

## Chapter 110

### ZONING

**[HISTORY: Adopted by the Board of Supervisors of the Township of Fox 10-5-2005 by Ord. No. 2005-10. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Planning Commission — See Ch. 27.  
Building construction — See Ch. 43.  
Floodplain management — See Ch. 66.  
Subdivision and land development — See Ch. 96.

#### ARTICLE I General Provisions

##### § 110-1. Short title.

This chapter shall be known and may be cited as the "Fox Township Zoning Ordinance." The accompanying map is hereby declared to be part of this chapter and shall be known and may be cited as the "Fox Township Zoning Map" hereinafter referred to as the "Zoning Map."<sup>1</sup>

##### § 110-2. Ordaining clause.

This chapter shall become effective immediately upon enactment. Enactment by the Supervisors of the Township of Fox, County of Elk, is by the authority of and pursuant to the provisions of Articles VI through X-A of Act No. 247 of 1968, P.L. 805, as reenacted and amended by the Pennsylvania General Assembly, know and cited as the Pennsylvania Municipalities Planning Code.<sup>2</sup>

##### § 110-3. Purpose.

This chapter is designed, adopted and enacted:

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

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1. Editor's Note: The Zoning Map is on file in the Township offices.

2. Editor's Note: See 53 P.S. § 10101 et seq.

- B. To prevent one or more of the following: overcrowding of land; blight; danger and congestion in travel and transportation; loss of health, life or property from fire, flood, panic or other dangers.
- C. To preserve prime agriculture and farmland considering topography, soil type and classification and present use.
- D. To provide for the use of land within the Township for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multifamily dwellings in various arrangements, mobile homes and mobile home parks; provided, however, that no zoning ordinance shall be deemed invalid for the failure to provide for any other specific dwelling type.
- E. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

**§ 110-4. Interpretation.**

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

- A. Whenever any regulations made under authority of this chapter require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in or under any other statute, the provisions of the regulations made under authority of this chapter shall govern.
- B. Whenever the provisions of any other statute require a greater width or size of yards, courts or other open spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by any regulations made under authority of this chapter, the provisions of such statute shall govern.
- C. Whenever any regulations pertaining to a specific use or activity under authority of this chapter require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required for the zoning district or generally required under this chapter, the greater or higher standards shall govern.

**§ 110-5. Severability.**

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

**§ 110-6. Repealer.**

All ordinances or parts of ordinances inconsistent herewith are hereby repealed. Nothing in this chapter hereby adopted shall be construed to affect any suit or proceeding now pending in any court or any rights accrued or liability incurred or any cause or causes of action occurred or existing under any ordinance repealed by this chapter; nor shall any right or remedy of any character be lost, impaired or affected by this chapter.

ARTICLE II  
**Community Development Objectives**

**§ 110-7. Objectives.**

The Fox Township Supervisors state the following legislative finding with respect to land use, density of population, location and function of roads, and other community facilities and utilities, and other factors that the Supervisors believe relevant in establishing community development objectives for the future development of the Township. It is the purpose of this chapter to reflect the objectives of the Township, to establish such other objectives as may be deemed necessary and to provide the means and regulations whereby these objectives may be attained.

- A. Encourage balanced growth and clustered development that provides for planned economic and residential development in appropriate areas while maintaining the rural character of the remainder of the Township;
- B. Preserve the agricultural productivity of existing farms and other agricultural businesses, minimize conflicts between these and other land uses and assure the continuance of farming as an important commercial operation and life style;
- C. Encourage more flexible and creative land development that will preserve, protect, manage and enhance environmental and natural resources such as streams, floodplain, groundwater, wooded areas and steeply-sloping areas in the natural environment;
- D. Provide wide variety and choice of housing opportunities for existing and future Township residents in the form of low-density scattered residential units, homes in planned developments and higher density housing in the various villages within the Township, in various price ranges;
- E. Provide for well-planned commercial, service and related business development along the Route 255 Corridor, maximizing the use of the existing and future infrastructure and highway access in this area;
- F. Provide for an efficient and safe transportation system minimizing congestion, pedestrian safety and other adverse impacts on the Township;
- G. Encourage industrial development within existing and proposed industrial areas or parks having the infrastructure and space available to sustain the industrial uses located or likely to be located therein;
- H. Encourage appropriate development in the vicinity of the St. Mary's Municipal airport that is compatible with the airport and builds on the developmental opportunities offered by the airport, but creates no obstructions or hazards to air navigation;

- I. Promote the extension of community facilities, infrastructure and services whenever practicable to existing population centers and developments to meet community needs and to areas where development is both anticipated and recommended based on the most appropriate land use;
- J. Provide for an appropriate location and adequate space for solid waste management facilities meeting the economic requirements for the existing and future facilities, while avoiding conflicts with adjacent land uses, the natural environment, the quality of life and/or the health and safety of existing and future Township residents;
- K. Encourage the development and reuse of former surface mined land;
- L. Encourage the planning, design and development of building sites in such a fashion as to provide for compatible land uses, balanced and appropriate growth and development where the infrastructure exists and maximum safety and human enjoyment while adapting development to, and taking advantage of, the best use of the natural terrain; and
- M. Maintain and promote the adequate active and passive recreational amenities for existing and future Township residents.

**ARTICLE III**  
**Definitions**

**§ 110-8. Application and interpretation.**

- A. It is not intended that these definitions include only words used or referred to in this chapter. The words are included in order to aid in the interpretation of this chapter for administrative purposes and in the carrying out of duties by appropriate officers and by the Zoning Hearing Board.
- B. Unless otherwise expressly stated, the following shall, for the purpose of this chapter, have the meaning indicated as follows:
  - (1) Words used in the present tense include the future tense.
  - (2) The word "person" includes a profit or nonprofit corporation, company, partnership or individual.
  - (3) The words "used" or "occupied" as applied to any land or building include the words "intended," "arranged" or "designed" to be used or occupied.
  - (4) The word "building" includes structure.
  - (5) The word "lot" includes plot or parcel.
  - (6) The word "shall" is always mandatory.

**§ 110-9. Definitions.**

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

**ABANDONMENT** — The relinquishment of property, or a cessation of the use of the property, by the owner or lessee without any evidence of transferring the rights to the property to another

owner or of resuming the use of the property.

**ABUTTING** — Having a common border with or being separated from such a common border by a right-of-way, alley or easement.

**ACCESSORY BUILDING** — A subordinate building or portion of the main building on a lot, the use of which is customarily incidental to that of the main or principal building.

**ACCESSORY USE** — A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use of building.

**ADULT ENTERTAINMENT** — A store or shop with more than 15 square feet of floor area devoted to the display and selling of materials depicting, describing or relating to specified sexual activities or specified anatomical areas, in the form of books, magazines, films, videos, DVD's, live entertainment or similar trade.

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

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

**AMENDMENT** — Revisions to the zoning text and/or the Official Zoning Map; the authority for any amendment lies solely with the County Commissioners and is pursuant to the Pennsylvania Municipalities Planning Code.<sup>3</sup>

**ANIMAL OR VETERINARY HOSPITAL** — A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

**APPLICATION** — An application required to be filed and approved by the Township of Fox prior to start of construction or development.

**AREA, BUILDING** — The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory building.

**AUTOMOTIVE REPAIR** — A building used primarily for making major repairs to motor vehicles, including overhauling, body work, refinishing and upholstering and incidental servicing.

**BED-AND-BREAKFAST INN** — A house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises or in abutting premises.

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

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3. Editor's Note: See 53 P.S. § 10101 et seq.

**BOARD OF SUPERVISORS** — The Board of Supervisors of the Township of Fox, Elk County, Pennsylvania.

**BROADCAST TRANSMISSION FACILITY** — Any structure designed or intended for use to transmit or relay any digital, electronic, radio, television or microwave signal via the atmosphere, excluding satellite receivers less than 18 inches in diameter and transmission facilities required for public safety.

**CARTWAY** — That portion of the street right-of-way surface for vehicular use. Width is determined from face of curb to face of curb or from an edge of driving surface to the other edge of driving surface.

**CERTIFICATION OF COMPLIANCE** — A statement, based on an inspection, signed by the Zoning Officer, setting forth either that a building, structure or use of a parcel of land complies with this chapter or that a building, structure or parcel of land may lawfully be employed for specified use or both.

**CHURCH or HOUSE OF WORSHIP** — An institution that people regularly attend to participate in or hold religious services, meetings and other activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

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

**COMMERCIAL USE** — An occupation, employment or enterprise that is carried on for profit by the owner, lessee or licensee involving a sale of goods or services.

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

**CONVENIENCE STORE** — A commercial establishment offering gasoline, prepared food primarily for off-premises consumption, packaged food and dairy products, beverages and related items, typically over extended hours or open for 24 hours.

**COVERAGE, BUILDING** — The ratio of the horizontal area measured from the exterior surface of the exterior walls of the ground floor of all principal and accessory buildings on a lot to the total lot area.

**DAY-CARE FACILITIES** — A facility in which part-time care is provided for children or adults, having the necessary licenses and permits required by the Commonwealth of Pennsylvania.

**DENSITY** — A ratio of the number of dwelling units per acre that occupy or may occupy, an area of land.

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

**DISTRICT or ZONING DISTRICT** — An area constituted by or pursuant to this chapter and delineated by text and map as to location, extent, nature and contents.

**DRINKING ESTABLISHMENT** — Any premises licensed by the Pennsylvania Liquor Control Board wherein alcoholic beverages are sold at retail for consumption on the premises.

**DWELLING** — A building or portion thereof that provides living facilities for one or more families.

**DWELLING, MULTIFAMILY** — A building or portion thereof for occupancy by three or more families living independently of each other and containing three or more dwelling units.

**DWELLING, SEASONAL** — A dwelling not used for permanent residence and not occupied for more than six months in each year.

**DWELLING, SINGLE-FAMILY, ATTACHED (GROUP, ROW AND TOWNHOUSES)** — One of two or more residential buildings having a common or party wall separating dwelling units.

**DWELLING, SINGLE-FAMILY, DETACHED** — A residential building containing not more than one dwelling unit entirely surrounded by open space on the same lot.

**DWELLING, TWO-FAMILY** — A building arranged, designed or intended for occupancy by two families, living independent of each other and doing their own cooking therein, on a single lot.

**DWELLING UNIT** — One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping.

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

**EATING ESTABLISHMENT** — A commercial establishment that serves food and beverages for on-premises or off-premises consumption. This includes cafes, fast-food restaurants, sit-down restaurants, drive-in restaurants and outdoor cafes.

**EATING ESTABLISHMENT, DRIVE-IN** — A retail outlet where food or beverages are sold to a substantial extent for consumption by customers in parked motor vehicles.

**ESSENTIAL SERVICE** — The erection, construction, alteration or maintenance by public utilities or public service establishments or municipal or other governmental agencies of underground gas, electrical, telephone, radio, television transmission or distribution systems; and public water, public sanitary sewer and public storm sewer facilities, including wires, mains, drains, sewers, pipes, conduits, fire alarm boxes, traffic signals, hydrants and similar equipment

and accessories in connection therewith; including buildings necessary for the furnishing of adequate services for the public health, safety and general welfare; excluding sanitary landfills.

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

**FAMILY** — One or more persons occupying a dwelling unit and living as a single, nonprofit housekeeping unit, provided that a group of four or more persons who are not within the second degree of kinship shall not be deemed to constitute a family.

**FENCE** — An artificially constructed barrier of any material or combination of materials erected to enclose, separate or screen areas of land.

- A. **FENCE, CLOSED** — A fence with 25% or less open area, including gates, effectively screening the activities conducted on a property from adjacent properties and rights-of-way.
- B. **FENCE, OPEN** — A fence with greater than 25% open area, including gates, including but not limited to split rail fence.

**FLEA MARKET** — An occasional or periodic market held in an open area or structure where groups of individual sellers or dealers offer goods for sale to the public.

**FRATERNAL ORGANIZATION** — A group of people formally organized for a common interest, usually cultural, religious or entertainment, with regular meetings, rituals and formal written membership requirements.

**GARAGE** — An enclosed or covered space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises.

**GROUP HOME** — A facility or dwelling unit providing food, shelter and personal guidance with supervision to four or more persons who are not within the second degree of kinship and are operating as a group family household, including but not limited to handicapped persons, foster children, elderly, battered children and women, and operates as a special treatment facility providing less than primary health care.

**GUEST HOME** — A house, or portion thereof, where short-term lodging rooms are provided. The operator of the inn shall live on the premises or in abutting premises.

**HAZARDOUS WASTE** — A substance that, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or pose a substantial present or potential hazard to human health, safety or welfare or to the environment when improperly treated, stored, transported, used or disposed of or otherwise managed.

**HOME OCCUPATION** — An occupation, profession, activity or use other than a no-impact

home-based businesses, as defined in this chapter, permitted under the provisions and conditions of this chapter that is constructed within a residential unit and is clearly a customary, incidental and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

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

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

**INCINERATOR** — An engineered apparatus used to burn waste substances and in which all the combustion factors are burned and changed into gases and residue containing little or no combustible material.

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

**INDUSTRIAL PARK** — A tract of land that has been planned, developed and operated as an integrated facility for a number of individual light industrial users, with special attention to circulation, parking, utilities, aesthetics and compatibility.

**JUNK** — Old, dilapidated, scrap or abandoned metal, paper, building material and equipment, bottles, glass appliances, furniture, beds and bedding, rags, rubber, motor vehicles and parts thereof.

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

**KENNEL(S)** — A commercial facility for the boarding of animals, the breeding of dogs and/or cats or the boarding, grooming, sale or training of dogs and/or cats for which a fee is charged.

**LAND DEVELOPMENT** — Any of the following activities are included as land developments:

- 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), Article V, of the Pennsylvania Municipalities Planning Code.<sup>4</sup>

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

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

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

**LOT AREA** — The area of horizontal plane bounded by the vertical planes through front, side and rear lot lines.

**LOT COVERAGE** — Determined by dividing that area of lot which is occupied or covered by the total horizontal projected surface of all buildings, including covered porches and accessory buildings, by the gross area of that lot.

**LOT DEPTH** — The average horizontal distance between the front and rear lot lines.

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

**LOT LINE, REAR** — The lot line not intersecting a front lot line that is most distant from and most closely parallel to the front lot line. A lot bounded by only three lot lines will not have a rear lot line.

**LOT LINE, SIDE** — Any lot line not a front or rear lot line.

**LOT OF RECORD** — A lot whose existence, location and dimensions have been legally recorded or registered in a deed or on a plat.

**LOT WIDTH** — The horizontal distance between side lot lines measured at the required front setback line.

**MALL** — A shopping center where tenants are located on one or both sides of a covered walkway with direct pedestrian access to all establishments from the walkway.

**MANUFACTURING** — The act of producing, processing, preparing or assembling finished products or goods from raw materials or component parts through the repetitious use of an

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4. Editor's Note: See P.S. § 10101 et seq.

established or set process.

**METHADONE TREATMENT FACILITIES** — Drug treatment facilities employing the use of methadone and subject to locational regulations as outlined in Section 621 of the Pennsylvania Municipalities Planning Code.<sup>5</sup>

**MOBILE HOME** — A transportable, single-family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

**MOBILE HOME LOT** — A parcel of land in a mobile home park improved with the necessary utility connections and other appurtenances necessary for the 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 for the placement thereon of mobile homes.

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

**MUNICIPALITY** — The Township of Fox, Elk County, Pennsylvania.

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

- 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. The business shall not involve the display or sale of retail goods and no stockpiling or inventory of a substantial nature;
- D. There shall be no outside appearance of a business use, including but not limited to parking, signs or lights;
- E. The business activity may not use any equipment or process that creates noise, vibration, glare, fumes, odors, electronic or electrical interference, including interference with radio or television reception, which is detectable in the neighborhood;

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5. Editor's Note: See 53 P.S. § 10101 et seq.

- F. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential uses 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 space; and
- 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 a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

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

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

**ON-SITE SEWER SERVICE** — A single system of piping tanks or other facilities approved by the Pennsylvania Department of Environmental Protection and/or other permitting agencies serving only a single lot and disposing of sewage in whole or in part into the soil.

**ON-SITE WATER SERVICE** — A single water system, well or spring approved by the Pennsylvania Department of Environmental Protection and/or other permitting agencies, where applicable, serving only a single lot.

**OPEN SPACE** — Any parcel or designated land area in its natural state or essentially unencumbered by either principal or accessory uses, buildings, structures or impervious surfaces.

**OUTDOOR FURNACE** — A solid-fuel-burning appliance located to the exterior of the building it serves used for space heating and/or domestic water heating.

**PARCEL** — A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.

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

**PENNSYLVANIA MUNICIPALITIES PLANNING CODE** — Act of 1968, P.L. 805, No. 247, as reenacted and amended, the enabling legislation that permits municipalities in Pennsylvania to prepare and enact comprehensive development plans, zoning ordinances and other land use

controls.<sup>6</sup>

**PERSONAL CARE HOME** — Facilities that provide lodging, food and some support services for people who are elderly or who have mental or physical disabilities who are unable to care for themselves but who do not require twenty-four-hour nursing services in a licensed nursing care facility. Typically, residents of these facilities need help with dressing, feeding, taking medications, mobility issues and finances.

**PHILANTHROPIC FACILITIES** — Offices of organizations primarily involved in dispensing or receiving aid from funds set aside for humanitarian purposes.

**PLANNING COMMISSION, COUNTY** — The Planning Commission of the County of Elk.

**PLANNING COMMISSION, TOWNSHIP** — The Planning Commission of the Township of Fox.<sup>7</sup>

**PLAT** — A map, plan or layout of a subdivision indicating the location and boundaries of individual properties.

**PRINCIPAL BUILDING** — A structure in which the principal use of the site is conducted.

**PRINCIPAL USE** — The main use of land or structures, as distinguished from a secondary or accessory use.

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

**PROFESSIONAL OFFICE** — The office of a member of a recognized profession, practitioner of a calling or occupation that are commonly identified to be professional in character by virtue of specialized knowledge, training, education and/or experience required for the practice of said calling or occupation. Said professions shall include, but not be limited to, law, medicine, chemistry, ministry, architecture, accounting, engineering, writing and education.

**PUBLIC HEARING** — A formal meeting held pursuant to public notice by the governing body, the Commission or the Zoning Hearing Board, intended to inform and obtain public comment prior to taking action in accordance with this chapter.

**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."<sup>8</sup>

**PUBLIC NOTICE** — Notice published once each week for two successive weeks in a newspaper of general circulation in the Fox Township area. Such notice shall state time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.

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6. Editor's Note: See 53 P.S. § 10101 et seq.

7. Editor's Note: See Ch. 27, Planning Commission.

8. Editor's Note: See 62 Pa. C.S.A. § 701 et seq.

**PUBLIC USES** — Includes public and semipublic uses of a welfare and educational nature such as hospitals, nursing homes, schools, parks, churches, cemeteries, civic centers, historical restorations, fire stations, municipal and county buildings, essential public utilities that require enclosures within a building; nonprofit recreational facilities; easements for alleys, streets and public utility rights-of-way; and radio and television transmission facilities.

**RECREATIONAL VEHICLE** — A vehicle less than 43 feet in length, used for temporary living or sleeping purposes, which stands on wheels. Included are travel trailers, truck campers and motor homes and forms of camping accommodation. Such vehicles are permitted only in campgrounds or on private individual parcels.

**RECREATIONAL VEHICLE (RV) PARK** — Any lot of land upon which two or more recreational vehicle sites are located, established or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

**RECYCLING CENTER** — A facility that is not a junkyard and in which recoverable resources such as newspapers, glassware, plastic containers and metal cans are collected, stored, flattened, crushed or bundled, essentially by hand, within a completely enclosed building.

**RECYCLING COLLECTION POINT** — A collection point for small refuse items such as bottles and newspapers, located either in a container or small structure.

**RETIREMENT COMMUNITY** — Planned developments designed to meet the needs of and exclusively for residences of retired persons or persons over the age of 55 years.

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

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

**ROAD CENTER LINE** — The center of the surveyed road right-of-way, or where not surveyed, the center of the traveled cartway.

**ROAD CLASSIFICATION** — For the purpose of this chapter, the following definitions are employed:

- A. **MAJOR ARTERIAL** — A road whose function is to provide for the movement of high volumes of through traffic subject to necessary control of entrances, exits and curb use.
- B. **COLLECTOR** — A road or street that provides for the movement of large volumes of traffic between arterials and local roads and direct access to abutting properties.
- C. **LOCAL** — A road whose function is to provide for local traffic movement and direct access to abutting properties.
- D. **PRIVATE OR NONPUBLIC** — All streets which are not public, including, but not limited to, streets maintained by private agreements, by private owners or for which no maintenance responsibility has been established; and including all private driveway easements or rights-of-way for access.

**SANITARY LANDFILL** — A lot or land or part thereof used primarily for the disposal of garbage, refuse and other discarded materials, including, but not limited to, solid and liquid waste materials resulting from industrial, commercial, agricultural and residential activities and approved by the Pennsylvania Department of Environmental Protection.

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

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

**SELF-SERVICE STORAGE** — A warehousing facility where separate storage spaces of varying size are available for lease or rental, usually on a self-service basis. For the purposes of this chapter, there shall be no residential occupancy or no commercial sales conducted from such storage areas.

**SERVICE/GASOLINE STATION** — Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tuneups, lubrication, minor repairs and carburetor cleaning are conducted.

**SETBACK** — The required minimum horizontal distance between the building line and the related front, side or rear property line.

**SHOPPING CENTER** — A group of commercial establishments planned, constructed and managed as a total entity, with customer and employee parking provided onsite, provision for goods delivery separated from customer access.

**SIGN** — A structure that consists of any device, light, letter, word, model, banner, pennant, trade flag, logo, insignia, balloons or representation that advertises, directs or announces the use conducted, goods, products, services or facilities available or that influences persons or conveys information or that calls attention to the building or the use located on the lot. The term "sign" does not include the flag of the United States of America or the Commonwealth of Pennsylvania or any federal, state or municipal traffic or directional sign or other official federal, state, county or municipal government signs.

- A. **SIGNS, FREESTANDING** — Any nonmovable sign not affixed to a building.
- B. **SIGNS, BUSINESS** — A sign that directs attention to a business or profession conducted or to a commodity or service sold, offered or manufactured or to an entertainment event offered on the premises where the sign is located.
- C. **SIGNS, BILLBOARD** — A sign that directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises or land on which the sign is located.

**SPECIFIED ANATOMICAL AREAS** — These include less than completely and opaquely covered human genitals or pubic region; human female breast below the top of the areola; and

human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES** — These activities include human genitals in a state of sexual stimulation or arousal; acts of human masturbation; sexual intercourse or sodomy; or fondling or other erotic touching of human genitals, pubic region or female breast.

**SPECIAL EXCEPTION** — A use permitted in a particular zoning district pursuant to the provisions of Articles VI and IX of Act 247, the Pennsylvania Municipalities Code, as amended.<sup>9</sup>

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

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

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

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

**TOWNSHIP** — The Township of Fox, Elk County, Pennsylvania.

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

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

**TRAVEL TRAILER PARK** — Any lot of land upon which two or more travel trailers for rent and occupancy are located for the public on a short-term or seasonal basis.

