

## **PREFACE**

The Township of Fox has, over the years, passed through a process of legislative change common to many American communities. While only a few simple laws were necessary at the time of the establishment of the township, subsequent growth of the community, together with the complexity of modern life, has created the need for new and more detailed legislation for the proper function and government of the township. The recording of local law is an aspect of municipal history, and as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Legislation must be more than mere chronological enactments reposing in the pages of old records. It must be available and logically arranged for convenient use and must be kept up-to-date. It was with thoughts such as these in mind that the Board of Supervisors ordered the following codification of the township's legislation.

### **Contents of Code**

The various chapters of the Code contain all currently effective legislation of a general and permanent nature enacted by the Board of Supervisors of the Township of Fox, including revisions or amendments to existing legislation deemed necessary by the Board of Supervisors in the course of the codification.

### **Division of Code**

The Code is divided into parts. Part I, Administrative Legislation, contains all township legislation of an administrative nature, namely, that dealing with the administration of government, that establishing or regulating municipal departments and that affecting officers and employees of the municipal government and its departments. Part II, General Legislation, contains all other township legislation of a regulatory nature. Items of legislation in this part generally impose penalties for violation of their provisions, whereas those in Part I do not.

### **Grouping of Legislation and Arrangement of Chapters**

The various items of legislation are organized into chapters, their order being an alphabetical progression from one subject to another. Wherever there are two or more items of legislation dealing with the same subject, they are combined into a single chapter. Thus, for example, all legislation pertaining to the regulation of streets and sidewalks may be found in Part II, in the chapter entitled "Streets and Sidewalks." In such chapters, use of article or part designations has preserved the identity of the individual items of legislation.

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### Table of Contents

The Table of Contents details the alphabetical arrangement of material by chapter as a means of identifying specific areas of legislation. Wherever a chapter is divided into two or more articles or parts, titles of the several articles or parts are listed beneath the chapter title.

### Reserved Chapters

Unassigned chapter numbers do not appear in the Table of Contents but are available for assignment to new enactments. In this manner, new subject matter can be included alphabetically.

### Pagination

A unique page-numbering system has been used in which each chapter forms an autonomous unit. The first page of each chapter is the number of that chapter followed by a colon and the numeral "1." Thus, Chapter 6 would begin on page 6:1. By the use of this system, it is possible to add or to change pages in any chapter, or add new chapters, without affecting the sequence of subsequent pages.

### Numbering of Sections

A chapter-related section-numbering system is employed in which each section of every item of legislation is assigned a number which indicates both the number of the chapter in which the legislation is located and the location of the section within that chapter. Thus, the first section of Chapter 6 would be § 6-1, while the fourth section of Chapter 53 would be § 53-4.

### Scheme

The Scheme is the list of section titles which precedes the text of each chapter. These titles are carefully written so that, taken together, they may be considered as a summary of the content of the chapter. Taken separately, each describes the content of a particular section. For ease and precision of reference, the Scheme titles are repeated as section headings in the text.

### Histories

At the end of the Scheme in each chapter is located the legislative history for that chapter. This History indicates the specific legislative source from which the chapter was derived, including the enactment number (e.g., ordinance number, local law number, bylaw number, resolution number, etc.), if pertinent, and the date of adoption. In the case of chapters containing parts or articles derived from more than one item of legislation, the source of each part or article is indicated in its History. Amendments to individual sections or subsections are indicated by histories where appropriate in the text.

## **PREFACE**

### **Codification Amendments and Revisions**

New chapters adopted during the process of codification are specifically enumerated in chapter Histories with reference to "Ch. 1, General Provisions," where the legislation adopting this Code and making such revisions will appear after final enactment. Sections amended or revised are indicated in the text by means of Editor's Notes referring to the chapter cited above.

### **General References; Editor's Notes**

In each chapter containing material related to other chapters in the Code, a table of General References is included to direct the reader's attention to such related chapters. Editor's Notes are used in the text to provide supplementary information and cross-references to related provisions in other chapters.

### **Appendix**

Certain forms of local legislation are not of a nature suitable for inclusion in the main body of the Code but are of such significance that their application is community-wide or their provisions are germane to the conduct of municipal government. The Appendix of this Code is reserved for such legislation and for any other material that the community may wish to include.

### **Disposition List**

The Disposition List is a chronological listing of legislation adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. The Disposition List will be updated with each supplement to the Code to include the legislation reviewed with said supplement.

### **Index**

The Index is a guide to information. Since it is likely that this Code will be used by persons without formal legal training, the Index has been formulated to enable such persons to locate a particular section quickly. Each section of each chapter has been indexed. The Index will be supplemented and revised from time to time as new legislation is added to the Code.

### **Instructions for Amending the Code**

All changes to the Code, whether they are amendments, deletions or complete new additions, should be adopted as amending the Code. In doing so, existing material that is not being substantively altered should not be renumbered. Where new sections are to be added to a chapter, they can be added at the end of the existing material (continuing the numbering sequence) or inserted between existing sections as decimal numbers (e.g., a new section between §§ 45-5 and 45-6 should be designated § 45-5.1). New chapters should be added in the proper alphabetical sequence in the appropriate division or part (e.g., Part I, Administrative Legislation, or Part II, Gen-

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eral Legislation), utilizing the reserved chapter numbers. New chapter titles should begin with the key word for the alphabetical listing (e.g., new legislation on abandoned vehicles should be titled "Vehicles, Abandoned" under "V" in the Table of Contents, and a new enactment on coin-operated amusement devices should be "Amusement Devices" or "Amusement Devices, Coin-Operated" under "A" in the Table of Contents). Where a reserved number is not available, an "A" chapter should be used (e.g., a new chapter to be included between Chapters 45 and 46 should be designated Chapter 45A). New articles may be inserted between existing articles in a chapter (e.g., adding a new district to the Zoning Regulations) by the use of "A" articles (e.g., a new article to be included between Articles XVI and XVII should be designated Article XVIA). The section numbers would be as indicated above (e.g., if the new Article XVIA contains six sections and existing Article XVI ends with § 45-30 and Article XVII begins with § 45-31, Article XVIA should contain §§ 45-30.1 through 45-30.6).

### **Supplementation**

Supplementation of the Code will follow the adoption of new legislation. New legislation or amendments to existing legislation will be included and repeals will be indicated as soon as possible after passage. Supplemental pages should be inserted as soon as they are received and old pages removed, in accordance with the Instruction Page which accompanies each supplement.

### **Acknowledgment**

The assistance of the township officials is gratefully acknowledged by the editor. The codification of the legislation of the Township of Fox reflects an appreciation of the needs of a progressive and expanding community. As in many other municipalities, officials are faced with fundamental changes involving nearly every facet of community life. Problems increase in number and complexity and range in importance from everyday details to crucial areas of civic planning. It is the profound conviction of General Code that this Code will contribute significantly to the efficient administration of local government. As Samuel Johnson observed, "The law is the last result of human wisdom acting upon human experience for the benefit of the public."



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**PART I**

**ADMINISTRATIVE  
LEGISLATION**



## **Chapter 1**

### **GENERAL PROVISIONS**

#### **ARTICLE I** **Adoption of Code**

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| <p><b>§ 1-1. Approval, adoption and enactment of Code.</b></p> <p><b>§ 1-2. Effect of Code on previous provisions.</b></p> <p><b>§ 1-3. Repeal of legislation not contained in Code.</b></p> <p><b>§ 1-4. Legislation saved from repeal; matters not affected by repeal.</b></p> <p><b>§ 1-5. Inclusion of new legislation prior to adoption of Code.</b></p> | <p><b>§ 1-6. Changes and revisions in previously adopted legislation; new provisions.</b></p> <p><b>§ 1-7. Interpretation of provisions.</b></p> <p><b>§ 1-8. Titles and headings; editor's notes.</b></p> <p><b>§ 1-9. Filing of copies of Code.</b></p> <p><b>§ 1-10. Amendments to Code.</b></p> <p><b>§ 1-11. Code books to be kept up-to-date.</b></p> <p><b>§ 1-12. Publication of notices.</b></p> <p><b>§ 1-13. Altering or tampering with Code; penalties for violation.</b></p> <p><b>§ 1-14. Severability.</b></p> <p><b>§ 1-15. Effective date.</b></p> |
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**[HISTORY: Adopted by the Board of Supervisors of the Township of Fox as indicated in article histories. Amendments noted where applicable.]**

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#### **ARTICLE I** **Adoption of Code** **[Adopted 9-2-1998 by Ord. No. 98-9]**

Be it enacted and ordained by the Board of Supervisors of the Township of Fox, County of Elk, Commonwealth of Pennsylvania, and it is enacted and ordained as follows:

#### **§ 1-1. Approval, adoption and enactment of Code.**

Pursuant to Section 1601(d) [53 P.S. § 66601(d)] of the Second Class Township Code, the codification of a complete body of legislation for the Township of Fox, County of Elk, Commonwealth of Pennsylvania, as revised, codified and consolidated into chapters, articles and sections by General Code Publishers Corp., and consisting of Chapters 1 through 107, together with an Appendix, are hereby approved, adopted, ordained and enacted as a single ordinance of the Township of Fox, which shall be known and is hereby designated as the "Code of the Township of Fox," hereinafter referred to as the "Code."

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

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

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

All ordinances or parts of ordinances of a general and permanent nature adopted by the Township of Fox and in force on the date of the adoption of this Code and not contained in the Code are hereby repealed as of the effective date given in § 1-15 below, except as hereinafter provided.

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

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

- A. Any ordinance adopted subsequent to 6-4-1997.
- B. Any right or liability established, accrued or incurred under any legislative provision of the township prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability or any cause of action acquired or existing.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision of the township or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance, brought pursuant to any legislative provision of the township.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred by the township or any lawful contract, obligation or agreement.
- F. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the township or other instruments or evidence of the township's indebtedness.

- G. Any ordinance adopting an annual budget or establishing an annual tax rate.
- H. Any ordinance providing for the levy, imposition or collection of special taxes, assessments or charges.
- I. Any ordinance authorizing the purchase, sale, lease or transfer of property or acquiring property by acceptance of deed, condemnation or exercise of eminent domain.
- J. Any ordinance annexing land to the township.
- K. Any ordinance providing for or requiring the construction or reconstruction or opening of sidewalks, curbs and gutters.
- L. Any ordinance or part of an ordinance providing for laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, sidewalk, park or other public place or property or designating various streets as public highways.
- M. Any ordinance establishing water, sewer or other special purpose districts and designating the boundaries thereof; providing for a system of sewers or water supply lines; or providing for the construction, extension, dedication, acceptance or abandonment of any part of a system of sewers or water supply lines.
- N. Any ordinance providing for the making of public improvements.
- O. Any ordinance providing for the salaries and compensation of officers and employees of the township or setting the bond of any officer or employee.
- P. Any ordinance concerning changes and amendments to the Zoning Map.
- Q. Any ordinance relating to or establishing a pension plan or pension fund for municipal employees.
- R. Any ordinance or portion of an ordinance establishing a specific fee amount for any license, permit or service obtained from the township.
- S. The Articles of Incorporation of the Airport Authority of the Borough of St. Mary's, consisting of Resolution No. 993-6, Ordinance No. 94-1, and any other legislation establishing the township's membership in the St. Mary's Airport Authority.
- T. The drought contingency plan adopted 9-13-1991 by Ord. No. 91-9.
- U. Article II, Creation of Sewer District No. 1, of Ord. No. 82-7.

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

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

**§ 1-6. Changes and revisions in previously adopted legislation; new provisions.**

- A. Nonsubstantive grammatical changes. In compiling and preparing the ordinances and resolutions of the township for adoption and revision as part of the Code, certain nonsubstantive grammatical and style changes were made in one or more of said ordinances and resolutions. It is the intention of the Board of Supervisors that all such changes be adopted as part of the Code as if the ordinances and resolutions so changed had been previously formally amended to read as such.
- B. Substantive changes and revisions. In addition to the changes and revisions described above, changes and revisions of a substantive nature, as set forth in Schedule A attached hereto and made a part hereof, are hereby made to various ordinances and resolutions included in the Code. These changes are enacted to bring provisions into conformity with the desired policies of the Board of Supervisors, and it is the intent of the Board of Supervisors that all such changes be adopted as part of the Code as if the legislation so changed have been previously formally amended to read as such. All such changes and revisions shall be deemed to be in effect as of the effective date of the Code specified in § 1-15.<sup>1</sup>
- C. Nomenclature. The following changes have been made throughout the Code:
- (1) "Municipal Authority" is hereby amended to read "Municipal Authority (Toby Water)."
  - (2) "Director of Recreation" is hereby amended to read "Recreation Board Chairperson."
  - (3) "Sanitary Officer" is hereby amended to read "Sewage Enforcement Officer."
  - (4) "Water and Sewer Authority" is hereby amended to read "Sewer Authority."
  - (5) "Department of Community Affairs" is hereby amended to read "Department of Community and Economic Development."
  - (6) "Department of Environmental Resources" is hereby amended to "Department of Environmental Protection" or "Department of Conservation and Natural Resources," whichever is appropriate.
  - (7) "District Magistrate" or "Justice of the Peace" is hereby amended to read "District Justice."
  - (8) References to the Second Class Township Code are hereby amended to refer to the sections as reenacted by Act 60-1995.

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<sup>1</sup> Editor's Note: In accordance with § 1-6B, the chapters, parts and sections which were added, amended, adopted or deleted by this ordinance are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article I. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, deleted) 9-2-1998 by Ord. No. 98-9." Schedule A, which contains a complete description of all changes, is on file in the township offices.



**§ 1-7. Interpretation of provisions.**

In interpreting and applying the provisions of the Code, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of the Code impose greater restrictions or requirements than those of any statute, other ordinance, resolution or regulation, the provisions of the Code shall control. Where the provisions of any statute, other ordinance, resolution or regulation impose greater restrictions or requirements, the provisions of such statute, other ordinance, resolution or regulation shall control.

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

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

**§ 1-9. Filing of copies of Code.**

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

**§ 1-10. Amendments to Code.**

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

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

It shall be the duty of the Township Secretary or someone authorized and directed by him or her to keep up-to-date the certified copies of the book containing the Code required to be filed in the office of the Township Secretary for the use of the public. All changes in said Code and all legislation adopted by the Board of Supervisors subsequent to the effective date of this

codification which the Board of Supervisors shall adopt specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new legislation are printed as supplements to said Code books, at which time such supplements shall be inserted therein.

**§ 1-12. Publication of notices.**

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

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

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, or to alter or tamper with the Code or any part or portion thereof, in any manner whatsoever, which will cause the law of the township to be misrepresented thereby. Any person who violates or permits a violation of this section of this ordinance, upon being found liable therefor in a civil enforcement proceeding, shall pay a fine of not more than \$600, plus all court costs, including reasonable attorney's fees, incurred by the township in the enforcement of this chapter. No judgment shall be imposed until the date of the determination of the violation by the District Justice and/or Court. If the defendant neither pays nor timely appeals the judgment, the township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the township are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

**§ 1-14. Severability.**

The provisions of this ordinance and of the Code adopted hereby are severable, and if any clause, sentence, subsection, section, article, chapter or part thereof shall be adjudged by any court of competent jurisdiction to be illegal, invalid or unconstitutional, such judgment or decision shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation and application to the clause, sentence, subsection, section, article, chapter or part thereof rendered. It is hereby declared to be the intent of the Board of Supervisors that this ordinance and the Code would have been adopted if such illegal, invalid or unconstitutional clause, sentence, subsection, section, article, chapter or part thereof had not been included therein.

**§ 1-15. Effective date.**

All provisions of this ordinance and of the Code shall be in force and effect on and after September 2, 1998.

## Chapter 5

### AUTHORITIES, MUNICIPAL

#### ARTICLE I Municipal Authority (Toby Water)

- § 5-1. Application.
- § 5-2. Statutory authority.
- § 5-3. Powers.
- § 5-4. Duties.
- § 5-5. Execution of documents.
- § 5-6. Term.
- § 5-7. Board members and powers.
- § 5-8. Article of Incorporation.

#### ARTICLE II Sewer Authority

- § 5-9. Intent; statutory authority.
- § 5-10. Name of authority.
- § 5-11. Articles of Incorporation.
- § 5-12. Salaries.
- § 5-13. Execution of Articles of Incorporation.
- § 5-14. Purpose.

#### ARTICLE III Airport Authority

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

#### GENERAL REFERENCES

Sewers — See Ch. 82.

Subdivision and land development — See Ch. 96.

#### ARTICLE I Municipal Authority (Toby Water) [Adopted 6-6-1958 by Ord. No. 16]

##### § 5-1. Application.

Application shall be made to the Department of State of the Commonwealth of Pennsylvania for Articles of Incorporation for the establishment of the Municipal Authority (Toby Water) for the Township of Fox, Elk County, Pennsylvania.

##### § 5-2. Statutory authority.

Said Authority shall be formed pursuant to, in accordance with and under the provisions of the Municipality Authorities Act of 1945.<sup>1</sup>

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<sup>1</sup> Editor's Note: See 53 P.S. § 301 et seq.

**§ 5-3. Powers.**

Said Authority shall exercise all the powers conferred upon it by the Municipality Authorities Act of 1945, as amended.<sup>2</sup>

**§ 5-4. Duties.**

Said Authority shall undertake the promotion, development, construction, maintenance and operation of a public water system for the use and convenience of citizens of the Toby Valley Area who are not being served with water by the Kersey Water Company.

**§ 5-5. Execution of documents.**

The President of the Board of Supervisors and the Secretary be and they are hereby authorized to make and execute any and all applications, instruments, documents and do any and all other acts necessary or required for the formation of said Authority or as may be required by law.

**§ 5-6. Term.**

The term of existence for said Authority shall be for a term of 50 years.

**§ 5-7. Board members and powers.**

- A. There is hereby appointed to serve as the first members of the Board of said Authority the following persons, all of whom are citizens and residents of the Township of Fox, Elk County:

Name	Address	Term
F.J. Strandberg	R.D. #2, Kersey, PA	1 year
Victor C. Johnson	R.D. #2, Kersey, PA	2 years
George A. Swanson	R.D. #2, Kersey, PA	3 years
Charles R. Carlson	R.D. #2, Kersey, PA	4 years
Merle D. Moyer	R.D. #2, Kersey, PA	5 years
Rudolph Gradizzi	R.D. #2, Kersey, PA	6 years
Gustav Sicheri	R.D. #2, Kersey, PA	7 years

- B. Said Board shall exercise such powers as may be conferred upon it by the Municipality Authorities Act of 1945.<sup>3</sup>

<sup>2</sup> Editor's Note: See 53 P.S. § 301 et seq.

<sup>3</sup> Editor's Note: See 53 P.S. § 301 et seq.

**§ 5-8. Article of Incorporation.****ARTICLES OF INCORPORATION**

In compliance with the requirements of the Municipality Authorities Act of 1945, the Township of Fox, Elk County, Pennsylvania, desiring to incorporate a Municipal Authority, does hereby certify:

- (a) The name of the Authority is the "Municipal Authority (Toby Water) of the Township of Fox."
- (b) The Authority is being formed under the Municipality Authorities Act of 1945, approved May 2, 1945, P.L. 382, as amended.
- (c) No other Authority organized under the Act set forth in paragraph (b) or under the Act approved June 28, 1935, P.L. 463, is in existence in and for the Township of Fox, Elk County.
- (d) The incorporating municipality is the Township of Fox, Elk County, whose municipal authority is the Board of Supervisors of said township, whose names and addresses are as follows:

Ernest Mattiuz, Kersey, Pennsylvania, Member and President of the Board of Supervisors

Harry Fredrickson, Kersey, Pennsylvania, Member of the Board of Supervisors

C.J. Bauer, Kersey, Pennsylvania, Member of the Board of Supervisors

Thomas A. Carpin, Kersey, Pennsylvania, Secretary-Treasurer of the Board of Supervisors  
(but not a member of the Board of Supervisors)

- (e) The names, address and terms of office of the first members of the Board of said Authority, all of whom are citizens and residents of the Township of Fox, Elk County, are:

Name	Address	Term
F.J. Strandberg	R.D. #2, Kersey, PA	1 year
Victor C. Johnson	R.D. #2, Kersey, PA	1 year
George A. Swanson	R.D. #2, Kersey, PA	2 years
Charles R. Carlson	R.D. #2, Kersey, PA	2 years
Merle D. Moyer	R.D. #2, Kersey, PA	3 years
Rudolph Gradizzi	R.D. #2, Kersey, PA	4 years
Gustav Sicheri	R.D. #2, Kersey, PA	5 years

In witness whereof, the Township of Fox by its duly elected President, and attested by its Secretary, have hereunto set their hands and corporate seal this 16th day of July, A.D., 1958.

**ARTICLE II**  
**Sewer Authority**  
**[Adopted 11-5-1970 by Ord. No. 70-1]**

**§ 5-9. Intent; statutory authority.**

It is the intention of the Township of Fox, a municipality of the Commonwealth of Pennsylvania, situated in Elk County, Pennsylvania, to organize an Authority under the Municipality Authorities Act of 1945, designated as Act No. 164, approved May 2, 1945, together with all supplements thereof and amendments thereto, for the purpose of exercising and enjoying all of the powers of the Act, its supplements or amendments.<sup>4</sup>

**§ 5-10. Name of authority.**

The name of the proposed authority is "Fox Township Sewer Authority."

**§ 5-11. Articles of Incorporation. [Amended 5-20-1992 by Res. No. 992-5B]**

The proposed Articles of Incorporation of the Authority are as follows:

**Fox Township Sewer Authority**  
**Articles of Incorporation**  
**to the**  
**Secretary of the Commonwealth**  
**of Pennsylvania**

In compliance with the Municipality Authorities Act of 1945, its supplements and amendment, the Township of Fox, situated in the County of Elk, and the Commonwealth of Pennsylvania, pursuant to ordinance duly adopted by the municipal authority of said municipality, signifies its desire and intention to form an Authority, hereby certifies:

1. The name of the Authority shall be "Fox Township Sewer Authority."
2. This Authority is formed under the Municipality Authorities Act of 1945, its supplements and amendments.
3. One other Authority exists and was organized under the Municipality Authorities Act of 1945, its supplements and amendments. Said Authority was organized by the Township of Fox and is known as the "Municipal Authority (Toby Water) of the Township of Fox." Said Authority was organized by ordinance dated June 6, 1958, the purpose of which was to construct, develop and operate a water system for the use and convenience of citizens of the Toby Valley Area who are not being served with water by Kersey Water Company, Inc.
4. The purpose of the Authority is for acquiring the presently created water system from the Kersey Water Company, Inc., and expanding and developing said system for other areas of Fox Township not served by any water system, exclusive of the Toby Valley Area, and for

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<sup>4</sup> Editor's Note: See 53 P.S. § 301 et seq.

the purpose of constructing, developing and operating a sewer system for the Township of Fox.

