit Type	Base Density	TDR Bonus Density	Maximum Density with TDR
R-60 Medium Density			
Single-family detached cluster	0.75	1	1.75
Village house, lot line and single-family semidetached	0.75	1.75	2.5
Single-family attached	0.75	4.25	5
R-40 High Density			
Single-family detached	1.75	2.25	4
Two-family dwellings (2 units in 1 structure)	2.5	2.5	5
Single-family attached (townhomes)	5	1	6
Multifamily dwellings	6	0	6

C. Any transfer of development rights pursuant to this article authorizes only an increase in maximum density and shall not alter the development standards for floodplains, wetlands, riparian corridors, and/or other environmentally sensitive areas. Nor shall it allow a use otherwise prohibited in a receiving district.

§ 285-218. Determination of number of development rights; issuance of certificate.

A. Voluntary enrollment. A property owner with a single tract of land 10 acres or greater and within a sending district established in § 285-216 above may participate in the TDR program. The number of TDRs that may be transferred from a property in the sending district shall be calculated by either of the following methods:

- (1) Submitting a TDR determination application, on a form available from the Township. Upon submission of the determination application, the Township and/or its designees or professionals will develop a sketch yield plan using available Geographic Information System (GIS) data and excluding any existing dwellings, nonresidential and nonagricultural uses, and other existing deed restrictions. The sketch yield plan will determine the number of residential units that might be developed under the then-existing local and state laws and regulations. This number may then be used by the property owner as the number of development rights that could be severed from the subject property.
- (2) Submitting a subdivision plan to the Township for review. The total number of buildable lots determined on the approved preliminary subdivision plan shall be the number of development rights that could be severed from the property.

B. Application for TDR certificate. Upper Frederick Township shall be responsible for:

- (1) Determining, upon application by a transferor, the number of development rights that may be transferred from a property in a sending district to a property in a receiving district and issuing a transfer of development rights certificate upon application of a transferor.
- (2) Maintaining permanent records of all certificates issued, deed restrictions and covenants recorded, and development rights retired or otherwise extinguished, and those transferred to specific properties or entities.

(3) Making forms available on which to apply for a transfer of development rights certificate.

C. An application for a transfer of development rights certificate shall contain:

- (1) A certificate of title for the sending parcel prepared by a title company licensed to do business in the Commonwealth of Pennsylvania, confirming that there are no encumbrances against the sending parcel;
- (2) Five copies of a plat of the proposed sending parcel and a legal description of the sending parcel prepared and sealed by licensed land surveyor;
- (3) A statement of the type and number of development rights being transferred from the sending parcel, and evidence showing how same was determined;
- (4) Payment of all applicable fees; and
- (5) Such additional information required by the Township Designee as necessary to determine the number of development rights that qualify for transfer.

D. A transfer of development rights certificate shall identify:

- (1) The transferor;
- (2) The transferee;
- (3) A legal description of the sending parcel on which the calculation of development rights is based;
- (4) A statement of the number of development rights in dwelling units per net acre eligible for transfer;
- (5) If only a portion of the total development rights are being transferred from the sending property, a statement of the number of remaining development rights in dwelling units per net acre remaining on the sending property;
- (6) The date of issuance;
- (7) The signature of the Township Designee; and
- (8) A serial number assigned by the Township Designee.

E. No transfer of development rights under this article shall be recognized by Upper Frederick Township as valid unless the instrument of original transfer contains the Township Designee's written certification.

§ 285-219. Instrument of transfer.

A. An instrument of transfer shall conform to the requirements of this section. An instrument of transfer, other than an instrument of original transfer, need not contain a legal description or plat of the sending parcel.

B. Any instrument of transfer shall contain:

- (1) The names of the transferor and the transferee;
- (2) A certificate of title for the rights to be transferred prepared by an attorney licensed to practice law in the Commonwealth of Pennsylvania;
- (3) A covenant that the transferor grants and assigns to the transferee and the transferee's heirs, assigns, and successors, and assigns a specific number of development rights from the sending parcel to the receiving parcel; and
- (4) An acknowledgment by the transferor that he permanently and forever has no use or right of use to the development rights being transferred.