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

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9. Editor's Note: See 53 P.S. § 10101 et seq.

VARIANCE — A modification of the literal provisions of this chapter pursuant to the provisions of Articles VI and IX of Act 247, the Pennsylvania Municipalities Code, as amended,<sup>10</sup> which the Zoning Hearing Board is permitted to grant when strict enforcement would cause undue hardship owing to circumstances unique to the individual property on which the variance is sought.

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

YARD — An open space that is between the principal building or group of buildings and the nearest lot line. Such space shall be unoccupied and unobstructed from the ground upward except as may herein be permitted.

- A. YARD, FRONT — An open space between the principal building or group of buildings and the front lot lines, unoccupied and unobstructed from the ground upward, extending the full width of the lot.
- B. YARD, REAR — An open space extending the full width of the lot between a principal building and the rear lot line, unoccupied and unobstructed from the ground upward.
- C. YARD, SIDE — An open space extending from the front yard to the rear yard between a principal building and the nearest side lot line, unoccupied and unobstructed from the ground upward.

ZONING HEARING BOARD — The Zoning Hearing Board of the Fox Township

ZONING MAP — The Official Zoning Map of Fox Township, together with all notations, references and amendments that may subsequently be adopted. The Zoning Map shall be considered a part of this chapter.<sup>11</sup>

ZONING OFFICER — The administrative officer charged with the duty of enforcing the provisions of this chapter.

ZONING ORDINANCE — The ordinance in effect as adopted or amended that controls or regulates land use in the Township.

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

#### ARTICLE IV Zoning Districts

##### **§ 110-10. Establishment and description of districts.**

- A. For the purpose of implementing the community development objectives of this chapter, the following zoning districts are hereby established:

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10. Editor's Note: See 53 P.S. § 10101 et seq.

11. Editor's Note: The Zoning Map is on file in the Township offices.

- R/A Residential/Agricultural District
- RR Rural Residential District
- RS Residential Suburban District
- VC Village Commercial District
- HC Highway Commercial District
- LI Light Industrial District

B. The Districts and district requirements are delineated in this article.

**§ 110-11. Residential/Agricultural District - R/A District.**

The purpose of this district is to preserve and protect the rural nature of a significant portion of the Township, including the provision of low-density residential units on large lots, farmettes, the practice of farming and to ensure the preservation of prime soils for future generations to farm. Uses that would substantially interfere with the principle uses are discouraged.

A. Permitted uses. The following are permitted uses in the R/A District:

- (1) Agricultural uses.
- (2) Single-family detached dwellings, including mobile homes, provided that the mobile home is placed on a permanent foundation that shall be of poured concrete or cement block and properly anchored.
- (3) Home occupations.
- (4) Seasonal dwellings.
- (5) Essential services.
- (6) Kennels, veterinary facilities and animal hospital.
- (7) Houses of worship, convent, rectory, parsonage or other incidental structures.
- (8) Bed-and-breakfast/guest home.
- (9) Cemeteries and necessary incidental structures.
- (10) Home occupations.
- (11) Accessory buildings and uses.
- (12) Special accessory use: outdoor furnace.

B. Special exception uses. The following require special exceptions in accordance with Article VI of this chapter:

- (1) Educational facilities (public and private).
- (2) Philanthropic facilities.

- (3) Clubs, lodges and fraternal organizations.
  - (4) Day-care facilities (child and adult) subject to appropriate state regulations.
  - (5) Mobile home parks.
  - (6) Nursing homes.
  - (7) Group homes.
  - (8) Trailer/recreational vehicle parks.
  - (9) Recreational facilities.
- C. Conditional uses. The following require conditional uses in accordance with Article VI of this chapter:
- (1) Planning mill and/or sawmill.
  - (2) Extraction industries.
  - (3) Junkyards.
  - (4) Retirement community.
  - (5) Solid waste disposal/transfer facilities.
  - (6) Light Industrial uses.
  - (7) Fire department stations.
  - (8) Ambulance/EMS stations.
- D. Area. The minimum lot area for uses within the R/A District is as follows:
- (1) Single-family detached dwellings, group homes and seasonal dwellings: one acre (43,560 square feet) or the minimum size over one acre required to meet applicable DEP on-lot sewage disposal requirements.
  - (2) Bed-and-breakfast/guest home: one acre (43,560 square feet) or the minimum size over one acre required to meet applicable DEP on-lot sewage disposal requirements.
  - (3) Agricultural uses: no minimum for farms; five acres for packing, treating or storing agricultural uses.
  - (4) All other uses: five acres.
- E. Minimum lot width. The minimum lot width within the R/A District at setback is as follows:
- (1) Single-family detached dwellings, group homes and seasonal dwellings: 150 feet.
  - (2) Bed-and-breakfast/guest home: 150 feet.
  - (3) Agricultural uses: no minimum for farms; 500 feet for packing, treating or storing agricultural uses.

- (4) All other uses: 500 feet.
- F. Coverage. All buildings, including accessory buildings, shall not cover 20% of the lot.
- G. Setback. The minimum distance from the right-of-way line is as follows:
  - (1) Front yard - principal building:
    - (a) Single-family detached dwellings, group homes and seasonal dwellings: 35 feet.
    - (b) Bed-and-breakfast/guest home: 35 feet.
    - (c) All other uses: 50 feet (except as noted in Subsection G(4) below).
    - (d) Corner lots shall be construed to have two front yards.
  - (2) Side yard - principal building:
    - (a) Each lot shall have two side yards, neither of which shall be less than as follows:
      - [1] Single-family detached dwellings, group homes and seasonal dwellings: 15 feet.
      - [2] Bed-and-breakfast/guest home: 15 feet.
      - [3] All other uses: 25 feet [except as noted in Subsection G(4) below].
    - (b) All accessory buildings shall be a minimum of 10 feet from any side lot line.
  - (3) Rear yard - Principal building. Each lot shall have a rear lot of a minimum of 35 feet. All accessory buildings shall be a minimum of 10 feet from any rear lot line [except as noted in Subsection G(4) below].
  - (4) Buildings housing livestock, including dog kennels, or poultry shall not be closer than 50 feet to any public right-of-way nor 100 feet to a residential district or residential structure other than the owner's.
- H. Height. The maximum height of buildings within the R/A District is as follows:
  - (1) Single-family detached dwellings, group homes and seasonal dwellings: three stories or 35 feet, whichever is less.
  - (2) Bed-and-breakfast/guest home: three stories or 35 feet, whichever is less.
  - (3) Agricultural uses: farm buildings, no maximum; packing, treating and storing agricultural uses, 50 feet.
  - (4) Accessory buildings: 20 feet.
  - (5) All other uses: 50 feet for principal building, except for 75 feet for steeples or towers on houses of worship.
- I. Off-street parking shall be provided as under § 110-48.

**§ 110-12. Rural Residential District - RR District.**

This district is intended to encourage moderate density and clustered residential development in appropriate areas. Sections of the Township within this district have all or most of the infrastructure components needed to sustain residential units and neighborhoods. Industrial and commercial activities, with the exception of home occupations, are discouraged.

- A. Permitted uses. The following are permitted uses in the RR District:
- (1) Single-family detached dwellings, including mobile homes, provided that the mobile home is placed on a permanent foundation that shall be of poured concrete or cement block and properly anchored.
  - (2) Two-family attached dwellings.
  - (3) Bed-and-breakfast/guest home.
  - (4) Essential services.
  - (5) Accessory buildings and uses.
  - (6) Parks and playgrounds.
  - (7) Home occupations.
- B. Special exception uses. The following require special exceptions in accordance with Article VI of this chapter:
- (1) Educational facilities (public and private).
  - (2) Churches and houses of worship.
  - (3) Day-care facilities (child and adult) subject to appropriate state regulations.
  - (4) Mobile home parks.
- C. Conditional uses. The following require conditional uses in accordance with Article VI of this chapter:
- (1) Group homes.
  - (2) Personal care homes.
  - (3) Multifamily residential development.
  - (4) Planned residential development.
  - (5) Fire department stations.
  - (6) Ambulance/EMS stations.
- D. Area. The minimum lot area for uses within the RR District is as follows:
- (1) Single-family detached dwellings and group homes: one acre 43,560 square feet).
  - (2) Bed-and-breakfast/guest home: one acre (43,560 square feet).
  - (3) Two-family attached dwellings: 30,000 square feet (15,000 square feet per dwelling unit).

- (4) Mobile home parks: five acres.
- (5) All other uses: three acres.

NOTE: In areas not having public sanitary sewer, the actual minimum lot size will be the greater of the above or the minimum needed for an on-lot sewage disposal system as per DEP requirements.

E. Minimum lot width. The minimum lot width within the RR District at setback is as follows:

- (1) Single-family detached dwellings and group homes: 100 feet.
- (2) Two-family attached dwellings: 120 feet.
- (3) Bed-and-breakfast/guest home, personal care homes and day-care facilities: 150 feet.
- (4) All other uses: 300 feet.

F. Coverage. All buildings, including accessory buildings, shall not cover 25% of the lot.

G. Setback. The minimum distance from the right-of-way line is as follows:

- (1) Front yard - principal building:
  - (a) Single-family detached dwellings, two-family attached dwellings and group homes: 30 feet.
  - (b) Bed-and-breakfast/guest home: 30 feet.
  - (c) All other uses: 50 feet.
- (2) Side yard - principal building.
  - (a) Each lot shall have two side yards, neither of which shall be less than as follows:
    - [1] Single-family detached dwellings and group homes: 15 feet.
    - [2] Bed-and-breakfast/guest home: 15 feet.
    - [3] All other uses: 20 feet.
  - (b) All accessory buildings shall be a minimum of eight feet from any side lot line.
- (3) Rear yard - principal building. Each lot shall have a rear lot of a minimum of 25 feet. All accessory buildings shall be a minimum of eight feet from any rear lot line.

H. Height. The maximum height of buildings within the R/A District is as follows:

- (1) Single-family detached dwellings, two-family attached dwellings and group homes: 2 1/2 stories or 35 feet, whichever is less.
- (2) Bed-and-breakfast/guest home, day-care facilities and personal care homes: 2 1/2 stories or 35 feet, whichever is less.
- (3) All other uses: 50 feet.

I. Off-street parking shall be provided as under § 110-48.

**§ 110-13. Residential Suburban - RS District.**

This district is intended to encourage higher residential development in appropriate areas. Sections of the Township within this district have all of the infrastructure components needed to sustain residential units and neighborhoods, and exhibit suburban rather than rural developmental patterns. Industrial and commercial activities, with the exception of home occupations, are discouraged.

A. Permitted uses. The following are permitted uses in the RS District:

- (1) Single-family detached dwellings, including mobile homes, provided that the mobile home is placed on a permanent foundation that shall be of poured concrete or cement block and properly anchored.
- (2) Two-family attached dwellings.
- (3) Multifamily dwellings.
- (4) Essential services.
- (5) Accessory buildings and uses.
- (6) Parks and playgrounds.

B. Special exception uses. The following require special exceptions in accordance with Article VI of this chapter:

- (1) Educational facilities (public and private).
- (2) Churches and houses of worship.
- (3) Day-care facilities (child and adult) subject to appropriate state regulations.
- (4) Home occupations.
- (5) Bed-and-breakfast/guest home.

C. Conditional uses. The following require conditional uses in accordance with Article VI of this chapter:

- (1) Personal care homes.
- (2) Fire department stations.
- (3) Ambulance/EMS stations.

D. Area. The minimum lot area for uses within the RS District is as follows:

- (1) Single-family detached dwellings and group homes: 1/2 acre (21,780 square feet).
- (2) Bed-and-breakfast/guest home: one acre (43,560 square feet).
- (3) Two-family attached dwellings: 21,780 square feet (10,890 square feet per dwelling unit).

- (4) Multifamily dwelling units: one acre (43,560 square feet) or 10,000 square feet per dwelling unit, whichever is greater.
  - (5) All other uses: two acres.
- E. Minimum lot width. The minimum lot width within the RS District at setback is as follows:
- (1) Single-family detached and two-family attached dwellings: 60 feet.
  - (2) Multifamily dwellings and group homes: 100 feet.
  - (3) Bed-and-breakfast/guest home, personal care homes and day-care facilities: 120 feet.
  - (4) All other uses: 200 feet.
- F. Coverage. All buildings, including accessory buildings, shall not cover 35% of the lot.
- G. Setback. The minimum distance from the right-of-way line is as follows:
- (1) Front yard - principal building:
    - (a) Single-family detached dwellings, two-family attached dwellings and group homes: 25 feet.
    - (b) All other uses: 35 feet.
  - (2) Side yard - principal building:
    - (a) Each lot shall have two side yards, neither of which shall be less than as follows:
      - [1] Single-family detached dwellings and two-family attached dwellings: 10 feet.
      - [2] All other uses: 20 feet.
    - (b) All accessory buildings shall be a minimum of eight feet from any side lot line.
  - (3) Rear yard - principal building. Each lot shall have a rear lot of a minimum of 20 feet. All accessory buildings shall be a minimum of eight feet from any rear lot line.
- H. Height. The maximum height of buildings within the RS District is as follows:
- (1) Single-family detached dwellings, two-family attached dwellings and group homes: 2 1/2 stories or 35 feet, whichever is less.
  - (2) Bed-and-breakfast/guest home, day-care facilities and personal care homes: 2 1/2 stories or 35 feet, whichever is less.
  - (3) Multifamily dwellings: three stories or 42 feet, whichever is less.
  - (4) All other uses: 50 feet.
- I. Off-street parking shall be provided as under § 110-48.

**§ 110-14. Village Commercial - VC District.**

This district is intended to preserve and encourage mixed land uses in the form of high-density residential development, low-density commercial development and certain public uses in areas historically identified as villages. Sections of the Township within this district are capable of sustaining traditional neighborhood development in a manner compatible for all permitted uses.

A. Permitted uses. The following are permitted uses in the VC District:

- (1) Single-family detached dwellings, single-family semidetached dwellings, apartments and mobile homes, provided that the mobile home is placed on a permanent foundation that shall be of poured concrete or cement block and properly anchored.
- (2) Two-family attached dwellings.
- (3) Multifamily dwellings.
- (4) Professional offices.
- (5) Commercial and service establishments having a gross floor area of under 2,500 square feet.
- (6) Educational facilities (public and private).
- (7) Churches and houses of worship.
- (8) Day-care facilities (child and adult) subject to appropriate state regulations.
- (9) Home occupations.
- (10) Fraternal organizations.
- (11) Essential services.
- (12) Accessory buildings and uses.
- (13) Parks and playgrounds.

B. Special exception uses. The following require special exceptions in accordance with Article VI of this chapter:

- (1) Storage and warehousing facilities.

C. Conditional uses. The following require conditional uses in accordance with Article VI of this chapter:

- (1) Group homes.
- (2) Personal care homes.
- (3) Light industrial uses.
- (4) Fire department stations.
- (5) Ambulance/EMS stations.

D. Area. The minimum lot area for uses within the VC District is as follows:

- (1) Single-family detached dwellings, two-family detached dwellings, professional

- offices and commercial/service establishments: 5,000 square feet.
- (2) Single-family semidetached dwellings: 2,500 square feet per dwelling unit.
  - (3) Day-care facilities, fraternal organizations and group homes: 10,000 square feet.
  - (4) All other uses: 15,000 square feet.
- E. Minimum lot width. The minimum lot width within the VC District at setback is as follows:
- (1) Single-family detached and two-family attached dwellings: 40 feet.
  - (2) Multifamily dwellings and group homes: 80 feet.
  - (3) Professional offices and permitted commercial and service establishments: 40 feet.
  - (4) All other uses: 120 feet.
- F. Coverage. All buildings, including accessory buildings, shall not cover 35% of the lot.
- G. Setback. The minimum distance from the right-of-way line is as follows:
- (1) Front yard: 10 feet.
  - (2) Side yard.
    - (a) Each lot shall have two side yards, neither of which shall be less than as follows:
      - [1] Residential uses: four feet.
      - [2] All other uses: eight feet.
    - (b) All accessory buildings shall be a minimum of eight feet from any side lot line.
  - (3) Rear yard: 10 feet.
- H. Height. The maximum height of buildings within the VC District is as follows:
- (1) Residential, professional, commercial and service uses: 35 feet.
  - (2) All other uses: 50 feet.
- I. Off-street parking shall be provided as under § 110-48.

**§ 110-15. Highway Commercial District - HC District.**

The purpose of this district is to set aside areas that can support a mixture of higher density commercial, service and related uses sustained by and/or supporting traffic on State Route 255 and intersecting local roadways. Such uses are intended to encourage new business activity that is compatible with the available infrastructure and the suburban character of the Township in the vicinity of State Route 255.

- A. Permitted uses. The following are permitted uses in the HC District:

- (1) Animal boarding.
- (2) Automobile, motorcycle, truck or mobile home sales.
- (3) Automobile/truck/motorcycle service/gasoline stations.
- (4) Banks (including drive-through).
- (5) Business service establishments.
- (6) Car washes.
- (7) Convenience stores.
- (8) Commercial printing.
- (9) Commercial recreation establishments.
- (10) Day-care center.
- (11) Eating and drinking establishments.
- (12) Fire and ambulance stations.
- (13) Funeral homes.
- (14) Home and garden centers.
- (15) Hotels and motels.
- (16) Laundry/dry cleaning establishments.
- (17) Medical clinics.
- (18) Mini storage facilities.
- (19) Personal service establishments.
- (20) Professional offices.
- (21) Public buildings.
- (22) Retail business.
- (23) Shopping center or mall.
- (24) Veterinary offices.
- (25) Warehouse and wholesaling.
- (26) Essential services.
- (27) Accessory buildings and uses.

**B. Special exception uses. The following require special exceptions in accordance with Article VI of this chapter:**

- (1) Billboards and other off-premises signs.

- (2) Flea market.
- (3) Retail and service establishments not specifically listed in § 110-14A.
- C. Conditional uses. The following require conditional uses in accordance with Article VI of this chapter:
  - (1) Adult entertainment establishments.
  - (2) Methadone treatment facilities.
  - (3) Fire department stations.
  - (4) Ambulance/EMS stations.
- D. Area. The minimum lot area for uses within the HC District is as follows:
  - (1) Shopping center or mall: 30 acres.
  - (2) Warehousing and wholesaling: five acres.
  - (3) Hotels and motels: one acre.
  - (4) All other uses: 20,000 square feet.
- E. Minimum lot width. The minimum lot width within the HC District at setback is 75 feet.
- F. Coverage. All buildings, including accessory buildings, shall not cover 35% of the lot.
- G. Setback. The minimum distance from the right-of-way line is as follows:
  - (1) Front yard - principal building. Each lot shall have a front yard of a minimum of 35 feet.
  - (2) Side yard - principal building. Each lot shall have two side yards, neither of which shall be less than 15 feet. All accessory buildings shall be a minimum of eight feet from any side lot line.
  - (3) Rear yard - principal building. Each lot shall have a rear lot of a minimum of 15 feet. All accessory buildings shall be a minimum of eight feet from any rear lot line.
- H. Height. The maximum height of buildings within the HC District is 50 feet.
- I. Off-street parking shall be provided as under § 110-48.

**§ 110-16. Light Industrial District - LI District.**

The intent of this district is to provide areas where various light industrial and similar activities can be accommodated to provide areas for new industrial and related developmental growth. Because of the rural nature of the land areas zoned in this chapter, heavy industrial activities requiring high-intensity infrastructure (highways, railroads, water, sewer) are discouraged in this district. The district provides suitable development opportunities for assembling, fabrication, processing, production, distribution, manufacturing and warehousing activities. It is intended to maximize industrial potential while ensuring compatibility with surrounding zoning districts.

- A. Permitted uses. The following are permitted uses in the LI District:
- (1) Automobile repair or body work.
  - (2) Contractor's yards and buildings.
  - (3) Distribution and warehousing facilities.
  - (4) Essential services.
  - (5) Feed mills and related.
  - (6) Food processing.
  - (7) Industrial parks.
  - (8) Light manufacturing, fabrication and processing.
  - (9) Logging activities.
  - (10) Public utility facilities and buildings.
  - (11) Research laboratories and facilities.
  - (12) Self-service storage.
  - (13) Truck terminals.
  - (14) Wood products and woodworking.
  - (15) Accessory buildings and uses.
  - (16) Special accessory use: outdoor furnace.
- B. Special exception uses. The following require special exceptions in accordance with Article VI of this chapter:
- (1) Billboards and other off-premises signs.
  - (2) Fuel/petroleum storage and distribution.
  - (3) Mining and extractive operation.
- C. Conditional uses. The following require special exceptions in accordance with Article VI of this chapter.
- (1) Chemical plants and storage facilities.
  - (2) Composting as a principal use.
  - (3) Hazardous waste management facilities.
  - (4) Incinerators.
  - (5) Junkyards.
  - (6) Fire department stations.

(7) Ambulance/EMS stations.

D. Area. The minimum lot area for uses in the LI District is one acre (43,560 square feet).

NOTE: In areas not having public sanitary sewer, the actual minimum lot size will be the greater of the above or the minimum needed for an on-lot sewage disposal system as per DEP requirements.

E. Minimum lot width. The minimum lot width within the LI District at setback is 125 feet.

F. Coverage. All buildings, including accessory buildings, shall not cover 45% of the lot.

G. Setbacks. The minimum distance from the right-of-way line is as follows:

(1) Front yard - principal building. Each lot shall have a front yard of a minimum of 40 feet.

(2) Side yard - principal building. Each lot shall have two side yards, neither of which shall be less than 20 feet.

(3) Rear yard - principal building. Each lot shall have a rear lot of a minimum of 40 feet. All accessory buildings shall be a minimum of 20 feet from any rear lot line.

H. Height. The maximum height of buildings within the LI District is 50 feet.

I. Off-street parking shall be provided as under § 110-48.

#### **§ 110-17. Zoning Map.**

The boundaries of the zoning districts shall be shown on the map attached to and made a part of this chapter that shall be designated the "Official Zoning Map." The same map and all the notations, references and other data shown thereon are hereby incorporated by reference into this chapter as if all were fully described within the text of this chapter.<sup>12</sup>

#### **§ 110-18. Interpretation of zoning district boundaries.**

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

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

B. Where a district boundary is not fixed by dimensions and where it approximately follows lot lines and where it does not scale more than 10 feet therefrom, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.

C. In unsubdivided land or where a district boundary divides a lot, the location of such

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12. Editor's Note: The Zoning Map is on file in the Township offices.

boundary, unless the same is indicated by dimensions, shall be determined by the use of the scale appearing on the maps.

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

**§ 110-19. Application of district regulations.**

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

- A. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
- B. No building or other structure shall hereafter be erected or altered:
- (1) To exceed height or bulk requirements.
  - (2) To occupy a greater percentage of lot area.
  - (3) To accommodate or house a greater number of families, except as permitted in a residential conversion.
  - (4) To have narrower or smaller rear yards, front yards, side yards or other open space than herein required, or in any other manner be contrary to this chapter.