5. The name of the incorporating municipality is the "Township of Fox."
6. The names and addresses of its municipal authority, being the Board of Supervisors, are as follows:

John E. Flynn, President of the Board of Supervisors  
Main Street  
Kersey, PA

John Gschwendtner, Member, Board of Supervisors  
Fairview Road  
Kersey, PA

Clifton R. Lilja, Member, Board of Supervisors  
Dagus Mines, PA

Ernest Mattius, Secretary-Treasurer of Board of Supervisors  
Kersey, PA

7. The names and addresses and terms of office of the first members of the Board of the Authority are as follows:

Jake Petitti	One year
Cherry Road	
Kersey, PA	

George D. Sennett	One year
Main Street	
Kersey, PA	

Alvan L. Mosier	Two years
Main Street	
Kersey, PA	

John E. Neureiter	Two years
Main Street	
Kersey, PA	

Joseph Burke	Three years
Mt. Zion Road	
Weedville, PA	

Celestine Mattivi	Four years
Dagus Mines, PA	

Mario Surra	Five years
Kersey, PA	

8. The term of existence of the Authority is increased to a date 50 years from the date of approval of these Articles of Amendment. [Added 2-25-1981 by Ord. No. 81-2]<sup>5</sup>

In witness whereof the incorporating municipality has executed these articles by its proper officers duly authorized and under its municipal seal this 5th day of November, 1970.

**§ 5-12. Salaries.**

The members of the Board shall serve without salary.

**§ 5-13. Execution of Articles of Incorporation.**

The Articles of Incorporation of the Authority, in substantially the form set forth in § 5-11 of this article, shall be executed on behalf of the Township of Fox by the President of the Board of Supervisors, attested to by the Secretary of the Board of Supervisors, and such officers are hereby authorized, empowered and directed to do all things necessary and appropriate to effect and establish said Authority in conformity with the Municipality Authorities Act of 1945, its supplements and amendments.<sup>6</sup>

**§ 5-14. Purpose.**

The adoption of this article is deemed necessary for the benefit and preservation of the public health, peace, comfort and general welfare and will increase the prosperity of the Township of Fox.

**ARTICLE III  
Airport Authority**

[The Articles of Incorporation of the Airport Authority of the Borough of St. Mary's, Resolution No. 993-6, Ordinance No. 94-1 and all other legislation establishing the township's membership in the St. Mary's Airport Authority is on file in the township offices.]

<sup>5</sup> Editor's Note: Original Section 4, Appointment of Board, which immediately followed this section and repeated information included in the Articles of Incorporation, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>6</sup> Editor's Note: See 53 P.S. § 301 et seq.



## **Chapter 9**

### **DISASTER EMERGENCY MANAGEMENT PLAN**

**[A drought contingency plan, as adopted 9-13-1991 by Ord. No. 91-9, is on file in the township offices.]**



## Chapter 12

### INVESTMENT IN FUTURE FUND

§ 12-1. Definition of fund.

§ 12-5. Utilization of funds.

§ 12-2. Purpose.

§ 12-6. Budget process; implementation.

§ 12-3. Resources.

§ 12-7. Option to waive or adjust.

§ 12-4. Implementation.

§ 12-8. Effective date.

[HISTORY: Adopted by the Board of Supervisors of the Township of Fox 4-4-2012 by Ord. No. 2012-4-A. Amendments noted where applicable.]

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#### § 12-1. Definition of fund.

The Investment in the Future Fund shall include, collectively, all the current and future investments of landfill host fee monies in the form of certificates of deposit or other forms of investments allowable by the Second Class Township Code.

#### § 12-2. Purpose.

The purpose of the Investment in the Future Fund is to minimize future revenue shortfalls and deficits and the need to increase taxes to balance the budget yet maintain the current level of services in the future should the landfill host fee monies significantly decrease or cease to exist.

#### § 12-3. Resources.

There shall be deposited annually into this fund a contribution from the landfill host fee revenue in an amount as follows: 35% of the amount that remains after the allocation for line item "4492.00 — Cash Transfers to General Fund."

#### § 12-4. Implementation.

- A. Each year, within 10 working days after the final landfill host fee payment for the year is received, the Township Treasurer shall deposit the appropriate percentage of the actual collected revenue (as defined in § 12-3) into an investment compliant with Second Class Township Code Section 3204.<sup>1</sup>
- B. Monies deposited into the Investment in the Future Fund, along with accrued interest, shall be accumulated from year to year and shall be reinvested as needed as each matures consistent with the provisions of Section 3204 of the Second Class Township Code.

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1. Editor's Note: See 53 P.S. § 68204.

**§ 12-5. Utilization of funds.**

- A. At such time as when the landfill host fee income ceases to exist or is insufficient to balance the general fund, then, and only then, shall the annual interest earned on these accumulated investments be used to complement the revenue of the general fund in order to balance the budget.
- B. The principal amount (i.e., the accumulated balance as indicated in the annual CPA audit at the close of the previous fiscal year) shall be prohibited from being spent until such time as the Board of Supervisors, by resolution, declares that no other funding sources are available and:
  - (1) Funds are needed for emergencies involving the health, safety or welfare of the residents of the Township.
  - (2) Funds are needed for unexpected repair or maintenance of Township roads insomuch as these roads, without immediate attention, will endanger the safety of those traveling said roads.
  - (3) Unforeseen expenses leave the Township short on revenue to essential budgeted general fund items. Essential items shall include the maintenance of Township-owned equipment and facilities and the general conduct of business of the Township.

**§ 12-6. Budget process; implementation.**

- A. The Board of Supervisors' approved budget for each year shall include a line item indicating the amount of the anticipated host fee revenue to be allocated to the Investment in the Future Fund. This amount shall be in accordance with the provision stated in § 12-3 above.
- B. When preparing the landfill host fee budget for a new fiscal year, the Board of Supervisors shall, in this order:
  - (1) Establish the anticipated landfill host fee monies in an amount not to exceed the total actual income of the immediately preceding four quarters.
  - (2) Allocate revenue necessary to balance the general fund budget.
  - (3) Allocate the appropriate revenue to the Investment in the Future Fund as determined by § 12-3.
  - (4) Allocate revenue for road maintenance and improvement projects that the Roadmaster deems necessary for the year and revenue for the Road Equipment Reserve Fund.
  - (5) Allocate revenue for any existing agreements, promissory notes, etc.
  - (6) If and only if items in Subsection B(1) through (5) above have been fulfilled, allocate, at its discretion, all other revenue requests for the balance of the host fee monies.

- C. If, after allocating all landfill host fee revenue as per § 12-6B, the Board finds that there is insufficient revenue to meet the requirements of § 12-6B(4) and (5), then the Board of Supervisors, by majority vote, may adjust the amount of revenue, as determined in § 12-3, that is to be placed in the Investment in the Future Fund to help meet these requirements. Under no circumstances shall this option apply to meeting the requests in § 12-6B(6).

**§ 12-7. Option to waive or adjust.**

The percentages established in § 12-3 may be adjusted in following situations only:

- A. If, after the final host fee payment is received, there is a shortfall in the actual collected landfill host fee revenue from what was budgeted and there are insufficient funds available to meet the deposit requirement described in § 12-3, the contribution to the Investment in the Future Fund shall be reduced to compensate for this difference.
- B. If the total annual interest earned on the Investment in the Future Fund should at any time be equal to or greater than the amount required to supplement the annual general fund budget, the Board of Supervisors may, by majority vote, waive the investment requirements of this chapter. This option shall be reviewed on an annual basis in preparation of the budget for the following fiscal year.

**§ 12-8. Effective date.**

This chapter shall be effective on April 4, 2012, and shall remain in force until modified, amended or rescinded by the Township of Fox, Elk County, Pennsylvania.



## Chapter 15

### LOCAL GOVERNMENT INVESTMENT TRUST

**§ 15-1. Authorization to join Trust.**

**§ 15-3. Custody of funds.**

**§ 15-2. Purchase and redemption of shares authorized.**

**§ 15-4. Findings and determinations.**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Fox 5-18-1983 by Ord. No. 83-5. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Municipal Authorities — See Ch. 5.  
Pensions — See Ch. 24.

Salaries and compensation — See Ch. 33.

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**§ 15-1. Authorization to join Trust.**

This municipality shall join with other municipalities in accordance with the Pennsylvania Intergovernmental Cooperation Act<sup>1</sup> by becoming a settler of the Pennsylvania Local Government Investment Trust (the "Trust") and entering into the Declaration of Trust, which is adopted by reference with the same effect as if it had been set out verbatim in this section and a copy of which shall be filed with the minutes of the meeting at which this chapter was adopted.

**§ 15-2. Purchase and redemption of shares authorized.**

This municipality is authorized to purchase shares in the Trust from time to time with available municipal funds and to redeem some or all of those shares from time to time as funds are needed for municipal purposes. These actions are to be taken by the officers designated for this purpose, pursuant to general or specific instructions by the governing body adopting this chapter.

**§ 15-3. Custody of funds.**

The Trustees of the Trust are designated as having official custody of this municipality's funds which are invested by the purchase of shares in the Trust.

**§ 15-4. Findings and determinations.**

As required by the Intergovernmental Cooperation Act, the following matters are specifically found and determined:

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<sup>1</sup> Editor's Note: See 53 Pa.C.S.A. § 2301 et seq. for current statutory provisions.

- A. The conditions of the agreement are set forth in the Declaration of Trust referred to in § 15-1.
- B. This municipality's participation in the Trust shall be terminable at any time by ordinance.
- C. The Declaration of Trust and the purchase of its shares are for the purpose of investing this municipality's funds in obligations which are otherwise legal investments as part of a pooled arrangement with other governmental units, thereby achieving economic and other advantages of pooled investments.
- D. It is not necessary to finance the agreement authorized herein from municipal funds except through the purchase of shares in the Trust.
- E. The Trust shall be managed by a Board of Trustees as set forth in the Declaration of Trust and the bylaws provided for therein.
- F. Shares may be purchased and redeemed from time to time as this municipality may determine to be necessary or appropriate to meet its cash investment requirements.



## Chapter 21

### PARKS AND RECREATION BOARD

- |                                               |                                             |
|-----------------------------------------------|---------------------------------------------|
| § 21-1. Creation of Board; membership.        | § 21-5. Annual budget.                      |
| § 21-2. Appointments; terms of office.        | § 21-6. Restrictions on authority of Board. |
| § 21-3. Service without pay; vacancies.       | § 21-7. Annual report required.             |
| § 21-4. Officers and Directors of Recreation. |                                             |

**[HISTORY: Adopted by the Board of Supervisors of the Township of Fox 5-3-1989 by Ord. No. 89-5. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Parks and recreation — See Ch. 79.

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#### § 21-1. Creation of Board; membership.

There is hereby created a Parks and Recreation Board in and for the Township of Fox. The Board shall consist of seven persons to be appointed by the Board of Supervisors for such terms as shall permit no more than two terms to expire in any one calendar year.

#### § 21-2. Appointments; terms of office.

The members of the Board shall be appointed by the Board of Supervisors for terms of five years, in such order that at least one member's term shall expire annually. The aforesaid appointments for a specified term notwithstanding, a Board member may stay in office until a successor qualifies or is appointed, or the Board of Supervisors may remove any member of the Board at the pleasure of the Board of Township Supervisors.

#### § 21-3. Service without pay; vacancies.

The members of the Board shall serve without pay, and vacancies in such Board occurring otherwise than by expiration of a term shall be filled by the Board of Township Supervisors for the unexpired term in the same manner as original appointment.

#### § 21-4. Officers and Directors of Recreation.

- A. The Parks and Recreation Board shall elect its own Chairperson and Secretary and any other officers deemed necessary, to serve for a period of one year.

- B. The Recreation Board Chairperson shall be nominated as its administrative officer by the Parks and Recreation Board and shall be appointed by and be directly responsible to the Board of Township Supervisors for the performance of his duties.

**§ 21-5. Annual budget.**

The Recreation Board, at such times as directed by the Board of Supervisors, shall annually submit for approval to the Board of Supervisors a proposed budget for the ensuing year, setting forth all proposed expenditures, salaries and programs. The Recreation Board shall not in any manner obligate the Township of Fox for the payment of any municipal funds until the same is appropriated by the Board of Township Supervisors.

**§ 21-6. Restrictions on authority of Board.**

The Recreation Board shall exercise the authority granted herein over any recreation place acquired hereafter or now existing, unless otherwise specified by the Board of Township Supervisors.

**§ 21-7. Annual report required.<sup>1</sup>**

The Parks and Recreation Board shall submit an annual report to the Board of Supervisors, including an analysis of the adequacy and effectiveness of community recreation areas, facilities and leadership.

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<sup>1</sup> Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

## **Chapter 24**

### **PENSIONS**

**[All legislation establishing the township's employee pension plan(s), including Resolution No. 76-8 which was amended in its entirety 12-7-1994 by Resolution No. 994-12, is on file in the township offices.]**

#### **GENERAL REFERENCES**

**Salaries and compensation — See Ch. 33.**

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## Chapter 27

### PLANNING COMMISSION

**§ 27-1. Establishment.**

**§ 27-3. Powers and duties.**

**§ 27-2. Composition; terms of office.**

[HISTORY: Adopted by the Board of Supervisors of the Township of Fox at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

#### GENERAL REFERENCES

Subdivision and land development — See Ch. 96.

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**§ 27-1. Establishment.**

A Township Planning Commission consisting of nine members is hereby created and established for Fox Township, Elk County, Pennsylvania, pursuant to the provisions of Article II, Section 201, of the Pennsylvania Municipalities Planning Code, as established by the Act of July 31, 1968, P.L. 805, No. 247, as amended and reenacted.<sup>1</sup>

**§ 27-2. Composition; terms of office.**

The Planning Commission shall be comprised of nine members who shall be appointed for terms of office of four years, to be established on a series of overlapping terms with no more than three members being reappointed or replaced during any calendar year.

**§ 27-3. Powers and duties.**

The Planning Commission shall have all the powers and duties conferred and imposed upon it as set forth in the Pennsylvania Municipalities Planning Code, established by the Act of July 31, 1968, P.L. 805, No. 247, as amended and reenacted.

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<sup>1</sup> Editor's Note: See 53 P.S. § 10101 et seq.



**Chapter 33**  
**SALARIES AND COMPENSATION**

**ARTICLE I**  
**Supervisors**

**§ 33-2. Payment schedule.**

**§ 33-1. Amount of compensation.**

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

**GENERAL REFERENCES**

**Pensions — See Ch. 24.**

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**ARTICLE I**  
**Supervisors**  
**[Adopted 1-1-1996 by Ord. No. 95-12]**

**§ 33-1. Amount of compensation.**

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

**§ 33-2. Payment schedule.**

Such compensation shall be paid in quarterly installments.





## **PART II**

# **GENERAL LEGISLATION**



## Chapter 43

### BUILDING CONSTRUCTION

- |                                               |                                                      |
|-----------------------------------------------|------------------------------------------------------|
| § 43-1. Building permit required; exceptions. | § 43-7. Display of placard.                          |
| § 43-2. Definitions.                          | § 43-8. Start of construction; expiration of permit. |
| § 43-3. Issuance of permit.                   | § 43-9. Inspection and revocation.                   |
| § 43-4. Application procedures.               | § 43-10. Fees.                                       |
| § 43-5. Conformance required.                 | § 43-11. Violations and penalties.                   |
| § 43-6. Changes.                              |                                                      |

[HISTORY: Adopted by the Board of Supervisors of the Township of Fox 12-3-1975 by Ord. No. 12-75. Amendments noted where applicable.]

#### GENERAL REFERENCES

Drainage — See Ch. 51.  
Floodplain management — See Ch. 66.

Sewers — See Ch. 82.

#### § 43-1. Building permit required; exceptions.

- A. It shall be unlawful for any person, partnership, business or corporation to undertake or cause to be undertaken the construction, reconstruction, enlargement, alteration or relocation of any building or structure unless an approved building permit has been obtained from the Municipal Building Permit Officer.
- B. A building permit shall not be required for minor repair to existing buildings or structures, provided that no structural changes or modifications are involved, nor shall a permit be required for a storage or utility building having not in excess of 100 square feet of floor space.

#### § 43-2. Definitions.

- A. General. Unless specifically defined below, words and phrases used in this chapter shall be interpreted so as to give them the same meanings as they have in common usage and so as to give this chapter its most reasonable application.
- B. Specific definitions.

**ACCESSORY USE OR STRUCTURE** — A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**BUILDING** — A combination of materials to form a permanent structure having walls and a roof. Included shall be all mobile homes and trailers to be used for human habitation or business or commercial purposes, whether or not on a permanent site.<sup>1</sup>

**MINOR REPAIR** — The replacement of existing work with equivalent materials for the purpose of its routine maintenance, upkeep and reroofing, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support or the removal or change of any required means of egress or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.<sup>2</sup>

**MUNICIPAL BUILDING PERMIT OFFICER** — The Secretary of the Board of Supervisors of Fox Township, or any other person properly designated by the Board of Supervisors.

**PERSON** — Any person, persons, partnership, business or corporation.

**STRUCTURE** — Anything constructed or erected on the ground or attached to the ground, including but not limited to buildings, sheds, mobile homes and other similar items.<sup>3</sup>

### § 43-3. Issuance of permit.

The Building Permit Officer shall issue a building permit only after it has been determined that the proposed construction will be in conformance with all applicable requirements and regulations.

### § 43-4. Application procedures.

Application for such a building permit shall be made, in writing, to the Building Permit Officer on forms supplied by the municipality. Such application shall contain at least the following:

- A. The name and address of the applicant.
- B. The name and address of the owner of the land on which proposed construction is to occur.
- C. The name and address of the contractor.
- D. Site location.
- E. A brief description of the proposed work and estimated cost.
- F. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

<sup>1</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>2</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>3</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 43-5. Conformance required.**

The plans and specifications submitted as provided in § 43-4 above must conform to the following requirements, and any building constructed within the township or any addition to any existing building therein or relocation of any building or structure therein must conform to the following requirements:

- A. No building shall be located less than 35 feet from street or public road line.
- B. No building shall be located less than 10 feet from any lot line.
- C. All buildings shall be substantially built and properly designed in accordance with good building practice in the township.
- D. Foundation shall be of masonry, concrete, cinder or concrete block, brick or stone.
- E. Any mobile home, farm structure, farm building or garage may be built on a slab or the structure placed on footings.
- F. The outside of any building constructed within the township or of any addition to any existing building therein shall be completed within 12 months.

**§ 43-6. Changes.**

After the issuance of a building permit by the Building Permit Officer, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Building Permit Officer.

**§ 43-7. Display of placard.**

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

**§ 43-8. Start of construction; expiration of permit.**

- A. Work on the proposed construction shall begin within six months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Building Permit Officer. Construction shall be considered to have started with the first placement of permanent construction of the site, such as the pouring of slabs or footings or any work beyond the stage of excavation. For a structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its pilings or foundation or the affixing of any prefabricated structure or mobile home to its permanent site. Permanent construction does not include land preparation, land clearing, grading, filling, excavation for basement, footings, piers or foundations, erection of temporary forms, the installation of piling under

proposed subsurface footings or the installation of sewer, gas and water pipes or electric or other service lines from the street.

- B. If the permit expires without having been used, no part of the permit fee will be returned, and if at any future time such permit holder shall make application for another permit for the same work, he shall follow the same procedure and pay the same fee as if no previous permit had been issued.

#### **§ 43-9. Inspection and revocation.**

During the construction period, the Building Permit Officer or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. In the event that the Building Permit Officer discovers that the work does not comply with the permit application or any applicable laws and ordinances or that there has been a false statement or misrepresentation by any applicant, the Building Permit Officer shall revoke the building permit and report such fact to the Township of Fox for whatever action it considers necessary.

#### **§ 43-10. Fees.<sup>4</sup>**

Applications for a building permit shall be accompanied by 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.

#### **§ 43-11. Violations and penalties.<sup>5</sup>**

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

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<sup>4</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>5</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

## Chapter 44

### BUILDINGS, DANGEROUS OR DILAPIDATED

- |                                                       |                                     |
|-------------------------------------------------------|-------------------------------------|
| § 44-1. Definitions.                                  | § 44-6. Violations and penalties.   |
| § 44-2. Standards for repair, vacation or demolition. | § 44-7. Emergency cases.            |
| § 44-3. Dangerous buildings; nuisances.               | § 44-8. Owner absent from Township. |
| § 44-4. Duties of the Building Inspector.             | § 44-9. Administrative liability.   |
| § 44-5. Duties of Township Supervisors.               | § 44-10. Appeal.                    |

[HISTORY: Adopted by the Board of Supervisors of the Township of Fox 9-1-2010 by Ord. No. 2010-9. Amendments noted where applicable.]

#### GENERAL REFERENCES

Building construction — See Ch. 43.

Nuisances — See Ch. 75.

#### § 44-1. Definitions.

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

**DANGEROUS BUILDINGS** — All buildings or structures which have any or all of the following defects:

- A. Those whose interior or exterior walls or other vertical structural members lean, list or buckle to such an extent that they are 3% or more of their longitudinal dimension from being vertically plumb or horizontally straight.
- B. Those which, exclusive of the foundation, show 33% or more of damage or deterioration of the surrounding member or members or 50% of damage or deterioration of the nonsupporting enclosing or outside walls or coverings.
- C. Those which have improperly distributed loads upon the floors, roof or walls as a result of settlement or decay in which any structural member is overloaded or has insufficient strength to be reasonably safe.
- D. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of Fox Township.
- E. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease so as to cause injury to the health, morals, safety or general welfare of those living therein.
- F. Those which have light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.

- G. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.
- H. Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- I. Those which because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this Township.