- C. An instrument of original transfer is required when a development right is initially separated from a sending parcel. It shall contain the information set forth in Subsection B above and the following information:
 - (1) A legal description and plat of the sending parcel prepared and sealed by a licensed surveyor;
 - (2) The transfer of development rights certificate described in § 285-218D above;
 - (3) A covenant indicating the number of development rights remaining on the sending parcel (if any) and stating the sending parcel may not be subdivided or developed to a greater density or intensity than permitted by the remaining number of development rights; and
 - (4) An acknowledgment that all provisions of the instrument of original transfer is a covenant running with the land which binds the sending parcel in perpetuity and which may be enforced by the Township.
- D. The Township Solicitor shall review and approve as to the form, content, and sufficiency of the following instruments in order to effect a transfer of development rights to a receiving parcel:
 - (1) An instrument of original transfer;
 - (2) An instrument of transfer to the owner of the receiving parcel; and
 - (3) Instrument(s) of transfer between any intervening transferees.
- E. Upon such approval, the Township Solicitor shall notify the transferor or his or her agent, who shall then record the instruments with the Recorder of Deeds Office of Montgomery County, and shall provide a copy to the Montgomery County Real Estate Tax Assessor. Such instruments shall be recorded prior to release of building permits for the receiving parcel.

§ 285-220. Application of development rights to receiving parcel.

- A. A person who wants to use development rights on a property in a receiving district up to the maximums specified in Table 1 in § 285-217 above shall submit an application for the use of such rights on a receiving parcel. The application shall be part of a development plan. In addition to any other information required for the development plan, the application shall be accompanied by:
 - (1) An affidavit of intent to transfer development rights to the property; and
 - (2) Either of the following:
 - (a) A certified copy of a recorded instrument of the original transfer of the development rights proposed to be used and any intermediate instruments of transfer through which the applicant became a transferee of those rights; or
 - (b) A signed written agreement between the applicant and a proposed original transferor, which contains information required by § 285-219B above and in which the proposed transferor agrees to execute an instrument of such rights on the proposed receiving parcel when the use of those rights, as determined by the issuance of final approval of a development plan.
- B. No final plan, including minor subdivisions, shall be approved and no development or building permits shall be issued for development involving the use of transferable development rights unless the applicant has demonstrated that:
 - (1) The applicant will be the bona fide owner of all transferred development rights that will be used for the construction of additional dwellings or the creation of additional lots;
 - (2) A deed of transfer for each transferred development right has been recorded in the chain of title of the sending parcel and such instrument restricts the use of the sending parcel in accordance with this article;

and

- (3) The development rights proposed for the subdivision or development have not been previously used. The applicant shall submit proof in the form of a current title search prepared by an attorney licensed to practice law in the Commonwealth of Pennsylvania.

C. TDR calculation. If a TDR bonus is used, the plan submission must include a schedule which clearly indicates:

- (1) Net developable acres.
- (2) Base yield under Subsection C(1) above. Base yield equals the Net developable acres times base density rounded down to the nearest whole unit.
- (3) Potential yield or the maximum number of dwelling units allowed under maximum density, above.
- (4) Proposed yield or the total number of proposed dwelling units.
- (5) TDRs applied. TDRs applied equal the proposed yield minus the base yield.

D. Minimum threshold for use of TDR. An applicant that wishes to use the TDR bonus density must build at least 1/2 of the additional dwelling units allowed under maximum density. The threshold number is equal to the base yield plus 1/2 of the difference of maximum potential yield and the base yield.

Derivation Table

Chapter DT
DERIVATION TABLE

Disposition List

Chapter DL

DISPOSITION LIST

The following is a chronological listing of legislation of the Township of Upper Frederick adopted since 2006, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] The last legislation reviewed for the original publication of the Code was Ord. No. 2007-09, adopted 10-11-2007.

§ DL-1. Disposition of legislation.