**§ 110-20. Use regulations and dimensional requirements.**

The specific use regulations and dimensional requirements pertaining to each district are contained in this article.

**§ 110-21. Summary of District Requirements.**

The Summary of District Requirements is included at the end of this chapter.

ARTICLE V  
**Special and Supplementary Regulations**

**§ 110-22. Intent.**

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

**§ 110-23. Public utility corporation exemption.**

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

**§ 110-24. Environmental performance standards.**

The Fox Township Supervisors may require safeguards to assure compliance with the certain environmental standards. When required, the applicant shall demonstrate that adequate provisions will be made to reduce and minimize any objectionable elements related to this section. Upon request of the Township, the owner shall furnish or obtain proof at his own expense that he is in compliance with the following environmental standards:

- A. Air management.
  - (1) The burning of tires, plastic or any toxic substance is not permitted.
  - (2) No gasses, vapors or fumes shall be emitted which are harmful to persons, property, animals or vegetation.
  - (3) No radioactive vapors or gasses shall be emitted.
  - (4) No objectionable odors other than agricultural in origin shall be detectable beyond the property boundaries.
  - (5) In addition to the requirements for this subsection, outdoor furnaces are governed by § 110-50.
- B. Solid waste management.
  - (1) No storage of waste materials on a lot shall be permitted in excess of 30 days.
  - (2) All waste materials awaiting transport shall be kept in enclosed containers and be screened from view.
- C. Noise and vibration.
  - (1) The noise limit at lot lines shall be 65 decibels.
  - (2) No physical vibration shall be perceptible without use of an instrument at the lot boundaries.
- D. Lighting and heat.
  - (1) All lighting shall be shielded and not cause a glare beyond the lot boundary.
  - (2) Any operation producing heat shall prevent any effect from the heat beyond the property lines.
- E. Groundwater supplies. No use shall endanger groundwater levels and quality nor adversely affect groundwater supplies of nearby properties.

**§ 110-25. Building height exceptions.**

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

**§ 110-26. Building setback exceptions.**

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

**§ 110-27. Required yard exceptions.**

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

- A. Overhanging eaves, gutters, cornices or solar energy collector not exceeding two feet in width.
- B. Arbors, trellises, garden sheds, flagpoles, unroofed steps, unroofed terraces, awnings, movable canopies, walls, fences and other similar uninhabitable structures shall be permitted, provided they are not more than eight feet in height.
- C. Unenclosed fire escapes that extend no more than six feet into any required yard area.

**§ 110-28. Obstructions.**

- A. On a corner lot, no structure shall be erected or enlarged and no vegetation shall be planted or maintained which may cause visual obstruction to motorists on any public road.
- B. Clear sight triangles shall be provided at all street intersections. Within such triangles, no object shall be permitted which obscures vision above the height of 30 inches and below 10 feet, measured from the center line grade of intersecting streets. Such triangles shall be established from a distance of 50 feet from the point of intersection of the center lines of local and collector streets. Triangles shall be established from a distance of 150 feet for all intersections with arterial streets.

**§ 110-29. Floodplain management.**

Floodplain management is the responsibility of the individual municipality. Therefore, in addition to the requirements established by this chapter, any activity in a designated floodprone area will be subject to the appropriate municipal ordinance.<sup>13</sup>

**§ 110-30. Travel trailer occupancy and storage requirements.**

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13. Editor's Note: See Ch. 66, Floodplain Management.

Travel trailers equipped with holding tank facilities and that are not connected to a permitted sewage treatment system (public sewer, in-ground holding tank, absorption bed system) shall not remain on a lot that does not contain a residential structure for more than 30 consecutive days. Travel trailers not equipped with holding tank facilities and that are not connected to a permitted sewage treatment system (public sewer, in-ground holding tank, absorption bed system) shall not remain on a lot that does not contain a residential structure for more than 10 consecutive days.

**§ 110-31. Planned residential development.**

- A. A planned residential development as defined by Act 247, the Pennsylvania Municipalities Planning Code,<sup>14</sup> may be permitted in the RR District as a conditional use, provided it meets the minimum standards provided in the Fox Township Subdivision and Land Development Ordinance.<sup>15</sup>
- B. The following are the purposes of the planned residential development:
- (1) To respond to the growing demand for housing of all types and design;
  - (2) To encourage innovations in residential and nonresidential development and renewal so that the growing demand for housing and other development may be met by greater variety in type, design and layout of buildings;
  - (3) To encourage the conservation of natural features and more efficient use of auxiliary open space;
  - (4) To provide greater opportunities for better housing and recreation to all citizens and residents of this commonwealth;
  - (5) To encourage a more efficient use of land and of public services and to reflect changes in the technology of land development so that economies secured may benefit those who need homes; and
  - (6) To provide a procedure which can relate the type, design and layout of residential and nonresidential development to the particular site and the particular demand for housing existing at the time of development in a manner consistent with the preservation of the property values within existing residential and nonresidential areas.

**§ 110-32. Adult entertainment establishments.**

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

- A. The building or structure of such use shall be located not less than 500 feet from any residential use or district, public or private school, church, day-care centers, recreation facility or any other religious, institutional or educational use.
- B. No such use shall be located within 2,000 feet of a similar use.

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14. Editor's Note: See 53 P.S. 10101 et seq.

15. Editor's Note: See Ch. 96, Subdivision and Land Development.

- C. No materials sold within shall be visible from any window, door or exterior of the building.
- D. No person under the age of 18 years of age shall be permitted within an adult commercial store or sold any pornographic material.
- E. Signage shall be limited to one attached sign no larger than 20 square feet. Signage may be lighted by a covered and recessed fixture located at the top or base of the sign.

**§ 110-33. Agriculture.**

Where permitted, agricultural activities are subject to the following requirements:

- A. Storage of manure, odor-producing and/or dust-producing substances shall not be permitted within 200 feet of any lot line.
- B. A heating plant shall not be operated within 100 feet of any lot line.
- C. Buildings in which animals and/or poultry are housed shall not be permitted within 100 feet of and lot line.
- D. The selling of products raised, bred or grown on the premises shall be permitted, provided that all stands, shelters and/or kiosks used for such sales shall be removed when not in use for the display or sale of said products.

**§ 110-34. Automobile repair or body work facility.**

Automobile repair garage, including paint spraying and body and fender work, shall be permitted in the HC District, subject to the following requirements:

- A. All automobile parts, refuse and similar articles shall be stored within a building or enclosed area.
- B. All repair and paintwork shall be performed within an enclosed building.
- C. No junk vehicles may be stored in the open for a period of longer than 180 days. No more than three such vehicles may be stored in the open.
- D. Signage shall be limited to one attached sign no larger than 20 square feet and/or one perpendicular hanging sign no larger than 12 square feet and one freestanding sign no larger than 12 square feet set back at least 20 feet from the adjoining road right-of-way.

**§ 110-35. Broadcast transmission facilities.**

- A. Building-mounted broadcast transmission antennas shall not be located on any single-family or two-family dwelling.
- B. Building-mounted broadcast transmission antennas shall be permitted to exceed the height limitations of the applicable zoning district by not more than 20 feet. broadcast transmission antennas collocated on existing permitted antennas shall not exceed the height established by Board of Supervisors.
- C. Omnidirectional or whip antennas shall not exceed 20 feet in height and seven inches in diameter.

- D. Directional or panel broadcast transmission antennas shall not exceed five feet in height and three feet in width.
- E. Any applicant proposing broadcast transmission antennas to be mounted on a building or other structure shall submit evidence from a Pennsylvania registered professional engineer or architect certifying that the proposed installation will not exceed the structural capacity of the building or other structure, considering wind and other loads associated with the antenna location.
- F. Any applicant proposing broadcast transmission antennas to be mounted on a building or other structure shall submit detailed construction and elevation drawings to the Board of Supervisors indicating how the antennas will be mounted on the structure.
- G. Any applicant proposing broadcast transmission antennas to be mounted on a building or other structure shall submit evidence of agreements and/or easements necessary to provide access to the building or structure on which the antennas are to be mounted so that installation and maintenance of the antennas and broadcast transmission equipment building can be accomplished.
- H. Broadcast transmission antennas shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
- I. Broadcast transmission antennas shall not cause radio frequency interference with other broadcast transmission facilities located in the Township.
- J. Broadcast transmission antennas shall be set back 200 feet from any residence in an abutting zoning district.
- K. A broadcast transmission equipment building shall be subject to the height and setback requirements of the applicable zoning district for an accessory structure. broadcast transmission equipment housed in underground vaults shall be exempt from setback requirements.
- L. The owner and/or operator of broadcast transmission antennas shall be licensed by the Federal Communications Commission to operate such antennas.
- M. The applicant shall supply documentation to the Township documenting the need for the broadcast transmission facilities and efforts to secure collocation; a visual impact assessment and neighborhood impact assessment of the proposed facilities; and scale drawings showing the proposed placement, spacing, construction and/or modification of the broadcast transmission antennas and related facilities.
- N. As conditions to issuance of the permit, applicants for Broadcast transmission Facilities shall be required to supply the following:
  - (1) Financial security in the amount of \$100,000 shall be placed with the Township to assure compliance with the provisions of this chapter. The form of security shall be subject to the Township's approval and shall be maintained until the removal of the facility.
  - (2) Public liability insurance for personal injuries, death and property damage in the

amount of \$2,000,000 per occurrence. The Township shall be listed as an additional insured, and the policy shall contain an endorsement that gives the Township a thirty-day notice prior to policy cancellation. A copy of said policy shall be delivered to the Township upon issuance.

- (3) All documentation applicable to the facility, including its operation and any enforcement/activities by other agencies.

**§ 110-36. Clubs, lodges and fraternal organizations.**

In districts where permitted, these uses are restricted to those not conducted primarily for gain, although a dining room may be operated for the benefit of club members. Buildings or structures hereafter erected or converted for such uses are subject to all applicable regulations for the zoning district in which it is located.

**§ 110-37. Group homes.**

Group homes are facilities intended to accommodate special persons (see Article III, Definitions and Word Usage) and are permitted as conditional uses in the RR and VC Districts, subject to the following requirements:

- A. The number of persons living in such a group home shall not exceed two persons per bedroom and shall include at least one on-site support staff member who shall not be included in the maximum number.
- B. All group home structures should have the appearance of single-family or other traditionally residential structures.
- C. All group homes shall meet the minimum yard, setback and lot width requirements in the applicable zoning district.
- D. A group home must be sponsored and operated by a group, organization or corporation licensed by either the county or the state. Proof of licensing shall be submitted with applications for the group home use. Proof of compliance with all applicable county or state regulations shall be furnished to the Zoning Officer.
- E. Sewer and water services shall be provided in accordance with the Subdivision and Land Development Ordinance<sup>16</sup> and other relevant Township ordinances.
- F. No group home shall be constructed within a one-half-mile radius of any other group home.

**§ 110-38. Home occupations.**

Home occupations, not meeting the definition of a no-impact home-based business, are permitted uses in the RA, RR and VC Districts and as a special exception use in the RS District, subject to the following requirements:

- A. The home occupation shall be carried on only by a member of the immediate family with a

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<sup>16</sup> Editor's Note: See Ch. 96, Subdivision and Land Development.

maximum of two nonresident employees.

- B. The character or external appearance of the dwelling unit or accessory structure must be consistent with the zoning district. No display of products may be shown so as to be visible from outside.
- C. A nameplate not larger than six square feet in area shall be permitted and cannot be animated or illuminated by direct light.
- D. Not more than 35% of the habitable floor area of a dwelling unit may be devoted to a home occupation.
- E. The premises must at all times be kept neat and orderly.
- F. The use will not result in substantial increase in traffic. A twenty-percent increase in traffic shall be regarded as substantial.
- G. The use will not involve any waste product other than domestic sewerage or municipal waste.
- H. The special exception use in the RS District will not involve the display or sale of any item on site.
- I. If an existing accessory building is to be enlarged or a building constructed to accommodate the proposed use, the building, after enlargement or construction, shall not have a floor area in excess of 50% of the floor area of the principal building.
- J. The use will not be one that creates dust, heat, glare, smoke, vibration, audible noise or odors outside the building.
- K. The applicant must supply to the Zoning Officer such information to ensure that all of the above requirements will be met. The zoning permit, once issued, shall continue in effect as long as there is no change in the nature or extent of the use.

**§ 110-39. Junkyards.** [Amended 2-4-2009 by Ord. No. 2009-2]

Within the RA and LI Districts, salvage/junkyards shall be permitted as a conditional use, subject to the following requirements:

- A. Licenses.
  - (1) No person shall operate a junkyard within the township without having a license therefor.
  - (2) The license shall be valid only for the license year for which it is issued.
  - (3) The license shall be valid only for the premises described in the original application or in the application for extension of the license premises.
  - (4) A license shall be renewed by the Board upon application for renewal filed with the Board at least 30 days prior to the expiration date, provided that at the time of application or before the issuance of said license, the license is in compliance with the

- existing Junkyard Ordinance<sup>17</sup> and there are no pending violations against the license.
- (5) A license may be transferred from person to person, provided that the transferor's operation is in compliance with the chapter at the time of the transfer and provided that an application for transfer is properly filed.
  - (6) A license may not be transferred from place to place.
- B. Application for license, extensions, renewals and transfers.
- (1) All applications shall be in the form prescribed by the Board.
  - (2) The original application shall set forth:
    - (a) The name and address of the applicant.
    - (b) The name and address of the premises.
    - (c) The term of the lease, if any.
    - (d) An exact description of land by measured distances.
    - (e) A description of buildings and location thereof.
    - (f) The name of the nearest road and the abutting property owners.
    - (g) A general description of the type of junk to be handled.
    - (h) Any other matters required by regulations of the Board.
  - (3) Applications for renewals shall set for the information required under Subsection B(2)(a),(b), and (c), but the licensed premises need not be described if there is no change therein.
  - (4) Application for transfer of a license shall set forth:
    - (a) The name and address of the transferor.
    - (b) The name and address of the transferee.
    - (c) Any proposed change or variation in the business as described in the original licensee.
- C. Granting or denying an application.
- (1) Upon receipt of application for license renewal or transfer accompanied by payment of required fees the Board shall, at their next regular monthly meeting, either grant or refuse the application. New applications will be taken under consideration at a conditional use hearing to be held in accordance with § 110-57 of the Fox Township Zoning Ordinance.
  - (2) If the application is granted, the Code Enforcement Officer shall forthwith issue a

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17. Editor's Note: See Ch. 70, Junk Dealers and Junkyards.

license, provided that in case of a transfer, the transferor's license shall be surrendered to the Board.

- (3) If the application is refused, the Code Enforcement Officer shall immediately return the license fee and send written notice to the applicant stating the reasons for refusal.
- (4) The Board may require an applicant to appear before it after at least five days' written notice and the failure of any applicant to appear shall constitute reason for refusing the application.

D. Fees.

- (1) All filing fees and license fees shall be paid at the time any application is submitted to the Board.
- (2) The fee for filing any application is as set from time to time by resolution of the Board of Supervisors, which shall be retained by the Board whether the application is approved, refused or withdrawn.
- (3) The fee for any original or renewal license per year shall be as set from time to time by resolution of the Board of Supervisors for all junkyard operators.
- (4) The fee for extension of a license shall be at half the rate as provided in Subsection D(3); provided, however, that the license may include any premises so extended and license in his renewal application along with his previously licensed junkyard and incorporate the same in one license application for the annual license fee as set from time to time by resolution of the Board of Supervisors.

E. Requirement of licensee and licensed premises.

- (1) The license shall be conspicuously posted upon the licensed premises.
- (2) The name of the license and license number shall be displayed on the outside of every commercial truck used in the licensed business.
- (3) The licensee shall keep on the premises and available for inspection by any authorized Township official a legible record of all purchases and sales of junk.
- (4) When deemed necessary and desirable by the Board, a fence not less than eight feet in height and style to be determined by the Board shall be erected around the perimeter of the licensed property. Evergreen screen plantings or a combination of both may be considered provided they comply with the minimum requirements of § 110-47 of the Fox Township Zoning Ordinance. The licensee shall have three months' time within which to comply with the requirements of this section.
- (5) The deposit or storage for more than 120 days of two or more vehicles not having valid inspection stickers issued by the Pennsylvania Department of Transportation, excluding farm vehicles, or of two or more wrecked or broken vehicle or the major parts of two or more such vehicles shall be deemed to make the lot a junkyard.
- (6) No material shall be placed in any junkyard in such a manner that is capable of being transferred out of the junkyard by wind, water or other natural causes.

- (7) All paper, rags, cloth and other fibers, and activities involving the same, other than loading and unloading, shall be kept within fully enclosed buildings.
- (8) The land area used for junkyard purposes shall not be less than five acres and shall not be exposed to public view from any public street or road by virtue of its location on a hillside or location on a plateau below street level.
- (9) The premises actually used as a junkyard shall be set back a minimum distance of 25 feet from the right-of-way line of any public road and a minimum distance of 12 feet from all other property lines. The area between the setback line and the right-of-way line and property lines shall be kept clear and vacant at all times except that the licensed junkyard owner may use this area for vehicular traffic, provided that the licensee shall have six months' time within which to comply with the requirements of this section.
- (10) All materials shall be stored in such a manner as to prevent the breeding or harboring of rats, insects or other vermin. When necessary, this shall be accomplished by enclosure in containers, raising of materials above the ground, separation of types of material, preventing the collection of stagnant water, extermination procedures or other means.
- (11) All junk shall be stored and arranged in such a manner as to provide access for fire-fighting purposes.
- (12) Every junk dealer licensed under this chapter shall keep and retain upon the licensed premises for a period of 48 hours after the purchase or receipt thereof, all junk received or purchased by him, and he shall not disturb or reduce the same or alter the original form, shape or condition until such period of 48 hours shall have elapsed, with the exception of automobiles scrapped with proper certificate of title.
- (13) No garbage or other organic waste shall be stored on the licensed premises.
- (14) In addition to requirements of this chapter, the licensed premises shall be maintained and operated in strict accordance with any regulations hereafter adopted by resolution of the Board for carrying out of the provisions of this chapter; provided, however, that such regulations shall not be binding on the license until after at least 15 days' notice of the adoption of such regulations, said notice to be given by public advertisement in any newspaper circulating in the township.
- (15) Junkyards must be in compliance with all state and federal regulations at all times.
- (16) No burning shall be carried on in any junkyard. Fire shall be prevented and hazards avoided by organization and segregation of stored materials with particular attention to the separation of combustibles from other materials and enclosure of combustibles where necessary (gas tanks shall be drained); by the provision of adequate aisles of at least 15 feet for escape and fire fighting; and by other necessary measures.

F. Violations and penalties.

- (1) This chapter shall be enforced by action brought before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania

Rules of Criminal Procedure. Any person who violates or permits the violation of this chapter shall, upon conviction in a summary proceeding, be punishable by a fine of not more than \$1,000 or by imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense. Each section of this chapter that is violated shall also constitute a separate offense.

- (2) Upon any violation by a licensee, the Board may within 90 days thereafter cite the licensee to appear before the Board to show cause why his license should not be suspended or revoked. Notice of the revocation or suspension of a license shall be given to the licensee by certified mail to the address shown upon the application, but no such inspections or revocation shall become effective until after 10 days from the date of mailing such notice.
- (3) Any violation of this chapter which shall continue a nuisance may be abated as provided by law.

**§ 110-40. Kennels.**

Within the RA District, kennels are a permitted use, subject to the following requirements:

- A. All animal boarding buildings that are not wholly enclosed and any outdoor animal pens, stalls or runways shall be located within the rear yard.
- B. All animal boarding buildings that are not wholly enclosed and any outdoor animal pens, stalls or runways shall be a minimum of 50 feet away from all property lines.
- C. All outdoor running areas shall be enclosed to prevent the escape of the animals; all such enclosures shall be a minimum of 10 feet from all property lines.
- D. All animal wastes shall be regularly and properly disposed.
- E. The applicant shall demonstrate a working plan to prevent or alleviate any noise problems emanating from animals boarded on the site.

**§ 110-41. Manufacturing permit.**

Proposed industrial operations a permitted use in the LI District and a conditional use in the RA and VC Districts shall require the issuance of a manufacturing permit by the Zoning Officer. The permit application shall require the submission of information, including a plot plan; a description of the manufacturing operation and process; engineering plans for water supply and sewage disposal; plans for the prevention of noise, vibration, fire hazards, pollution and traffic; description of proposed fuels to be used; number of shifts and maximum employment per shift; and additional information requested by the Zoning Officer.

**§ 110-42. Mobile home parks.**

Mobile home parks are permitted as a special exception in the RA and RR Districts, subject to the following provisions.

- A. General standards.

- (1) A notice shall be placed on the land development plan stating that it shall be the responsibility of the mobile home park owner to maintain all park facilities, including streets, sewage disposal facilities and areas designated as open space.
- (2) The minimum width of any mobile home lot shall be not less than 75 feet. The minimum length of any mobile home lot shall be not less than 120 feet or equal to the overall length of any mobile home located on the lot, plus 30 feet, whichever length is greater. The maximum number of mobile home lots per acre shall be four.
- (3) A mobile home pad, properly graded, placed and compacted so as to be durable and adequate for support of the maximum anticipated loads during all seasons, shall be provided on each mobile home lot within the development. A mobile home placed on the pad shall be anchored on a permanent foundation.
- (4) An all-weather patio of a minimum area of 200 square feet shall be provided on each mobile home lot.
- (5) A minimum of two off-street parking spaces per each mobile home lot within the development shall be provided within 200 feet of the lot to be served.

**B. Setbacks, buffer strips and screening requirements.**

- (1) All mobile homes, auxiliary park buildings and other park structures shall be located at least 40 feet from the mobile home park boundary lines. The minimum buffer strip may be reduced to 25 feet if a suitable perimeter screening of plantings or fencing is provided and approved by the Zoning Hearing Board.
- (2) Mobile homes shall be located at least 50 feet from any auxiliary park buildings and any repair, maintenance or storage areas of buildings.

**C. Design standards.**

- (1) A mobile home park shall have a gross area of a least five contiguous acres of land suitable for development.
- (2) The developer shall provide a minimum of 10% of the gross area of the mobile home park for recreational/open space.
- (3) Access to mobile home lots within the development shall be provided via an internal street designed and constructed in accordance with the standards of the Subdivision and Land Development Ordinance.<sup>18</sup>
  - (a) The state highway system includes all public streets and highways maintained by the Pennsylvania Department of Transportation.
  - (b) The municipal street system includes all public streets and roads maintained by Fox Township. Developers proposing public dedication of streets within mobile home park shall submit road design and construction plans which meet the minimum specifications of the Township as part of the plan submission process. A deed, which dedicates the land to be used as a public street to the

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**18. Editor's Note: See Ch 96, Subdivision and Land Development.**

municipality, shall be recorded with the final plan.