#### **§ 44-2. Standards for repair, vacation or demolition.**

The following standards shall be followed in substance by the Building Inspector or assistants specially designated thereto and the Township Supervisors in ordering repair, vacation or demolition:

- A. If the dangerous or dilapidated building can be repaired, as determined by the Building Inspector, so that it will no longer exist in violation of the terms of this chapter, it shall be ordered repaired.
- B. If the dangerous or dilapidated building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated.
- C. In any case where a dangerous or dilapidated building cannot be reasonably repaired, as determined by the building inspector, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be demolished. In cases where a dangerous and dilapidated building is a fire hazard existing or erected in violation of the terms of this chapter or of any ordinances of the Township or statute of the Commonwealth of Pennsylvania, it shall be demolished.

#### **§ 44-3. Dangerous buildings; nuisances.**

All dangerous buildings within the terms of § 44-1 of this chapter are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as hereinbefore and hereinafter provided.

#### **§ 44-4. Duties of the Building Inspector.**

The Building Inspector, or assistants specially designated thereto, shall:

- A. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building wall or structure is or may be existing in violation of the terms of this chapter.
- B. Inspect any building reported as probably existing in violation of the terms of this chapter.



- C. Notify in writing the owner, occupant, lessee, mortgagee, agent and all other person having an interest in said building as shown by the deed registration files of the Township and/or the Recorder of Deeds of the County of Elk, of any building found by him to be a dangerous building within the standards set forth in § 44-1 of this chapter, that:
- (1) The owner must vacate or repair or demolish said building in accordance with the terms of the notice and this chapter.
  - (2) The occupant or lessee must vacate said building or may have it repaired in accordance with the notice and remain in possession.
  - (3) The mortgagee, agent or the other persons having an interest in said building, as shown by the land records of the Recorder of Deeds of the County of Elk, may, at his own risk, repair, vacate or demolish said building and shall be given such reasonable time, not exceeding 30 days as may be necessary to do, or have done, the work or act required by the notice provided for herein.
- D. Set forth in the notice provided for in Subsection C hereof a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a dangerous building and an order requiring the same to be put in such condition as to comply with the terms of this chapter within such length of time, not exceeding 30 days, as is reasonable.
- E. Report to the Township Supervisors any noncompliance with the notice provided for in Subsections C and D hereof.
- F. Appear at all hearings conducted by the Township Supervisors and testify as to the condition of dangerous buildings.
- G. Place a notice on all dangerous buildings reading as follows:

"This building has been found to be a dangerous building by the Building Inspector, or assistants specially designated thereto. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given to owner, occupant, lessee, mortgagee or agent of this building and all other persons having an interest in said building as shown by the land records of the deed registration files of the Recorder of Deeds of the County of Elk. It is unlawful to remove this notice until such notice is complied with."

#### **§ 44-5. Duties of Township Supervisors.**

The Township Supervisors shall:

- A. Upon receipt of a report of the Building Inspector or assistants specially designated thereto, as provided for in § 44-4E hereof, give written notice to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building, as shown by the land records of the deed registration of the Recorder of Deeds of Elk

County, to appear before the Supervisors on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the Building Inspector's notice provided for herein in § 44-4D.

- B. Hold a hearing and hear such testimony as the Building Inspector or assistants specially assigned thereto, or the owner, occupant, mortgagee, lessee or any other person having an interest in said building, as shown by the land records of the Recorder of Deeds of the County of Elk, shall offer relative to the dangerous building.
- C. Make written findings of fact from the testimony offered pursuant to Subsection B as to whether or not the building in question is a dangerous building within the terms of § 44-1 hereof.
- D. Issue an order based upon findings of fact made pursuant to Subsection C commanding the owner, occupant, mortgagee, lessee or any other person having an interest in said building, as shown by the land records of the deed registration file of the Recorder of Deeds of the County of Elk, to order to repair, vacate or demolish any found to be a dangerous building within the terms of this chapter and provided that any person so notified, except the owners, shall have the privilege either of vacating or repairing said dangerous building; or any person not the owner of said dangerous building but having an interest in said building, as shown by the land records and the deed registration files of the Recorder of Deeds of the County of Elk, may demolish said dangerous building at his own risk to prevent the acquiring of a lien by the Township against the land upon which said dangerous building stands, as provided in Subsection E thereof.
- E. If the owner, occupant, mortgagee or lessee fails to comply with or appeal the order provided for in Subsection D hereof, within 30 days, the Supervisors shall cause such building or structure to be repaired, vacated or demolished as the facts may warrant, under the standards hereinbefore provided for in § 44-2 of this chapter, and shall, with the assistance of the Township Solicitor, cause the costs of such repair, vacation or demolition to be charged against the land on which the building existed as a municipal lien. or to be recovered in a suit at law against the owner, provided that cases where such procedure is desirable, and any delay thereby caused, will not be dangerous to the health, morals, safety general welfare of this Township. The Township Supervisors shall notify the Township Solicitor to take legal action to force the owner to make all necessary repairs or demolish the building.
- F. Report to the Township Solicitor the names of all persons not complying with the order provided for in § 44-5D thereof.

#### **§ 44-6. Violations and penalties.**

Any person, firm or corporation who shall violate any provision of this chapter, upon conviction thereof in an action brought before a district justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a

violation of this chapter continues or each section of this chapter which shall be found to have been violated shall constitute a separate offense.

**§ 44-7. Emergency cases.**

In cases where it reasonably appears that there is immediate danger to life or safety of any person unless a dangerous building, as defined herein, is immediately repaired, vacated or demolished, the Building Inspector, or assistants specially designated thereof, shall report such facts to the Township Supervisors and the Supervisors shall cause the immediate repair, vacation or demolition of such dangerous buildings. The cost of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in § 44-5E hereof.

**§ 44-8. Owner absent from Township.**

In cases, except emergency cases, where the owner, occupant, lessee or mortgagee is absent from the Township, all notices or orders provided for herein, shall be sent by certified mail to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building, as shown on the land records of the deed registration files of the Recorder of Deeds of the County of Elk, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the dangerous building to which it relates. Such mailing and posting shall be deemed adequate service. Where desirable, the notices and orders provided for herein may be served in the same manner a summons is served in the courts of general jurisdiction.

**§ 44-9. Administrative liability.**

No officer, agent or employee of the Township Supervisors shall render himself personally liable for any damage that may accrue to person or property as a result of any act required or permitted in the discharge of his duties under this chapter. Any suit brought against any officer, agent or employee of the Township Supervisors as a result of any act required or permitted in the discharge of his duties under this chapter shall be defended by the Township Solicitor until the final determination of the proceedings therein.

**§ 44-10. Appeal.**

Any owner, occupant, mortgagee, lessee or any other person having an interest in a building, subject to an order of the Township Supervisors, may file an appeal of said order with the court of Common Pleas of the 59th Judicial District within 30 days of the entry of said order.



## **Chapter 51**

### **DRAINAGE**

- |                                                   |                                                         |
|---------------------------------------------------|---------------------------------------------------------|
| <b>§ 51-1. Title.</b>                             | <b>§ 51-7. Response to application.</b>                 |
| <b>§ 51-2. Prohibited acts.</b>                   | <b>§ 51-8. Culvert or drainpipe inspection.</b>         |
| <b>§ 51-3. Surface water drains.</b>              | <b>§ 51-9. Fees and charges.</b>                        |
| <b>§ 51-4. Drainage ditches; permit required.</b> | <b>§ 51-10. Violations and penalties.</b>               |
| <b>§ 51-5. Permit application requirements.</b>   | <b>§ 51-11. Removal by township; recovery of costs.</b> |
| <b>§ 51-6. Engineer's certification.</b>          |                                                         |

**[HISTORY: Adopted by the Board of Supervisors of the Township of Fox 11-6-1974 by Ord. No. 74-2. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

**Building construction — See Ch. 43.**

**Floodplain management — See Ch. 66.**

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#### **§ 51-1. Title.**

This chapter shall be known as the "Fox Township Surface Water Drainage Ordinance."

#### **§ 51-2. Prohibited acts.**

No person shall divert or obstruct the natural flow of surface water in such manner as to damage public or private property.

#### **§ 51-3. Surface water drains.**

All covered and open surface water drains shall be kept open and free of any obstruction by the owner thereof.

#### **§ 51-4. Drainage ditches; permit required.**

No drainage ditch along any township public road and no natural watershed drainage shall be covered or enclosed unless a permit is first obtained from the township.

#### **§ 51-5. Permit application requirements.**

All applications for a permit shall be accompanied by a sketch showing the profile grade and depth of the ditch and the fee hereinafter prescribed.

**§ 51-6. Engineer's certification.**

Application for a permit to enclose a natural watershed drain or any roadside ditch, except a drain or ditch under a driveway, shall also be accompanied by a certification of a registered engineer that it will comply with a twenty-five-year storm drainage criteria.

**§ 51-7. Response to application.**

An application shall be acted upon within 45 days from receipt, and if refused, the reasons shall be set forth in writing delivered to the applicant.

**§ 51-8. Culvert or drainpipe inspection.**

- A. The applicant shall notify the Township Secretary immediately after any authorized culvert or drainpipe is laid, and no such culvert or drainpipe shall be covered until it has been inspected and approved by the township.
- B. Within 15 days after receipt of notice, the township authorized representative shall inspect any culvert or drainpipe and either issue a certificate of compliance or require such corrections and adjustments as may be specified in writing.

**§ 51-9. Fees and charges.**

The fees and charges (none of which shall be returnable) for consideration of applications, including inspection, are as follows:

- A. Culvert pipe installed under driveways at the entrance to a road: as set from time to time by resolution of the Board of Supervisors.
- B. Culvert pipe installed along a public road, other than for access to a driveway: as set from time to time by resolution of the Board of Supervisors.
- C. Culvert pipe or storm sewers in a natural watershed drainage ditch or gully: as set from time to time by resolution of the Board of Supervisors.

**§ 51-10. Violations and penalties.<sup>1</sup>**

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

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<sup>1</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 51-11. Removal by township; recovery of costs.**

Any culvert or drainpipe installed contrary to the provisions of this chapter may be removed by the township, and the cost of such removal may be recovered from the person responsible by a summary proceeding or by filing a municipal claim or by an action of assumpsit.





## **Chapter 61**

### **FEEES**

**§ 61-1. Return check fee.**

**§ 61-2. Services charges for fifteen-day notice.**

**§ 61-3. Service fee regarding tax certification statement.**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Fox 1-6-1997 by Ord. No. 97-1. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

**Taxation — See Ch. 102.**

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**§ 61-1. Return check fee.**

- A. Fox Township hereby imposes a fee as set from time to time by resolution of the Board of Supervisors per check being returned commencing five days after the effective date of this chapter.<sup>1</sup>
- B. By further determination of this township, this fee shall be set from time to time by resolution in the event that the township determines a need to change from the initially established fee.
- C. This fee will be for any check to any township office or organization for any purpose.

**§ 61-2. Services charges for fifteen-day notice.**

- A. Fox Township hereby imposes a fee as set from time to time by resolution of the Board of Supervisors to be assessed by the Fox Township Tax Collector's Office to any person should the Fox Township Tax Collector's Office send delinquent tax notices.<sup>2</sup>
- B. By further determination of this township, this fee shall be set from time to time by resolution in the event that the township determines a need to change from the initially established fee.

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<sup>1</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>2</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 61-3. Service fee regarding tax certification statement.**

- A. Fox Township hereby imposes a service fee as set from time to time by resolution of the Board of Supervisors to be assessed to each person, firm or corporation requesting a tax certification statement from the Fox Township Tax Collector's Office.<sup>3</sup>
- B. By further determination of this township, this fee shall be set from time to time by resolution in the event that the township determines a need to change from the initially established fee.

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<sup>3</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

## **Chapter 66**

### **FLOODPLAIN MANAGEMENT**

#### **ARTICLE I Authority**

**§ 66-1. Statutory authority.**

#### **ARTICLE II General Provisions**

**§ 66-2. Intent.**

**§ 66-3. Applicability.**

**§ 66-4. Abrogation and greater restrictions.**

**§ 66-5. Warning and disclaimer of liability.**

#### **ARTICLE III Administration**

**§ 66-6. Designation of Floodplain Administrator.**

**§ 66-7. Permits required.**

**§ 66-8. Duties and responsibilities of Floodplain Administrator.**

**§ 66-9. Application procedures and requirements.**

**§ 66-10. Review of application by County Conservation District.**

**§ 66-11. Review of application by other agencies and individuals.**

**§ 66-12. Changes to application, permit or plans.**

**§ 66-13. Placards.**

**§ 66-14. Start of construction; time limits.**

**§ 66-15. Enforcement; violations and penalties.**

**§ 66-16. Appeals.**

#### **ARTICLE IV Floodplain Areas**

**§ 66-17. Identification.**

**§ 66-18. Description.**

**§ 66-19. Changes in identification of area.**

**§ 66-20. Boundary disputes.**

**§ 66-21. Jurisdictional boundary changes.**

#### **ARTICLE V Technical Provisions**

**§ 66-22. General requirements.**

**§ 66-23. Elevation and floodproofing requirements.**

**§ 66-24. Design and construction standards.**

**§ 66-25. Development which may endanger human life.**

**§ 66-26. Special requirements for subdivisions.**

**§ 66-27. Special requirements for manufactured homes.**

**§ 66-28. Special requirements for recreational vehicles.**

#### **ARTICLE VI Special Permits**

**§ 66-29. Activities requiring special permits.**

**§ 66-30. Application requirements.**

**§ 66-31. Application review procedures.**

**§ 66-32. Special technical requirements.**

ARTICLE VII  
Existing Structures in Identified  
Floodplain Areas

§ 66-33. Applicability.

§ 66-34. Improvements.

ARTICLE VIII  
Variances

§ 66-35. Authorization to grant relief.

§ 66-36. Procedures and conditions.

ARTICLE IX  
Definitions

§ 66-37. Interpretations.

§ 66-38. Terms defined.

ARTICLE X  
Enactment

§ 66-39. Effective date.

[HISTORY: Adopted by the Board of Supervisors of the Township of Fox 1-3-2012 by Ord. No. 2012-1.<sup>1</sup> Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 43.  
Drainage — See Ch. 51.  
Sewers — See Ch. 82.

Stormwater management — See Ch. 86.  
Subdivision and land development — See Ch. 96.

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ARTICLE I  
Authority

§ 66-1. Statutory authority.

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978,<sup>2</sup> delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Board of Supervisors of Township of Fox does hereby order as follows.

ARTICLE II  
General Provisions

§ 66-2. Intent.

The intent of this chapter is to:

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1. Editor's Note: This ordinance also superseded former Ch. 66, Floodplain Management, adopted 9-2-1998 by Ord. No. 98-9.
  2. Editor's Note: See 32 P.S. § 679.101 et seq.

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

**§ 66-3. Applicability.**

- A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within Township of Fox unless a permit has been obtained from the Floodplain Administrator.
- B. A permit shall not be required for minor repairs to existing buildings or structures.

**§ 66-4. Abrogation and greater restrictions.**

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

**§ 66-5. Warning and disclaimer of liability.**

- A. The degree of flood protection sought by the provisions of this chapter is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that areas outside any identified floodplain areas or that land uses permitted within such areas will be free from flooding or flood damages.
- B. This chapter shall not create liability on the part of the Township of Fox or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

**ARTICLE III  
Administration**

**§ 66-6. Designation of Floodplain Administrator.**

The Code Enforcement Officer of the Township of Fox is hereby appointed to administer and enforce this chapter and is referred to herein as the "Floodplain Administrator."

**§ 66-7. Permits required.**

A permit shall be required before any construction or development is undertaken within any area of the Township of Fox.

**§ 66-8. Duties and responsibilities of Floodplain Administrator.**

- A. The Floodplain Administrator shall issue a permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
- B. Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended);<sup>3</sup> the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended);<sup>4</sup> the Pennsylvania Clean Streams Act (Act 1937-394, as amended);<sup>5</sup> and the U.S. Clean Water Act, Section 404, 33 U.S.C. § 1344. No permit shall be issued until this determination has been made.
- C. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.
- D. In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this chapter.
- E. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the permit and report such fact to the Board of Supervisors for whatever action it considers necessary.
- F. The Floodplain Administrator shall maintain all records associated with the requirements of this chapter, including, but not limited to, permitting, inspection and enforcement.
- G. The Floodplain Administrator shall consider the requirements of 34 Pa. Code and the 2009 International Building Code and the 2009 International Residential Code or latest revisions thereof.

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3. Editor's Note: See 35 P.S. § 750.1 et seq.

4. Editor's Note: See 32 P.S. § 693.1 et seq.

5. Editor's Note: See 35 P.S. § 691.1 et seq.

**§ 66-9. Application procedures and requirements.**

- A. Application for such a permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the Township of Fox. Such application shall contain the following:
- (1) The name and address of the applicant.
  - (2) The name and address of the owner of land on which proposed construction is to occur.
  - (3) The name and address of the contractor.
  - (4) The site location, including address.
  - (5) A listing of other permits required.
  - (6) A brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
  - (7) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
- (1) All such proposals are consistent with the need to minimize flood damage and conform to the requirements of this and all other applicable codes and ordinances.
  - (2) All utilities and facilities, such as sewer, gas, electrical and water systems, are located and constructed to minimize or eliminate flood damage.
  - (3) Adequate drainage is provided so as to reduce exposure to flood hazards.
  - (4) Structures will be anchored to prevent flotation, collapse, or lateral movement.
  - (5) Building materials are flood-resistant.
  - (6) Appropriate practices that minimize flood damage have been used.
  - (7) Electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
- C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:
- (1) A completed permit application form.
  - (2) A plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 100 feet or less, showing the following:

- (a) North arrow, scale, and date;
  - (b) Topographic contour lines, if available;
  - (c) The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
  - (d) The location of all existing streets, drives, and other accessways; and
  - (e) The location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway and the flow of water, including direction and velocities.
- (3) Plans of all proposed buildings, structures and other improvements, drawn at suitable scale, showing the following:
- (a) The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
  - (b) The elevation of the base flood;
  - (c) Supplemental information as may be necessary under 34 Pa. Code, the 2009 International Building Code or the 2009 International Residential Code.
- (4) The following data and documentation:
- (a) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.
  - (b) Detailed information concerning any proposed floodproofing measures and corresponding elevations.
  - (c) Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area/District without floodway (see § 66-18A), when combined with all other existing and anticipated development, will not increase the base flood elevation more than one foot at any point.
  - (d) A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood. Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.
  - (e) Detailed information needed to determine compliance with § 66-24F, Storage, and § 66-25, Development which may endanger human life, including:



- [1] The amount, location and purpose of any materials or substances referred to in §§ 66-24F and 66-25 which are intended to be used, produced, stored or otherwise maintained on site.
  - [2] A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in § 66-25 during a base flood.
  - (f) The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
  - (g) Where any excavation or grading is proposed, a plan to implement and maintain erosion and sedimentation control meeting the requirements of the Department of Environmental Protection.
- D. Applications for permits shall be accompanied by a fee, payable to the municipality, based upon the estimated cost of the proposed construction as determined by the Floodplain Administrator.

**§ 66-10. Review of application by County Conservation District.**

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

**§ 66-11. Review of application by other agencies and individuals.**

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

**§ 66-12. Changes to application, permit or plans.**

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

**§ 66-13. Placards.**

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

**§ 66-14. Start of construction; time limits.**

- A. Work on the proposed construction or development shall begin within 180 days after the date of issuance and shall be completed within 12 months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- B. Time extensions shall be granted only if a written request, which sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request, is submitted by the applicant.

**§ 66-15. Enforcement; violations and penalties.**

- A. Notices. Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this chapter, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:
- (1) Be in writing.
  - (2) Include a statement of the reasons for its issuance.
  - (3) Allow a reasonable time not to exceed a period of 30 days for the performance of any act it requires.
  - (4) Be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this state;
  - (5) Contain an outline of remedial actions which, if taken, will effect compliance with the provisions of this chapter.
- B. Penalties. Any person who fails to comply with any or all of the requirements or provisions of this chapter or who fails or refuses to comply with any notice, order or direction of the Floodplain Administrator or any other authorized employee of the municipality shall be guilty of a misdemeanor and, upon conviction, shall pay a fine to Township of Fox of not less than \$25 nor more than \$600 plus costs of prosecution. In

addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this chapter. The imposition of a fine or penalty for any violation of or noncompliance with this chapter shall not excuse the violation or noncompliance or permit it to continue, and all such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this chapter may be declared by the Board of Supervisors to be a public nuisance and abatable as such.

#### **§ 66-16. Appeals.**

- A. Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this chapter may appeal to the Board of Supervisors. Such appeal must be filed, in writing, within 30 days after the decision, determination or action of the Floodplain Administrator.
- B. Upon receipt of such appeal, the Board of Supervisors shall set a time and place, within not less than 10 or not more than 30 days, for the purpose of considering the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.
- C. Any person aggrieved by any decision of the Board of Supervisors may seek relief therefrom by appeal to court, as provided by the laws of this state, including the Pennsylvania Flood Plain Management Act.<sup>6</sup>

### **ARTICLE IV Floodplain Areas**

#### **§ 66-17. Identification.**

- A. The identified floodplain area shall be:
  - (1) Any areas of Fox Township, classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated January 18, 2012, and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study; and
  - (2) Any community-identified flood hazard areas.
- B. The above-referenced FIS and FIRMs, and any subsequent revisions and amendments, are hereby adopted by Fox Township and declared to be a part of this chapter.

#### **§ 66-18. Description.**

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

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6. Editor's Note: See 32 P.S. § 679.101 et seq.

- A. The AE Area/District without floodway shall be those areas identified as a Zone A1-30 or AE Zone on the FIRM included in the FIS prepared by FEMA and for which base flood elevations have been provided in the FIS but no floodway has been delineated. No permit shall be granted for any construction, development, use, or activity within any AE Area/District without floodway unless it is demonstrated that the cumulative effect of the proposed development would not, together with all other existing and anticipated development, increase the base flood elevation more than one foot at any point.
- B. The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no one-percent-annual-chance flood elevations have been provided. For these areas, elevation and floodway information from other federal, state, or other acceptable source shall be used when available. Where other acceptable information is not available, the elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site. In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the municipality.
- C. The Shallow Flooding Area/District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by one-percent-annual-chance shallow flooding where average depths are between one foot and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.
- D. In any identified floodplain area, no new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Protection Regional Office.

#### **§ 66-19. Changes in identification of area.**

The identified floodplain area may be revised or modified by the Board of Supervisors where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six months after the date such information becomes available, a community shall notify FEMA of the changes by submitting technical or scientific data.