Enactment	Adoption Date	Subject	Disposition
Ord. No. 2006-01	12-14-2006	Street openings and excavations and driveway construction amendments	Ch. 235, Arts. I and III
Ord. No. 2007-01	1-11-2007	Littering	Ch. 168
Ord. No. 2007-02	1-11-2007	Realty transfer tax amendment	Ch. 247, Art. VII
Ord. No. 2007-03	2-8-2007	Subdivision and land development amendment	Ch. 240
Ord. No. 2007-04	3-8-2007	Zoning amendment	Ch. 285
Ord. No. 2007-05	5-10-2007	Vehicles and traffic amendment	Ch. 265
Ord. No. 2007-06	6-14-2007	Zoning amendment	Ch. 285
Ord. No. 2007-07	7-12-2007	Central Perkiomen Valley Regional Planning Commission Intergovernmental Cooperative Implementation Agreement	NCM
Ord. No. 2007-08	10-11-2007	Stormwater management	Ch. 228
Ord. No. 2007-09	10-11-2007	Zoning amendment	Ch. 285
Ord. No. 2008-01	2-14-2008	Zoning amendment	Ch. 285
Ord. No. 2008-02	2-14-2008	Adoption of Code	Ch. 1, Art. I
Ord. No. 2008-03	3-13-2008	Off-premises advertising sign tax	Repealed by Ord. No. 2012-05
Ord. No. 2008-04	3-13-2008	Sanitary sewers and wastewater disposal amendment; water rates amendment	Ch. 210, Art II; Ch. 272, Art. I
Ord. No. 2008-05	4-10-2008	Zoning amendment	Ch. 285
Ord. No. 2008-06	4-17-2008	General obligation note	NCM
Ord. No. 2008-07	7-24-2008	Recycling	Ch. 224, Art. II
Ord. No. 2008-08	12-11-2008	Local services tax amendment	Repealed by Ord. No. 2012-04
Ord. No. 2009-01	1-8-2009	Streets and sidewalks: driveway construction amendment	Ch. 235, Art. III
Res. No. 2009-01	1-5-2009	Access to public records	Ch. 48, Art. I
Ord. No. 2009-02	1-8-2009	Outdoor wood-fired boilers	Ch. 103, Art. II
Ord. No. 2009-03	3-12-2009	Sanitary sewers and wastewater disposal amendment	Ch. 210, Art. II
Res. No. 2009-07	4-9-2009	Identity theft policy	Ch. 20

Enactment	Adoption Date	Subject	Disposition
Ord. No. 2009-04	6-22-2009	Administrative personnel policy amendment	Repealed by Res. No. 2013-04
Ord. No. 2009-05	7-9-2009	Zoning amendment	Ch. 285
Ord. No. 2009-06	8-13-2009	Rental property: landlord report	Ch. 202, Art. I
Ord. No. 2009-07	9-10-2009	Zoning amendment	Ch. 285
Ord. No. 2009-08	9-10-2009	Subdivision and land development amendment	Ch. 240
Ord. No. 2009-09	9-10-2009	International Property Maintenance Code amendment	Ch. 194, Art. II
Ord. No. 2010-01	1-14-2010	Zoning amendment	Ch. 285
Ord. No. 2010-02	1-14-2010	Subdivision and land development amendment	Ch. 240
Ord. No. 2010-03	6-10-2010	Special events amendment	Ch. 133
Ord. No. 2010-04	9-10-2010	International Property Maintenance Code amendment	Ch. 194, Art. II
Ord. No. 2010-05	11-18-2010	Street and sidewalks: street openings and excavations amendment; driveway construction amendment; vehicles and traffic amendment	Ch. 235, Art. I; Ch. 235, Art. III; Ch. 265
Ord. No. 2011-01	2-17-2011	Licensing of contractors amendment	Ch. 117
Ord. No. 2011-01a	4-7-2011	Zoning amendment	Ch. 285
Ord. No. 2011-02	5-12-2011	Zoning amendment	Ch. 285
Ord. No. 2011-03	7-14-2011	Code enforcement: rental licensing; rental property: landlord report amendment	Ch. 112, Art. XII; Ch. 202, Art. I
Ord. No. 2011-04	7-14-2011	Vehicles and traffic amendment	Ch. 265
Ord. No. 2011-05	8-11-2011	Sanitary sewers and wastewater disposal amendment	Ch. 210, Art. II
Ord. No. 2011-06	10-13-2011	Earned income tax	Ch. 247, Art. I
Ord. No. 2011-07	10-13-2011	Zoning amendment	Ch. 285
Ord. No. 2012-01	2-9-2012	Sanitary sewers and wastewater disposal amendment; holding tanks amendment	Ch. 210, Art. II; Ch. 210, Art. VI
Ord. No. 2012-02	3-8-2012	Comcast of Southeast Pennsylvania cable franchise	Ch. 106, Art. I
Ord. No. 2012-03	7-12-2012	Stormwater management amendment	Ch. 228
Ord. No. 2012-04	10-11-2012	Local services tax amendment	Ch. 247, Art. VI
Ord. No. 2012-05	12-13-2012	Fees for collection of delinquent real estate taxes	Ch. 247, Art. XI
Res. No. 2013-04	2-14-2013	Administrative personnel policy amendment	Ch. 37, Art. II
Ord. No. 2013-01	5-16-2013	Sanitary sewers and wastewater disposal amendment; water rates amendment	Ch. 210, Art. II; Ch. 272, Art. I