- (c) Private streets include all streets or roads not dedicated, accepted and maintained for public use. Private streets may be permitted where the following conditions can be met:
  - [1] A survey of the center line of the private right-of-way shall be shown on the plot plans, along with a notation identifying the street and right-of-way as being private.
  - [2] The subdivider shall provide a right-of-way use and maintenance agreement in each deed, lease or conveyance prescribing a right-of-way width and location and setting forth an arrangement between the subdivider and buyer or lessee for maintenance of the private right-of-way.
  - [3] Where an existing private right-of-way is proposed to provide access to a new subdivision, the subdivider shall provide a right-of-way use and maintenance agreement signed by all property owners using all the right-of-way if such an agreement has not been previously included in the existing deeds. This agreement shall be recorded with the final plan and prescribe a right-of-way width and location in accordance with the standards of this chapter and set forth arrangements for maintenance of the private right-of-way.
- (4) Mobile home parks shall be provided with water supply facilities designed and constructed in accordance with the standards of the Department of Environmental Protection and the following regulations.
  - (a) The developer shall construct a system of water mains and connect with such public water supply system where a public water supply with sufficient capacity is available at plat boundary or within a reasonable distance thereto (1,000 feet).
  - (b) If a public water supply system is not available under the conditions stated above, the developer shall provide individual or community wells to serve the mobile home park that shall be approved by the Department of Environmental Protection.
  - (c) Where wells provide a water supply in a mobile home park, at least one test well shall be drilled in the proposed area for each 10 lots or upon the requirements of the Department of Environmental Protection.
  - (d) All public water systems shall be laid wherever possible in the planting strip on the higher side of the street and constructed in accordance with the standards of the authority, utility company, Department of Environmental Protection or municipal department operating such water mains.
- (5) Mobile home parks shall be provided with sanitary sewer facilities designed and constructed in accordance with the standards of the Department of Environmental Protection and the following regulations.

- (a) The developer shall construct a sanitary sewer system and connect with such sewer main and provide lateral connections for each lot where a public sanitary sewer main is available at plat boundary or within a reasonable distance thereto (1,000 feet of mobile home park).
  - (b) If a public sanitary sewer main is not available under the conditions stated above, the developer shall construct a public or community sewage treatment system as approved by the Department of Environmental Protection.
  - (c) All sanitary sewers shall be constructed and installed according to the standards of the authority or municipal department operating such sewers. Stormwater shall not be permitted to enter sanitary sewers.
  - (d) All phases of construction, including excavation, trench, pipe size, grade, backfill and manholes, shall be in accordance with approved construction drawings, Department of Environmental Protection requirements and inspected by the Township Engineer, his authorized representative, authority or health officer during the entire construction period.
- (6) In areas where a municipal sewer is planned to be available as per the most recent Act 537 plan but not yet built, laterals shall be extended to the center of the street or into the right-of-way and trunk lines provided to the edge of the mobile homes closest to the municipal trunk location and capped. Until such time as a municipal sewer becomes available, a project system must be installed. In the case of a project system, a trunk shall be provided to connect into the municipal system.
- (7) All phases of construction, including minimum size line, excavation, trench, type pipe, backfill hydrants, tees and valves, shall be in accordance with approved construction drawings, Department of Environmental Protection's standards and inspected by the Township Engineer, his authorized representative or the authority or agency representative of the utility company during the entire construction period.

**§ 110-43. Motels.**

Motels and hotels are a permitted use in the HC District and shall be subject to the following additional regulations:

- A. The minimum lot area shall be one acre.
- B. Approved collection and treatment of anticipated sewage flows shall be documented, and each unit shall be provided with hot/cold water and complete toilet facilities.
- C. The perimeter of the lot shall be landscaped.
- D. If constructed as freestanding units, the minimum space between cabins/units shall be 20 feet and the minimum space between the fronts and rears of cabins/units shall be 60 feet.
- E. Parking shall be provided in accordance with § 110-48.
- F. A plan shall be submitted showing the boundary of the property; access/egress points, sidewalks and internal roads; plot plan; and utility plan.

**§ 110-44. Municipal buildings and uses.**

The requirements of this chapter shall not apply to any building of the Township of Fox required for the convenience or welfare of the public.

**§ 110-45. Sanitary landfills and transfer stations.**

Sanitary landfills and transfer stations shall be permitted as a conditional use in the RA District, subject to the following requirements:

- A. All activities must be in compliance with all applicable federal, state and local regulations.
- B. All activities must be entirely fenced with an opaque material at least 10 feet in height. A living fence shall not be substituted.
- C. Setbacks on all sides must be at least 300 feet.
- D. All access roads must be constructed to meet the requirements of the Pennsylvania Department of Transportation Form 408.

**§ 110-46. Sign regulations.**

- A. General requirements. The following regulations shall apply to all zoning districts:
  - (1) Permits to construct, install and maintain signs shall be obtained from the Zoning Officer and shall be in accordance with the requirements of the respective zoning district.
  - (2) Signs may be erected and maintained only when in compliance with the provisions of this chapter and all other ordinances and regulations relating to the erection, alteration or maintenance of signs.
  - (3) Signs shall not contain moving mechanical parts or use flashing or intermittent illumination. The source of light shall be steady and stationary.
  - (4) No sign shall be placed in a position or have illumination that it will cause any danger or distraction to pedestrians or vehicular traffic.
  - (5) Floodlighting of any sign shall be arranged so that the source of light is not visible nor glare is detected from any property line or vehicular access and that only the sign is illuminated.
  - (6) No sign other than official traffic signs shall be erected within the right-of-way lines of any street.
  - (7) Every sign must be constructed of durable material and be kept in good condition. Any sign that is allowed to become dilapidated shall be removed by the owner, or upon failure of the owner to do so, by the Township at the expense of the owner or lessee. The Zoning Officer shall make such determination as to state of repair.
  - (8) No sign shall be erected or located as to prevent free ingress to or egress from any window, door, fire escape, sidewalk or driveway.

- (9) No sign shall be erected which emits smoke, visible vapors or particles, sound or odor.
  - (10) No sign shall be erected which uses an artificial light source, or reflecting device, which may be mistaken for a traffic signal.
  - (11) No sign shall be erected containing information that implies that a property may be used for any purpose not permitted under the provisions of this chapter.
  - (12) No sign shall be placed on any tree except political signs, yard or garage sale signs, hunting and trespassing signs. Any political, yard or garage sale signs must be removed no later than five days after the cessation of the posted event.
  - (13) The distance from ground level to the highest part of any freestanding sign shall not exceed eight feet in residential districts.
  - (14) No freestanding sign shall be located within the public right-of-way.
  - (15) Signs shall not project above the maximum building height permitted in any district in which they are located.
  - (16) Signs necessary for the identification operation and protection of public utilities may be erected within the street right-of-way when authorized by the Zoning Officer for a special purpose and for a specified time.
  - (17) All signs erected along the right-of-way of a state highway shall be in accordance with the regulations of Pennsylvania Department of Transportation.
- B. Signs in the RA, RR and RS Districts. Signs in the RA, RR and RS Districts are subject to the following requirements:
- (1) Official traffic signs.
  - (2) Identification signs, bulletin or announcement boards for schools, churches, hospitals or similar institutions, for similar permitted uses, approved special exception uses and approved conditional uses, with the exception of home occupations.
    - (a) No more than two such signs shall be erected on any frontage to any one property.
    - (b) The area on one side of any such sign shall not exceed 16 square feet in the RA District and six square feet in the RR and RS Districts.
  - (3) Home occupations as a permitted use in the RA and RR Districts and as a special exception in the RS District may have an identification sign indicating the name, profession or activity of the occupant of a dwelling, provided:
    - (a) The area of any one side of any such sign shall not exceed two square feet.
    - (b) One such sign shall be permitted for each permitted use or dwelling.
    - (c) A sign indicating the permitted home occupation use shall be erected on the property where that use exists.

- (d) The sign shall not be illuminated or animated.
  - (4) Real estate signs, including signs advertising the rental or sale of premises, provided that:
    - (a) The area on any one side of any such sign shall not exceed six square feet.
    - (b) A sign shall be located on the property to which it refers.
    - (c) Such signs shall be removed within seven days upon the closing of the premises.
    - (d) Not more than one such sign shall be placed on any one street frontage.
  - (5) Temporary signs of contractors, architects, special events and the like, provided that:
    - (a) Such signs shall be removed within 14 days upon completion of the work or special event.
    - (b) The area of such signs shall not exceed six feet.
    - (c) Such signs shall be located on the applicable property.
  - (6) Signs advertising an existing nonconforming use, provided that:
    - (a) The area on one side of such sign shall not exceed 16 square feet in the RA District and six square feet in the RR and RS Districts.
    - (b) The sign shall be erected only on the applicable premises.
    - (c) No more than one such sign shall be erected on any one street frontage.
  - (7) Signs necessary for the identification and protection of public utility corporation facilities, provided that the area of one side of such sign shall not exceed four square feet.
  - (8) Signs within a residential subdivision to direct persons to a rental office or sample unit within that subdivision, provided that the area on one side of any such sign shall not exceed two square feet.
  - (9) Trespassing signs and signs indicating the private nature of the premises. The area of any one side of such signs shall not exceed two square feet, and the signs shall be placed at intervals of not less than 100 feet along any street frontage.
  - (10) Sign denoting the name of a subdivision or development, provided that:
    - (a) The area on one side of such sign shall not exceed 24 square feet.
    - (b) The sign shall be erected only on the premises on which the subdivision or development is located.
    - (c) No more than one such sign shall be erected on any one street frontage.
- C. Signs in the HC and LI Districts are subject to the following requirements:
- (1) Any sign permitted under Subsection B of this section are permitted in these districts.

- (2) Commercial/industrial business signs, provided that: [Amended 5-3-2006 by Ord. No. 2006-5]
  - (a) The total area on one side of all business signs placed on or facing any one street frontage of any one premises shall not exceed one square foot for every one lineal foot in lot frontage up to a maximum of 500 square feet, except in the case of a tract or building housing more than one commercial use.
  - (b) In the case of a building or tract of land housing more than one use, one permanent directory or identifying sign for the building or tract may be erected in excess of the maximum noted in Subsection C(2)(a) above. The area on one side of said sign shall not exceed 80 square feet. In addition, for each use located within that building, or tract of land, one wall-mounted sign shall be permitted and shall be included in the square foot calculation noted in Subsection C(2)(a) above.
- (3) Freestanding signs, provided that: [Amended 5-3-2006 by Ord. No. 2006-5]
  - (a) No more than one freestanding sign exclusive of all directional signs shall be allowed for any one business on a property.
  - (b) The area on one side of a freestanding sign shall not exceed 32 square feet, exclusive of all directional signs.
- (4) Billboards, provided that:
  - (a) Billboards shall be located no closer than within 1,000 feet of another billboard.
  - (b) Billboards shall be a minimum of 50 feet from all side and rear property lines.
  - (c) All billboards shall be set back at least 50 feet from any road right-of-way lines.
  - (d) All billboards shall be set back at least 100 feet from any land within a residential district.
  - (e) Billboards shall not obstruct the view of motorists on adjoining roads or the view of adjoining commercial or industrial uses which depend upon visibility for identification.
  - (f) Billboards shall not exceed an overall size of 300 square feet nor exceed 25 feet in height.

D. Signs in the VC District are subject to the following:

- (1) Any sign permitted under Subsection B of this section are permitted in this district.
- (2) Commercial/industrial business signs, provided that:
  - (a) The total area on one side of all signs placed on or facing any one street frontage of any one premises shall not exceed 12 square feet except in the case of a tract or building housing more than one commercial use.
  - (b) In the case of a building or tract of land housing more than one use, one permanent directory or identifying sign for the building or tract may be erected.

The area on one side of said sign shall not exceed 20 square feet. In addition, for each use located within that building, or on the same lot, one wall-mounted sign shall be permitted. The area of such sign shall not exceed six square feet and may be attached to that portion of the building housing the use.

- (c) No more than one separate sign shall face any one street frontage for any one use.
- (3) Freestanding signs, provided that:
  - (a) No more than one freestanding sign, exclusive of all directional signs, shall be allowed on any one property.
  - (b) The area on one side of a freestanding sign shall not exceed eight square feet, exclusive of all directional signs.
- E. Existing signs at the time of the passage of this chapter are subject to the following:
  - (1) Existing signs may be continued, provided that all such signs shall conform to the general requirements as set forth in Subsection A of this section.
  - (2) Any sign existing at the time of the passage of this chapter that does not conform with the regulations of the district in which such sign is located shall be considered a nonconforming use and may continue in such use in its present location until replacement or rebuilding becomes necessary and/or ordered by the Township, at which time a zoning permit will be required and the sign brought into conformity with this chapter.

**§ 110-47. Screening requirements.**

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

- A. Requirements; exceptions.
  - (1) Screening requirements shall be applicable under the following circumstances:
    - (a) Where a proposed nonagricultural use abuts an agriculture use.
    - (b) Where a proposed nonresidential use abuts an existing residential use.
    - (c) When permitted uses, uses by special exception or conditional uses in a L1 or HC District abuts a RA, RR or RS District.
    - (d) Where any proposed multiple-family residential building of four or more dwelling units (including a retirement village and mobile home park) abuts an existing single-family residential area.
    - (e) Mobile home parks shall be screened along their entire perimeter, as specified in § 110-41 and in accordance with the Subdivision and Land Development

Ordinance.<sup>19</sup>

- (f) Any other instance where screening is required by this chapter or deemed necessary by the Township Supervisors or the Zoning Hearing Board in relation to conditional uses or special exceptions.
- (2) Screening is not required if the features to be screened are set back 300 feet or more from the lot line along which screening would otherwise be required.
- B. In addition to the zoning district boundary areas described above, the following land development features shall be screened on the lot for which development is proposed:
  - (1) Loading and unloading areas.
  - (2) Parking lots for 10 or more vehicles.
  - (3) Storage of products or raw materials.
  - (4) Refuse storage and transfer facilities.
  - (5) Mechanical equipment, vents, fans and similar appurtenances.
- C. Site and district requirements.
  - (1) For screening of features, screening may be located anywhere on the lot, provided it effectively shields the features to be screened.
  - (2) For a zoning district buffer, screening shall be located at the lot perimeter representing the zoning district boundary.
  - (3) Screening may be interrupted for necessary driveways to the street, provided a gap in the screening does not exceed 30 feet.
- D. Effective screening may be accomplished through the use of one or more of the following methods:
  - (1) Placement of features to be screened behind an existing or proposed landform or berm.
  - (2) Use of existing or proposed ninety-percent opaque architectural barriers such as walls, fences and buildings, provided they are architecturally compatible with the style of buildings on the abutting lot(s) that necessitate the screening.
  - (3) Use of existing woody vegetation masses such as hedges, woodlands and hedgerows, provided they are preserved intact during construction on the site.
  - (4) Proposed woody vegetation plantings such as trees and shrubs.
- E. Buffer/screen width located between divergent land uses shall be in response to the degree of land use conflict. The width shall be as follows:
  - (1) A minimum buffer of fifty-feet width of existing or newly planted trees is required

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19. Editor's Note: See Ch. 96, Subdivision and Land Development.

where any proposed commercial and/or industrial uses abut the RS or RR Districts.

- (2) A planted buffer of twenty-five-foot width is required between any other incongruous land uses so deemed by the Township Supervisors or Zoning Hearing Board, as applicable, for the specific conditional or special exception use.
- (3) The width of the buffer may be reduced by means of employing other methods as noted in Subsection D above as approved by the Zoning Officer (for permitted uses), Supervisors (for conditional uses) and the Zoning Hearing Board (for variances, special exceptions and appeals); however, in no case shall the buffer be narrower than seven feet.

NOTE: Existing wood lots, wooded areas and/or hedgerows should be utilized to meet the screening requirements of Subsection E, in part or in whole, if they exist prior to the development and/or change in land use.

F. The following design standards shall guide the design of the buffer:

- (1) For areas requiring a screen width of 50 feet or more, a tree plantation or a combination of trees and shrubs is required.
- (2) Where trees are proposed for screening, at least one tree that normally achieves a height greater than 30 feet shall be planted for every 20 linear feet of distance required to be screened. Any resulting fraction of this division shall be rounded up to the next whole number. Location of the required trees is flexible.
- (3) Where proposed shrubs are used, the maximum distance between plant centers shall be eight feet.
- (4) At a minimum, screening shall be of sufficient height and density to constitute a continuous opaque screen in summer months to a height of six feet within a period of three years of planting.
- (5) Proposed trees and shrubs shall be healthy, typical of their species, have normal growth habits with well-developed branches and vigorous root systems.

G. The following performance standards affect the design and requirement of screening:

- (1) The developer is encouraged to consider placing improvements on the land in a manner that would lessen the extent and cost of required screening. Examples of sensitive design include the following:
  - (a) Situating development in or behind existing vegetation such as woodlots or hedgerows.
  - (b) Consolidating or clustering development in the smallest possible land area.
  - (c) Situating development far from the lot line.
  - (d) Situating development behind landform crests.
- (2) To assure compliance with screening requirements, the applicant shall provide a screening plan to enable the Township to access whether proposed screening will

create an effective buffer at necessary points. The screening plan shall be drawn to scale and proposed plants shall be indicated, including type, quantity, size at planting time and spacing, and may include any one of the following:

- (a) Plot plan with view analysis;
- (b) Landscaping and grading plan;
- (c) Topographic profiles and cross sections; or
- (d) Photographic evidence.

H. The following maintenance requirements apply to all screening/buffering:

- (1) Any tree or shrub planted for screening purposes that dies shall be replaced.
- (2) Any fence, wall or other architectural method utilized for screening shall be maintained in a structurally sound condition, and the surfaces facing the lot line shall be maintained for an attractive appearance.
- (3) Any landform or existing vegetation mass approved for screening shall not be altered or otherwise developed except for usual maintenance.
- (4) The owner shall be responsible for continual maintenance of the screening. A note on the subdivision land development or site plans shall indicate this and be signed by the applicant.

**§ 110-48. Swimming pools.**

Private swimming pools are permitted as accessory uses, subject to the following requirements:

- A. The pool shall be intended and shall be used solely for the enjoyment of the occupants and their guests of the principal use of the property.
- B. The pool shall be located in either the rear or side yard of the property.
- C. All outdoor swimming pools shall be fenced and have a self-closing and self-latching locked access gate that opens outward away from the pool, or otherwise protected so as to prevent uncontrolled access by children from the street or adjacent properties.
- D. All outdoor swimming pools shall have a barrier that shall be not less than four feet in height above grade measured on the side of the barrier that faces away from the swimming pool, and shall be maintained in good condition. Openings in the barrier shall not allow the passage of a four-inch diameter sphere.
- E. The pool and deck comprise the accessory use and must meet the appropriate setbacks for the district within which it is located.
- F. Spas or hot tubs with a safety cover that complies with ASTM F 1346-91 shall be exempt from the provisions of this section.

**§ 110-49. Traffic control and parking.**

- A. To minimize traffic congestion and hazard, control road access and encourage orderly development of street frontage, the following regulations shall apply:
- (1) Every building erected or altered shall be on a lot adjacent to a public road or have access to a public road via an approved private road.
  - (2) Where lots are created having frontage on arterial and collector roads, any proposed development road pattern shall also provide frontage to local roads within the subdivision.
  - (3) Each use with less than 100 feet of road frontage shall not have more than one ingress and egress lane to such road. No use with 100 feet or more of road frontage shall have more than two accessways to any one road for each 300 feet of road frontage. A common access point for two or more uses is encouraged, where practical, to minimize vehicular access points along roads classified other than local roads.
  - (4) All driveways to any public road shall be located a minimum of 40 feet from any intersection of road center lines.
  - (5) Provision shall be made for safe and efficient ingress and egress to and from public roads, without undue congestion or interference with normal traffic flow. The developer shall be responsible for the design and construction, and the costs thereof, of any necessary traffic control device and/or highway modifications required by the county, Township or the Pennsylvania Department of Transportation.
  - (6) The maximum width of driveway entrances and exits onto a public road, measured at the road line and within the road right-of-way, shall be 14 feet for one-way driveways and 28 feet for two-way driveways. The radius of the edge of the driveway apron shall not exceed 25 feet.
- B. The following internal circulation regulations shall apply to multiple-family residential, commercial and industrial uses, unless otherwise specified:
- (1) Design of access aisles and drives.
    - (a) Internal drives and service areas shall be designed to prevent blockage of vehicles entering or leaving the site. Drives may be one-way or two-way. Egress to the road shall be in a forward direction.
    - (b) Accessways, parking areas and loading areas shall have clearly defined parking bays and circulation designated by markings curbs, and/or landscaped islands so that patrons shall not impede traffic as a result of any confusion as to location of entrances and exits.
    - (c) All interior drives and accessways shall be paved with an approved all-weather cohesive and dust-free surface and shall be graded, properly drained and maintained in a good condition. Interior drives shall have a maximum grade of 8%.
    - (d) Minimum interior drive cartway widths (with no abutting parking):

Use	Two-Lane	One-Lane
	Two-Way Drives	One-Way Drive
Multifamily residential	20	12
Commercial/office	24	16
Industrial	26	16

- (e) Common or shared access driveways to parking and loading areas are permitted and encouraged, provided landowners submit an agreement of maintenance responsibility.
  - (2) Landscaping requirements. At least 5% of the land area of a required parking lot shall be landscaped, comprising perimeter and/or interior areas.
    - (a) Perimeter landscaping shall include a landscaped strip at least seven feet wide along the boundary of the parking lot, with one shade tree per 40 lineal feet and one shrub per three lineal feet of frontage, or compliance with § 110-46E, if applicable.
    - (b) Interior landscaping shall include islands and/or peninsulas within the parking area, each having a minimum of 18 square feet, with shade trees and shrubs prepared at the discretion of the developer.
  - (3) Fire lane easements. Any use or building located more than 600 feet from a road shall provide a dedicated fire lane easement consisting of an unobstructed right-of-way width of 30 feet.
- C. Loading and unloading requirements in connection with any use, building or structure which requires the receipt or distribution of materials by trucks or similar vehicles. There shall be provided a sufficient number of off-street loading and unloading berths in accordance with the following requirements:
- (1) Location. Loading and unloading areas shall not be located between the front building setback line and street line, and loading facilities shall be screened in accordance with § 110-46.
  - (2) Space allowed. Space allowed to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements of any off-street parking facilities or portions thereof.
  - (3) Loading and unloading space shall be at least 12 feet wide with 14 feet of vertical clearance and shall have an adequate maneuvering area.
  - (4) Surface. Loading and unloading areas shall have an all-weather cohesive and dust-free surface.
- D. Off-street parking requirements are subject to the following:
- (1) Off-street parking facilities shall be provided whenever a building is constructed or a

new use is established in an existing building, or an existing building or its use is changed.