#### **§ 66-20. Boundary disputes.**

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

**§ 66-21. Jurisdictional boundary changes.**

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

**ARTICLE V**  
**Technical Provisions**

**§ 66-22. General requirements.**

- A. Alteration or relocation of watercourse.
- (1) No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality and until all required permits or approvals have first been obtained from the Department of Environmental Protection Regional Office.
  - (2) No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood-carrying capacity of the watercourse in any way.
  - (3) In addition, FEMA and Pennsylvania Department of Community and Economic Development shall be notified prior to any alteration or relocation of any watercourse.
- B. Technical or scientific data shall be submitted by the applicant to FEMA for a Letter of Map Revision (LOMR) as soon as practicable but within six months of any new construction, development, or other activity resulting in changes in the base flood elevation. The situations when a LOMR or a Conditional Letter of Map Revision (CLOMR) is required are:
- (1) Any development occurring in Zones A1-30 and Zone AE without a floodway which will cause a rise of more than one foot in the base flood elevation; or
  - (2) Alteration or relocation of a stream (including but not limited to installing culverts and bridges).
- C. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this chapter and any other applicable codes, ordinances and regulations.
- D. Within any identified floodplain area, no new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Protection Regional Office.

**§ 66-23. Elevation and floodproofing requirements.****A. Residential structures.**

- (1) In AE without floodway A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to or above the regulatory flood elevation.
- (2) In A Zones, where there are no base flood elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to or above the regulatory flood elevation determined in accordance with § 66-18B of this chapter.
- (3) In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.
- (4) The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 Pa. Code (Chapters 401 through 405, as amended) shall be utilized.

**B. Nonresidential structures.**

- (1) In AE without floodway, A1-30 and AH Zones, any new construction or substantial improvement of a nonresidential structure shall have the lowest floor (including basement) elevated up to or above the regulatory flood elevation or be designed and constructed so that the space enclosed below the regulatory flood elevation:
  - (a) Is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water; and
  - (b) Has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:
- (2) In A Zones, where there are no base flood elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to or above the regulatory flood elevation determined in accordance with § 66-18B of this chapter.
- (3) In AO Zones, any new construction or substantial improvement shall have its lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.
- (4) Any nonresidential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the WI or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed

design and methods of construction are in conformance with the above referenced standards.

- (5) The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 Pa. Code (Chapters 401 through 405, as amended) shall be utilized.

C. Space below the lowest floor.

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

D. Historic structures. See § 66-38, the definition of "substantial improvements" for requirements for the substantial improvement of any historic structures.

**§ 66-24. Design and construction standards.**

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

A. Fill. If fill is used, it shall:

- (1) Extend laterally at least 15 feet beyond the building line from all points;
- (2) Consist of soil or small rock materials only; sanitary landfills shall not be permitted;
- (3) Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
- (4) Be no steeper than one vertical foot to two horizontal feet unless substantiated data justifying steeper slopes are submitted to and approved by the Floodplain Administrator; and

- (5) Be used to the extent to which it does not adversely affect adjacent properties.
- B. Drainage facilities. Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall insure proper drainage along streets and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.
- C. Water and sanitary sewer facilities and systems.
- (1) All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of floodwaters.
  - (2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
  - (3) No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all state and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it or contamination from it during a flood.
  - (4) The design and construction provisions of the UCC and FEMA No. 348, Protecting Building Utilities From Flood Damages, and the International Private Sewage Disposal Code shall be utilized.
- D. Other utilities. All other utilities, such as gas lines, electrical and telephone systems, shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.
- E. Streets. The finished elevation of all new streets shall be no more than one foot below the regulatory flood elevation.
- F. Storage. All materials that are buoyant, flammable, explosive or in times of flooding could be injurious to human, animal, or plant life, and not listed in § 66-25, Development Which May Endanger Human Life, shall be stored at or above the regulatory flood elevation or floodproofed to the maximum extent possible.
- G. Placement of buildings and structures. All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of floodwater.
- H. Anchoring.
- (1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
  - (2) All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.
- I. Floors, walls and ceilings.



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

J. Paints and adhesives.

- (1) Paints and other finishes used at or below the regulatory flood elevation shall be of marine or water-resistant quality.
- (2) Adhesives used at or below the regulatory flood elevation shall be of a marine or water-resistant variety.
- (3) All wooden components (doors, trim, cabinets, etc.) used at or below the regulatory flood elevation shall be finished with a marine or water-resistant paint or other finishing material.

K. Electrical components.

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

L. Equipment. Water heaters, furnaces, air-conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the regulatory flood elevation.

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

N. Uniform Construction Code coordination. The standards and specifications contained in 34 Pa. Code (Chapters 401 through 405), as amended, and not limited to the following provisions shall apply to the above and other sections and subsections of this chapter, to the extent that they are more restrictive and supplement the requirements of this chapter.

- (1) International Building Code (IBC) 2009 or the latest edition thereof: Section 801, 1202, 1403, 1603, 1605, 1612 and 3402 and Appendix G.

- (2) International Residential Building Code (IRC) 2009 or the latest edition thereof: Section R104, R105, R109, R323 and Appendix AE101, Appendix E and Appendix J.

**§ 66-25. Development which may endanger human life.**

- A. In accordance with the Pennsylvania Flood Plain Management Act and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances; or will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or will involve the production, storage, or use of any amount of radioactive substances shall be subject to the provisions of this section, in addition to all other applicable provisions. The following is a list of materials and substances that are considered dangerous to human life:

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

- B. Within any identified floodplain area, any new or substantially improved structure of the kind described in Subsection A above shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.
- C. New or substantially improved structure within floodplain areas.

- (1) Where permitted within an identified floodplain area, any new or substantially improved structure of the kind described in Subsection A above shall be:
  - (a) Elevated, or, in the case of a nonresidential structure, elevated or designed, and constructed to remain completely dry up to at least 1 1/2 feet above the base flood elevation; and
  - (b) Designed to prevent pollution from the structure or activity during the course of a base flood.
- (2) Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972, as amended March 1992) or with some other equivalent watertight standard.

**§ 66-26. Special requirements for subdivisions.**

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

**§ 66-27. Special requirements for manufactured homes.**

- A. Where permitted within identified floodplain areas, all manufactured homes, and any improvements thereto, shall be:
  - (1) Placed on a permanent foundation.
  - (2) Elevated so that the lowest floor of the manufactured home is at least 1 1/2 feet above the base flood elevation; and
  - (3) Anchored to resist flotation, collapse, or lateral movement.
- B. Installation of manufactured homes shall be done in accordance with the manufacturer's installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 International Residential Building Code or the U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing, 1984 Edition, draft or latest revision thereto, shall apply and 34 Pa. Code Chapters 401 through 405.
- C. Consideration shall be given to the installation requirements of the 2009 IBC and the 2009 IRC, or the most recent revisions thereto, and 34 Pa. Code, as amended, where appropriate and applicable to units where the manufacturer's standards for anchoring cannot be provided or were not established for the units' proposed installation.

**§ 66-28. Special requirements for recreational vehicles.**

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

- A. Be on the site for fewer than 180 consecutive days;
- B. Be fully licensed and ready for highway use; or
- C. Meet the permit requirements for manufactured homes in § 66-27.

**ARTICLE VI  
Special Permits**

**§ 66-29. Activities requiring special permits.**

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any identified floodplain area, unless a special permit has been issued by the Township of Fox.

- A. The commencement of any of the following activities, or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:
  - (1) Hospitals.
  - (2) Nursing homes.
  - (3) Jails or prisons.
- B. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision or substantial improvement to an existing manufactured home park or manufactured home subdivision.

**§ 66-30. Application requirements.**

Applicants for special permits shall provide five copies of the following items:

- A. A written request, including a completed permit application form.
- B. A small-scale map showing the vicinity in which the proposed site is located.
- C. A plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 100 feet or less, showing the following:
  - (1) North arrow, scale and date;
  - (2) Topography based upon the North American Vertical Datum (NAVD) of 1988 showing existing and proposed contours at intervals of two feet;
  - (3) All property and lot lines, including dimensions, and the size of the site expressed in acres or square feet;

- (4) The location of all existing streets, drives, other accessways, and parking areas, with information concerning widths, pavement types and construction, and elevations;
  - (5) The location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man-made features affecting, or affected by, the proposed activity or development;
  - (6) The location of the floodplain boundary line, information and spot elevations concerning the base flood elevation, and information concerning the flow of water, including direction and velocities;
  - (7) The location of all proposed buildings, structures, utilities, and any other improvements; and
  - (8) Any other information which the municipality considers necessary for adequate review of the application.
- D. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale, showing the following:
- (1) Sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate;
  - (2) For any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor;
  - (3) Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood;
  - (4) Detailed information concerning any proposed floodproofing measures;
  - (5) Cross-section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths;
  - (6) Profile drawings for all proposed streets, drives, and vehicular accessways, including existing and proposed grades; and
  - (7) Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.
- E. The following data and documentation:
- (1) Certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;
  - (2) Certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the base flood;

- (3) A statement, certified by a registered professional engineer, architect, landscape architect, or other qualified person, which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a base flood, including a statement concerning the effects such pollution may have on human life;
- (4) A statement, certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on base flood elevation and flows;
- (5) A statement, certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the base flood elevation and the effects such materials and debris may have on base flood elevation and flows;
- (6) The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development".
- (7) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection to implement and maintain erosion and sedimentation control;
- (8) Any other applicable permits, such as, but not limited to, a permit for any activity regulated by the Department of Environmental Protection under Section 302 of Act 1978-166; and
- (9) An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a base flood.

**§ 66-31. Application review procedures.**

Upon receipt of an application for a special permit by the Township of Fox, the following procedures shall apply in addition to those of Article III:

- A. Within three working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Township of Fox Planning Commission and Township of Fox Engineer for review and comment.
- B. If an application is received that is incomplete, the Township of Fox shall notify the applicant in writing, stating in what respect the application is deficient.
- C. If the Township of Fox decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.
- D. If the Township of Fox approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community

and Economic Development, by registered or certified mail, within five working days after the date of approval.

- E. Before issuing the special permit, the Township of Fox shall allow the Department of Community and Economic Development 30 days, after receipt of the notification by the Department, to review the application and decision made by the Township of Fox.
- F. If the Township of Fox does not receive any communication from the Department of Community and Economic Development during the thirty-day review period, it may issue a special permit to the applicant.
- G. If the Department of Community and Economic Development should decide to disapprove an application, it shall notify the Township of Fox and the applicant, in writing, of the reasons for the disapproval, and the Township of Fox shall not issue the special permit.

**§ 66-32. Special technical requirements.**

- A. In addition to the requirements of Article V of this chapter, the following minimum requirements shall also apply to any proposed development requiring a special permit. If there is any conflict between any of the following requirements and those in Article V of this chapter or in any other code, ordinance, or regulation, the more restrictive provision shall apply.
- B. No application for a special permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:
  - (1) Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:
    - (a) The structure will survive inundation by waters of the base flood without any lateral movement or damage to either the structure itself or to any of its equipment or contents below the base flood elevation.
    - (b) The lowest floor (including basement) will be elevated to at least 1 1/2 feet above base flood elevation.
    - (c) The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the base flood.
  - (2) Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.
- C. All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Township of Fox and the Department of Community and Economic Development.

**ARTICLE VII**  
**Existing Structures in Identified Floodplain Areas**

**§ 66-33. Applicability.**

The provisions of this chapter do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of § 66-34 shall apply.

**§ 66-34. Improvements.**

The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:

- A. No expansion or enlargement of an existing structure shall be allowed within any identified floodplain area that would, together with all other existing and anticipated development, increase the base flood elevation more than one foot at any point.
- B. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of 50% or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this chapter.
- C. The above activity shall also address the requirements of 34 Pa. Code, as amended, and the 2009 IBC and the 2009 IRC.

**ARTICLE VIII**  
**Variances**

**§ 66-35. Authorization to grant relief.**

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

**§ 66-36. Procedures and conditions.**

- A. Requests for variances shall be considered by the Township of Fox in accordance with the procedures contained in § 66-16 and the following:
  - (1) No variance shall be granted for any construction, development, use, or activity within any floodway area that would cause any increase in the base flood elevation.
  - (2) No variance shall be granted for any construction, development, use, or activity within any identified floodplain area that would, together with all other existing and anticipated development, increase the base flood elevation more than one foot at any point.



- (3) Except for a possible modification of the regulatory flood elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by special permit (or prohibited activities) (Article VI) or to development which may endanger human life (§ 66-25).
  - (4) If granted, a variance shall involve only the least modification necessary to provide relief.
  - (5) In granting any variance, the Township of Fox shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare and to achieve the objectives of this chapter.
  - (6) In reviewing any request for a variance, the Township of Fox shall consider, at a minimum, the following:
    - (a) That there is good and sufficient cause.
    - (b) That failure to grant the variance would result in exceptional hardship to the applicant.
    - (c) That the granting of the variance will neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense nor create nuisances, cause fraud on, or victimize the public or conflict with any other applicable state or local ordinances and regulations.
  - (7) Whenever a variance is granted, the Township of Fox shall notify the applicant in writing that:
    - (a) The granting of the variance may result in increased premium rates for flood insurance.
    - (b) Such variances may increase the risks to life and property.
  - (8) A complete record of all variance requests and related actions shall be maintained by the Township of Fox. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.
- B. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-percent-annual-chance flood.

## ARTICLE IX

### Definitions

#### § 66-37. Interpretations.

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

**§ 66-38. Terms defined.**

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

**ACCESSORY USE OR STRUCTURE** — A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

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

**BASE FLOOD DISCHARGE** — The volume of water resulting from a base flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).

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

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

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

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

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

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

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** — The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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

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

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

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

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

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

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

**HISTORIC STRUCTURES** — Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior; or
  - (2) Directly by the Secretary of the Interior in states without approved programs.

**LOWEST FLOOR** — The lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood-resistant, partially enclosed area, used solely for the parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable nonelevation design requirements of this chapter.

**MANUFACTURED HOME** — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

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

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

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the 18th day of January 2012 adopted by the community and includes any subsequent improvements to such structures. Any construction started after March 17, 2011, and before January 18, 2012, is subject to the ordinance in effect at the time the permit was issued, provided that the start of construction was within 180 days of permit issuance.

NEW MANUFACTURED HOME PARK OR SUBDIVISION — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

PERSON — An individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.

POST-FIRM STRUCTURE — A structure for which construction or substantial improvement occurred after December 31, 1974, or on or after the community's initial Flood Insurance Rate Map (FIRM) dated 1/18/2011, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

PRE-FIRM STRUCTURE — A structure for which construction or substantial improvement occurred on or before December 31, 1974, or before the community's initial Flood Insurance Rate Map (FIRM) date 1/18/2011 and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

RECREATIONAL VEHICLE — A vehicle which is:

- A. Built on a single chassis.
- B. Not more than 400 square feet, measured at the largest horizontal projections.
- C. Designed to be self-propelled or permanently towable by a light-duty truck.
- D. Not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**REGULATORY FLOOD ELEVATION** — The base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of 1 1/2 feet.

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

**SPECIAL FLOOD HAZARD AREA (SFHA)** — An area in the floodplain subject to a one-percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99 or AH.

**SPECIAL PERMIT** — A special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and subdivisions and substantial improvements to such existing parks, when such development is located in all or a designated portion of a floodplain.

**START OF CONSTRUCTION** — Includes substantial improvement and other proposed new development and means the date the permit was issued, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit and shall be completed within 12 months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

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

**SUBSTANTIAL IMPROVEMENT** — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage or repetitive loss regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health; sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement, as defined in this chapter, must comply with all ordinance requirements that do not preclude the structure's continued designation as an historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic Places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

**UNIFORM CONSTRUCTION CODE (UCC)** — The statewide building code adopted by the Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities, whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, the Code adopted the International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the state floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

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

## **ARTICLE X**

### **Enactment**

#### **§ 66-39. Effective date.**

This chapter shall be effective on January 18, 2012, and shall remain in force until modified, amended or rescinded by the Township of Fox, Elk County, Pennsylvania.

## **Chapter 68**

### **INSURANCE**

#### **ARTICLE I**

##### **Fire Insurance Claims**

- § 68-1. Use of fire insurance proceeds.**
- § 68-2. Limits of liability.**
- § 68-3. Insurance company rights reserved.**

- § 68-4. Construal of provisions.**
- § 68-5. Notification of Pennsylvania Department of Community and Economic Development.**
- § 68-6. Violations and penalties.**

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

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#### **ARTICLE I**

##### **Fire Insurance Claims**

**[Adopted 4-6-2011 by Ord. No. 2011-4]**

**§ 68-1. Use of fire insurance proceeds.**

- A. No insurance company, association or exchange (hereinafter "insurer") doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within the Township of Fox, Elk County, Pennsylvania, where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500, unless the insurer is furnished by the Secretary of the Township of Fox with a certificate pursuant to Section 508(b) of the Insurance Company Law of 1921<sup>1</sup> as amended by Act 98 of 1992 and Act 93 of 1994 (collectively the "Act") and unless there is compliance with the procedures set forth in Section 508(c) and (d) of the Act.
- B. Where there are delinquent taxes, assessments, penalties or user charges against the property ("municipal claims") or there are expenses which the Township has incurred as costs for removal, repair or the securing of a building or other structure on the property (collectively "municipal expenses"), the Secretary of the Township shall immediately render a bill for such work, if not already done. Upon written request of the named insured specifying the description of the property, the name and address of the insurer and the date of receipt by the insurer of a loss report of the claim, the Secretary of the Township shall furnish a certificate within 14 days after the request to the insurer either:
- (1) Stating that there are no unpaid municipal claims or municipal expenses against the property; or
  - (2) Specifying the nature and amount of such claims or expenses, accompanied by a bill for such amounts. Taxes, assessments, penalties and user charges shall be deemed delinquent for this purpose if a lien could have been filed for such claims

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1. Editor's Note: See 40 P.S. § 638(b).

under applicable law. Upon receipt of a certificate and bill pursuant to Subsection B(1) of this section, the insurer shall transfer to the Secretary of the Township an amount from the insurance proceeds sufficient to pay said sums prior to making payment to the named insured, subject to the provisions of Subsection C hereof.

- C. When all municipal claims and municipal expenses have been paid pursuant to Subsection B of this section or when the Township Secretary has issued a certificate described in Subsection B(1) indicating that there are no municipal claims or municipal expenses against the property, the insurer shall pay the claim of the named insured; provided, however, that if the loss agreed upon by the named insured and the insurer equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building or structure, the following procedures must be followed:
- (1) The insurer shall transfer from the insurance proceeds to the Township Secretary, in the aggregate, \$2,000 for each \$15,000 of such claim or fraction thereof.
  - (2) If, at the time a loss report is submitted by the insured, such insured has submitted to the insurer, with a copy to the Township, a contractor's signed estimate of the cost of removing, repairing or securing the building or other structure in an amount less than the amount calculated under the foregoing transfer formula, the insurer shall transfer to the Secretary of the Township of Fox from the insurance proceeds the amount specified in the estimate. If there is more than one insurer, the transfer of proceeds shall be on a pro rata basis by all insurers insuring the building or other structure.
  - (3) Upon receipt of the above-described portion of the insurance proceeds, the Secretary of the Township of Fox, Elk County, Pennsylvania, shall do the following:
    - (a) Place the proceeds in a separate fund to be used solely as security against the total municipal expenses anticipated by the Township to be required in removing, repairing or securing the building or structure as required by this article. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Township in connection with such removal, repair or securing or any proceedings related thereto;
    - (b) Mail to the named insured, at the address received from the insurer, a notice that the proceeds have been received by the Township and that the procedures under this subsection shall be followed;
    - (c) After the transfer, the named insured may submit to the Township of Fox a contractor's signed estimate of the cost of removing, repairing or securing the building or other structure. If such estimates are deemed by the Township Secretary to be reasonable, the Township Secretary shall return to the insured the amount of the funds transferred to the Township of Fox in excess of that amount required to pay the municipal expenses; provided, however, that the Township has not commenced to remove, repair or secure the building or other structure, in which case the Township will complete the work;



- (d) When repairs, removal or securing of the building or other structure has been completed in accordance with all applicable regulations and orders of Fox Township and the required proof of such completion received by the designated officer, and if the Township has not incurred any costs for repairs, removal or securing, the fund shall be returned to the named insured. If the Township has incurred costs for repairs, removal or securing of the building or other structure, the costs shall be paid from the fund, and if excess funds remain, the municipality shall transfer the remaining funds to the named insured; and
  - (e) To the extent that interest is earned on proceeds held by the Township pursuant to this section and not returned to the named insured, such interest shall belong to the Township. To the extent that proceeds are returned to the named insured, interest earned on such proceeds shall be distributed to the named insured at the time that the proceeds are returned.
- (4) Nothing in this section shall be construed to limit the ability of the Township to recover any deficiency in the amount of municipal claims or municipal expenses recovered pursuant to this article, or to insurance proceeds, by an action at law or in equity to enforce the Township codes or to enter into an agreement with the named insured with regard to such other disposition of the proceeds as the Township may deem responsible.

#### **§ 68-2. Limits of liability.**

Nothing in this article shall be construed to make an insurance company association or exchange liable for any amount in excess of proceeds payable under its insurance policy or for any other act performed pursuant to this article or to make the Township or any public official of the Township an insured under a policy of insurance or to create an obligation to pay delinquent property taxes or unpaid removal liens or expenses other than as provided in this article.

#### **§ 68-3. Insurance company rights reserved.**

An insurance company, association or exchange making payment of policy proceeds under this article for delinquent taxes or structural removal liens or removal expenses incurred by the Township of Fox shall have full benefit of such payment, including all rights of subrogation and of assignment.

#### **§ 68-4. Construal of provisions.**

This article shall be liberally construed to accomplish its purpose to deter the commission of arson and related crimes, to discourage the abandonment of property and to prevent urban blight and deterioration.

**§ 68-5. Notification of Pennsylvania Department of Community and Economic Development.**

The Secretary of the Township of Fox shall transmit a certified copy of this article promptly to the Pennsylvania Department of Community and Economic Development.