Enactment	Adoption Date	Subject	Disposition
Ord. No. 2013-02	6-13-2013	Zoning amendment	Ch. 285
Ord. No. 2013-03	6-13-2013	Subdivision and land development amendment	Ch. 240
Ord. No. 2013-04	11-14-2013	Driveway construction amendment	Ch. 235, Art. III
Ord. No. 2014-01	5-8-2014	Realty transfer tax amendment	Ch. 247, Art. VII
Ord. No. 2014-02	12-11-2014	Zoning amendment	Ch. 285
Ord. No. 2015-01	1-8-2015	PSATS Unemployment Compensation Group Trust	NCM
Ord. No. 2015-02	5-14-2015	Zoning amendment	Ch. 285
Ord. No. 2015-03	5-14-2015	Subdivision and land development amendment	Ch. 240
Ord. No. 2015-04	11-12-2015	Capital projects promissory note	NCM
Ord. No. 2015-05	12-10-2015	Establishment of municipal pension plan	NCM
Ord. No. 2016-01			Not adopted
Ord. No. 2016-02	2-11-2016	Floodplain management	Ch. 140
Ord. No. 2016-03	2-11-2016	Subdivision and land development amendment; zoning amendment	Ch. 240; Ch. 285
Ord. No. 2016-04	5-12-2016	Sanitary sewers and wastewater disposal amendment	Ch. 210, Art. II
Ord. No. 2016-05	5-12-2016	Emergency services cost reimbursement	Ch. 107
Res. No. 2016-10	6-9-2016	Taxation: agency fees for collection of delinquent earned income taxes	Ch. 247, Art. XII
Ord. No. 2016-06	9-8-2016	Zoning amendment	Ch. 285
Ord. No. 2016-07	9-8-2016	Municipal pension plan	NCM

Enactment	Adoption Date	Subject	Disposition	Supp. No.
Ord. No. 2017-01	8-10-2017	Zoning Amendment	Ch. 285	13
Ord. No. 2017-02	12-14-2017	Taxation: Per Capita Tax Amendment	Ch. 247, Art. III	13
Ord. No. 2017-03	12-26-2017	Taxation: Volunteer Service, Real Property and Earned Income Tax Credit	Ch. 247, Art. XIII	13
Ord. No. 2018-01	3-8-2018	Zoning Amendment	Ch. 285	13
Ord. No. 2018-02	6-14-2018	Subdivision and Land Development Amendment	Ch. 240	13
Ord. No. 2019-01	7-18-2019	Zoning Amendment	Ch. 285	13
Ord. No. 2019-03	12-12-2019	Fireworks	Ch. 108	14

Enactment	Adoption Date	Subject	Disposition	Supp. No.
Ord. No. 2019-04	12-12-2019	Noise	Ch. 109	14
Ord. No. 2020-01	5-14-2020	Property Maintenance: International Property Maintenance Code Amendment	Ch. 194, Art. II	14
Ord. No. 2021-01	1-14-2021	Zoning Amendment	Ch. 285	14