- (2) Off-street parking facilities existing at the effective date of this chapter shall not be reduced to an amount less than that required under this chapter for a similar new building or use.
- (3) Land use issues:
  - (a) Off-street parking shall be an accessory use solely for the parking of patrons, occupants and/or employees.
  - (b) No motor vehicle repair work of any kind except emergency service shall be permitted within parking lots.
- (4) Location.
  - (a) All parking spaces shall be on the same lot as the principal building except herein described. Parking spaces may be located within a structure or in the open.
  - (b) The parking spaces may be located elsewhere than on the same lot when authorized by the Zoning Hearing Board, subject to some portion of the off-street parking area being within 300 feet of an entrance regularly used by patrons.
  - (c) For all residential dwellings, the parking spaces shall be within 100 feet of the dwelling unit they serve.
  - (d) No parking or paved area shall directly abut a street requiring backing out into the street.
- (5) Size and design of parking lot.
  - (a) In the layout of parking lots, minimum parking stall dimensions shall be 18 feet in length and eight feet in width.
  - (b) Parking lots shall be landscaped in accordance with Subsection B(2).
  - (c) Parking lots for commercial and residential uses shall be illuminated at night.
  - (d) Parking lots shall have an all-weather cohesive and dust-free surface.
  - (e) Parking lots shall have a minimum slope of 1% and a maximum slope of 5%. Stormwater runoff shall not be directed across pedestrian walkways or other lots.

E. Parking for persons with disabilities. This subsection shall apply to commercial, industrial, office, institutional and educational uses. The following table summarizes the accessible spaces required.

**Total Number of Spaces  
Provided in a Parking Facility**

**Minimum Number of Required  
Accessible Spaces**

1 - 25	1
26 - 50	2
51 - 75	3
76 - 100	4
101 - 150	5
151 - 200	6
201 - 300	7
301 - 400	8
401 - 500	9
501 - 1,000	2% of total
1,001 +	20, plus 1 for each 100 or fraction thereof over 1,000

- (1) Said spaces shall be located on the shortest accessible route to an accessible entrance of the building or buildings that the parking spaces shall serve.
- (2) Each space or group of spaces shall be identified with a clearly visible marking displaying the international symbol or access.
- (3) Car parking spaces shall have a minimum width of 96 inches and van spaces shall have a minimum width of 132 inches. Access aisles shall serve parking spaces and adjoin an accessible route. Two parking spaces shall be permitted to share a common access aisle. Access aisles serving cars and vans shall have a minimum width of 60 inches. All measurements shall be made from the center line of the markings.

F. Specific parking requirements for various uses in each district shall be as follows:

<b>Use</b>	<b>Parking Space Requirement</b>
Residential	2 spaces per dwelling unit
Houses of worship/auditorium	1 space for every three seats
Nursing/convalescent home	1 space for every three beds, plus 1 space per employee on the largest shift
Doctor/dental office	4 spaces per doctor/dentist, plus 1 space per employee
Day-care facilities	1 space per employee, plus a dropoff area equating to 1 space per 6 children/clients
Parks and playgrounds with spectator seating	1 parking space for every 3 seats
Educational facilities/assembly halls	1 space per 4 seats in assembly room, plus 1 space per

	employee
Hospital	3 spaces per bed
Retail/commercial (not otherwise classified)	1 space per 300 square feet of floor space used for sales purposes
Supermarkets and food stores	1 space for every 200 square feet of floor space used for sales purposes
Eating and drinking establishments	1 parking space for every 2 1/2 seats for patron use and 1 space for each employee
Drive-in and fast-food restaurants	1 space for every 10 square feet of floor area and one space for each employee
Bowling alleys	5 spaces for each pair of lanes and 1 space for each employee
Skating rinks	1 space for every 100 square feet of skating area and 1 space for each employee
Golf courses/ranges	1 space per four holes/stalls and 1 space per employee
Animal kennels	1 space for every three kennel runs and one 1 space for each employee
Office buildings and professional offices	1 space for each 200 square feet of floor area
Motels, hotels, bed-and-breakfasts and guest homes	1 space for each unit and 1 space for each employee on the largest shift
Barber and beauty shops	2 spaces per shop, plus one and 1 1/2 spaces per chair
Shopping centers/malls	1 space for each 350 square feet of floor space used for sales purpose
Home occupations	1 space per nonresident employee in addition to the residential parking requirement
Service stations and vehicle repair	2 spaces per repair bay and 1 space per employee
Car wash	1 space per employee
Industrial uses	Twenty-five percent of the building's gross floor area

**§ 110-50. Trailer/recreational vehicle parks.**

A. In the RA District this uses shall be subject to the following requirements:

- (1) Access/egress points, internal roads and walkways shall be stabilized, lighted and maintained in good condition.
- (2) The minimum size of a campsite shall be 2,000 square feet.
- (3) The minimum length of a campsite shall be 40 feet.

- (4) The minimum spacing between each trailer/RV shall be 20 feet.
- (5) Each campsite shall have space for the parking of one vehicle, and each trailer/RV site shall have space for one additional vehicle.

B. The above site issues shall be depicted on a scale plan submitted at the time of application.

**§ 110-51. Special accessory use: outdoor furnaces.** [Amended 5-3-2006 by Ord. No. 2006-5; 9-8-2011 by Ord. No. 2011-9]

A. Purpose and scope.

- (1) Due to many factors, outdoor wood-fired hydronic heaters (OWHHs) are increasingly becoming a primary method of heating homes and other buildings in the winter and providing hot water year round. The basic design of some OWHHs on the market today can cause the fuel to burn incompletely, resulting in thick smoke and high particulate emissions. The problem is exacerbated when other materials such as wet wood and trash are burned. Further, the short stack heights of OWHHs and reduced draft may fail to disperse the smoke adequately, resulting in concentrated pollution at lower heights, impacting residents and neighbors. As is true for many similar emissions, smoke from OWHHs can cause a range of harmful health effects.
- (2) The Township finds that technologies are emerging that will result in cleaner-burning and more-efficient outdoor wood-fired hydronic heaters. Requiring new outdoor wood-fired hydronic heaters to incorporate these technologies will enhance the desirability of their use. This is consistent with a sound energy policy that promotes indigenous, renewable energy sources.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

**CHIMNEY** — A tube attached to an outdoor wood-fired hydronic heater for the purpose of channeling fumes, smoke and odors away from the outdoor wood-fired hydronic heater.

**EPA OHH FUTURE MODELS** — EPA-approved models that have a particulate emission level lower than 0.32 pounds per million British thermal units output and are labeled accordingly.

**EPA OHH PHASE 2 PROGRAM** — EPA OHH (outdoor hydronic heater) Phase 2 Program administered by the United States Environmental Protection Agency and that has a particulate matter emission limit of 0.32 pounds per million British thermal units output and is labeled accordingly.

**EPA OHH PHASE 2 PROGRAM QUALIFIED MODEL** — An outdoor wood-fired hydronic heater that has been EPA OHH Phase 2 Program qualified. The model was tested and met the EPA OHH Phase 2 emission level and is labeled accordingly.

**EXISTING OUTDOOR WOOD-FIRED HYDRONIC HEATERS** — An outdoor wood-fired hydronic heater that was purchased and installed prior to the effective date of this section.

**NATURAL WOOD** — Wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.

**NEW OUTDOOR WOOD-FIRED HYDRONIC HEATERS** — An outdoor wood-fired hydronic heaters that is first installed, established or constructed after the effective date of this section.

**OUTDOOR WOOD-FIRED HYDRONIC HEATER** — Any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or situated outdoors and is primarily hand-loaded for the purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. An outdoor wood-fired hydronic heater may also be referred to as an "outdoor wood boiler," "outdoor wood-fired heater" or "outdoor hydronic heater."

**PERSON** — Any individual, partnership, firm or copartnership, association, company, trust, corporation, department, bureau, agency, private or municipal corporation, or any political subdivision of the commonwealth, the United States or political subdivision or agencies thereof, or any other entity recognized by law as subject to rights and duties. Use of the singular herein shall include the plural.

**SMOKE** — Any by-product, whether visible or not visible, produced by the combustion or burning of any material when operating an outdoor furnace.

C. Regulations for outdoor wood-fired hydronic heaters (OWHHs).

- (1) No person shall, from the effective date of this section, construct, install, establish, operate or maintain an outdoor wood-fired hydronic heaters other than in compliance with the applicable sections of this section.
- (2) No person shall, from the effective date of this section, operate an existing outdoor wood-fired hydronic heater unless such operation conforms with the manufacturer's instructions regarding such operation and maintenance and the requirements of this section regarding fuels that may be burned in an outdoor wood-fired hydronic heater as set forth in Subsection D(1) and (2). The chimney must be at least 10 feet high.
- (3) All new outdoor wood-fired hydronic heaters shall be constructed, established, installed, operated and maintained in conformance with the manufacturer's instructions and the requirements of this section. In the event of a conflict, the requirements of this section shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.
- (4) The owner of any new outdoor wood-fired hydronic heater shall produce the manufacturer's owner's manual and installation instructions to the Fox Township Code Enforcement Office to review prior to installation. The owner of any existing outdoor wood-fired hydronic heater shall produce the owner's manual and installation instructions if requested to allow the Fox Township Code Enforcement Office to verify the installation and operation in accordance with said manual and instructions.
- (5) All new outdoor wood-fired hydronic heaters shall be laboratory tested and listed to appropriate safety standards such as UL, CAN/CSA, ANSI or other applicable safety standard.
- (6) All fuel to be burned in a new or existing outdoor wood-fired hydronic heater shall be neatly stacked or stored under cover. All ashes or other waste by-products of fuel burned in a new or existing outdoor wood-fired hydronic heater, other than smoke

and other emissions, cannot be accumulated by the owner. Ashes and other waste by-products must be disposed of on a regular basis according to law.

- D. Substantive requirements. Outdoor wood-fired hydronic heaters shall be constructed, established, installed, operated and maintained pursuant to the following conditions:
- (1) Fuel burned in any new or existing outdoor wood-fired hydronic heaters shall be only natural untreated wood, wood pellets, corn products, biomass pellets or other listed fuels specifically permitted by the manufacturer's instructions.
  - (2) The following are strictly prohibited as fuels in new and existing outdoor wood-fired hydronic heaters:
    - (a) Wood that has been painted, varnished or coated with similar material and/or has been pressure treated with preservatives and contain resins or glues as in plywood or other composite wood products.
    - (b) Rubbish or garbage, including but not limited to food wastes, food packaging, food wraps.
    - (c) Any plastic materials, including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fibers, plastic films and plastic containers.
    - (d) Rubber, including tires or other synthetic rubberlike products.
    - (e) Any other items not specifically allowed by the manufacturer.
  - (3) Setbacks for any new outdoor wood-fired hydronic heater model not EPA OHH Phase 2 Program qualified:
    - (a) The outdoor wood-fired hydronic heater shall be located at least 150 feet from the property line.
    - (b) The outdoor wood-fired hydronic heater shall be located at least 200 feet from any residence that is not served by the applicant's outdoor wood-fired hydronic heater.
    - (c) The outdoor wood-fired hydronic heater shall be located on the property in compliance with manufacture's recommendations and/or testing and listing requirements for clearance to combustible materials.
  - (4) Chimney heights for any new outdoor wood-fired hydronic heater model that is not EPA OHH program qualified. The chimney of any new outdoor wood-fired hydronic heater shall extend at least two feet above the peak of any residence not served by the Outdoor Wood Furnace located within 300 feet of such outdoor wood-fired hydronic heater or a minimum of 10 feet above the ground.
  - (5) Setbacks for new EPA OHH Phase 2 Program qualified models or future EPA-approved models that have a particulate emission level lower than 0.32 pounds/million Btu heat output:
    - (a) The outdoor wood-fired hydronic heater shall be located at least 50 feet from

the property line.

- (b) The outdoor wood-fired hydronic heater shall be located at least 100 feet from any residence that is not served by the applicant's outdoor wood-fired hydronic heater.
  - (c) The outdoor wood-fired hydronic heater shall be located on the property in compliance with manufacturer's recommendations and/or testing and listing requirements for clearance to combustible materials.
- (6) Chimney heights for new EPA OHH Phase 2 Program qualified models:
- (a) If there are residences not served by the outdoor wood-fired hydronic heater within 100 feet, the chimney shall be two feet higher than the eave of the residence served or not served, whichever is greater.
  - (b) If there are residences not served by the outdoor wood-fired hydronic heater within 300 feet, the chimney shall be two feet higher than the eave of the residence for which it serves.
  - (c) All chimneys must extend a minimum of 10 feet but not more than 20 feet above the ground.
- E. Right of entry and inspection. Any authorized officer, agent, employee or representative of Fox Township who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this section. If access is denied, access shall be obtained pursuant to the applicable laws of the Commonwealth of Pennsylvania.
- F. Permit for new units.
- (1) No person shall install or cause to be installed an outdoor wood-fired hydronic heater after the effective date of this section without first obtaining a permit from the Fox Township Code Office.
  - (2) The permit process shall include submission of a written application on a form provided by the Code Office, a suitable plan meeting the requirements set forth below, and payment of the permit application fee established by the Township.
  - (3) The proposed outdoor wood-fired hydronic heater shall be:
    - (a) Listed to an appropriate safety standard, such as Underwriters Laboratory (UL), the American National Standards Institute (ANSI) or the Canadian Standards Association (CAN/CSA);
    - (b) Meet the EPA's Phase 2 (white hang tag) Program standards for air emissions.
    - (c) If not EPA Phase 2 Program qualified, the model must also be installed under the appropriate sections of this section.
  - (4) Plans for the location and installation of any outdoor wood boiler to be installed after the effective date of this section shall be drawn at a scale of one inch equals 20 feet for plot plans and a smaller scale to be approved by the Code Office for details of outdoor wood-fired hydronic heater components and shall include a depiction of:

- (a) The legal boundaries of the lot to be served.
  - (b) The location of all dwelling(s) and building(s) existing and proposed on the lot to be served by the outdoor wood-fired hydronic heater, and identification of those to be served by the outdoor wood-fired hydronic heater.
  - (c) The locations of all known easements and rights-of-way on the lot to be served.
  - (d) The location of all components of the outdoor wood-fired hydronic heater, including underground electric lines, fluid lines or ductwork.
  - (e) The proposed outdoor wood-fired hydronic heater stack height.
  - (f) The location of all roads, passways and rights-of-way within 100 feet of the proposed outdoor wood-fired hydronic heater.
  - (g) The location of all dwelling(s) and building(s) existing within 300 feet of the proposed outdoor wood-fired hydronic heater, whether or not on the lot to be served by the outdoor wood-fired hydronic heater.
  - (h) A copy of the manufacturer's installation instructions.
- (5) Installation must be completed within six months of the issuance of the permit A permit may be suspended by the Code Enforcement Office in the event the permittee fails to comply with any provision of this section, including amendments hereto.

**§ 110-51.1. Oil and gas exploration.** [Added 9-8-2011 by Ord. No. 2011-9]

A. Purpose. The purpose of this section is to provide for the health, safety and welfare of the residents of Fox Township and to protect the water resources of the Township through zoning and floodplain management provisions, for the reasonable development of land for oil and gas drilling. Oil and gas exploration, drilling and extraction operations involve activities that are economically important and will impact the Township. Accordingly, it is necessary and appropriate to adopt reasonable requirements for oil and gas resource development so that these resources can be obtained in a manner that is economically remunerative; that minimizes the potential impact on the residents of the Township; that prevents, reduces or mitigates depletion and degradation of surface water and groundwater resources; and which promotes sound practices of watershed management, including control of runoff and erosion.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

**APPLICANT** — Any person, owner, operator, partnership, company, corporation and its subcontractors and agents who has an interest in real estate for the purpose of exploring or drilling for, producing, or transporting oil or gas.

**BUILDING** — An occupied structure with walls and roof in which persons live or customarily work. The term shall not include a barn, shed or other storage building.

**COLLECTOR STREET** — A public street or road which, in addition to providing access to abutting lots, intercepts local streets and provides a route for carrying considerable volumes of local traffic to community facilities and arterial streets.

**COURSE** — The path taken by a stream, floodway or body of water.

**DEPARTMENT** — The Department of Environmental Protection of the Commonwealth.

**DERRICK** — Any portable framework tower mast and/or structure which is required or used in connection with drilling or reworking a well for the production of oil or gas.

**DRILLING PAD** — The area of surface operations surrounding the surface location of a well or wells, including water impoundments. Such area shall not include an access road to the drilling pad.

**FRACKING** — The process of injecting water, customized fluids, sand, steam, or gas into a gas well under pressure to improve gas recovery.

**LOCAL STREET** — A public street or road designed to provide access to abutting lots and to discourage through traffic.

**NATURAL GAS COMPRESSOR STATION** — A facility designed and constructed to compress natural gas that originates from a gas well or collection of such wells operating as a midstream facility for delivery of gas to a transmission pipeline, distribution pipeline, natural gas processing plant or underground storage field, including one or more natural gas compressors, associated buildings, pipes, valves, tanks and other equipment.

**NATURAL GAS PROCESSING PLANT** — A facility designed and constructed to remove materials such as ethane, propane, butane, and other constituents or similar substances from natural gas to allow such natural gas to be of such quality as is required or appropriate for transmission or distribution to commercial markets but not including facilities or equipment that is designed and constructed primarily to remove water, water vapor, oil or naturally occurring liquids from the natural gas.

**OIL AND GAS** — Crude oil, natural gas, methane gas, coal bed methane gas, propane, butane and/or any other constituents or similar substances that are produced by drilling an oil or gas well.

**OIL AND GAS DEVELOPMENT OR DEVELOPMENT** — The well site preparation, construction, drilling, re-drilling, hydraulic fracturing, and/or site restoration associated with an oil or gas well of any depth; water and other fluid storage, impoundment and transportation used for such activities; and the installation and use of all associated equipment, including tanks, meters, and other equipment and structures, whether permanent or temporary; and the site preparation, construction, installation, maintenance and repair of oil and gas pipelines and associated equipment and other equipment and activities associated with the exploration for and production and transportation of oil and gas. The definition does not include natural gas compressor stations and natural gas processing plants or facilities performing the equivalent functions.

**OIL OR GAS WELL** — A pierced or bored hole drilled or being drilled in the ground for the purpose of, or to be used for, producing, extracting or injecting gas, oil, petroleum or another liquid related to oil or gas production or storage, including brine disposal.

**OIL OR GAS WELL SITE** — The location where facilities, structures, materials and equipment, whether temporary or permanent, necessary for or incidental to the preparation, construction,

drilling, production or operation of an oil or gas well. This definition also includes exploratory wells.

**OPERATOR** — The person designated as the well operator on the permit application or well registration.

**OWNER** — A person who owns, manages, leases, controls or possesses an oil or gas well.

**PUBLIC WATER SUPPLY WATERSHED** — A watershed that is a source of drinking water for a public or community water supply system.

**STORAGE WELL** — A well used for and in connection with the underground storage of natural gas, including injection into or withdrawal from an underground storage reservoir for monitoring or observation of reservoir pressure.

**STREAM** — A watercourse.

**WATERCOURSE** — A channel or conveyance of surface water having defined bed and banks, whether natural or artificial, with perennial or intermittent flow.

C. Zoning classifications. Subject to the provisions of this section:

- (1) An oil or gas well site, or a natural gas compressor station, or a natural gas processing plant, or any similar facilities performing the equivalent functions shall be considered a conditional use within the Residential/Agricultural (RA) and Rural Residential (RR) Zoning Districts only, provided that the following setbacks can be met:
  - (a) The well site, compressor station and/or processor plant shall be at least 500 feet from any preexisting habitable occupied building which is located off the property where the oil or gas well is sited or from the pooled leased property.
  - (b) Drilling rigs, compressor stations, and processor plants shall be located a minimum setback distance of 100 feet from any boundary line of the leased area and public or private street. Exemption from this standard may be granted by the Township upon a showing by the operator that it is not feasible to meet the setback requirements from surface tract property lines and that adequate safeguards have or will be provided to justify the exemption.
  - (c) The drilling pad for the oil or gas well site shall have a setback of 1,000 feet from any stream or watercourse located within a public water supply watershed.
- (2) If above setback criteria cannot be met, such siting and/or use shall be prohibited within the Residential/Agricultural (RA) and Rural Residential (RR) Zones.
- (3) An oil or gas well site, or a natural gas compressor station, or a natural gas processing plant shall be prohibited in all other zones.

D. Applicability.

- (1) This section applies to all oil and gas well sites, natural gas compressor stations, and natural gas processing plants that will be permitted or constructed after the effective date of the section.

- (2) Oil and gas well sites, natural gas compressor stations, and natural gas processing plants that were permitted or constructed prior to the adoption of this section shall not be required to meet the requirements of this section, provided that any modification to an existing or permitted oil or gas well site that occurs after the effective date of this section and materially alters the size, type, location, number of wells and other accessory equipment or structures, or any physical modifications to an existing natural gas compressor station or natural gas processing plant shall require compliance with and a permit under this section.
- (3) Federal or state law or regulation preempts ordinance requirements that conflict with federal or state statute or regulation. The Township acknowledges that it is preempted from regulating the operational methods of the oil and gas industry and may only regulate land uses.

E. Permit requirement.

- (1) No oil or gas well site, natural gas compressor station, or natural gas processing plant or an addition to an existing oil or gas well site, natural gas compressor station, or natural gas processing plant shall be constructed or located within Fox Township unless a permit has been issued by the Township to the owner or operator approving the construction or preparation of the site for oil or gas development or construction of natural gas compressor stations or natural gas processing plants.
- (2) The permit application, or amended permit application, shall be accompanied by a fee as established in the Township's schedule of fees.
- (3) Any modification to an existing and permitted oil or gas well site that materially alters the size, location, number of wells or accessory equipment or structures or any modification to an existing natural gas compressor station or natural gas processing plant shall require a modification of the permit under this section. Like-kind replacements shall not require a permit modification.

F. Preapplication conferences.

- (1) Purpose. Before submitting an application, the applicant must meet with the Township staff to determine the requirements of and the procedural steps and timing of the application. The intent of this process is for the applicant to obtain necessary information and guidance from the Township staff before entering into any commitments or incurring substantial expenses with regard to the site and plan preparation.
- (2) Process. A preapplication conference is mandatory and shall not be deemed the beginning of the time period for review as prescribed by law. The preapplication conferences are intended for the benefit of the applicant in order to address the required permit submittals and are advisory only and shall not bind the Township to approve any application for a permit or to act within any time limit relative to the date of such conference.