**§ 68-6. Violations and penalties.**

Any owner of property, any named insured or insurer who violates the provisions of this article or who shall fail to comply with any of the requirements hereof shall be sentenced, upon conviction thereof, to pay a fine not greater than \$1,000 plus costs and in default of payment of said fine and costs to a term of imprisonment not to exceed 30 days. Each day in which an offense shall continue shall be deemed a separate offense.

**Chapter 70**  
**(RESERVED)**

**[Former Ch. 70, Junk Dealers and Junkyards, adopted 12-2-1966 by Ord. No. 66-6, as amended, was repealed 2-4-2009 by Ord. No. 2009-2.]**

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## Chapter 75

### NUISANCES

- |                                                                                                                                                                                   |                                                                                                                                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>§ 75-1. Title.</p> <p>§ 75-2. Purposes.</p> <p>§ 75-3. Applicability.</p> <p>§ 75-4. Definitions.</p> <p>§ 75-5. Nuisances prohibited.</p> <p>§ 75-6. Removal of nuisance.</p> | <p>§ 75-7. Prima facie evidence.</p> <p>§ 75-8. Violations and penalties.</p> <p>§ 75-9. Removal by township; collection of costs.</p> <p>§ 75-10. Injunction.</p> <p>§ 75-11. Filing of copies.</p> |
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[HISTORY: Adopted by the Board of Supervisors of the Township of Fox 10-5-1994 by Ord. No. 94-10. Amendments noted where applicable.]

#### GENERAL REFERENCES

Junk dealers and junkyards — See Ch. 70.

Vehicles and traffic — See Ch. 107.

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#### § 75-1. Title.

This chapter shall be known as the "Fox Township Nuisance Ordinance."

#### § 75-2. Purposes.

The purpose of this chapter is to promote the health, safety and general welfare of the inhabitants of the township.

#### § 75-3. Applicability.

This chapter shall not apply to persons operating a business licensed and regulated under the Fox Township Junkyard Ordinance<sup>1</sup> or to permitted landfills. If any provision of this chapter conflicts with the Pennsylvania Vehicle Code,<sup>2</sup> the provisions of the Vehicle Code shall apply.

#### § 75-4. Definitions.

Certain words and phrases used in this chapter shall have the following meanings:

DANGEROUS STRUCTURE — Any uninhabited building which has deteriorated to the state where it is dangerous and unsafe for human occupancy, constitutes a fire hazard,

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<sup>1</sup> Editor's Note: See Ch. 70, Junk Dealers and Junkyards.

<sup>2</sup> Editor's Note: See 75 Pa.C.S.A. § 101 et seq.

endangers surrounding buildings, shelters rats or other vermin or endangers the safety of children playing about it.

**GARAGE** — Animal, vegetable and organic waste, from the handling, preparation, cooking and consumption of food, with the exception of compost piles.

**JUNK** — Any one of the following articles accumulated on any property, whether or not intended for reuse or sale, and whether or not such article has value, unless the same cannot be seen from any public highway, road, street, avenue, lane or alley which is maintained by the township or by the Commonwealth of Pennsylvania:

- A. Used articles of metal, wood, glass, plastic, rubber or paper.
- B. Used tires.
- C. Used household appliances.
- D. Parts of motor vehicles.
- E. Abandoned or discarded materials.

**JUNKED VEHICLE** — Any motor vehicle, as defined in the Vehicle Code, which is unable to move under its own power and has any of the following physical defects:

- A. Broken windshield, mirror or other glass, with sharp edges.
- B. One or more flat or open tires or tubes which could permit vermin harborage.
- C. Missing doors, windows, hood, truck or other body parts which could permit animal harborage.
- D. Any body parts with sharp edges, including holes resulting from rust.
- E. Missing tires resulting in unsafe suspension of the vehicle.
- F. Upholstery which is torn or open which could permit animal or vermin harborages.
- G. Broken headlamps or taillamps with sharp edges.
- H. Disassembled chassis parts from the vehicle stored in a disorderly fashion or loose in or on the vehicle.
- I. Protruding sharp objects from the chassis.
- J. Broken vehicle frame suspended from the ground in an unstable manner.
- K. Leaking or damaged oil pan or gas tank which could cause fire or explosion.
- L. Exposed battery containing acid.
- M. Inoperable locking mechanism for doors or trunk.
- N. Open or damaged floor boards, including trunk and fire wall.
- O. Damaged bumpers pulled away from the perimeter of the vehicle.
- P. Broken grill with protruding edges.
- Q. Loose or damaged metal trim and clips.

- R. Broken communication equipment antennas.
- S. Vehicle raised or suspended on unstable supports.
- T. Such other defects which could threaten the health, safety and welfare of the citizens of the township.

PERSON — Any individual, partnership or corporation.

TOWNSHIP — Fox Township, Elk County, Pennsylvania.

#### **§ 75-5. Nuisances prohibited.**

The following nuisances are prohibited within Fox Township:

- A. The storage of junk or junked vehicles, except within a closed building.
- B. The accumulations of garbage, except as provided in any township ordinance regulating the accumulation and disposal thereof.
- C. A dangerous structure.
- D. An uncovered well or cistern.

#### **§ 75-6. Removal of nuisance.**

Any person known to own or maintain a prohibited nuisance shall remove or abate the same within 30 days after service of notice. Any person known to own or maintain a dangerous structure or uncovered well or cistern shall erect a barrier at least three feet in height entirely around the dangerous structure, well or cistern, which barrier shall prevent entry into said dangerous structure, well or cistern, within 48 hours after service of notice.

#### **§ 75-7. Prima facie evidence.**

Ownership, maintenance, control or use of property upon which a nuisance is located shall be deemed prima facie evidence of maintenance of the nuisance.

#### **§ 75-8. Violations and penalties.<sup>3</sup>**

Any person who violates or permits a violation of this chapter, upon being found liable therefor in a civil enforcement proceeding, shall pay a fine of not more than \$600, plus all court costs, including reasonable attorney's fees, incurred by the township in the enforcement of this chapter. No judgment shall be imposed until the date of the determination of the violation by the District Justice and/or Court. If the defendant neither pays nor timely appeals the judgment, the township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers

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<sup>3</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

or agents of the township are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

**§ 75-9. Removal by township; collection of costs.**

- A. The township may enter upon any property for the purpose of removing any nuisance or for the purpose of erecting a barrier around a dangerous structure or uncovered well or cistern.
- B. In addition to the penalty provided in § 75-8, the township may collect the cost of removing the nuisance or erecting a barrier from the person responsible by a summary proceeding, by filing a municipal claim or by an action in assumpsit.

**§ 75-10. Injunction.**

In addition to the other remedies above provided, the township may institute proceedings in a court of equity to abate the nuisance.

**§ 75-11. Filing of copies.**

A copy of this chapter shall be filed in the Office of the Prothonotary for Elk County, Pennsylvania.



## **Chapter 79**

### **PARKS AND RECREATION**

**[Rules and regulations governing use of the township parks are on file in the township offices (see minutes from the Board of Supervisors meeting of June 4, 1975, and any amendments thereto).]**

#### **GENERAL REFERENCES**

**Parks and Recreation Board — See Ch. 21.**

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## **Chapter 82**

### **SEWERS**

#### **Part 1**

#### **Connection Requirements**

##### **ARTICLE I**

##### **Terminology**

#### **§ 82-1. Definitions.**

##### **ARTICLE II**

##### **Rules and Regulations Requiring**

##### **Discharge of Sanitary Sewerage**

##### **into Public Sanitary**

##### **Sewer System.**

#### **§ 82-2. Declaration of rules and regulations.**

##### **ARTICLE III**

##### **Sewer System**

- § 82-3. Owners must connect.**
- § 82-4. Owners who may connect.**
- § 82-5. Owners failing to connect.**
- § 82-6. Privy vault, cesspool or similar receptacle.**
- § 82-7. Application for connection permit.**
- § 82-8. Housing developments.**
- § 82-9. Observance of rules and regulations.**
- § 82-10. Separate house connections.**
- § 82-11. Common waste system.**
- § 82-12. No work performed without permission.**
- § 82-13. Supervision of work.**
- § 82-14. Service laterals during initial construction.**
- § 82-15. Service laterals.**

- § 82-16. Drainage into sewer system.**
- § 82-17. Disconnection of service laterals.**
- § 82-18. Prohibited wastes.**
- § 82-19. Use of sewers by industry.**
- § 82-20. Leaks, stoppage and/or defective plumbing.**
- § 82-21. Control of service.**
- § 82-22. Vacating premises.**
- § 82-23. Notice of change of ownership.**
- § 82-24. Unlawful connection prior to inspection.**
- § 82-25. Sewer Inspector.**

##### **ARTICLE IV**

##### **Inspection**

- § 82-26. Inspection by Sewer Inspector.**
- § 82-27. No work performed without permission.**
- § 82-28. Notice by property owner to obtain inspection.**
- § 82-29. Alterations, extension, additions, disconnections or removals.**
- § 82-30. Prescribed test.**
- § 82-31. Renotification due to test failure.**
- § 82-32. Failure of inspector to appear.**

##### **ARTICLE V**

##### **Time and Method of Payment of**

##### **Inspection Fees, Connection**

##### **Fees and Rates or Charges**

- § 82-33. Fees for inspection of residential and nonresidential establishments.**

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- § 82-34. Connection fee for residential or nonresidential establishments.
- § 82-35. Sewer rates and charges.
- § 82-36. Bills for service charges.
- § 82-37. Sewer rental.
- § 82-38. Changes in fees, connection fees and sewer rental charges.

### ARTICLE VI Miscellaneous

- § 82-39. Change in direction.
- § 82-40. Illegal connections.
- § 82-41. Sewage sump pumps.
- § 82-42. Minimum slope of building sewer pipe.
- § 82-43. Industrial waste pretreatment.
- § 82-44. Hazardous waste.
- § 82-45. Installation of backwater valve.

### ARTICLE VII Mandated Quality and Weights of Materials

- § 82-46. Quality of materials.
- § 82-47. Label, cast or stamped.
- § 82-48. PVC.
- § 82-49. Cast-iron pipe.
- § 82-50. Wrought iron pipe.
- § 82-51. Mild-steel pipe.
- § 82-52. Brass and copper pipe.
- § 82-53. Asbestos-cement pipe.
- § 82-54. Sheet lead.
- § 82-55. Acid and chemical waste pipes.
- § 82-56. Thread fittings.

### ARTICLE VIII Joints and Connections

- § 82-57. Water and airtight joints.
- § 82-58. PVC to PVC joints.

- § 82-59. Ductile iron to PVC joints.
- § 82-60. Connecting joints for asbestos cement pipe.
- § 82-61. Slip joints and unions.
- § 82-62. Increases and reducers.
- § 82-63. Prohibited joints and connections.
- § 82-64. New materials.

### ARTICLE IX Traps and Cleanouts

- § 82-65. Traps.
- § 82-66. Prohibited traps.
- § 82-67. Trap levels and protection.
- § 82-68. Interceptor pit and grease traps.
- § 82-69. Floor drains.

### ARTICLE X Plumbing, House Drains and Sewers

- § 82-70. Cleanouts.
- § 82-71. Drainage below sewer level.
- § 82-72. Sumps and receiving tanks.

### ARTICLE XI Testing

- § 82-73. Material and labor for tests.
- § 82-74. Covering of work.
- § 82-75. Uncovering of work.
- § 82-76. Defective work.
- § 82-77. After approved connection has been made.

### ARTICLE XII Methods of Building Sewer Testing

- § 82-78. System tests.
- § 82-79. Water test.
- § 82-80. Air test.
- § 82-81. Garage and drainage system.

## SEWERS

§ 82-82. Air test of defective building sewer.

§ 82-83. Building sewers to new homes.

### ARTICLE XIII

#### Delinquencies, Violations and Remedies

§ 82-84. Debts to be liens.

§ 82-85. Notice of violation.

§ 82-86. Continuance of rights of Authority.

§ 82-87. Violations and penalties.

§ 82-88. Damage prohibited.

### Part 2

#### Holding Tanks

### ARTICLE XIV

#### Installation and Operation

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§ 82-90. Definitions.

§ 82-91. Rules and regulations.

§ 82-92. Permits; fees.

§ 82-93. Duties of owner.

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§ 82-95. Notice to subsequent purchasers or tenants.

§ 82-96. Limitations upon use and removal of holding tank.

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### Part 3

#### Industrial Waste

### ARTICLE XV

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§ 82-99. Purpose and policy.

§ 82-100. Administration.

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### ARTICLE XVI

#### General Sewer Use Requirements

§ 82-103. Prohibited discharge standards.

§ 82-104. National Categorical Pretreatment Standards.

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### ARTICLE XVII

#### Pretreatment of Wastewater

§ 82-108. Pretreatment facilities.

§ 82-109. Additional pretreatment measures.

§ 82-110. Accidental discharge/slug control plans.

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**[HISTORY: Adopted by the Board of Supervisors of the township of Fox as indicated in part histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Municipal Authorities — See Ch. 5.  
Building construction — See Ch. 43.  
Drainage — See Ch. 51.

Floodplain management — See Ch. 66.  
Subdivision and land development — See Ch. 96.

**Part 1**  
**Connection Requirements**  
**[Adopted 7-28-1982 by Ord. No. 82-7]**

**ARTICLE I**  
**Terminology**

**§ 82-1. Definitions.**

- A. Unless the context specifically indicates otherwise, the following words and terms used in this Part 1 shall have the following meanings:

**AUTHORITY** — The Fox Township Sewer Authority.

**BACKWATER VALVE** — A device or valve that is installed in the house drain or sewer line where a sewer is subject to back flow, that will prevent drainage or waste from backing into a low level or into fixtures thus causing a flooding condition.

**COMBINED SEWER** — A sewer designed to receive both sewage and stormwater runoff.

**COMMERCIAL ESTABLISHMENT** — Any improved property used wholly or in part for the sale and distribution of any product, commodity, article or service.

**EQUIVALENT DAILY USAGE** — The use of 180 gallons of water per day.

**GARBAGE** — Solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

**HOUSE CONNECTION** — That part of the sewer line from the service lateral to a point a maximum of three feet beyond the outer wall of the building to be served.

**INDUSTRIAL WASTE** — Any solid, liquid, gaseous substance, waterborne wastes or form of energy rejected or escaping from any industrial manufacturing, trade or commercial process or from the development, recovery or processing of natural resources, as distinct from sanitary sewage.

**LOCAL VENTILATION PIPE** — A pipe through which foul air is removed from a room or fixture.

**OCCUPIED BUILDING** — Any structure erected and intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sanitary sewage and industrial wastes, or either thereof, is or may be discharged.

**OWNER WHO MAY CONNECT** — A property owner whose property and principal building or buildings thereon are located more than 150 feet from the sanitary sewers of the Authority who may connect to said sewer system of the Authority; provided, however, that the connection is made entirely at the expense of the property owner and the connection is made pursuant to the provisions of this Part 1 and any and all rules and regulations of the Authority, and provided further that consent to connect is first obtained in writing from the Township of Fox and from the Fox Township Sewer Authority. The Township of Fox and the Fox Township Sewer Authority hereby reserve the right to refuse permission for any reason whatsoever for any property owner whose principal building or buildings are located more than 150 feet from the sanitary sewers of the Authority to connect to said sewer system.

**OWNER WHO MUST CONNECT** — Any owner of property accessible to and whose principal building or buildings are within 150 feet from the sanitary sewers of the Authority and who by this Part 1 is required to make connection with such sewer system for the purpose of discharging therein all sewage from such premises. All such sewage shall, after such connection, be conducted into such sewer.

**PERSON** — Includes natural persons, partnerships, associations and corporations.

**PREMISES ACCESSIBLE TO THE PUBLIC SANITARY SEWERAGE SYSTEM** — All real estate or property on which is located any structure on which there is produced industrial, commercial, residential or domestic waste or sewerage and which structures are located within 150 feet from said sewer system, the owners of which must make connection therewith and use said sewer system in such manner as may be ordered by the Township of Fox or the Fox Township Sewer Authority.

**PROPERLY SHREDDED GARBAGE** — The wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch in any dimension.

**PUBLIC SANITARY SEWERAGE SYSTEM** — All separate sanitary sewers, all sewage treatment works and all other facilities owned or operated by the Fox Township Sewer Authority for the collection, transportation and treatment of sanitary sewage and industrial



wastes, together with their appurtenances and any additions, extensions or improvements thereto. It shall also include sewers within sewer districts of the Fox Township Sewer Authority which discharge into the public sanitary sewer system even though those sewers may not have been constructed by Fox Township Sewer Authority or Township of Fox funds. It does not include separate storm drains or culverts which have been constructed for the sole purpose of carrying storm and surface runoff, the discharge from which is not and does not become tributary to the Authority's sewage treatment facilities.

**SANITARY SEWAGE** — The normal water-carried household and toilet wastes from residences, business buildings, institutions and industrial and commercial establishments, exclusive of stormwater runoff, surface water or groundwater.

**SANITARY SEWER** — A sewer which carries sewage and to which stormwater, surface water and groundwater are not intentionally admitted.

**SERVICE LATERAL** — That part of the sewer line from the sewer system to the property line adjacent to the sewer system.

**SEWAGE** — A combination of water-carried wastes from residences, business buildings, institutions and industrial and commercial establishments, together with such groundwater, surface water or stormwater as may be present.

**SEWER** — A pipe or conduit for carrying sewage or other waste liquids.

**SEWER CUSTOMER** — The party, whether owner or tenant, contracting for sewer service to a property.

**SEWER DISTRICT** — Any portion of the township established as a sewer district for the purpose of serving populated areas within the township as established by this Part 1 or ordinances hereinafter to be enacted from time to time.

**SEWER INSPECTOR** — That individual appointed by the Fox Township Sewer Authority with the approval of the Fox Township Supervisors, who shall receive compensation for the services he renders to the Authority and whose duty it shall be to inspect all building sewer systems in conformity with the provisions of law, this Part 1 and the rules and regulations of the Authority, all as amended from time to time, and who shall be charged with the duty of enforcing this Part 1 and the Authority's rules and regulations and who shall have the power to bring appropriate proceedings before the District Justice for the township.

**SEWER SYSTEM** — The main sewers that are constructed by and under the supervision of the Authority.

**STORM DRAIN** — A conduit which is intended to carry stormwater runoff, surface waters, groundwater drainage, etc., but which is not intended to carry any sanitary sewage or polluted industrial waste.

**STORMWATER RUNOFF** — That portion of the rainfall which reaches a drain.

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

**TRAP** — A fitting or device so constructed as to prevent the passage of air or gas to a pipe without materially affecting the flow of sewerage or wastewater through it.

TRAP SEAL — The vertical distance between the crown weir and the dip of the trap.

VENT PIPE — Any pipe provided to ventilate a house drain system and to prevent trap syphonage and back pressure.<sup>1</sup>

B. "Shall" is mandatory; "may" is permissive.

## ARTICLE II

### Rules and Regulations Requiring Discharge of Sanitary Sewerage into Public Sanitary Sewer System.

#### § 82-2. Declaration of rules and regulations.

These rules and regulations are part of the contract with every customer who utilizes the sewer facilities and, by using these sewer facilities, agrees to be bound thereby. The following rules and regulations shall be and are hereby declared to be the rules and regulations of the Fox Township Sewer Authority for the sewer system, effective by ordinance duly adopted July 28, 1982, by the Board of the Fox Township Supervisors and also a resolution duly adopted July 28, 1982, by the Board of said Authority.<sup>2</sup>

## ARTICLE III

### Sewer System

#### § 82-3. Owners must connect.

All owners of property accessible to and whose principal building or buildings are within 150 feet from the sanitary sewers of the Authority are required to make connection with such sewer system for the purpose of discharging therein all sewage from such premises. All such sewage shall, after such connection, be conducted into such sewer.

#### § 82-4. Owners who may connect.

A property owner whose property and principal building or buildings thereon are located more than 150 feet from the sanitary sewers of the Authority may connect to said sewer system of the Authority; provided, however, that the connection is made entirely at the expense of the property owner and the connection is made pursuant to the provisions of this Part 1 and any and all rules and regulations of the Authority, and provided further that consent to connect is first obtained in writing from the Township of Fox and from the Fox Township Sewer Authority. The Township of Fox and the Fox Township Sewer Authority hereby reserve the right to refuse permission for any reason whatsoever for any property owner whose principal building or buildings are located more than 150 feet from the sanitary sewers of the Authority to connect to said sewer system.

<sup>1</sup> Editor's Note: Former Article II, Creation of Sewer District No. 1, which immediately followed this section, is on file in the township offices.

<sup>2</sup> Editor's Note: Former Article III, Section I, Definitions, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 82-5. Owners failing to connect.**

If the owner of the property, after 60 days' notice from the Authority to make connections with such sewer, shall fail to make such connection, the Authority may make such connection and may collect the cost thereof from such owner by a municipal claim or in an action of assumpsit, as provided by law.

**§ 82-6. Privy vault, cesspool or similar receptacle.**

No privy vault, cesspool or similar receptacle shall hereafter be maintained upon any premises from which connection with any sewers shall have been made nor shall it be legal to discharge sewage into any drainage pit, mine shaft or other underground openings.

**§ 82-7. Application for connection permit.**

Before any connection, alteration, addition or removal of a building sewer shall be made to the sewer system, an application for permit to connect to the collection system in an abutting street, lane, alley or public highway shall be made in writing by the owner to the Authority representative or inspector. All fees for inspection and connection as required by Article V of this Part 1 shall be paid at the time application for permit is made. Upon approval by the inspector and signature of the inspector and authorized representative of the Authority, said application shall be a constitute a permit to connect.

**§ 82-8. Housing developments.**

In cases where a builder or developer desires to install sewer mains, service laterals and house connections to every housing unit within a housing development prior to their individual sale, he may do so upon meeting all conditions as set forth in this section and in other sections of this Part 1 and upon meeting all the conditions and provisions of the rules and regulations of the Fox Township Sewer Authority, as the name may be amended from time to time. Plot plans for such a development must be submitted to the Authority for approval prior to any construction. Sewer plans conforming to all original specifications established by the Authority, as to type of pipe, location of mains, size of pipe, grades, methods of laying pipe and the type of construction of all necessary appurtenances, shall be submitted to the Authority for their approval prior to any construction. The authority shall charge a fee for legal and engineering review of the plans which shall be no less than \$50 per lot. The builder or developer shall obtain all necessary approvals and permits required by any local municipalities or state agencies. The engineering fees and charges for permits shall be paid by the builder or developer. In no case will lower standards than exist in the presently constructed sewer system and as outlined in these rules and regulations be permitted for any future extensions. Upon approval of such plans by the Authority, the extensions may be constructed by and at the expense of the builder or developer, but only under the inspection of any inspector designated by the Authority and/or its engineers. The cost of such inspection, including salaries and expenses, shall be borne by the builder or developer making the extensions. Upon completion of construction by the builder or developer and approval by the township, said sewer mains and service laterals to the builder's property line shall become the property of the Authority and the

builder or developer shall acquire the rights-of-way for said service mains and service laterals up to the property line and convey the same to the Authority by deed recorded in the Elk County Courthouse.