G. Permit application.

- (1) The applicant shall provide to the Township at the time of permit application:

- (a) A narrative describing an overview of the project, including the number of acres to be involved, the number of wells to be drilled, and the location and number and description of equipment and structures to the extent known.
- (b) A narrative describing an overview of the project as it relates to natural gas compressor stations or natural gas processing plants.
- (c) The 911 address of the oil or gas well site, natural gas compressor station or natural gas processing plant as determined by the county for information of emergency responders.
- (d) The contact information of the individual or individuals responsible for the operation and activities at the oil or gas well site shall be provided to the Township and all emergency responders. Such information shall include a phone number where such individual or individuals can be contacted 24 hours per day, 365 days a year. Annually, or upon any change of relevant circumstances, the applicant shall update such information and provide it to the Township and all emergency providers.
- (e) A location map of the oil or gas well site showing the approximate location of derricks, drilling rigs, equipment and structures and all permanent improvements to the site and any post-construction surface disturbance in relation to natural and other surroundings. Included in this map shall be an area within the development site for the location and parking of vehicles and equipment used in the transportation of personnel and/or development and use of the site. Such location shall be configured to allow the normal flow of traffic on public streets to be undisturbed.
- (f) A location map of the natural gas compressor station or natural gas processing plant, including any equipment and structures and all permanent improvements to the site.
- (g) A narrative and map describing the manner and routes for the transportation and delivery of equipment, machinery, water, chemicals and other materials used in the siting, drilling, construction, maintenance and operation of the oil or gas well site.
- (h) A certification or evidence satisfactory to the Township that, prior to the commencement of any activity at the oil or gas well site, the applicant shall have accepted and complied with any applicable bonding and permitting requirements and shall have entered into a Township roadway maintenance and repair agreement with the Township, in a form acceptable to the Township Solicitor, regarding the maintenance and repair of the Township streets that are to be used by vehicles for site construction, drilling activities and site operations.
- (i) A description of, and commitment to maintain, safeguards that shall be taken by the applicant to ensure that Township streets utilized by the applicant shall remain free of dirt, mud and debris resulting from site development activities, and the applicant's assurance that such streets will be promptly swept or cleaned

if dirt, mud and debris occur as a result of applicant's usage.

- (j) Verification that a copy of the operation's Preparedness, Prevention and Contingency Plan has been provided to the Township and all emergency responders.
  - (k) A statement that the applicant, upon changes occurring to the operation's Preparedness, Prevention and Contingency Plan, will provide to the Township and all emergency responders the dated revised copy of the Preparedness, Prevention and Contingency Plan while drilling activities are taking place at the oil or gas well site.
  - (l) Assurance that, at least 30 days prior to site preparation, the applicant is requested to provide an appropriate site orientation and training course of the Preparedness, Prevention and Contingency Plan for all emergency responders. The cost and expense of the orientation and training shall be sole responsibility of the applicant. The applicant shall not be required to hold more than one site orientation and training course annually under this section.
  - (m) A copy of the documents submitted to the department, or if no document has been submitted to the department, a narrative describing the environmental impacts of the proposed project on the site and surrounding land and measures proposed to protect or mitigate such impacts.
  - (n) A copy of all permits and plans from appropriate regulatory agencies or authorities issued in accordance to environmental requirements.
  - (o) A copy of all permits and plans from the appropriate regulatory agencies or authorities issued in accordance with applicable laws and regulations for the proposed use.
- (2) Within 15 business days after receipt of a permit application and the required fee, the Township will determine whether the application is complete and adequate and advise the applicant accordingly.
  - (3) If the application is complete and fulfills the requirements of this section, the Township shall issue or deny a permit within 30 days following the date the complete application was submitted.
  - (4) If the application is incomplete and/or inadequate, the municipality will notify the applicant of the missing or inadequate material and, upon receiving said material, issue or deny the permit within 30 days following receipt.

#### H. Design and installation.

- (1) Access.
  - (a) No oil or gas well site shall have access solely through a local street. Whenever possible, access to the oil or gas well site should be from a collector street.
  - (b) Accepted professional standards pertaining to minimum traffic sight distances for all access points shall be adhered to.

(2) Structure height.

- (a) Permanent structures associated with an oil and gas site, both principal and accessory, shall comply with the height regulations for the zoning district in which the oil or gas well site is located.
- (b) Permanent structures associated with natural gas compressor stations or natural gas processing plants shall comply with the height regulations for the zoning district in which the natural gas compressor station or natural gas processing plant is located.
- (c) There shall be an exemption to the height restrictions contained in this section for the temporary placement of drilling rigs, drying tanks, and other accessory uses necessary for the actual drilling or re-drilling of an oil or gas well. The duration of such exemption shall not exceed the actual time period of drilling or re-drilling of an oil or gas well; provided, further, that the time period of such drilling and exemption shall not exceed six months. The operator shall give the Township prior written notice of the beginning date for its exercise of the exemption.

(3) Screening and fencing.

- (a) Security fencing shall not be required at oil or gas well sites during the initial drilling or re-drilling operations, as long as manned twenty-four-hour on-site supervision and security are provided.
- (b) Upon completion of drilling or re-drilling, security fencing consisting of a permanent chain-link fence shall be promptly installed at the oil or gas well site to secure wellheads, storage tanks, separation facilities, water or liquid impoundment areas, and other mechanical and production equipment and structures on the oil or gas well site.
- (c) Security fencing shall be at least six feet in height equipped with lockable gates at every access point and having openings no less than 12 feet wide.
- (d) Emergency responders shall be given means to access an oil or gas well site in case of an emergency.
- (e) Warning signs shall be placed on the fencing surrounding the oil or gas well site providing notice of the potential dangers and the contact information in case of an emergency.
- (f) In construction of oil or gas well sites, the natural surroundings should be considered and attempts made to preserve existing trees and other native vegetation.

(4) Lighting.

- (a) Lighting at the oil or gas well site, or other facilities associated with oil and gas drilling development, either temporary or permanent, shall be directed downward and inward toward the activity, to the extent practicable, so as to minimize the glare on public roads and nearby buildings within 100 feet of the

oil or gas well development.

- (b) Lighting at a natural gas compressor station or a natural gas processing plant shall, when practicable, be limited to security lighting.

(5) Noise.

- (a) The applicant shall take the following steps to minimize, to the extent possible, noise resulting from the oil or gas well development.
- (b) Prior to the drilling of an oil or gas well or the operation of a natural gas compressor station or a natural gas processing plant, the applicant shall establish, by generally accepted testing procedures, the continuous seventy-two-hour ambient-noise level at the nearest property line of a residence or public building, school, medical, emergency or other public facility or 100 feet from the nearest residence or public building, medical, emergency or other public facilities, whichever point is closer to the affected residence or public building, school, medical, emergency or other public facility. In lieu of the establishment of the ambient noise level established by the continuous seventy-two-hour test, the applicant may assume and use, for the purpose of compliance with this section, a default ambient noise level of 55 dBA. The sound level meter used in conducting any evaluation shall meet the American National Standard Institute's standard for sound meters or an instrument and the associated recording and analyzing equipment, which will provide equivalent data.
- (c) The applicant shall provide the Township documentation of the established ambient noise level prior to starting oil or gas drilling and/or production operations.
- (d) The noise generated during the oil and gas operations, including any water withdraw sites, or the natural gas compressor station or the natural gas processing plant shall not exceed the average ambient noise level established in Subsection H(5)(b) by more than:
  - [1] Five decibels during drilling activities.
  - [2] Ten decibels during hydraulic fracturing operations.
  - [3] Five decibels for a gas compressor station or a natural gas processing plant.
  - [4] The allowable increase in Subsection H(5)(c) shall not exceed the average ambient noise level for more than 10 minutes within any one-hour period.
- (e) Effective sound mitigation devices shall be installed to permanent facilities to address sound levels that would otherwise exceed the noise level standards when located near a residence, public building, school, medical, emergency or other public facilities.
- (f) Exemption from the standards established in this subsection may be granted by the Township during the drilling stage or at the oil or gas well site, or the gas

compressor station, or at the natural gas processing plant, for good cause shown and upon written agreement between the applicant and the Township.

- (g) Complaints received by the Township shall be addressed by the applicant, within 24 hours following receipt of notification by continuously monitoring for a period of 48 hours at the nearest property line to the complainant's residential or public building or 100 feet from the complainant's residential or public building, school, medical, emergency or other public facilities, whichever is closer. The applicant shall report the findings to the Township and shall mitigate the problem to the allowable level if the noise level exceeds the allowable rate.
  - (h) Natural gas compressor stations and natural gas processing plants or facilities performing the equivalent functions shall be constructed so as to mitigate sound levels or have installed mitigation devices to mitigate sound levels that would otherwise exceed the ambient noise level standards at residential or public buildings, medical, emergency or other public facilities.
- (6) Prohibitions.
- (a) No drilling shall be allowed in the floodway designated as such in the Flood Insurance Study (FIS) and shown on the Federal Emergency Management Agency (FEMA) maps.
  - (b) Oil and gas drilling in the one-hundred-year floodplain is discouraged but may be permitted by the Township in its discretion if the following provisions are met:
    - [1] If no other area provides access to the oil or gas deposit, then oil and gas drilling may be permitted in the floodplain. The applicant must provide conclusive documentation that no other location allows access to the oil or gas deposit other than a location within the floodplain.
    - [2] An adequate emergency evacuation plan shall have been produced by the applicant and filed with the Township.
    - [3] No storage of chemicals shall be permitted within the floodplain. An exemption from this requirement may be granted by the Township if the applicant can show that such storage will not potentially cause any harm to property, persons or the environment in the case of a one-hundred-year flood and further provides security to the Township assuring the applicant's ability to remedy any damage or injury that may occur.
    - [4] Only necessary and needed structures will be permitted within the floodplain.
    - [5] All structures within the flood zone shall be designed to withstand a one-hundred-year storm event.
    - [6] An engineer registered in Pennsylvania and qualified to present such documentation that structures will not cause additional flooding on

adjacent, upstream and/or downstream properties shall provide such documentation to the Township.

- I. Compliance with other laws required. All oil and gas wells shall also comply with the rules and regulations as established by the Department of Environmental Protection. If any regulations contained herein should conflict with the regulations established by the Department of Environmental Protection, the more stringent of the two shall be required.

**§ 110-51.2. Special accessory use: windmills for commercial and industrial use.**

- A. Purpose. The purpose of this section is to provide for the construction and operation of wind energy facilities in Fox Township, subject to reasonable conditions that will protect the public health, safety and welfare.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

APPLICANT — The person or entity filing an application under this section.

FACILITY OWNER — The entity or entities having an equity interest in the wind energy facility, including their respective successors and assigns.

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

NONPARTICIPATING LANDOWNER — Any landowner except those on whose property all or a portion of a wind energy facility is located pursuant to an agreement with the facility owner or operator.

OCCUPIED BUILDING — A residence, school, hospital, church, public library or other building used for public gathering that is occupied or in use when the permit application is submitted or is occupied on a seasonal basis.

OPERATOR — The entity responsible for the day-to-day operation and maintenance of the wind energy facility.

TURBINE HEIGHT — The distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane.

WIND ENERGY FACILITY — An electric generating facility, whose main purpose is to supply electricity, consisting of one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

WIND TURBINE — A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator and includes the nacelle, rotor, tower, and pad transformer, if any.

- C. Applicability.

- (1) This section applies to all wind energy facilities proposed to be constructed after the effective date of the section, except that this section is not intended to apply to stand-alone wind turbines constructed primarily for residential or farm use.

- (2) Wind energy facilities constructed prior to the effective date of this section shall not be required to meet the requirements of this section, provided that any physical modification to an existing wind energy facility that materially alters the size, type and number of wind turbines or other equipment shall require a permit under this section.
- D. Permitted use. A wind energy facility shall be considered a conditional use in the following zones: Residential/Agricultural (R/A).
- E. Permit requirement.
- (1) No wind energy facility or addition of a wind turbine to an existing wind energy facility shall be constructed or located within Fox Township unless a permit has been issued to the facility owner or operator approving construction of the facility under this section.
  - (2) The permit application or amended permit application shall be accompanied with a fee, payable to the Township of Fox, in the amount as set forth from time to time by resolution of the Board of Supervisors.
  - (3) Any physical modification to an existing and permitted wind energy facility that materially alters the size, type and number of wind turbines or other equipment shall require a permit modification under this section. Like-kind replacements shall not require a permit modification.
- F. Permit application.
- (1) The permit application shall demonstrate that the proposed wind energy facility will comply with this section.
  - (2) Among other things, the application shall contain the following:
    - (a) A narrative describing the proposed wind energy facility, including an overview of the project; the project location; the approximate generating capacity of the wind energy facility; the approximate number, representative types and height or range of heights of wind turbines to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.
    - (b) An affidavit or similar evidence of agreement between the property owner and the facility owner or operator demonstrating that the facility owner or operator has the permission of the property owner to apply for necessary permits for construction and operation of the wind energy facility.
    - (c) Identification of the properties on which the proposed wind energy facility will be located, and the properties adjacent to where the wind energy facility will be located.
    - (d) A site plan showing the planned location of each wind turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the wind energy facility to the substation(s), ancillary equipment, buildings, and structures, including permanent meteorological towers,

associated transmission lines, and layout of all structures within the geographical boundaries of any applicable setback.

- (e) Documents related to decommissioning.
  - (f) Other relevant studies, reports, certifications and approvals as may be reasonably requested by the Fox Township to ensure compliance with this section.
- (3) Within 30 days after receipt of a permit application, Fox Township will determine whether the application is complete and advise the applicant accordingly.
  - (4) Within 60 days of a completeness determination, Fox Township will schedule a public hearing. The applicant shall participate in the hearing and be afforded an opportunity to present the project to the public and municipal officials and answer questions about the project. The public shall be afforded an opportunity to ask questions and provide comment on the proposed project.
  - (5) Within 120 days of a completeness determination or within 45 days after the close of any hearing, whichever is later, Fox Township will make a decision whether to issue or deny the permit application.
  - (6) Throughout the permit process, the applicant shall promptly notify Fox Township of any changes to the information contained in the permit application.
  - (7) Changes to the pending application that do not materially alter the initial site plan may be adopted without a renewed public hearing.

G. Design and installation.

- (1) Design safety certification. The design of the wind energy facility shall conform to applicable industry standards, including those of the American National Standards Institute. The applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.
- (2) Uniform Construction Code. To the extent applicable, the wind energy facility shall comply with the Pennsylvania Uniform Construction Code, 34 Pa. Code §§ 403.1 through 403.142.
- (3) Controls and brakes. All wind energy facilities shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
- (4) Electrical components. All electrical components of the wind energy facility shall conform to relevant and applicable local, state and national codes and relevant and applicable international standards.
- (5) Visual appearance; power lines.

- (a) Wind turbines shall be a nonobtrusive color such as white, off-white or gray.
  - (b) Wind energy facilities shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
  - (c) Wind turbines shall not display advertising, except for reasonable identification of the turbine manufacturer, facility owner and operator.
  - (d) On-site transmission and power lines between wind turbines shall, to the maximum extent practicable, be placed underground.
- (6) Warnings.
- (a) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
  - (b) Visible, reflective, colored objects, such as flags, reflectors, or tape, shall be placed on the anchor points of guy wires and along the guy wires up to a height of 10 feet from the ground.
- (7) Climb prevention/locks.
- (a) Wind turbines shall not be climbable up to 15 feet above the ground surface.
  - (b) All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by nonauthorized persons.

#### H. Setbacks.

- (1) Occupied buildings.
- (a) Wind turbines shall be set back from the nearest existing occupied building, including seasonal dwellings, located on the participating landowner's property a distance not less than the normal setback requirements for that zoning classification or two times the turbine height, whichever is greater. The setback distance shall be measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.
  - (b) Wind turbines shall be set back from the nearest existing occupied building, or seasonal dwelling, located on a nonparticipating landowner's property (i.e., a neighboring property) a distance of not less than 10 times the hub height or 1,250 feet, whichever is greater, as measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.
- (2) Property lines. All wind turbines shall be set back from the nearest property line a distance of not less than the normal setback requirements for that zoning classification or 1.1 times the turbine height, whichever is greater. The setback distance shall be measured to the center of the wind turbine base.
- (3) Public roads. All wind turbines shall be set back from the nearest public road a distance of not less than two times the turbine height, as measured from the right-of-way line of the nearest public road to the center of the wind turbine base.

I. Waiver of setbacks.

- (1) Property owners may waive the setback requirements in Subsection H(1)(6) (occupied buildings on nonparticipating landowner's property) and H(2) (Property lines) by signing a waiver that sets forth the applicable setback provision(s) and the proposed changes.
- (2) The written waiver shall notify the property owner(s) of the setback required by this section, describe how the proposed wind energy facility is not in compliance, and state that consent is granted for the wind energy facility to not be set back as required by this section.
- (3) Any such waiver shall be recorded in the Recorder of Deeds Office for the county where the property is located. The waiver shall describe the properties benefited and burdened and advise all subsequent purchasers of the burdened property that the waiver of setback shall run with the land and may forever burden the subject property.
- (4) Upon application, Fox Township may waive the setback requirement for public roads for good cause.

J. Use of public roads.

- (1) The applicant shall identify all state and local public roads to be used within the Fox Township to transport equipment and parts for construction, operation or maintenance of the wind energy facility.
- (2) The Township's engineer or a qualified third-party engineer hired by the Fox Township and paid for by the applicant shall document road conditions prior to construction. The engineer shall document road conditions again 30 days after construction is complete or as weather permits.
- (3) Fox Township may bond the road in compliance with state regulations.
- (4) Any road damage caused by the applicant or its contractors shall be promptly repaired at the applicant's expense.
- (5) The applicant shall demonstrate that it has appropriate financial assurance to ensure the prompt repair of damaged roads.

K. Local emergency services.

- (1) The applicant shall obtain a physical address and provide a copy of the project summary and site plan to local emergency services, including paid or volunteer fire department(s).
- (2) Upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the wind energy facility.

L. Noise and shadow flicker.

- (1) Audible sound from a wind energy facility shall not exceed 55 dBA, as measured at

the exterior of any occupied building on a nonparticipating landowner's property. Methods for measuring and reporting acoustic emissions from wind turbines and the wind energy facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 - 1989 titled "Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems, Volume I: First Tier.

- (2) The facility owner and operator shall make reasonable efforts to minimize shadow flicker to any occupied building on a nonparticipating landowner's property.

M. Waiver of noise and shadow flicker provisions.

- (1) Property owners may waive the noise and shadow flicker provisions of this section by signing a waiver of their rights.
- (2) The written waiver shall notify the property owner(s) of the sound or flicker limits in this section, describe the impact on the property owner(s), and state that the consent is granted for the wind energy facility to not comply with the sound or flicker limit in this section.
- (3) Any such waiver shall be recorded in the Recorder of Deeds Office of the County where the property is located. The waiver shall describe the properties benefited and burdened and advise all subsequent purchasers of the burdened property that the waiver of sound or flicker limit shall run with the land and may forever burden the subject property.

N. Signal interference. The applicant shall make reasonable efforts to avoid any disruption or loss of radio, telephone, television or similar signals and shall mitigate any harm caused by the wind energy facility.

O. Liability insurance. There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least \$1 million per occurrence and \$1 million in the aggregate. Certificates shall be made available to Fox Township upon request.

P. Decommissioning.

- (1) The facility owner and operator shall, at its expense, complete decommissioning of the wind energy facility or individual wind turbines within 12 months after the end of the useful life of the Facility or individual wind turbines. The wind energy facility or individual wind turbines will be presumed to be at the end of their useful life if no electricity is generated for a continuous period of 12 months.
- (2) Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, foundations to a depth of 36 inches, and any other associated facilities.
- (3) Disturbed earth shall be graded and reseeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
- (4) An independent and certified professional engineer shall be retained to estimate the total cost of decommissioning ("decommissioning costs") without regard to salvage

value of the equipment and the cost of decommissioning net salvage value of the equipment ("net decommissioning costs"). Said estimates shall be submitted to the Fox Township after the first year of operation and every fifth year thereafter.

- (5) The facility owner or operator shall post and maintain decommissioning funds in an amount equal to net decommissioning costs, provided that at no point shall decommissioning funds be less than 25% of decommissioning costs. The decommissioning funds shall be posted and maintained with a bonding company or federal or commonwealth chartered lending institution chosen by the facility owner or operator and participating landowner posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the Commonwealth and is approved by Fox Township.
- (6) Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to the Fox Township.
- (7) If the facility owner or operator fails to complete decommissioning within the period prescribed by Subsection P(1), then the landowner shall have six months to complete decommissioning.
- (8) If neither the facility owner or operator nor the landowner complete decommissioning within the periods prescribed by Subsection P(1) and (7), then Fox Township may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a participating landowner agreement to Fox Township shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that Fox Township may take such action as necessary to implement the decommissioning plan.
- (9) The escrow agent shall release the decommissioning funds when the facility owner or operator has demonstrated and the municipality concurs that decommissioning has been satisfactorily completed or upon written approval of the municipality in order to implement the decommissioning plan.

Q. Public inquiries and complaints.

- (1) The facility owner and operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.
- (2) The facility owner and operator shall make reasonable efforts to respond to the public's inquiries and complaints.

R. Remedies.

- (1) It shall be unlawful for any person, firm, or corporation to violate or fail to comply with or take any action which is contrary to the terms of the section, or any permit issued under the section, or cause another to violate or fail to comply, or to take any action which is contrary to the terms of the section or any permit issued under the section.

- (2) If Fox Township determines that a violation of the section or the permit has occurred, the Fox Township shall provide written notice to any person, firm, or corporation alleged to be in violation of this section or permit. If the alleged violation does not pose an immediate threat to public health or safety, Fox Township and the parties shall engage in good faith negotiations to resolve the alleged violation. Such negotiations shall be conducted within 30 days of the notice of violation.
- (3) If, after 30 days from the date of the notice of violation, the Fox Township determines, in its discretion, that the parties have not resolved the alleged violation, the Fox Township may institute civil enforcement proceedings or any other remedy at law to ensure compliance with the section or permit.

**§ 110-51.3. Special accessory use: windmills for residential use.** [Added 9-8-2011 by Ord. No. 2011-9]

- A. Windmills for residential wind energy generation shall only be permitted by conditional use approval of the Board of Supervisors in the Residential/Agricultural (R/A), Residential Rural (RR) and Residential Suburban (RS) Zones only. It shall be the applicant's burden to demonstrate satisfaction of all conditional use and other requirements.
- B. Except as otherwise provided in the Township Zoning Ordinance, windmills shall be considered accessory structures and the generation of energy as an accessory use only in the above listed residential districts and only in accordance with this section. Power generated by a windmill under this section shall not exceed 10 KW. There shall be no commercial use of the windmills for the generation of energy, except for that energy generated in excess of the requirements of the property and purchased by a public utility in accordance with the law or other government regulations.
- C. Wind energy generation shall be limited to three windmills per lot or tract of land, provided that the owner demonstrates a clear need for such.
- D. The applicant shall demonstrate that the proposed site has sufficient wind for the continued and proper operation of the windmill.
- E. The maximum height of any windmill, measured from the average approved finished grade at the perimeter of the windmill foundation to the highest vertical point of a blade at its maximum vertical position, shall not exceed 45 feet.
- F. No windmill shall be placed in a front yard.
- G. Only single-pole (monopole) windmill structures shall be permitted. A windmill pole shall be self-supporting upon its foundation (i.e., no guy wires).
- H. No windmill shall be placed closer to a property line, occupied structure, utility, utility line, structure or fuel source than the distance measured by its height plus 25% of its height (measured in feet).
- I. No windmill blade at its lowest point shall be closer to the surface of the ground than 15 feet.
- J. The proposed location of the windmill shall be demonstrated to protect and maintain

existing viewsheds of the subject property and those of surrounding properties. In addition, the design color and other visual features of the windmill shall be designed and installed in such a manner so as to create the least visual impact practicable. The applicant shall demonstrate compliance with this section by, among other things, providing photographic perspectives of the proposed site from all sides of the property, adjacent roadways and neighboring properties (with permission of the owners).

- K. The proposed location and operation of the windmill shall be demonstrated not to interfere with any broadcast, radio, wireless or other telecommunication signals or facilities. In all cases, the location of a windmill shall be clear of and shall not interfere with any existing, trees, structures, wires and the like.
- L. All utilities, lines, cables, wires and other connections to or from the windmill and any other structure associated with the windmill shall be at or below grade, except as otherwise permitted by the Board of Supervisors.
- M. Noise emitted from the operation of the windmill shall be in accordance with Township ordinances.
- N. Windmills shall not be lighted except as otherwise required by law.
- O. There shall be no antennas, advertising or other items or material affixed to or otherwise placed on the windmill, except those required for safety or otherwise permitted by the Township.
- P. Access to a windmill shall not be provided any lower than 15 feet at the highest point of the windmill base. Other proposed means of access and/or the limitation thereof and security therefor must be approved by the Board of Supervisors as part of the conditional use process.
- Q. Caution signs shall be placed at the setback limit warning of ice and blade throws. Signs shall be placed at one-hundred-foot intervals, no lower than three feet high and a minimum of one square foot, maximum of two square feet, reading "CAUTION: FALLING OBJECTS." Each sign shall also contain the name and address of the property owner.
- R. A site plan shall be prepared and certified by a registered professional engineer and submitted with and as part of any conditional use application. Applications submitted without a site plan shall be returned to the applicant as incomplete. The site plan shall contain, at a minimum, in addition to the other requirements of this section, the following:
  - (1) Property boundaries and identities of neighboring property owners.
  - (2) Location of all man-made structures on the property, as well as all man-made structures within 200 feet of the proposed windmill.
  - (3) All wires, and overhead structures, both natural and man-made.
  - (4) Soil type(s) where the foundation will be constructed.
  - (5) Complete structural and construction details, including narrative descriptions, demonstrating how the foundation, support and other parts of the windmill will be constructed, installed and maintained, together with the safety features proposed to

prohibit unauthorized access.

- (6) All new structures, together with any alterations to or modifications of existing structures, proposed in connection with the windmill.
  - (7) The applicant shall demonstrate that should the windmill fall, it will fall within the setback prescribed within this section; otherwise, the applicant shall provide sufficient setbacks in addition to those prescribed to comply with the setback area demonstrated by the applicant. In no case shall the setbacks be reduced below those prescribed.
  - (8) Information regarding the speed of operation and the braking mechanism(s). No windmills shall be permitted which lack an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and/or excessive pressure on the windmill or any of its component parts.
- S. The Township may require the submission of additional information at any time prior to, during or following the conditional use hearing(s).
- T. All conditions of any conditional use granted by the Township shall be obligations of any succeeding owners of the property. To assist with this subsection, any conditional use approval permitting a windmill shall be recorded verbatim against the property in the County Office of the Recorder of Deeds. In addition, any change in ownership of the property shall be registered with the Township within 30 days of said change in ownership.
- U. Removal of windmills.
- (1) Any windmill which has not been in active and continuous service for a period of one year shall be removed from the property to a place of safe and legal disposal.
  - (2) All structures' enclosures accessory to the windmill shall also be completely removed from the property to a place of safe and legal disposal.
  - (3) The former windmill site shall be restored to as natural condition as possible within six months of the cessation of active and continuous use.
- V. Certifications and inspections.
- (1) National and state standards. The applicant shall show that all applicable manufacturer's, the Commonwealth of Pennsylvania and U.S. standards for the construction, operation and maintenance of the proposed windmill have been met, including, without limitation, backfeed prevention and lightning grounding. Windmills shall be built, operated and maintained to the applicable industry standards of the Institute of Electrical and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI). The applicant for a windmill shall furnish evidence, over the signature of a professional engineer licensed to practice in the Commonwealth of Pennsylvania, that such windmill is in compliance with such standards.
  - (2) Annual inspection report. Whenever a windmill is authorized by conditional use, an annual inspection report prepared by an independent professional engineer licensed in the Commonwealth of Pennsylvania shall be obtained by the property owner and

submitted to the Township not later than 30 days following each anniversary of the date on which the Township certified the windmill ready for operation. The inspection report shall certify the structure soundness and proper operation of the windmill. The requirement to submit the annual report shall be such that it shall be required even if not specifically included in or as part of a conditional use decision.

- W. No windmill shall commence operation until the Township has certified in writing that the conditions of this section have been satisfied and the windmill has been constructed and installed in accordance with the approved plans and specifications.

ARTICLE VI  
**Administration, Enforcement and Procedures**

**§ 110-52. Purpose.**

This article establishes the procedures and framework necessary for the enforcement and administration of this chapter in accordance with the Pennsylvania Municipalities Planning Code.<sup>20</sup>

**§ 110-53. Zoning Officer.**

- A. Appointment. The Zoning Officer shall be appointed by the Board of Supervisors to administer and enforce this chapter. The Zoning Officer shall not hold any elective office within the Municipality. No building, structure or sign shall be erected, constructed, moved, added to or structurally altered, nor shall land be put to any use without a permit issued by the Zoning Officer for that purpose.
- B. Legal framework. The Zoning Officer shall have all the duties and powers conferred by this chapter in addition to those reasonably implied for that purpose. He/she shall not issue a zoning permit in connection with any contemplated erection, construction, alterations, repair, extension, replacement and/or use of any building, structure, sign and/or land unless it first conforms with the requirements of this chapter, with all other ordinances of the Township and with the laws of the Commonwealth of Pennsylvania.
- C. Duties and powers of the Zoning Officer. It shall be the duty of the Zoning Officer to enforce literally the provisions of this chapter and amendments. He/she shall have such other duties and powers as are conferred upon him/her by this chapter or as are reasonably implied for that purpose, or as may be, from time to time, conferred upon him/her by the Board of Supervisors. The Zoning Officer's powers and duties shall include but are not limited to the following:
- (1) Receive applications for and issue zoning permits and sign permits as permitted by the terms of this chapter.
  - (2) Keep an official record of all business and activities, including complaints of a violation of any of the provisions of this chapter and the action taken consequent to each such complaint. All such records shall be open and available for public inspection. File copies of all applications received, permits issued and reports and

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20. Editor's Note: See 53 P.S. § 10101 et seq.

inspections made in connection with any structure, building, sign and/or land shall be retained in hard copy as long as they remain in existence.

- (3) At his/her discretion, examine, or cause to be examined, all buildings, structures, signs and/or land or portions thereof for which an application has been filed for the erection, construction, alteration, repair, extension, replacement and/or use before issuing any permit, and otherwise as required to fulfill her/his duties. Thereafter, he/she may make such inspections during the completion of work for which a permit has been issued. Upon completion of the building, structure, sign and/or change, a final inspection shall be made, and all violations of the approved plans or zoning permit shall be noted, and the holder of the zoning permit shall be notified of the discrepancies. He/she shall have the power to enter any building or structure or enter upon any land at any reasonable hour in the course of his/her duties. Should such access be prevented by any property owner, lessee or other person, he/she shall have the authority, with the approval of the Board of Supervisors, to obtain a search warrant for said property.
- (4) Issue permits for special exception uses, conditional uses and/or variances only after such uses and/or buildings have been approved in writing by either the Zoning Hearing Board, in the case of special exceptions and/or variances, and the Board of Supervisors, in the case of conditional uses.
- (5) Maintain responsibility for keeping this chapter and the Official Zoning Map up to date so as to include all amendments thereto.
- (6) Issue certificates of zoning compliance in accordance with the provisions of this chapter.
- (7) Investigate alleged violations and address violations to this chapter.
- (8) Prepare and submit annual reports, as required in this chapter, to the Planning Commission and Board of Supervisors.
- (9) Identify and register nonconforming uses and structures created as a result of the adoption of this chapter or created as a result of amendments thereto.
- (10) Any other such duties as directed by Board of Supervisors.

**§ 110-54. Administration and administrative procedures.**

- A. Applicability of chapter. No permit shall be issued except in conformity with the provisions of this chapter, or upon written order from the Zoning Hearing Board in the form of a special exception or variance, or upon written order from the Board of Supervisors in the form of a conditional use, or as otherwise provided for by this chapter, any applicable laws or any court of competent jurisdiction.
- B. Requirement for permit. It shall be unlawful to commence the excavation for or the construction or alteration of any buildings until the Zoning Officer has issued a zoning permit for such work. A zoning permit shall be required for all construction or alterations. No zoning permit shall be required for repairs to or maintenance of any building, structure or grounds, provided such repairs do not change the use or otherwise violate the provisions

of this chapter. All applications shall be made in writing and shall be accompanied by all applicable fees and two sets of plans showing, at a minimum, the following information to be considered as a complete application, if applicable:

- (1) Actual dimensions and shape of the lot to be used.
- (2) The exact size and location on the lot of buildings, structures or signs, existing and/or proposed, including any extensions thereto.
- (3) The number of dwelling units.
- (4) A parking plan, indicating the number, size and location of all off-street parking spaces and/or required loading areas for the specific use(s).
- (5) Statement indicating any existing or proposed use(s).
- (6) Height of any structure, building or sign, existing or proposed.
- (7) Statement indicating the provider of essential services such as water supply, sewage disposal, electrical service, natural gas service, etc.
- (8) The name, address and telephone number of the property owner, the applicant (if different from the owner) and the estimated value of any proposed improvements.
- (9) Any other information deemed necessary by the Zoning Officer in order to determine compliance with this chapter and any other applicable ordinances.

C. Action by Zoning Officer. One copy of the submitted plans and associated information shall be returned to the applicant by the Zoning Officer after he/she shall have made a determination of compliance with the provisions of this chapter and other applicable ordinances.

- (1) Said plans shall be either marked approved or disapproved and shall be attested to it by the signature of the Zoning Officer.
- (2) Plans that are marked approved shall be returned with a permit and shall note any conditions of approval.
- (3) Plans that are marked disapproved shall be accompanied by a written statement of the deficiencies of said plans.

D. Review period. All applications shall be reviewed and marked for approval or disapproval within 30 days from the date of submission of a complete application.

E. Disapproval procedure. All applications marked for disapproval shall be accompanied by a letter informing the applicant of his/her rights for appeal and shall be accompanied by a hearing application.

F. Forms. Applications for a permit shall be submitted in such form as the Zoning Officer may prescribe.

G. Effective period. Zoning permit(s) shall be valid for a period of 180 days from date of issuance if work described in any permit has not begun. If work described in any zoning permit has begun within the one-hundred-and-eighty-day period, said permit shall expire

after two years from the date of issuance thereof.

- (1) If work is not initiated and/or completed within the timeframes noted in Subsection G, continuation of work approved in the original application may only occur after payment of additional application costs as per § 110-58.
- (2) Work initiated prior to the issuance of a zoning permit will be subject to fees double those outlined in § 110-58.

H. Zoning compliance. A certificate of zoning compliance shall be required upon the completion of any work permitted under this chapter. It shall be unlawful to use and/or occupy any structure, building and/or land or portions thereof, in any manner until such certificate of zoning compliance has been issued.

- (1) The application for certificate of zoning compliance shall be submitted in such form as the Zoning Officer may prescribe when all construction and related activities are complete.
- (2) The Zoning Officer shall inspect any use, structure, building, sign and/or land or portions thereof, and shall determine the compliance therewith to the provisions of this chapter.
- (3) Upon determination of compliance with the provisions of this chapter and with any conditions listed in the zoning permit, he/she shall issue a certificate of zoning compliance.
- (4) Certificate of zoning compliance shall be granted or refused in writing within 10 days from the date of application for certificate of zoning compliance. In the event that such certificate of zoning compliance is refused, the reasons for said refusal shall be included in the written notice of refusal.

I. Performance standards. In the case of permits for which performance standards are imposed as a condition of approval, no certificate of zoning compliance shall become permanent until 30 days after the use is fully operating and upon reinspection by the Zoning Officer to determine compliance with all performance standards.

- (1) The applicant shall submit documentation of compliance with all relevant performance standards as requested by the Zoning Officer.
- (2) Upon completion of said reinspection, the Zoning Officer shall notify the applicant, in writing, that the use is in full compliance with all performance standards and that the certificate of zoning compliance is permanent or that the use is not in compliance and that the certificate of zoning compliance is still temporary.
- (3) In the event that the required performance standards are not met within 90 days after the start of operation of said use, the certificate of zoning compliance shall be withdrawn, and the use shall be ordered to cease and desist operations until such time as the compliance with the performance standards can be determined by the Zoning Officer.

J. Exemptions. 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 a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience and 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 such 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.

**§ 110-55. Enforcement.**

- A. Notice. The Zoning Officer shall serve written notice of violation upon any person, firm, corporation or partnership deemed responsible for violating any of the provisions of this chapter or in violation of any detailed statement or plan approved thereunder. Such written notice shall be served personally or by certified mail, indicating the nature of the violation and ordering the action necessary to correct same. Such notice shall contain, at a minimum, the following information:
- (1) The party deemed responsible for the violation and the name of the owner of record of the property in question.
  - (2) The date and location of the violation.
  - (3) The specific section of this chapter that has been violated.
  - (4) The specific action required to correct such violation.
  - (5) The time period within which such violation shall be corrected.
  - (6) The penalties that could be assessed for such violation.
  - (7) The right of the party to appeal the decision of the Zoning Officer and the procedures to be followed to file such appeal.
  - (8) The signature of the Zoning Officer.
- B. Noncompliance. Should such notice of violation not be complied with within the time period set forth in said notice, the Zoning Officer shall order the discontinuance of such unlawful use of structure, building, sign and/or land involved in said violation. The Zoning Officer shall also file a report of said noncompliance with the Board of Supervisors, and upon authorization from the Board of Supervisors, shall initiate legal action in accordance with the provisions of Subsection C of this chapter.
- (1) Causes of action. In case any building, structure, landscaping or land is erected, constructed, reconstructed, altered, converted, maintained or used in violation of this chapter, the Board of Supervisors shall have the power to authorize the Zoning Officer or Township Solicitor to initiate any appropriate action or proceeding to prevent, restrain, correct or abate such violation.
  - (2) When any such action is instituted by the Board of Supervisors, written notice shall be served by the municipality upon the owner or tenant of said property or use in violation.

- (3) The Zoning Hearing Board shall have initial jurisdiction for proceedings brought under this section. Any subsequent legal action shall be in accordance with Article X-A of the Pennsylvania Municipalities Planning Code.<sup>21</sup>
- C. Violations and penalties. Any person, partnership or corporation who or that has violated or permitted the violation of the provisions of this chapter shall, upon being found liable therefor in a civil enforcement proceeding, pay a judgment of not more than \$500, plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof.
- (1) Each day that a violation continues shall constitute a separate violation, unless the District Magistrate determines that there was a good faith basis for the continuance of the violation, in which case there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Magistrate, and thereafter each day that a violation continues shall constitute a separate violation.
  - (2) All judgments, costs and reasonable attorney fees collected for the violation of this chapter shall be paid over to the Township.
  - (3) Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Board of Supervisors the right to commence any action pursuant to this section.

**§ 110-56. Zoning Hearing Board.**

- A. Membership. The Board of Supervisors hereby creates a Zoning Hearing Board (ZHB), herein referred to as the ZHB, consisting of three members, and two alternate members, pursuant to Article IX of the Pennsylvania Municipalities Planning Code Act of 1967, P.L. 705, No. 246, as amended, who shall perform all the duties and have all the powers prescribed by said statute and as herein provided.
- B. Terms and related. The membership of the ZHB shall consist of three residents of the Township, appointed by the Board of Supervisors. The terms of office shall be three years. One member shall be appointed to serve until the first day of January of the year following the adoption of this chapter; one member until the first day of January of the second year following the adoption of this chapter; and one member until the first day of January of the third year following the adoption of this chapter.
- (1) There shall be two alternate members of the ZHB appointed by the Board of Supervisors. The term of office shall be three years. The terms for the alternate members shall coincide with the terms of the members as specified in Subsection B above.
    - (a) Alternate members, when seated pursuant to the provisions of Section 906 of Act 246 as amended by Acts 66 and 67 of 2000, (the Pennsylvania Municipalities Planning Code), shall be entitled to participate in all proceedings and shall have the powers and duties specified in the statute and this chapter.

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21. Editor's Note: See 53 P.S. § 10101 et seq.

- (b) Any alternate may participate in any proceeding or discussion of the ZHB but shall not be entitled to vote as a member nor be entitled to any compensation unless designated as a voting alternate member pursuant to Section 906 of the Pennsylvania Municipalities Planning Code Act of 1967, P.L. 705, No.246, as amended.
- (2) Members of the ZHB and alternate members of the ZHB shall hold no other office of the municipality.
- (3) Any member or alternate member of the ZHB may be removed for malfeasance, misfeasance or nonfeasance or for other just cause by a majority vote of the Board of Supervisors.
  - (a) A member or alternate member shall receive a minimum of 15 days' advance notice of the intent to take such a vote.
  - (b) A public hearing shall be held if the member or alternate member requests one in writing.
- (4) Vacancies shall be filled by appointment by the Board of Supervisors for the unexpired portion of the vacated term.
- C. Compensation. The members of the ZHB shall receive such compensation if and/or as shall be fixed by the Board of Supervisors, by resolution, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Board of Supervisors.
- D. Technical assistance. Within the limits of funds appropriated by the Board of Supervisors, the ZHB may employ or contract for secretaries, clerks, legal counsel, consultants and other technical or legal staff. The Solicitor to the ZHB shall not be the Solicitor of the municipality.
- E. Procedures. The ZHB may make, alter and rescind rules and forms for its procedure consistent with the ordinances of the Township and the laws of Pennsylvania.
  - (1) The ZHB shall keep full public records of its business.
  - (2) The records of the ZHB shall be the property of the Township.
  - (3) The ZHB shall submit a report of its activities to the Board of Supervisors as requested by the Board of Supervisors. The Board shall submit an annual report of its activities to the Board of Supervisors.
  - (4) Such rules as may be established by the ZHB shall continue in force and effect, until amended or repealed by the ZHB, by municipal ordinance or by federal or state law.
  - (5) The ZHB shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves.
  - (6) Meetings and hearings of the ZHB shall be held at the call of the Chairman and at such other times as the ZHB, by majority vote, may determine.
- F. Hearings. The ZHB shall conduct hearings and make decisions in accordance with the following requirements.

- (1) For the conduct of any hearing and the taking of any action, a quorum of not less than a majority of the members or voting alternates shall be present. In the event that any member is disqualified for reason of conflict of interest, his/her place on the hearing panel shall be taken by a voting alternate.
- (2) Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer, abutting or adjoining property owners and such other persons as the Board of Supervisors or the ZHB may designate, and to any person who has made a timely request for same. Written notice of said hearing shall be conspicuously posted on the affected tract at least one week prior to the hearing.
  - (a) Public notice shall consist of publication of an advertisement in a newspaper of general circulation in the Township not more than 30 days or less than seven days prior to the hearing.
  - (b) Written notice shall consist of letter signed by the Chairman of the Board. Written notice shall be provided a minimum of 15 days prior to the hearing.
- (3) Hearings shall be conducted by the ZHB.
  - (a) The hearing shall be commenced within 60 days from the date of the receipt of the applicant's request, unless the applicant has agreed in writing to an extension of time. Any 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 the case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the ZHB shall assure that the applicant receives at least six 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 the 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 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) Fees for hearings shall be established by the Board of Supervisors.
    - [1] Fees may include compensation for the members and secretary (or court stenographer), notice, advertising costs and administrative costs.
    - [2] Fees shall not include legal expenses, consultant expenses or expert witness costs.
  - (c) The findings shall be made by the ZHB.
  - (d) The ZHB shall not appoint a member to serve as a hearing officer.
  - (e) The parties to any hearing shall be the Township, the applicant, any person

affected by the application who has made timely appearance of record before the ZHB and any other person including civic or community organizations permitted to appear by the ZHB. The ZHB shall have the power to require that all persons who wish to be considered parties enter appearances in writing in a form acceptable to the ZHB.

- (f) The Chairman or Acting Chairman of the ZHB shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and production of relevant documents and papers, including any witnesses and/or documents requested by the parties.
- (g) 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.
- (h) Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- (i) The ZHB shall keep a stenographic record of the proceedings.
  - [1] The appearance fee for a stenographer shall be shared equally by the ZHB and the applicant.
  - [2] The cost of the original transcript shall be paid by the ZHB if the transcript is ordered by the ZHB.
  - [3] The cost of the transcript shall be paid by any person or party who might appeal from the decision of the ZHB.
  - [4] Additional copies of the transcript shall be paid by the person requesting such copy.
- (j) The ZHB shall not communicate, directly or indirectly, with any party or his/her representatives in connection with any issue involved except upon notice and opportunity for all parties to participate.
  - [1] The ZHB shall not take notice of any communication, reports staff memoranda or other materials, except advice from their Solicitor, unless parties are afforded an opportunity to contest the material so noticed.
  - [2] The ZHB shall not inspect the site or its surroundings after the commencement of hearings with any party or his/her representative unless all parties are given an opportunity to be present.
- (k) The ZHB shall render a written decision, or when no decision is called for, a written finding on the application within 45 days after the last hearing before the ZHB.
  - [1] Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor.

- [2] Conclusions based on the provisions of Pennsylvania Municipalities Planning Code Act of 1967, P.L. 705, No. 246, as amended, this chapter or any other rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in light of the facts found.
- [3] Where the ZHB fails to render the decision within the required forty-five-day period or fails to hold a hearing within the required sixty-day period, 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.
- [4] In such case when a decision has been rendered in favor of the applicant because of the failure of the ZHB to meet or render a decision as herein provided, the ZHB shall give public notice of said decision within 10 days from the last day it could have met to render such decision as provided in this chapter. If the ZHB should fail to provide such notice, the applicant may do so.
- [5] Nothing in this section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
  - (1) A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him/her not later than the day following its date. To all other persons who have filed their name and address with the ZHB not later than the last day of the hearing, the ZHB shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the time and place at which the full decision or findings may be examined.

G. Functions of the Zoning Hearing Board. The ZHB shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

- (1) Substantive challenges to the validity of this chapter or the Township Subdivision and Land Development Ordinance,<sup>22</sup> except that the ZHB shall have no jurisdiction regarding any landowner curative amendments.
- (2) Challenges to the validity of this chapter or the Township Subdivision and Land Development Ordinance raising procedural questions or alleged defects in the process of enactment or adoption.
  - (a) Such challenges shall be raised on appeal within 30 days after the effective date of said ordinance.
  - (b) The ZHB shall immediately notify the Board of Supervisors of such challenges.
- (3) Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the

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22. Editor's Note: See Ch. 96, Subdivision and Land Development.

issuance of any cease and desist order, the registration or refusal to register any nonconforming use, structure or lot, the interpretation of any district boundary line or any other official map.