**§ 82-9. Observance of rules and regulations.**

No owner or tenant of any premises connected with the sewer lines of the Authority shall be allowed to permit another person or premises to use or connect with his service lateral, except upon written permit from the Authority.

**§ 82-10. Separate house connections.**

Unless written permission is obtained from the Authority, a separate house connection will be required for each individual building or house, whether constructed as a detached unit or as one of a pair or a row, but a single house connection will be permitted to serve a school, factory, an apartment house or other permanent multiple unit structure whose individual apartments or units may not be subject to separate ownership.

**§ 82-11. Common waste system.**

A single house connection will be permitted to serve a double house in which the internal plumbing waste system is common to both houses or it not readily separable. In such a case, it will be necessary for each owner to make separate application and pay the prescribed sewer rentals for each property. In addition it will be necessary for both property owners to sign an agreement relieving the Authority of any responsibility or obligation caused by or resulting from installation of a single house connection. The agreement shall provide that any disagreement between the two parties concerning the future maintenance of the common sewer will be sufficient cause for the Authority to require the installation of additional connections to the sewer main to provide individuals service to both houses. The installation of such separate service lateral from the sewer main to the curb, as well as the new house connection from the curb to the property, shall be made at the joint expense of the property owners signing the agreement.

**§ 82-12. No work performed without permission.**

All connections made to the system must be inspected by the Inspector or his respective representatives prior to backfilling or covering the work. Work must be installed in accordance with authority specifications and work failing to meet these standards must be replaced, at the owners expense, before connection to the sewer system will be allowed.

**§ 82-13. Supervision of work.**

No sewer connection or disconnection shall be made except under the supervision, control and approval of the authorized representative of the Authority.

**§ 82-14. Service laterals during initial construction.**

Service laterals installed during the period of initial construction to serve existing improved properties shall be constructed by and at the expense of the Authority. If an owner of a vacant or unimproved property abutting the sewer system as constructed contemplates the construction in the future of buildings abutting constructed sewers and desires to have the service lateral installed during the period of initial construction of the sewer system, he must make application to the Authority for such permission. If such permission is granted, the cost of the service lateral, as established by the Authority, will be borne by the property owner.

**§ 82-15. Service laterals.**

After construction of the sewer system has been completed, the service laterals shall be constructed from the main sewer to the property line by and at the expense of the property owner who has obtained a permit and upon installation shall become the property of the Authority. The house connection from the property line to the building shall be installed by the property owner at his own expense.

**§ 82-16. Drainage into sewer system.**

No roof drainage, cellar surface water, foundation drainage stormwater, stormwater runoff or groundwater from underground drainage fields shall be permitted or be permitted to drain into the sewer system. The sewerage system is intended to convey sanitary sewage only. The authority may require noncontaminated wastewaters and waters used solely for cooling purposes to be excluded from the sewerage system. Combined sewers shall be prohibited.

**§ 82-17. Disconnection of service laterals.<sup>3</sup>**

The authority shall have the right to close up or disconnect from the sewer system any service lateral or house connection used for carrying rainwater, cellar drainage, surface water, groundwater or objectionable matter or whenever any violations of these rules and regulations are committed. Disconnection of the water supply is required for nonpayment of sewer rentals as established by Senate Bill No. 270, Session of 1997.

**§ 82-18. Prohibited wastes.**

Exhaust steam, oils, tar, grease, gas, gasoline, benzine, other combustible gases and liquids, garbage offal, insoluble solids or industrial wastes are prohibited. Other waste may be prohibited by future ordinances of Fox Township or resolutions of the Fox Township Sewer Authority or pursuant to the rules and regulations of the Authority. No connections shall remain and no apparatus shall be constructed which shall be intended for or shall render possible such entry of prohibited waste into the sanitary sewer system.

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<sup>3</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 82-19. Use of sewers by industry.**

The Authority reserves the right to refuse connections to the sewer system or to compel discontinuance of use of a sewer or to compel pretreatment of industrial waste by an industry in order to prevent discharge to the sewer deemed to be harmful to the sewage system or sewage treatment plant or to have a deleterious affect on the sewage treatment. All persons discharging industrial waste into the sewer system hereby agree to and shall be subject to the periodic inspection and determination of the character of all such industrial waste. All said persons discharging industrial waste into the sewage system hereby agree to provide upon request by an authorized representative of the Authority and at the person's or industry's own expense samples and test results of said industrial waste. All such persons discharging industrial waste into the sewer system shall comply with said request as often as may be deemed necessary by the Authority, and a report of such test results shall be submitted to the Authority.

**§ 82-20. Leaks, stoppage and/or defective plumbing.**

The authority and/or the Township of Fox shall not be liable for any damage or expense resulting from leaks, stoppage or defective plumbing or from any other cause occurring to any premises or within any house or building; and it is expressly stipulated by and between the Authority, the Township of Fox and the customer that no claims shall be made against said authority and/or the Township of Fox on account of the breaking or stopping of or any damage or expense to any lateral or house connection when the cause thereof is found to be in the service lateral or house connection.

**§ 82-21. Control of service.**

Neither the Authority nor the Township of Fox shall be liable for a deficiency or failure of service when occasioned by an emergency, required repairs or failure from any cause beyond the control of the Authority or the township. The authority and/or the Township of Fox reserves the right to restrict the use of sewer service whenever the public welfare may require it.

**§ 82-22. Vacating premises.**

When the premises are vacated, the property owner or the tenant thereof must give notice at the office of the Authority and the property owner and the tenant shall be jointly and severally liable for the sewage change until such notice is given.

**§ 82-23. Notice of change of ownership.**

Each property owner must give the Authority or the authorized representative of the Authority written notice of any change of ownership of any improved property.

**§ 82-24. Unlawful connection prior to inspection.**

From and after the passage of this Part 1 by the Fox Township Supervisors and any of the rules and regulations by the Fox Township Sewer Authority, it shall be unlawful for any person or

persons to connect a house or building sewer into the sewer system of the township before such building sewer has been properly inspected.

**§ 82-25. Sewer Inspector.**

There is hereby created the office of Sewer Inspector for the township. He shall be competent by education and/or experience to administer this Part 1 and these rules and regulations and shall not engage in or be connected directly or indirectly with the business of installing sewers within the Township of Fox. He shall be appointed by the Board of the Fox Township Sewer Authority with the approval of the Township of Fox and shall receive such compensation as the Authority may from time to time provide. It shall be his duty to inspect all building sewer systems in conformity with the provisions of law, this Part 1, as amended from time to time, and these rules and regulations, as amended from time to time. The Sewer Inspector shall be charged with the duty of enforcing this Part 1 and these rules and regulations and shall have the power to bring appropriate proceedings before the District Justice for the township.

**ARTICLE IV  
Inspection**

**§ 82-26. Inspection by Sewer Inspector.**

It shall be the duty of the Sewer Inspector or his representative to inspect the sewer system, upon notification by the owner, the service laterals and all house connections, to ensure that they conform with the provisions of the ordinances of the Township of Fox and the rules and regulations of the Fox Township Sewer Authority.

**§ 82-27. No work performed without permission.**

No building sewer installation, house connection or service lateral shall be covered or concealed in any manner until after it has been inspected and approved by the Sewer Inspector.

**§ 82-28. Notice by property owner to obtain inspection.**

The property owner or his representative shall give notice at the Township Office, Irishtown Road, Kersey, Elk County, Pennsylvania, or any location hereinafter designated by the Fox Township Sewer Authority, when the property owner's work is sufficiently advanced for inspection, and it shall be the duty of the Inspector to inspect the same within one working day after receipt of said notification.

**§ 82-29. Alterations, extension, additions, disconnections or removals.**

Any alteration, extension, addition, disconnection or removal of a building sewer shall also be inspected by the Sewer Inspector and shall be subject to his approval in the same manner as new building sewer installations. In the event of disconnection or removal, the owner, at his

own expense, is responsible to plug the service lateral at the property line and said plug shall be subject to the approval of the Inspector.

**§ 82-30. Prescribed test.**

It shall be the duty of the owner to determine that the work will stand the test hereinafter prescribed in Article XI and Article XII before giving the above notification.

**§ 82-31. Renotification due to test failure.**

If the Sewer Inspector finds that the work will not stand the prescribed test, the owner shall be required to renotify the inspector as provided above in § 82-28, and reinspection of the work is hereby required.

**§ 82-32. Failure of inspector to appear.**

If the Sewer Inspector fails to appear within one working day, the time designated for said inspection, then the owner shall immediately notify the Authority who shall direct the Inspector to inspect the installation.

**ARTICLE V  
Time and Method of Payment of Inspection Fees,  
Connection Fees and Rates or Charges**

**§ 82-33. Fees for inspection of residential and nonresidential establishments.**

- A. A fee as set from time to time by resolution of the Board of Supervisors shall be paid to the Authority or its representative by the owner for the inspection of a building sewer for a building or structure existing at the time of the adoption of this Part 1 or constructed after the adoption of this Part 1.<sup>4</sup>
- B. A fee as set from time to time by resolution of the Board of Supervisors will be charged to the owner for each additional inspection required due to the owner's failure to pass the initial inspection.<sup>5</sup>
- C. All fees shall be paid prior to or at the time the owner requests an inspection application of the Sewer Inspector for permit to connect.

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<sup>4</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>5</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).



**§ 82-34. Connection fee for residential or nonresidential establishments. [Amended 10-17-1984 by Ord. No. 84-10<sup>6</sup>]**

A connection fee as set from time to time by resolution of the Board of Supervisors shall be paid to the Authority or its representative by the owner for each connection at the time application is made for the permit to connect.

**§ 82-35. Sewer rates and charges.**

There is hereby imposed by this Part 1 of the Fox Township Supervisors and by the rules and regulations of the Fox Township Sewer Authority upon the owners of all property situated within Sewer District No. 1 and any extensions thereof or additions thereto, or additional sewer districts which may be constructed after the enactment of this Part 1 and rules and regulations of the Authority, a service charge for the use of said system, payable as hereinafter provided, in the amounts hereinafter provided. The service charge shall begin to accrue from and after October 1, 1982, and said owner shall be liable for the payment of the service charge and the penalty herein prescribed for delinquent payment thereof.

**§ 82-36. Bills for service charges.**

All bills for service charges shall be due and rendered and shall be subject to a penalty of 10% if not paid in full within 15 days from the due date of the bill. Owners will be billed monthly for the service charge in accordance with the billing practices of the Fox Township Sewer Authority.

**§ 82-37. Sewer rental.**

A.<sup>7</sup> Sewer rental or charges are imposed hereby upon and shall be collected from the owner of each improved property which shall be connected to the sewer system, for the use of the sewer system, whether such use shall be direct or indirect, and shall be payable as provided herein to the Fox Township Sewer Authority or its representative, in accordance with the following schedule of rates and classifications:

- (1) Residential establishments: as set from time to time by resolution of the Board of Supervisors per month per sewer connection.
- (2) Nonresidential establishments: as set from time to time by resolution of the Board of Supervisors per month per sewer connection per equivalent daily usage.

B. A list of nonresidential customers is available at the office of the Township Supervisors and at such time as the Authority establishes a principal place of business at a place other than the Fox Township Municipal Building, then at the office of the Authority, which list of nonresidential establishments (which the Authority and/or the township reserves the right to amend from time to time) is attached hereto and incorporated herein by reference.

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<sup>6</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>7</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 82-38. Changes in fees, connection fees and sewer rental charges.**

The Authority, with the consent of the Township of Fox, hereby reserves the right to alter all fees, connection fees and sewer rental charges, as said terms are used in this Part 1, as in the discretion of the Authority and township is deemed necessary for the proper operation and maintenance of the sewer system.

**ARTICLE VI  
Miscellaneous****§ 82-39. Change in direction.**

All changes in direction of the line shall be made by the use of 45° wyes, half wyes, long sweep bend, short sweep bend, sixth, eighth or sixteenth bends, except that single sanitary tees and double sanitary tees may be used on vertical stacks and quarter bends may be used in soil and waste lines where the change in direction flow is from the horizontal to the vertical.

**§ 82-40. Illegal connections.**

No sump pump, foundation drain, roof leader, etc., used to discharge stormwater, underground seepage or any other type of water shall be connected into the sewer system.

**§ 82-41. Sewage sump pumps.**

Sump pumps or other pumps used to discharge sewage, as defined by this Part 1 or by the rules and regulations of the Fox Township Sewer Authority, shall be inspected by the Sewer Inspector prior to connection into the sewer system, and such pumps shall not be connected to the sewer system until after approval of the Sewer Inspector.

**§ 82-42. Minimum slope of building sewer pipe.**

The minimum slope of a six-inch building sewer shall be 1/8 inch per foot. Building sewers of a larger diameter may be constructed at a flatter slope. Prior to construction, the minimum slope of such larger building sewers must be approved by the Authority or its authorized representative.

**§ 82-43. Industrial waste pretreatment.**

All toxic or incomparable industrial wastes shall receive adequate pretreatment and flow monitoring prior to discharge into the sewerage system.

**§ 82-44. Hazardous waste.**

No person, property owner, corporation, association or other legally recognized entity shall discharge any hazardous waste into the sewerage system as defined by the Solid Waste

Management Act No. 1980-97, approved July 7, 1980, effective January 7, 1981, or as amended from time to time.<sup>8</sup>

**§ 82-45. Installation of backwater valve.**

When there is a possibility that a plumbing drainage system will be subject to backflow due to a surcharging of the municipal system, a backwater valve shall be installed by the owner at his expense in the house or building sewer to prevent its overflowing into the building.

**ARTICLE VII  
Mandated Quality and Weights of Materials**

**§ 82-46. Quality of materials.**

All materials used in any drainage or building sewer or part thereof shall be free from defects.

**§ 82-47. Label, cast or stamped.**

Each length of pipe, fitting trap, fixture and device used in a building sewer shall be stamped or indelibly marked with the weight or quality thereof and the maker's mark or name.

**§ 82-48. PVC.**

All PVC pipes and bedding shall be no less than six inches in diameter and shall conform to the ASTM D-3034 with an SDR of 35; Type PSP polyvinyl chloride sewer pipe and fittings.

**§ 82-49. Cast-iron pipe.**

All cast-iron pipe and fittings shall conform to the Standard Specifications for Cast Iron Soil Pipe and Fittings approved by the American Standards Association. Pipe and fittings shall be of weights known as extra heavy, uncoated and in accordance with the following table:

**Extra Heavy Soil Pipe**

<b>Size</b>	<b>Weight per Foot</b>	<b>Weight: Single Hub Length</b>	<b>Weight: Double Hub Length</b>
2 inches	5 pounds	25 pounds	26 pounds
3 inches	9 pounds	45 pounds	47 pounds
4 inches	12 pounds	60 pounds	63 pounds
5 inches	15 pounds	75 pounds	78 pounds
6 inches	19 pounds	95 pounds	100 pounds

<sup>8</sup> Editor's Note: See 32 P.S. § 680.1 et seq.

Size	Weight per Foot	Weight: Single Hub Length	Weight: Double Hub Length
8 inches	30 pounds	150 pounds	157 pounds
10 inches	43 pounds	215 pounds	225 pounds
12 inches	54 pounds	270 pounds	285 pounds

**§ 82-50. Wrought iron pipe.**

All wrought iron pipe shall conform to the ASTM Standard Specifications for Welded Wrought Iron Pipe (in accordance with federal specifications) and shall be galvanized.

**§ 82-51. Mild-steel pipe.**

All steel pipe shall conform to the ASTM Standard Specifications for Welded and Seamless Steel Pipe (in accordance with federal specifications) and shall be galvanized.

**§ 82-52. Brass and copper pipe.**

- A. Brass and copper pipe shall conform respectively, to the standard specifications of the ASTM for Brass Pipe, Standard Sizes, and for Copper Pipe, Standard Sizes, (in accordance with federal specifications).
- B. Copper waste piping shall conform to federal specifications for tubing. D.W.V. tubing may be used for drainage, with Type K tubing for branch lines serving only underground branches.

**§ 82-53. Asbestos-cement pipe.**

Asbestos-cement pipe shall be in accordance with federal specifications SS-P-ss1B.

**§ 82-54. Sheet lead.**

Sheet lead shall weigh not less than four pounds per square foot.

**§ 82-55. Acid and chemical waste pipes.**

Acid and chemical waste pipes shall be of materials unaffected by the discharge of such wastes, as approved by the township and the rules and regulations of the Authority.

**§ 82-56. Thread fittings.**

All drainage fittings shall be of cast iron, galvanized malleable iron, brass or plastic of standard weight and dimensions. All drainage fittings shall have new improved recess installed

throughout, with smooth interior waterway, with threads tapped out of solid metal and with the long turn pattern.

### ARTICLE VIII Joints and Connections

#### **§ 82-57. Water and airtight joints.**

All joints and connections referred to or required by this Part 1 or by the rules and regulations of the Authority shall be made permanently gas and water tight.

#### **§ 82-58. PVC to PVC joints.**

The joints shall be the bell-and-spigot type. They shall be joined together by elastomeric gasket system. Joints shall be in keeping with ASTM D 3034, latest edition.

#### **§ 82-59. Ductile iron to PVC joints.**

The ductile iron to PVC joints shall be joined together by transition sleeves as specified by Clow F1212 (or approved equal) and ASTM A-445, latest edition.

#### **§ 82-60. Connecting joints for asbestos cement pipe.**

Connecting joints for asbestos-cement pipe shall be equal to or better than the requirement of ASTM D 186963T.

#### **§ 82-61. Slip joints and unions.**

Slip joints will be permitted only in trap seals or on the inlet side of the trap. Unions on the sewer side of the trap shall be ground faced and shall not be concealed or enclosed.

#### **§ 82-62. Increasers and reducers.**

Where different sizes of pipe or pipes and fittings are to be connected, proper size increasers or reducers, pitched at an angle of 45° between the two sizes, shall be used.

#### **§ 82-63. Prohibited joints and connections.**

Any fitting or connection which has an enlargement, chamber or recess with a ledge shoulder or reduction of the pipe area in the direction of the flow on the outlet or drain side of any trap is prohibited. Solder bushings are prohibited except for trap connections.

**§ 82-64. New materials.**

Any other material other than that specified in this Part 1 or in the rules and regulations of the Authority, which the township and/or Authority approves as being equally official, may be permitted.

**ARTICLE IX  
Traps and Cleanouts**

**§ 82-65. Traps.**

The main soil line must be provided with a vented house trap, known as a "building sewer trap," no less than six inches, vented on the house side. The construction of all sewer traps is to be in compliance with the ASTM National Plumbing Code, as amended from time to time.

**§ 82-66. Prohibited traps.**

No form of trap which depends for its seal upon the action of movable parts or concealed interior partitions shall be used.

**§ 82-67. Trap levels and protection.**

All traps shall be set true with respect to their water seals and protected from frost.

**§ 82-68. Interceptor pit and grease traps.**

The owner of any commercial establishment discharging grease, oil, tar, gasoline, silt, paint or any deleterious material into the sewer system shall install at his own expense a trap of a size and capacity acceptable to the Authority or its representative for the removal of the above-described deleterious matter. Prior to connecting to the sewer system and prior to receiving approval for a permit to connect, all commercial establishments which must install intercept pits or grease traps shall consent, in writing, to permit on-site inspection of said pits and traps to determine that said pits and traps have been periodically cleaned and maintained to maintain the effectiveness of the pit or trap. In the event that said pit or trap is not properly maintained, the township or Authority shall have the right to clean the same and charge the owner back for said services. No fixture connection carrying sanitary sewerage shall be permitted to flow through the interceptor.

**§ 82-69. Floor drains.**

Floor drains from houses shall not be connected to the sewer system. Floor drains from service stations or garages for washing cars must be connected to the sewer system.

**ARTICLE X**  
**Plumbing, House Drains and Sewers**

**§ 82-70. Cleanouts.**

Pipe cleanout fittings shall be installed no more than 70 feet apart in horizontal lines of six inches diameter or less. When installed in underground lines they shall be extended to or above the finished grade, directly above the place where the cleanout is installed. A cleanout shall be installed at all changes in horizontal direction. If the building sewer is less than 70 feet in length and has no changes in horizontal direction, a cleanout shall be installed either inside the cellar wall or just outside the cellar wall on the downhill side of the house trap.

**§ 82-71. Drainage below sewer level.**

In all buildings in which all or part of the house drainage and plumbing system lies below the level of the main sewer, sewage or house wastes shall be lifted by approved artificial means and discharged into the building sewer.

**§ 82-72. Sumps and receiving tanks.**

All subhouse drains shall discharge into an airtight sump or receiving tank so located as to receive the sewage by gravity, from which sump or receiving tank the sewage shall be lifted and discharged into the building sewer by pumps, ejectors or any equally efficient method. Such sumps shall be automatically controlled. Plans for said sump and receiving tanks must be approved by the Authority prior to installation.

**ARTICLE XI**  
**Testing**

**§ 82-73. Material and labor for tests.**

The equipment, material, power and labor necessary for the inspection and tests shall be furnished by the owner or his authorized agent.

**§ 82-74. Covering of work.**

No building sewer or part thereof shall be covered until it has been inspected, tested and approved as herein prescribed.

**§ 82-75. Uncovering of work.**

If any building sewer or part thereof is covered before being regularly inspected, tested and approved as herein prescribed, it shall be uncovered upon the direction of the Inspector.

**§ 82-76. Defective work.**

If inspection or testing shows defects, such defective work or material shall be replaced within three days and inspection and testing shall be repeated.

**§ 82-77. After approved connection has been made. [Amended 9-1-1982 by Ord. No. 82-9]**

After an approved sewer connection has been made, the owner shall file an affidavit with the township that the work was installed in accordance with the code, that it was free from defects that if testing was required, then in that event the test was made and the system found to be free from leaks and that the Building Sewer Inspector or his authorized agent was present when such inspection or test was made or was duly notified.