- (a) In exercising this power, the ZHB may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, determination or permit appealed from.
  - (b) Nothing in this section shall be construed to deny the appellant the right to proceed directly to court, when appropriate, pursuant to the Pennsylvania Rules of Civil Procedure relating to mandamus.
- (4) Appeals from the decision by the professional engineer retained by the Township or the Zoning Officer with reference to the administration of the Township's Floodplain Management Ordinance<sup>23</sup> or Stormwater Management Ordinance.
  - (5) Applications for variances from the terms of this chapter, the Township's Floodplain Management Ordinance or the Stormwater Management Ordinance, pursuant to Article VI of this chapter.
  - (6) Applications for special exceptions under this chapter pursuant to any special exception criteria established under this chapter.
  - (7) Appeals from the determination of the Zoning Officer regarding any performance or density provisions of this chapter.
  - (8) Appeals from the determination of the professional engineer or consultant retained by the Township with reference to sedimentation and erosion control plans.
- H. Standards for variances. The ZHB shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. The ZHB shall, by rule, prescribe the form of application and may require the submission of a preliminary application to the Zoning Officer. The ZHB may grant a variance, provided that all the following findings are made where relevant to a given case:
- (1) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size and 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 created by the provisions of this chapter in the district in which the property is located.
  - (2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
  - (3) That such unnecessary hardship has not been created by the applicant.
  - (4) That the variance, if authorized, will not alter the essential character of the

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23. Editor's Note: See Ch. 66, Floodplain Management.

neighborhood in which the property is located nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare.

- (5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- I. Other conditions and safeguards. The ZHB may also grant a variance, provided that all the following findings are made where relevant to a given case:
    - (1) That no nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted or nonconforming use of land, structure or buildings in other districts shall be considered grounds for the granting of any variance.
    - (2) That in no case shall a variance be granted solely for reasons of financial hardship or additional financial gain on the part of the applicant.
    - (3) In granting any variance, the ZHB may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter.
  - J. Standards for special exceptions. The ZHB shall have the power to hear and decide only such special exceptions as specifically authorized in Article IV of this chapter. All special exceptions shall meet the following criteria:
    - (1) Special exception uses shall be specifically authorized in the Zoning District and shall meet any special exception criteria established in Article V.
    - (2) Special exception uses shall be found to be consistent with the community development goals and objectives and the general purposes and intent of this chapter.
    - (3) Special exception uses shall not adversely affect the character of the district nor the conservation of property values nor the health and safety of residents or workers on adjacent properties and in the general neighborhood.
    - (4) Special exception uses shall be in substantial compliance with county and/or local comprehensive plans.
    - (5) Special exception uses shall comply with the supplemental regulations contained in Article V.
    - (6) Special exception uses requiring a variance from this chapter or any other ordinance shall be granted after such time as the variance may be authorized.
    - (7) The ZHB may attach any reasonable conditions and safeguards as it may deem advisable and appropriate to any special exception permit. Refusal of the applicant to accept such conditions shall result in the revoking of the special exception permit.
    - (8) All applications for special exception shall be submitted to the Planning Commission for their review and recommendation. Lack of recommendation by the Planning Commission shall be deemed as recommended approval of the application.

**§ 110-57. Functions of the Board of Supervisors.**

- A. The Board of Supervisors shall have exclusive jurisdiction to hear and render final adjudication in the following matters:
- (1) All applications for approval of subdivisions or land developments, pursuant to the Township's Subdivision and Land Development Ordinance,<sup>24</sup> demonstrating compliance with this chapter.
  - (2) Applications for conditional use.
  - (3) Applications for curative amendment to this chapter.
  - (4) All petitions for amendments to this chapter, the Township's Subdivision and Land Development Ordinance, the Floodplain Management Ordinance<sup>25</sup> and the Stormwater Management Ordinance.
  - (5) Petitions for waivers from the requirements of the Township's Subdivision and Land Development Ordinance.
  - (6) Appeal from the any determination by the Zoning Officer or Municipal Engineer in the administration or enforcement of the provisions of the Township Subdivision and Land Development Ordinance where final administrative action is vested in said ordinance.
- B. Standards for conditional use. The Board of Supervisors shall hold a public hearing for all conditional uses listed in this chapter. In granting any conditional uses, the below-listed criteria shall be applied:
- (1) The presence of nearby similar uses.
  - (2) An adjoining district in which the use is permitted.
  - (3) Compatibility of the use with the provisions of the county and/or local comprehensive plan.
  - (4) Sufficient lot area to provide effective screening from adjacent residential uses.
  - (5) That the use will not detract from permitted uses in the district.
  - (6) Compliance with relevant requirements in Article V of this chapter.
  - (7) Notification of adjoining property owners.
  - (8) Compliance with the provisions of the Township Subdivision and Land Development Ordinance.
- C. Additional procedural matters. The following apply to conditional use applications before Board of Supervisors:
- (1) Should any conditional use require a variance from this chapter or any other ordinance, said variance shall be authorized prior to the scheduling of a conditional

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24. Editor's Note: See Ch. 96, Subdivision and Land Development.

25. Editor's Note: See Ch. 66, Floodplain Management.

use hearing.

- (2) The Board of Supervisors may attach such reasonable conditions to a conditional use permit as they may deem appropriate and advisable. Failure of the applicant to agree to said conditions shall result in the immediate revoking of the permit.
- (3) Should the work authorized under a conditional use permit fail to commence within 180 days of the issuance of the permit, it shall be conclusively presumed that the applicant has waived, withdrawn or abandoned said permit, and all such permits shall be automatically rescinded by the Board of Supervisors.
- (4) All applications for conditional use shall be submitted to the Planning Commission for their review and recommendation. Lack of recommendation by the Planning Commission shall be deemed as recommended approval of the application.
- (5) Where the Board of Supervisors fails to render a decision within the period required by Section 913.2 of the Pennsylvania Municipalities planning Code (i.e., within 45 days after the last hearing), or fails to commence, conduct or complete the required hearing as provided in Section 907 (1.2) of the Pennsylvania Municipalities Planning Code (i.e., hearing is not commenced within 60 days of applicant's request or not completed within 100 days of the completion of the applicant's case-in- chief), the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board of Supervisors to meet or render a decision as hereinabove provided, the Board of Supervisors shall give public notice of the decision within 10 days from the last day it could have met to render a decision in the same manner as required by the public notice requirements of the Pennsylvania Municipalities Planning Code.<sup>26</sup>

**§ 110-58. Procedures for hearings.**

The procedures discussed in this section shall apply to all proceedings before the ZHB and, where applicable, shall apply to proceedings before the Board of Supervisors.

- A. Enabling regulation. All hearings shall be held in strict accordance with the procedures contained in Article IX of Act 246 as amended by Acts 66 and 67 of 2000, the Pennsylvania Municipalities Planning Code.
- B. Applications. All appeals and other applications shall be in writing, in a form prescribed by the Board. Such applications shall contain, at a minimum:
  - (1) The specific ordinance and provision of said ordinance involved.
  - (2) The interpretation that is claimed for any challenges to the validity of said ordinance.
  - (3) The use for which special exception or conditional use is sought.
  - (4) The details of the variance that is applied for, and the grounds on which it is claimed that the variance shall be granted.

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26. Editor's Note: See 53 P.S. § 10101 et seq.

- (5) All required filing fees as may be established by the Board of Supervisors.
- C. Appeals, general. No person shall be allowed to file any proceeding with the Board later than 30 days after an application for development, preliminary or final, has been approved by the appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he/she had no notice, knowledge or reason to believe that such approval had been given.
- (1) If such person has succeeded to his interest after such approval, he/she shall be bound by the knowledge of his/her predecessor in interest.
  - (2) The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan pursuant to Article VI of this chapter or from an adverse decision by the Zoning Officer on a challenge to the validity of an ordinance or map pursuant to Section 916.2 of the Pennsylvania Municipalities Planning Code Act of 1967, P.L. 705, No. 246, as amended, shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative plan.
- D. Appeal time frame. All appeals from determinations adverse to landowners shall be filed by the landowner within 30 days after the determination is issued.
- E. Stay. Upon filing of any proceeding referred to in this article and during its pendency before the ZHB, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or any agency or body and all official action thereunder shall be stayed unless the Zoning Officer or any appropriate agency or bodies certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, that may be granted by the ZHB or by a court of competent jurisdiction on petition, after notice to the Zoning Officer or other appropriate agency or body.
- F. Bonding for approved applications. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the ZHB by persons other than the applicant, the applicant may petition a court of competent jurisdiction to order such persons to post bond as a condition to continuing the proceedings before the Board.
- (1) The question of whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court.
  - (2) An order denying a petition for bond shall be interlocutory.
  - (3) An order directing the responding party to post a bond shall be interlocutory.

**§ 110-59. Schedule of fees, charges and expenses.**

- A. Establishment of fees. The Board of Supervisors shall establish a schedule of fees, charges and expenses and the collection procedures for zoning permits, certificates of occupancy, special exceptions, variances, appeals and any other matters pertaining to this chapter.

- B. Schedule and changes. The schedule of fees shall be available for inspection in the office of the Zoning Officer and may be altered or amended, by resolution, by the Board of Supervisors.
- C. Payment of fees. No action shall be taken on any application or appeal until such time as all fees, charges and expenses have been paid in full.

**§ 110-60. Nonconforming lots, uses, structures and buildings.**

- A. Statement of intent. Within the zoning districts established pursuant to this chapter or subsequent amendments thereto, there exists or will exist certain nonconformities that, if lawful before this chapter was enacted or amended, may be continued, subject to certain limitations, although such nonconformities would be prohibited, regulated or restricted under the terms of this chapter or subsequent amendments thereto. In order to avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any buildings or structures on which actual construction was lawfully begun prior to the effective date of adoption of amendment to this chapter and upon which actual building construction has been diligently carried on.
- B. Nonconforming lots of record. Lots of record existing at the date of adoption or amendment of this chapter that do not conform to the regulations of the zoning district in which they are located may be used for primary structures or dwellings and customary accessory uses as a special exception, and if the buildings are erected according to the following stipulations:
  - (1) The yard requirements for the any such nonconforming lot in a block in which 60% of the land area has been developed and whereon are erected structures shall be the average of the yards for the area that has been developed in said block.
    - (a) These provisions shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district.
    - (b) A "block" shall be defined as a tract of land bounded by streets or by a combination of streets, public parks, cemeteries, railroad rights-of-way, waterways or any municipal boundary.
  - (2) If two or more lots, combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of adoption of this chapter or amendment thereto, and if all or part of the lots do not meet the requirements established for lot width and/or area, the land shall be considered to be an undivided parcel for the purpose of this chapter. No portion of said parcel shall be used or sold in a manner that diminishes compliance with lot width and/or area requirements established by this chapter, nor shall any division of any parcel be made that creates a lot with width or area below the minimum requirements established in this chapter.
- C. Nonconforming structures or buildings.
  - (1) Structures or buildings that at the effective date of this chapter or subsequent amendments thereto do not conform to the requirements contained therein by reason of restrictions on area, lot coverage, height, yards, its location on the lot or other

requirements concerning the building or structure may be continued to be used, maintained and repaired so long as such structure or building remains otherwise lawful, subject to the following provisions:

- (a) No such nonconforming structure or building may be enlarged or altered in any way that increases its nonconformity.
  - (b) No nonconforming structure or building shall be, for any reason, moved any distance unless it shall thereafter conform to the zoning regulations for the district in which it is located after it is moved.
  - (c) Whenever any nonconforming structure or building has been vacated and not marketed for a period of 12 consecutive months, such structure or building shall thereafter not be used except in compliance with the provisions of this chapter.
- (2) Should a nonconforming structure or building be destroyed by fire, flood, wind or other means not of the owner's decision, it shall not be reconstructed in any manner that increases its nonconformity. If reconstruction has not commenced within 12 months of the date of such destruction, reconstruction shall be in full compliance with this chapter and all other applicable regulations.
  - (3) In cases where two or more uses or principal structures, exclusive of any accessory structures, exist on a single parcel, all such buildings or uses shall comply with all requirements of this chapter and subsequent amendments that would normally apply to each building or use if each was on a separate lot. In cases where existing multiple uses and/or primary buildings are nonconforming, any alterations or modifications shall be in accordance with Article VI of this chapter.

D. Nonconforming uses.

- (1) Lawful uses of land, structures or buildings that at the effective date of this chapter or as a result of subsequent amendments thereto do not conform to the requirements contained therein may be continued by the present or any subsequent owner so long as such use remains otherwise lawful, subject to the following provisions:
  - (a) Any nonconforming use, if changed to a conforming use, shall not thereafter be changed back to any nonconforming use. A nonconforming use may, by variance, be changed to another nonconforming use, provided that the ZHB shall find that the proposed use is equally or more appropriate in the zoning district in which the property is located than the previously existing nonconforming use.
  - (b) Whenever a nonconforming use of any land, structure or building has been discontinued and/or not marketed for a period of 12 consecutive months, such land, structure or building or any portion thereof shall be used only in a manner in full compliance with this chapter.
  - (c) Voluntary removal or destruction of the structure or building in which any nonconforming use is located shall eliminate the use of the land upon which the structure or building was erected for such nonconforming use. "Destruction," for the purpose of this subsection, is defined as damage to an extent of 75% or

more of the market value of said structure or building immediately prior such damage or destruction.

- (2) A nonconforming use may be extended throughout any part of the existing land, structure or building, or a new extension or addition to a structure or building may be constructed, provided that all such structural alterations, extensions or additions shall comply with all provisions of this chapter with respect to height, area, width, yard and coverage requirements for the zoning district in which the building is located. Total extension of any nonconforming use shall not exceed 25% of the gross floor area of any building or 25% of the gross land area of any outdoor use occupied by said nonconforming use at the time of the adoption and/or amendment of this chapter.
- E. Effect of special exception. Any use that is permitted as a special exception in any Zoning District under the terms of this chapter (other than a change through ZHB action from one nonconforming use to another nonconforming use) shall not be deemed a nonconforming use in such a zoning district, but shall without further action be considered a conforming use.
- F. Registration of nonconformities. To facilitate the administration of this chapter, it shall be the duty of the Zoning Officer to prepare and maintain an accurate listing of all uses and structures in all districts.
- (1) Uses permitted by right, special exception and/or variance shall be so noted on a permanent record of the subject parcel.
  - (2) All nonconforming uses and structures shall be registered separately and an accurate listing maintained. The Zoning Officer shall submit an annual report to the Planning Commission regarding the status of all nonconforming uses and structures.
  - (3) This listing shall be a matter of public record and shall constitute sufficient notice of the nonconforming status of said uses and/or structures and shall constitute sufficient status of said use and/or structures and the limitations therein expressed and implied to any transferee acquiring any right to use or own such property.

## ARTICLE VII Amendments

### § 110-61. Amendments.

The provisions of this chapter and the boundaries of the zoning districts as set forth on the Official Zoning Map may from time to time be amended or changed by the Board of Supervisors, in accordance with the provisions of Section 609 of the Pennsylvania Municipalities Planning Code Act of 1967, P.L. 705, No.246, as amended.

- A. Procedural. Before voting on the enactment of an amendment, the Board of Supervisors shall hold at least one public hearing thereon, pursuant to adequate public notice in a newspaper of general circulation. In addition, for rezoning excluding that associated with comprehensive rezoning, the following notifications shall occur:
- (1) If the proposed amendment involves a Zoning Map change, notice of said public hearing shall be conspicuously posted by the Zoning Officer along the perimeter of

the tract(s) to be affected.

- (2) The affected tract(s) shall be posted at least seven days prior to the date of the hearing.
  - (3) Written notice shall be provided 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 real property located within the area being rezoned, as evidenced by real estate tax records within the possession of the Township. The notice shall include the location, date and time of the public hearing.
- B. Township Planning Commission. In the case of an amendment other than that prepared by the Township Planning Commission, the Board of Supervisors shall submit each such amendment to the Township Planning Commission at least 30 days prior to the hearing on such proposed amendment to provide the planning agency an opportunity to submit recommendations.
  - C. Substantial change. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially or is revised to include any land not previously affected by it, the Board of Supervisors shall hold another public hearing before proceeding to vote on the amendment.
  - D. County Planning Commission review. All proposed amendments shall be submitted by the Board of Supervisors to the Elk County Planning Commission at least 30 days prior to the public hearing for recommendation.
  - E. Submission, County Planning Commission. Within 30 days after enactment, a copy of the amendment shall be forwarded to the Elk County Planning Commission.

**§ 110-62. Procedure for landowner curative amendments.**

- A. Background. A landowner who desires to challenge on substantive ground the validity of the ordinance or map, or any provision thereof, that prohibits or restricts the use or development of land in which he/she has an interest may submit a curative amendment to the Board of Supervisors, pursuant to the provisions of Section 609.1 of the Pennsylvania Municipalities Planning Code Act of 1967, P.L. 705, No.246, as amended.
- B. Hearing timing and notice. The Board of Supervisors shall commence a hearing thereon within 60 days of the request, pursuant to public notice, unless the landowner requests or consents to an extension of time. Public notice shall include notice that the validity of the ordinance or map is in question and the place and time when a copy of the requests, including any plans, explanatory material or proposed amendments may be examined by the public.
- C. Review by Planning Commissions. The landowner curative amendment shall be referred by the Board of Supervisors to the Township and County Planning Commissions for review and recommendation.
- D. Enabling regulations for hearing. The hearing shall be conducted by the Board of Supervisors in accordance with Section 908 of the Pennsylvania Municipalities Planning Code, and all references therein to the zoning hearing board shall, for the purposes of this

section, be references to the Board of Supervisors; provided, however, that the provisions of Section 908 (1.2) and (9) shall not apply and the provisions of Section 916.1 shall control.

- E. Severability. In the event the Board of Supervisors does not accept the landowner curative amendment and a court of competent jurisdiction subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire ordinance, but only for those provisions that specifically relate to the landowner's curative amendment and challenge.
- F. Additional criteria considered. The Board of Supervisors shall consider the curative amendment, plans and explanatory material submitted by landowner and shall also consider:
  - (1) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.
  - (2) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise excluded by the challenged provisions of the ordinance or map.
  - (3) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features.
  - (4) The impact of the propose use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts.
  - (5) The impact of the proposal on the preservation of agricultural and other uses that is essential to public health and welfare.
- G. Decision-making time frame. The Board of Supervisors shall render its decision within 45 days after the conclusion of the last hearing. If the Board of Supervisors fails to act on the landowner's request within this time period, a denial of the request is deemed to have occurred on the 46th day after the close of the last hearing.

**§ 110-63. Procedure for municipal curative amendments.**

Should the Board of Supervisors determine that this chapter or any portion thereof is substantially invalid, it shall take the actions outlined in this subsection.

- A. Background. The Board of Supervisors shall declare this chapter or portions thereof substantially invalid and propose to prepare a curative amendment to overcome such invalidity. Within 30 days following such declaration and, proposal the Board of Supervisors shall:
  - (1) By resolution make specific findings setting forth the invalidity of this chapter that may include:

- (a) References to those specific uses that are either not permitted or not permitted in sufficient quantity.
  - (b) Reference to a class of use or uses that require revision.
  - (c) Reference to the entire chapter that requires revision.
- (2) Begin to prepare and consider a curative amendment to this chapter to correct the declared invalidity.
- B. Time frame. Within 180 days from the date of the declaration and proposal, the Board of Supervisors shall enact a curative amendment to cure the declared invalidity.
- C. Procedural. Upon initiation of the procedures as set forth above, the Board of Supervisors shall not be required to consider or entertain any landowner's curative amendment, nor shall the Zoning Hearing Board be required to provide the report required in Section 916.1 of Act 246, as amended (the Pennsylvania Municipalities Planning Code). Upon completion of the procedures set forth above, no rights to a cure pursuant to the provisions of this subsection shall, from the date of declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended chapter.
- D. Subsequent use requirements. A municipal curative amendment may not be utilized for a period of 36 months following the date of enactment of a municipal curative amendment; provided, however, if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the Township by virtue of a change in statute or by virtue of an appellate court decision, the Township may utilize the provisions of this subsection to prepare a curative amendment to fulfill said duty or obligation.

**§ 110-64. Advertising requirements.**

The Board of Supervisors shall publish public notice of any proposed amendment not more than 30 days nor less than seven days prior to the public hearing in a newspaper of general circulation. Such notice shall be posted for a minimum of once a week, for two consecutive weeks. Such notice shall contain, at a minimum:

- A. The time and place of the meeting.
- B. A reference to where copies of the proposed amendment may be examined without charged, or obtained for a charge not greater than the cost thereof.
- C. A brief summary of the amendment, including the title, prepared by the Township Solicitor. An attested copy of the full text of the amendment shall be filed in the County Law Library and in the Office of the Elk County Planning Commission. The attested copies may be distributed to the public, and a fee for such copies may be imposed that is not greater than the actual cost of preparing the copies.
- D. In the event that substantial amendments are made to the ordinance ("substantial" being defined as amending more than 10% of the ordinance) before voting upon any enactment, the Board of Supervisors shall, at least 10 days prior to scheduled enactment, readvertise in one newspaper of general circulation and shall summarize, in reasonable detail, all the amendment provisions.

**§ 110-65. Incorporation.**

Amendments shall be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

ARTICLE VIII  
**Miscellaneous Provisions**

**§ 110-66. Reviews and appeals.**

Proceedings for securing review and/or appeal of any ordinance, decision, determination or order of the Board of Supervisors, its agencies or officers adopted pursuant to this chapter shall be in strict accordance with the provisions of the Pennsylvania Municipal Planning Code Act of 1967, P.L. 705, No. 246, as amended.<sup>27</sup>

**§ 110-67. Remedies.**

In case any building, structure or land is or is proposed to be erected, constructed, reconstructed, altered, repaired, converted, maintained or used in violation of this chapter, the Board of Supervisors, or, with their approval, the Zoning Officer, in addition to other remedies, may institute in the name of the Township any appropriate action or proceedings to prevent, restrain, correct or abate such building, structure or use in or about such premises, any act, conduct, or business constituting a violation.

**§ 110-68. Severability.**

Should any section or provision of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

**§ 110-69. Repeal of conflicting ordinances.**

All other existing ordinances or parts of ordinances of the Township of Fox inconsistent herewith are hereby expressly repealed to the extent necessary to give this chapter full force and effect.

**§ 110-70. Effective date.**

This chapter shall become effective January 1, 2006.

**§ 110-71. Official Zoning Map.**

The Official Zoning Map, for purposes of district identification, shall be the Official Zoning Map adopted as part of this chapter and posted in the offices of the Township and Township Zoning Officer. Any reproductions, reductions or copies of said Map shall be for information purposes only. Amendments to the Official Zoning Map shall be made by ordinance and a new Official Zoning Map prepared within 30 days of said amendment.

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<sup>27</sup>. Editor's Note: See 53 P.S. § 10101 et seq.