**ARTICLE XII  
Methods of Building Sewer Testing**

**§ 82-78. System tests. [Amended 9-1-1982 by Ord. No. 82-9]**

All of the piping of a building sewer shall be constructed true to line and grade and with watertight joints. Should the Authority's inspector believe that the piping is not constructed properly and not watertight, he may, at his discretion, order the property owner to conduct a pressure test in accordance with §§ 82-79 and 82-80 of this article. The property owner shall have the right to select the method of testing to be used.

**§ 82-79. Water test.**

The water test shall be applied to the building sewer in its entirety or in sections. If applied to the entire system, all opening in the piping shall be tightly closed, except the highest opening and the system shall be filled with water to a point five feet above the portions of the building sewer under test. The water test shall be conducted for a period of 15 minutes. If the building sewer is to be tested in sections, each opening shall be tightly plugged, except the highest opening of the section under test and each section shall be tested with no less than a five-foot head of water for a period of 15 minutes. The maximum allowable volume of water lost during the fifteen-minute period shall be based on 100 gallons per inch of diameter per mile of pipe per day.

**§ 82-80. Air test.**

The air test shall be made by attaching an air compressor or test apparatus to any suitable opening and closing all other inlets and outlets to the system, then forcing the air into the system until there is a uniform pressure sufficient to balance a column of mercury 10 inches in height or five pounds per square inch on the entire system. The pressure shall be allowed two minutes to stabilize, at which time the pressure shall be brought back to five pounds per square inch. All air hoses shall be disconnected, and if after four minutes the pressure registers 3.5 pounds per square inch or greater, the system will have passed the test.



**§ 82-81. Garage and drainage system.**

With respect to a garage or any part of a garage, the same tests and inspection of the building sewer shall be made as in the case of an ordinary dwelling.

**§ 82-82. Air test of defective building sewer.**

An air test shall be used in testing the sanitary condition of the building sewer of any building where there is reason to believe that it has become defective. In any building condemned by the township because of unsanitary conditions of the building sewer, the alterations of such sewer shall not be considered as repairs, but as new plumbing. All necessary alterations, repairs and retesting shall be completed within 30 days after such condemnation.

**§ 82-83. Building sewers to new homes.**

Building sewers to all new homes not existing at the time this Part 1 is adopted or these rules and regulations are adopted shall be inspected and tested in strict accordance with this Part 1.

**ARTICLE XIII****Delinquencies, Violations and Remedies****§ 82-84. Debts to be liens.**

Each service charge, surcharge and penalty imposed by this Part 1 shall be a debt due the Authority and shall be a lien on the property served and if not paid within 30 days after the due date of the bill shall be deemed delinquent. In such event, the Authority may proceed to file the lien in the office of the Prothonotary of Elk County, Pennsylvania, and collect the same in the manner provided by law for the filing and collection of municipal claims. In the event of failure to pay the service charge or surcharge or penalty after they become delinquent as herein provided, the Authority shall be authorized to remove or close the sewer connection and shall have the right to enter upon the property served for such purpose and to take such steps as may be necessary to accomplish such removal or closing. The expense of such removal or closing, as well as the expense of restoring any such service, shall likewise be a debt due the Authority and a lien on the property served and may be filed and collected as hereinabove provided or such sewer connection shall not again be turned on or the sewage service restored until all service charges, surcharges and penalties, including the expense of removal, closing and restoration, shall have been paid.

**§ 82-85. Notice of violation.**

All persons violating any provision of this Part 1 shall be deemed in violation of this Part 1. Notice of such violation shall be given by means of the United States mails, and if no action to correct the violation is taken within 30 days of the date of such notice, the sewer connection may be removed or closed and reconnection will not be made until after correction of the violation has been accomplished. The expense of such removal or closing and the expense of

restoring the sewage service shall be a debt due the Authority and a lien upon the property served and may be filed and collected as provided in § 82-84.

**§ 82-86. Continuance of rights of Authority.**

Change of ownership or occupancy of any property served by the public sanitary sewerage system as to which the service charge or surcharge or penalty imposed by this Part 1 is delinquent shall not be cause for reducing or eliminating the rights and remedies of the Authority set forth in this Article XIII.

**§ 82-87. Violations and penalties.<sup>9</sup>**

Any person who violates or permits a violation of this Part 1, upon being found liable therefor in a civil enforcement proceeding, shall pay a fine of not more than \$600, plus all court costs, including reasonable attorney's fees, incurred by the township in the enforcement of this Part 1. No judgment shall be imposed until the date of the determination of the violation by the District Justice and/or Court. If the defendant neither pays nor timely appeals the judgment, the township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the township are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

**§ 82-88. Damage prohibited.<sup>10</sup>**

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the Authority public sanitary sewerage system. Any person violating this provision shall be liable to the provisions of § 82-87.

**Part 2  
Holding Tanks  
[Adopted 7-21-1993 by Ord. No. 93-7]**

**ARTICLE XIV  
Installation and Operation**

**§ 82-89. Purpose and policy.**

The purpose of this Part 2 is to establish procedures for the use and maintenance of existing and new holding tanks designed to receive and retain sewage, whether from residential, institutional, recreational or commercial uses. It is further ordained to be the policy of Fox Township that holding tanks be implemented on as temporary a basis as possible. It is the

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<sup>9</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>10</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

declared policy of Fox Township that the installation of holding tanks be authorized only in accordance with current laws and regulations and on an interim basis on those premises which are ultimately to be served by other sewage systems and that said holding tanks be removed upon the installation of the alternative sewage systems.

#### **§ 82-90. Definitions.**

Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this Part 2 shall be as follows:

**HOLDING TANK** — A receptacle intended to be watertight, whether permanent or temporary, which receives and retains sewage conveyed by a water-carrying system and is designed and constructed to facilitate the ultimate disposal of the sewage at another site.

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

**OWNER** — Any person vested with ownership, legal or equitable, sole or partial, or possession of any real property located in the township.

**PERSON** — Any individual, partnership, company, association, corporation or other group or entity.

**SEWAGE** — Any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals and any noxious or deleterious substance being harmful or inimical to the public health or to animal or aquatic life or to the use of water for domestic or institutional or commercial water supply or for recreation.

#### **§ 82-91. Rules and regulations.**

The installation and operation of holding tanks within the municipality shall hereinafter be governed by the terms of this Part 2, together with rules and regulations which may be adopted from time to time by resolution of the Supervisors of the municipality as well as all applicable federal and state laws and regulations.

#### **§ 82-92. Permits; fees.**

Upon and after the enactment of this Part 2, no holding tank shall be installed nor shall any existing holding tank which has not been pumped of its contents during the six months preceding the enactment of this Part 2 be utilized or otherwise placed in service by any owner of the premises upon which said tank is or is to be located until said owner has obtained a permit from the municipality. Application for the permit shall be made upon a form and shall be accompanied by a fee, as designated by resolution or ordinance of the Supervisors of the municipality, or shall be made upon a form as designated by the applicable state agency. As part of the permit process, it shall be required that the owner/applicant shall enter into a written agreement with the township regarding rules, regulations, fees and liabilities. Said agreement shall be in the form as may be adopted by resolution of the municipality from time to time. No permit shall be issued without compliance with this section.

**§ 82-93. Duties of owner.**

Owners of property upon which there is installed a holding tank shall:

- A. Permit the municipality or its designee(s) to inspect the holding tank and all plumbing connected thereto as required by the municipality.
- B. Maintain and operate the holding tank in conformance with this Part 2 and other ordinances and resolutions of the municipality, the provisions of any applicable law, rule or regulation of the Commonwealth of Pennsylvania, its subdivisions and administrative agencies and any applicable federal laws or regulations.
- C. Deliver to the municipality a copy of the pumping receipt or a pumping report within 30 days of any pumping of the holding tank. At a minimum, said receipt or report shall set forth the following:
  - (1) Date of pumping.
  - (2) Identity of pumper.
  - (3) Gallons pumped.
  - (4) Destination of contents disposal.
- D. Maintain copies of all pumping receipts and pumping records for a period of five years from the date of pumping.
- E. Not permit the discharge of sewage onto the surface, into the ground or into the waters of the Commonwealth of Pennsylvania.

**§ 82-94. Charges.**

The owner shall pay to the municipality all amounts which shall be assessed or charged to the owner and incurred by the municipality in association with the enforcement of this Part 2. It is intended that said charges will include, but not necessarily be limited to, the hourly or other fees as charged by the municipality's Sewage Enforcement Officer for inspection or other tasks necessary for the maintenance of the holding tank pursuant to this Part 2. In addition, the municipality shall have the right and power to fix, alter, charge and collect rates, assessments and other charges as it shall, from time to time, adopt by resolution or ordinance or as the same may be authorized by other applicable law. Payment of all of said charges shall be required within 30 days of the mailing of said charges to the owner or the posting of notice of said charges upon the premises upon which the holding tank is located or as directed by resolution of the municipality and may be collected from one or more or all of the owners of said premises.

**§ 82-95. Notice to subsequent purchasers or tenants.**

Any owner of premises upon which there is installed a holding tank who intends to grant, sell, convey, lease, sublease or otherwise assign or transfer an interest in the premises to another party shall be required to provide to other party 30 days' advance notice, in writing, of the fact that the premises are served by a holding tank.

**§ 82-96. Limitations upon use and removal of holding tank.**

Except as otherwise provided in this section, it shall be unlawful to utilize a holding tank upon premises which are served by a municipal sewer system or which premises have tested as suitable for the installation of other sewage systems. When premises served by a holding tank shall become served by a municipal sewage system or shall otherwise qualify for the issuance of a sewage system permit, the owner(s) of said premises shall:

- A. Within 30 days of said event, remove all contents from the holding tank and discontinue use of the same; and
- B. Within 120 days, unearth, disconnect and remove all plumbing and piping attached to said holding tank and remove, fill or otherwise render said holding tank unusable for the purpose of storage of sewage.

**§ 82-97. Violations and penalties.<sup>11</sup>**

Any person who violates any provision of this Part 2 shall, upon conviction thereof by summary proceeding, be sentenced to pay a fine of not less than \$500 and not more than \$5,000, plus costs, or to imprisonment not to exceed 90 days, or both.

**§ 82-98. Abatement of nuisance.**

In addition to any other remedy provided in this Part 2 or available under law, any violation of this Part 2 shall be reviewed by the Supervisors of the municipality and, if said review shall warrant, be deemed a nuisance to be abated by the municipality by either seeking mitigation of the nuisance or appropriate equitable or legal relief from a court of competent jurisdiction.

**Part 3****Industrial Waste**

[Adopted 12-15-1993 by Ord. No. 93-12]

**ARTICLE XV****General Provisions****§ 82-99. Purpose and policy.**

- A. This Part 3 sets forth uniform requirements for users of the wastewater collection and publicly owned treatment works (POTW) for the Township of Fox, Elk County, Pennsylvania, and operated and owned by the Fox Township Sewer Authority (the "Authority") and enables the Authority to comply with all applicable state and federal laws, including the Clean Water Act (33 U.S.C. § 1251 et seq.) and the general pretreatment regulations (40 CSF Part 403). The objectives of this Part 3 are:

- (1) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;

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<sup>11</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (2) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters or otherwise be incompatible with the publicly owned treatment works;
  - (3) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
  - (4) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;
  - (5) To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the publicly owned treatment works; and
  - (6) To enable the Authority to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirement and any other federal or state laws to which the publicly owned treatment works is subject.
- B. This Part 3 shall apply to all industrial users of the publicly owned treatment works. This Part 3 authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance and enforcement activities; establishes administrative review procedures; requires industrial user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

#### **§ 82-100. Administration.**

Except as otherwise provided herein, the Manager shall administer, implement and enforce the provisions of this Part 3. Any powers granted to or duties imposed upon the Manager may be delegated by the Manager to other Authority personnel.

#### **§ 82-101. Abbreviations.**

The following abbreviations, when used in this Part 3, shall have the designated meanings:

BOD	Biochemical oxygen demand
CFR	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	United States Environmental Protection Agency
gpd	Gallons per day
mg/l	Milligrams per liter
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly owned treatment works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classification

TSS            Total suspended solids

U.S.C.        United States Code

### § 82-102. Definitions.

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Part 3, shall have the meanings hereinafter designated:

**CATEGORICAL PRETREATMENT STANDARD or CATEGORICAL STANDARD** — Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter 1, Subchapter N, parts 405-471.

**COMPOSITE SAMPLE** — The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

**ENVIRONMENTAL PROTECTION AGENCY or EPA** — The United States Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director or other duly authorized official of said Agency.

**EQUALIZATION** — The on-site storage of wastewaters and the controlled rate of discharge of the same to the public system.

**EXISTING SOURCE** — Any source of discharge, the construction or operation of which commenced prior to the publication by the EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

**GARBAGE** — Solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

**GRAB SAMPLE** — A sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

**INDIRECT DISCHARGE or DISCHARGE** — The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.

**INDUSTRIAL USER** — A source of discharge of industrial waste to the POTW.

**INDUSTRIAL WASTE** — The liquid waste streams from all nonresidential users who discharge into the POTW. This term includes, but is not limited to, the liquid waste streams from industrial or commercial manufacturing, processing or cleaning institutions as well as those waste streams received from schools, taverns and restaurants. [Amended 5-12-1999 by Ord. No. 99-5-B]

**INSTANTANEOUS MAXIMUM ALLOWABLE DISCHARGE LIMIT** — The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

**INTERFERENCE** — A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore is a cause of a violation of the Authority NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder or any more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II, commonly referred to as the "Resource Conservation and Recovery Act (RCRA)"; any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

**MANAGER** — That person designated by the Authority to supervise the operation of the POTW and who is charged with certain duties and responsibilities by this Part 3, or a duly authorized representative. Unless otherwise provided in this Part 3, the Manager shall be a licensed operator for the POTW.

**MEDICAL WASTE** — Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

**NEW SOURCE:**

- A. Any building, structure, facility or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
- (1) The building, structure, facility or installation is constructed at a site at which no other source is located; or
  - (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - (3) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- B. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of Subsection A(1) or (2) above but otherwise alters, replaces or adds to existing process or production equipment.
- C. Construction of a new source, as defined under this definition, has commenced if the owner or operator has:



(1) Begun or caused to begin, as part of a continuous on-site construction program:

(a) Any placement, assembly or installation of facilities or equipment; or

(Cont'd on page 8231)



- (b) Significant site preparation work, including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or
- (2) Entered into a binding contractual obligation for the purpose of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this definition.

**NONCONTACT COOLING WATER** — Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

**OCCUPIED BUILDING** — Any structure erected and intended for continuous or intermittent habitation, occupancy or use by human beings or animals and from which structure, as a result of such occupancy, sanitary sewage and/or industrial wastes may be discharged.

**PASSTHROUGH** — A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Authority's NPDES permit, including an increase in the magnitude or duration of a violation.

**PERMIT** — Any written contract or agreement between the Authority and an industrial user of the POTW which establishes allowable limits and source specific regulations developed from the general requirements defined herein.

**PERSON** — Any individual, partnership, copartnership, firm, company, corporation, association, joint-stock company, trust, estate, governmental entity or any other legal entity or their legal representatives, agents or assigns. This definition includes all federal, state and local governmental entities.

**pH** — A measure of the acidity or alkalinity of a solution, expressed in standard units.

**POLLUTANT** — Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity or odor).

**PRETREATMENT** — The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

**PRETREATMENT REQUIREMENTS** — Any substantive or procedural requirement related to pretreatment imposed upon an industrial user, other than a pretreatment standard.

PRETREATMENT STANDARDS or STANDARDS — Prohibited discharge standards, categorical pretreatment standards and local limits.

PROHIBITED DISCHARGE STANDARDS OR PROHIBITED DISCHARGES — Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 82-103 of this Part 3.

PUBLICLY OWNED TREATMENT WORKS or POTW — A treatment works, as defined by Section 212 of the Act (33 U.S.C. § 1292), which is owned by the Authority. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

SEPTIC TANK WASTE — Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers and septic tanks.

SEWAGE — Human excrement and gray water (household showers, dishwashing operations, etc.).

SLUG LOAD or SLUG — Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in § 82-103 of this Part 3.

STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE — A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

STORMWATER — Any flow occurring during or following any form of natural precipitation and resulting from such precipitation, including snowmelt.

SUSPENDED SOLIDS — The total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquid and which is removable by laboratory filtering.

TREATMENT PLANT EFFLUENT — Any discharge of pollutants from the POTW into waters of the state.

UPSET — An exceptional incident in which an industrial user unintentionally and temporarily is in a state of noncompliance with the standards set forth hereto due to factors beyond the reasonable control of such industrial user and excluding noncompliance to the extent caused by operational error, improperly designated treatment facilities, inadequate treatment facilities, lack of preventative maintenance or careless or improper operation thereof

USER or INDUSTRIAL USER — A source of indirect discharge.

WASTEWATER — Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, weather-treated or untreated, which are contributed to the POTW.

WASTEWATER TREATMENT PLANT or TREATMENT PLANT — That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

ARTICLE XVI  
General Sewer Use Requirements

**§ 82-103. Prohibited discharge standards.**

- A. General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes passthrough or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.
- B. Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:
- (1) Pollutants which create a fire or explosive hazard in the POTW, including but not limited to waste streams with a closed-up flashpoint of less than 140° F. (60° C.) using the test methods specified in 40 CFR 261.21.
  - (2) Wastewater having a pH less than 5.0 or otherwise causing corrosive structural damage to the POTW or equipment.
  - (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in not case solids greater than three inches or 7.5 centimeters in any dimension.
  - (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.
  - (5) Wastewater which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F. (40° C.).
  - (6) Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin, in amounts that will cause interference or passthrough.
  - (7) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quality that may cause acute worker health and safety problems.
  - (8) Trucked or hauled pollutants, except at discharge points designated by the Authority in accordance with § 82-111 of this Part 3.
  - (9) Noxious or malodorous liquids, gases, solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life or to prevent entry into the sewers for maintenance or repair.
  - (10) Wastewater which imparts color which cannot be removed by the treatment process, such as but not limited to dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the Authority's NPDES permit.
  - (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations.

- (12) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted wastewater, unless specifically authorized by the Authority.
  - (13) Sludges, screening or other residues from the pretreatment of industrial wastes.
  - (14) Medical wastes, except as specifically authorized by the Authority in a wastewater discharge permit.
  - (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
  - (16) Detergents, surface-active agents or other substances which may cause excessive foaming in the POTW.
  - (17) Fats, oils or greases of animal or vegetable origin in concentrations that will cause interference or passthrough.
  - (18) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW or at any point in the POTW or more than 5% or any single reading over 10% of the lower explosive limit of the meter.
- C. Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

#### **§ 82-104. National Categorical Pretreatment Standards.**

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471, and subsequent updates, are hereby incorporated.

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Authority Manager may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- B. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Authority Manager shall impose and alternate limit using the combined waste stream formula in 40 CFR 403.6(e).
- C. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by the EPA when developing the categorical pretreatment standard.
- D. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

#### **§ 82-105. Local limits.**

Specific pollutant limitations shall be controlled by each individual user's nondomestic wastewater discharge permit. Concentrations as set forth in the permits shall apply at the point

where the industrial waste is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise.

**§ 82-106. Authority's right of revision.**

The Authority reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

**§ 82-107. Dilution.**

No user shall ever increase the use of process water or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Authority Manager may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

**ARTICLE XVII  
Pretreatment of Wastewater**

**§ 82-108. Pretreatment facilities.**

Users shall provide wastewater treatment as necessary to comply with this Part 3 and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in § 82-103 of this Part 3 within the time limitations specified by the EPA, the state or the Authority Manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Authority Manager for review and shall be acceptable to the Authority Manager before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Authority under the provisions of this Part 3.

**§ 82-109. Additional pretreatment measures.**

- A. Whenever deemed necessary, the Authority Manager may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this Part 3.
- B. The Authority Manager may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

- C. Grease, oil and sand interceptors shall be provided when, in the opinion of the Authority Manager, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil or sand except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the Authority Manager and shall be so located to be easily accessible for cleaning and inspection. Such interceptor shall be inspected, cleaned and repaired regularly, as needed, by the user at their expense.
- D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

**§ 82-110. Accidental discharge/slug control plans.**

At least once every two years, the Authority Manager shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Authority Manager may require any user to develop, submit for approval and implement such a plan. Alternatively, the Authority Manager may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including nonroutine batch discharges.
- B. Description of stored chemicals.
- C. Procedures for immediately notifying the Authority Manager of any accidental or slug discharge, as required by § 82-129 of this Part 3.
- D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage area, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents and/or measures and equipment for emergency response.

**§ 82-111. Hauled wastewater.**

- A. Septic tank waste may be introduced into the POTW only at locations designated by the Authority Manager and at such times as are established by the Authority Manager. Such waste shall not violate Article XVI of this Part 3 or any other requirements established by the Authority. The Authority Manager may require septic tank waste haulers to obtain wastewater discharge permits.
- B. The Authority Manager shall require haulers of industrial waste to obtain wastewater discharge permits. The Authority Manager may require generators of hauled industrial waste to obtain wastewater discharge permits. The Authority Manager also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this Part 3.
- C. Industrial waste haulers may discharge loads only at locations designated by the Manager. No load may be discharged without prior consent of the Manager. The Authority Manager may collect samples of each hauled load to ensure compliance with applicable standards.



The Authority Manager may ensure the industrial waste hauler to provide a waste analysis of any load prior to discharge.

- D. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler permit number, truck identification, names and addresses of sources of waste and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents and whether any wastes are RCRA hazardous wastes.

#### ARTICLE XVIII Wastewater Discharge Permit Application

##### **§ 82-112. Wastewater analysis.**

When requested by the Manager, a user must submit information on the nature and characteristics of its wastewater within 60 days of the request. The Manager is authorized to prepare a form for this purpose and may periodically require users to update this information.

##### **§ 82-113. Wastewater discharge permit requirement.**

Subject to the availability of reserve POTW capacities for industrial waste use, proposals to discharge industrial wastes to the public sewers owned by the Authority shall be reviewed pursuant to the provisions of these industrial waste rules and regulations hereinafter referred to as "the regulations." The potential benefits of treating certain compatible industrial waste in combination with domestic wastes are well documented. The Authority's public sewer system customer base is primarily residential, however, and no industrial wastes are to be discharged into the public sewers on or after the effective date of this regulation without due process. Such processes and procedures prerequisite to discharge of any industrial waste or abnormal waste, as distinct from domestic sewage, involves service of written notice of requested discharge to the POTW by the industrial user to the Authority. Upon the Authority's receipt of such written notice, the Authority or the Manager shall advise the authorized representative of the industrial user of the data required to facilitate municipal review of the potential to receive such industrial wastes with or without pretreatment and/or equalization by the industrial user and the impacts to result therefrom. All such data required by the Authority, including but not necessarily limited to standard industrial classification (SIC), description of processes producing the industrial waste, quantification of the volume of wastes involved and independent laboratory analysis to confirm quantitative chemical composition of the industrial waste stream, shall be acquired and at the sole expense of the industrial user proposing to discharge and filed with subsequent application for permit to discharge. If appropriate, the Manager may obtain any data to facilitate municipal review directly from the industrial user by interview or on-site inspection of the user's facility.

##### **§ 82-114. Wastewater discharge permit application.**

- A. On or after the effective date of this regulation, a special industrial waste discharge permit is required for all industrial establishments discharging or proposing to discharge industrial process wastewater to the public sanitary sewer system. No industrial waste may be

discharged to the public sewer system unless an industrial waste discharge permit has been duly issued by the Authority Manager. Specifically, no industrial establishment shall discharge industrial waste to the public system of sanitary sewers until a typewritten application for a permit to discharge industrial waste has been filed with and duly approved by the Authority Manager and the permit/conditional discharge agreement has been issued and duly executed between the Authority and the industrial user's authorized representative. Applications for an industrial waste discharge permit shall be in typewritten form and shall contain the following information at a minimum:

- (1) Name of owner/proposed industrial user or tenant.
  - (2) Name and address of industrial facility producing the wastes and SIC designation(s).
  - (3) Description of activities, facilities and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are or could accidentally or intentionally be discharged to the POTW.
  - (4) Number or type of employees, hours of operation and proposed or actual hours of operation.
  - (5) Each product produced by type, amount, process or processes and rate of production.
  - (6) Site plans, floor plans, electrical and plumbing plans and details to show all sewers, floor drains and appurtenances by size, location and elevation and all points of discharge.
  - (7) Time and duration of discharge.
  - (8) Detailed plan and mode of operation to be employed to prevent accidental spills or discharge of prohibited materials, including elimination of or protection of potential entry points under a Preparedness Prevention and Contingency Plan (PPCP) to be adopted, implemented and practiced by the industrial user.
  - (9) Any other information as may be deemed necessary by the Authority Manager to evaluate the wastewater discharge permit application.
- B. Incomplete or inaccurate applications will not be processed and will be returned to the industrial user for revision.
- C. All wastewater discharge permit applications and user reports must be signed by an authorized representative of the industrial user and contain the following certification statement: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

**§ 82-115. Wastewater discharge permit decisions.**

- A. To expedite permit review/approval, industrial users are encouraged to coordinate the development of application data with the Authority's consulting engineers or the Authority Manager. Upon review of the application, the Authority Manager may request additional information or approve or disapprove the application. All decisions of the Authority Manager will be forwarded to the applicant in writing. Where the Authority's refusal of a permit request is indicated, an explanation of the conditions leading to such decision will be given to the applicant, as well as an opportunity for the applicant to file additional data for Authority review and/or to request a hearing before the Authority, provided that written request for a hearing is filed by the applicant/industry within 30 days of date of decision notice as issued by the Authority. Any disagreements between the Authority and any industrial user which cannot be resolved locally to the satisfaction of either party may be referred to the Pennsylvania Department of Environmental Protection for review.
- B. Upon receipt of adequate waste stream documentation, the Authority and its manager, with the advice of its consulting engineers, shall notify the industrial establishment of the Authority's decision to:
- (1) Reject the waste discharge.
  - (2) Conditionally allow the waste discharge as proposed.
  - (3) Conditionally allow the waste discharge subject to on-site rate of flow (equalization), monitoring and/or pretreatment by and at the industrial user's expense.
- B. Within 10 days of receipt of a complete wastewater discharge permit application, the Authority Manager will determine whether or not to issue a wastewater discharge permit as outlined above.
- C. The Authority's decision to approve any application for industrial waste discharge is directly dependent on numerous factors, including but not necessarily limited to reliable, comprehensive and timely documentation of waste characteristics by the industrial user; determinations by the Authority that such waste, with or without pretreatment and/or flow equalization, are amenable to treatment in combination with domestic wastes at the receiving POTW; that adequate surplus capacities are available in the public sanitary sewer system or that the permittee will pay the capital value of required POTW additions; and that the waste purveyor is a reliable entity prepared to acquire on-site monitoring or other pretreatment facilities at its expense and pay its fair share of public sewer system operating and maintenance costs. Additionally, wastes or establishments falling within categorical standards as now or hereinafter promulgated by the United States Environmental Protection Agency under 40 CFR Part 403 or statewide pretreatment regulations as may be developed by the State of Pennsylvania will require the purveyor of the proposed industrial waste to comply with all such federal/state regulations and procedures prior to discharge to the Authority's public sanitary sewer system. Compliance with such federal/state regulations will be viewed as a prerequisite to Authority action to authorize any industrial waste discharge from establishment subject to categorical pretreatment standards. All such compliance actions, including but not necessarily limited to baseline reports, schedule development, design and construction of pretreatment facilities, etc., will be accomplished

by and at the sole expense of the industry and without cost or obligation whatsoever unto the Authority.

**ARTICLE XIX**  
**Wastewater Discharge Permit Issuance**

**§ 82-116. Discharge permits generally.**

In any issuance where the Authority allows an industrial waste discharge, such authorization for discharge will be issued in the form of a conditional discharge agreement drawn by the Authority with the advice of its solicitor and consulting engineers and executed by the authorized representative of the purveyor of the industrial waste and the Authority. The conditional aspect of any such industrial waste discharge agreement shall reserve solely unto the Authority the right to terminate the offering of public sewer service to the industrial establishment at any time upon determination of just cause and with reasonable advance notice of intent to terminate.

**§ 82-117. Discharge permit duration.**

Industrial waste permits/agreements will be issued conditionally for a period not to exceed five years subject to rights of cancellation unto the Authority at any time upon 10 days' advance notice of noncompliance with permit limitations and/or conditions and further subject to revision or modification of permit terms or conditions at the Authority's option or required to reasonably protect the waters of the state.

**§ 82-118. Discharge permit contents.**

- A. A wastewater discharge permit shall include such conditions as deemed reasonably necessary to the Authority Manager to prevent passage through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate and protect against damage to the POTW. Wastewater discharge permits must contain:
- (1) A statement that indicates the wastewater discharge permit duration, which in no event shall exceed five years.
  - (2) A statement that the wastewater discharge permit is nontransferable without prior notification to the Authority.
  - (3) Effluent limits based on applicable pretreatment standards.
  - (4) Self-monitoring, sampling, reporting, notification and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency and sample type based on federal, state and local law.
  - (5) A statement of applicable civil or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such

compliance schedule may not extend the time for compliance beyond that required by applicable federal, state or local law.

**B. Wastewater discharge permits may contain but not be limited to the following conditions:**

- (1) Limits on the average and/or maximum rate discharge, time of discharge and/or requirements for flow regulation and equalization.
- (2) Requirements for the installation of pretreatment technology, pollution control or construction of appropriate containment devices designed to reduce, eliminate or prevent the introduction of pollutants into the treatment works.
- (3) Requirements for the development and implementation of spill control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated or non-routine discharges.
- (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.
- (5) The unit charge or schedule of user charges and fees for the management of the wastewater discharge to the POTW.
- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment.
- (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit.
- (8) Other conditions as deemed appropriate by the Authority Manager and Authority to ensure compliance with this Part 3 and state and federal law, rules and regulations.

**§ 82-119. Costs of permit-required pretreatment, flow monitoring, etc.**

Where pretreatment, flow equalization, composite sampling and/or flow metering facilities are required by the Authority and Authority Manager in conjunction with the granting of a permit for any industrial waste discharge, they shall be acquired, operated and maintained continuously in satisfactory and effective working order by and at the sole expense of the owner of the industrial premises served. Any metering facilities shall be maintained by the industrial user so as to be safe, accessible and in good operating condition at all times.

**§ 82-120. Effect of industrial user's discharge without permit/existing industrial users.**

On and after the effective date of this regulation, the discharge of industrial waste to the public sanitary sewer without an Authority-issued permit/agreement authorizing the same and state/federal regulatory agency approvals, as applicable, shall constitute a violation. Any such violation shall be processed for remedy pursuant to the provisions hereof and penalty/damage assessments as stipulated herein. Existing industrial establishments now connected to the public sewer and discharging untreated wastes without having in place an agreement or permit with

the Authority to do so shall within 60 days of the effective date of this Part 3 file written request to discharge with the Authority, including all support documentation required by the provisions of this regulation.

**§ 82-121. Requests for reconsideration or modification of discharge permits.**

- A. Any person, including the industrial user, may petition the Authority Manager to reconsider the terms of the wastewater discharge permit within 10 days of notice of its issuance.
- (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
  - (2) In its petition, the appealing party must indicate the wastewater discharge permit conditions objected to, the reasons for this objection and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
  - (3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
  - (4) If the Authority Manager fails to act within 10 days, a request for reconsideration should be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit or not to modify a wastewater discharge permit shall be considered the final administrative actions for purposes of judicial review.
  - (5) An aggrieved party seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Court of Common Pleas of Elk County.
- B. The Authority Manager may modify a wastewater discharge permit for good cause, including but not limited to the following reasons:
- (1) To incorporate any new or revised federal, state or local pretreatment standards or requirements.
  - (2) To address significant alterations or additions to the user's operation, processes or wastewater volume or character since the time of wastewater discharge permit issuance.
  - (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
  - (4) Information indicating that the permittee discharge poses a threat to the Authority's POTW, township personnel or the receiving water.
  - (5) Violation of any terms or conditions of the wastewater discharge permit.
  - (6) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.
  - (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13.

- (8) To correct typographical or other errors in the wastewater discharge permit.
- (9) To reflect a transfer of the facility ownership or operation to a new owner or operator.

**§ 82-122. Transfer of discharge permits.**

- A. Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 30 days' advance notice to the Authority Manager and Authority Manager approves the wastewater discharge permit transfer. The notice to the Authority Manager must include a written certification by the new owner or operator which:
  - (1) States that the new owner an/or operator has no immediate intent to change the facility's operation and processes.
  - (2) Identifies the specific date on which the transfer is to occur.
  - (3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.
- B. Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

**§ 82-123. Revocation of discharge permits.**

The Authority Manager may revoke a wastewater discharge permit for good cause, including but not limited to the following reasons:

- A. Failure to notify the Authority Manager of significant changes to the wastewater prior to the changed discharges.
- B. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
- C. Falsifying self-monitoring equipment.
- D. Refusing to allow the Authority Manager timely access to the facility premises and records.
- E. Failure to meet effluent limitations.
- F. Failure to pay fines.
- G. Failure to pay sewer charges.
- H. Failure to meet compliance schedules.
- I. Failure to complete a wastewater survey or a wastewater discharge permit application.
- J. Failure to provide advance notice of the transfer of business ownership of a permitted facility.
- K. Violation of any pretreatment standard or requirement or any terms of the wastewater discharge permit or this Part 3.

**ARTICLE XX**  
**Reporting Requirements**

**§ 82-124. Baseline monitoring reports.**

- A. Within either 180 days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Manager a report which contains the information listed in Subsection B below. At least 90 days prior to commencement of their discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical standard shall submit to the Authority Manager a report which contains the information listed in Subsection B below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- B. Users described above shall submit the information set forth below.
- (1) Identifying information: the name and address of the facility, including the name of the operator and owner.
  - (2) Environmental permits: a list of any environmental control permits held by or for the facility.
  - (3) Description of operations: a brief description of the nature, average rate of production and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicated points of discharge to the POTW from the regulated processes.
  - (4) Flow measurement: information showing the measured average daily and the maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
  - (5) Measurement of pollutants.
    - (a) The categorical pretreatment standards applicable to each regulated process.
    - (b) The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or by the Authority Manager, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long-term average concentrations or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 82-133 of this Part 3.
    - (c) Sampling must be performed in accordance with procedures set out in § 82-134 of this Part 3.
  - (6) Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and



maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

- (7) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 82-125 of this Part 3.
- (8) Signature and certification. All baseline monitoring reports must be signed and certified in accordance with § 82-114 of this Part 3.

**§ 82-125. Compliance schedule progress reports.**

The following conditions shall apply to the compliance schedule required by § 82-124B(7) of this Part 3:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction and beginning and routine operation).
- B. No increment referred to above shall exceed nine months.
- C. The user shall submit a progress report to the Authority Manager no later than 14 days following each date in the schedule and the final date of compliance, including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay and, if appropriate, the steps being taken by the user to return to the established schedule.
- D. In no event shall more than nine months elapse between such progress reports to the Authority Manager.

**§ 82-126. Reports on compliance with categorical pretreatment standard deadline.**

Within 90 days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Authority Manager a report containing the information described in § 82-124B(4) through (6) of this Part 3. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 82-114 of this Part 3.

**§ 82-127. Periodic compliance reports.**

- A. All industrial users shall, at a frequency determined by the Manager, but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with § 82-114 of this Part 3.
- B. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- C. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Authority Manager, using the procedures prescribed in § 82-134 of this Part 3, the results of this monitoring shall be included in the report.

**§ 82-128. Reports of changed conditions.**

Each user must notify the Authority Manager of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of its wastewater at least 90 days before the change.

- A. The Authority Manager may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 82-114 of this Part 3.
- B. The Authority Manager may issue a wastewater discharge permit under § 82-115 of this Part 3 or modify an existing wastewater discharge permit under § 82-121 of this Part 3 in response to changed conditions or anticipated changed conditions.
- C. For purposes of this requirement, significant changes include but are not limited to flow increase of 20% or greater and the discharge of any previously unreported pollutants.

**§ 82-129. Reports of potential problems.**

- A. In the case of any discharge, including but not limited to accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Authority Manager of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- B. Within five days following such discharge, the user shall, unless waived by the Authority Manager, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, natural resources or any other damage to

person or property, nor shall such notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this Part 3.

- C. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in event of a discharge described in Subsection A above. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

**§ 82-130. Reports from unpermitted users.**

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Authority Manager as the Authority Manager may require.

**§ 82-131. Notice of violation/repeat sampling and reporting.**

If sampling performed by a user indicates a violation, the user must notify the Manager within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Authority Manager within 30 days after becoming aware of the violation. The user is not required to resample if the Authority Manager monitors at the user's facility at least once a month or if the Authority Manager samples between the user's initial sampling and when the user receives the results of this sampling.

**§ 82-132. Notification of the discharge of hazardous waste.**

- A. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number and the type of discharge (continuous, batch or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month and an estimation of the mass constituents in the waste stream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under § 82-128 of this Part 3. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements or §§ 82-124, 82-126 and 82-127 of this Part 3.
- B. Discharges are exempt from the requirements of Subsection A above during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(c).

Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(c) require a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

- C. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Authority Manager, the EPA Regional Waste Management Waste Division Director and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
- D. In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this Part 3, a permit issued thereunder or any applicable federal or state law.

#### **§ 82-133. Analytical requirements.**

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

#### **§ 82-134. Sample collections.**

Except as indicated herein, the user must collect wastewater samples using flow proportional composite collection techniques. In the event that flow proportional sampling is infeasible, the Authority Manager may authorize the use time proportional sampling or a minimum of four grab samples where the user demonstrated that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

#### **§ 82-135. Timing.**

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

#### **§ 82-136. Recordkeeping.**

Users subject to the reporting requirements of this Part 3 shall retain and make available for inspection and copying all records of information obtained pursuant to any monitoring

activities required by this Part 3 and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the Authority or where the user has been specifically notified of a longer retention period by the Authority Manager.

## ARTICLE XXI Compliance Monitoring

### **§ 82-137. Right of entry: inspection and sampling.**

The Authority Manager shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this Part 3 and any wastewater discharge permit or order issued hereunder. Users shall allow the Authority Manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying and the performance of any additional duties.

- A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Manager will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Authority Manager shall have the right to set up on the user's property or to require installation of such devices as are necessary to conduct sampling and/or metering of the user's operations.
- C. The Authority Manager may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated periodically to ensure their accuracy.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Authority Manager and shall be born by the user.
- E. Unreasonable delays in allowing the Authority Manager access to the user's premises shall be a violation of this Part 3.

### **§ 82-138. Search warrants.**

If the Authority Manager has been refused access to a building, structure or property or any part thereof and is able to demonstrate probable cause to believe that there may be a violation of this Part 3 or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Authority designed to verify compliance with this Part 3 or any permit or order issued hereunder or to protect the overall public health, safety and welfare of the

community, then the Authority Manager may seek issuance of an administrative search warrant from the appropriate District Justice having jurisdiction.

## ARTICLE XXII Confidential Information

### § 82-139. Information available to public; exceptions.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits and monitoring programs and from the Manager inspection and sampling activities shall be available to the public without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of the Authority Manager that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program and in the enforcement proceeding involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined by 40 CFR 2.302, will not be recognized as confidential information and will be available to the public without restriction.

## ARTICLE XXIII Administrative Enforcement Remedies

### § 82-140. Notification of violation.

When the Authority Manager finds that a user has violated or continues to violate any provision of this Part 3, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Authority Manager may serve upon that user a written notice of violation. Within 30 days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Authority Manager; submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the Authority Manager to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

### § 82-141. Consent orders.

The Authority Manager may enter into consent orders, assurance of voluntary compliance or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to §§ 82-143 and 82-144 of this Part 3 and shall be judicially enforceable.

**§ 82-142. Show cause hearing.**

The Authority Manager may order a user which has violated or continues to violate any provision of this Part 3, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement to appear before the Authority Manager and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 10 days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against or prerequisite for taking any other action against the user.

**§ 82-143. Compliance orders.**

When the Authority Manager finds that a user has violated or continues to violate any provision of this Part 3, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Authority Manager may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against or a prerequisite for taking any other action against the user.

**§ 82-144. Cease and desist orders.**

- A. When the Authority Manager finds that a user has violated or continues to violate any provision of this Part 3, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement or that the user's past violations are likely to recur, the Manager may issue an order to the user directing it to cease and desist all such violations and directing the user to:
  - (1) Immediately comply with all requirements; and
  - (2) Take such appropriate remedial prevention action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.
- B. Issuance of a cease and desist order shall not be a bar against or a prerequisite for taking any other action against the user.

**§ 82-145. Administrative fines.**

- A. When the Authority Manager finds that the user has violated or continues to violate any provision of this Part 3, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Authority Manager may fine such user in an amount not to exceed \$1,000. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- B. Unpaid charges, fines and penalties shall, after 30 calendar days, be assessed an additional penalty of 10% of the unpaid balance and interest shall accrue thereafter at a rate of 1.5% per month. A lien against the user's property will be sought for unpaid charges, fines and penalties.
- C. Users desiring to dispute such fines must file a written request to reconsider the fine along with full payment of the fine amount within five days of being notified of the fine. Where a request has merit, the Authority Manager may convene a hearing on the matter. In the event that the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Authority Manager may add the costs of preparing administrative enforcement notices and orders to the fine.
- D. Issuance of an administrative fine shall not be a bar against or a prerequisite for taking any other action against the user.

**§ 82-146. Emergency suspensions.**

- A. The Authority Manager may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Authority Manager may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW or which presents or may present any endangerment to the environment.
  - (1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Authority Manager may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream or endangerment to any individuals. The Authority Manager may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Authority Manager that the period of endangerment has passed, unless the termination proceedings in § 82-147 of this Part 3 are initiated against the user.
  - (2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Authority Manager prior to the date of any show cause or termination hearing under § 82-142 or 82-147 of this Part 3.



- B. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

**§ 82-147. Termination of discharge.**

- A. In addition to the provisions in § 82-121 of this Part 3, any user who violates the following conditions is subject to discharge termination:
- (1) Violation of wastewater discharge permit conditions.
  - (2) Failure to accurately report the wastewater constituents and characteristics of its discharge.
  - (3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.
  - (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.
  - (5) Violation of the pretreatment standards in Article XVI of this Part 3.
- B. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under § 82-142 of this Part 3 why the proposed action should not be taken. Exercise of this option by the Authority Manager shall not be a bar to or a prerequisite for taking any other action against the user.

**ARTICLE XXIV  
Judicial Enforcement Remedies**

**§ 82-148. Injunctive relief.**

When the Authority Manager finds that a user has violated or continues to violate any provision of this Part 3, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Authority Manager may petition the Court of Common Pleas of Elk County, Pennsylvania, through Fox Township's Authority Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit order or other requirement imposed by this Part 3 on activities of the user. The Authority Manager may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against or a prerequisite for taking any other action against a user.

**§ 82-149. Civil penalties.**

- A. A user who has violated or continues to violate any provision of this Part 3, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement shall be liable to the Authority for a maximum civil penalty of \$1,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

- B. The Authority Manager may recover reasonable attorneys' fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses and the cost of any actual damages incurred by the Authority.
- C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including but not limited to the extent of harm caused by the violation, the magnitude and duration of the violation and economic benefit gained thorough the user's violation, corrective actions by the user, the compliance history of the user and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against or a prerequisite for taking any other action against a user.

**§ 82-150. Remedies nonexclusive.**

The remedies provided for in this Part 3 are not exclusive. The Authority Manager may take any, all or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Authority's enforcement response plan. However, the Authority Manager may take other action against any user when the circumstances warrant. Further, the Authority Manager is empowered to take more than one enforcement action against any noncompliant user.

**ARTICLE XXV**

**Affirmative Defenses to Discharge Violations**

**§ 82-151. Upset.**

- A. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance or careless or improper operation.
- B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of Subsection C below are met.
- C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, that:
  - (1) An upset occurred and the user can identify the cause(s) of the upset.
  - (2) The facility was at the time being operated in a prudent and workmanlike-manner and in compliance with applicable operation and maintenance procedures.
  - (3) The user has submitted the following information to the Authority Manager within 24 hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five days.
    - (a) A description of the indirect discharge and cause of noncompliance.

- (b) The period of noncompliance, including exact dates and times, or, if not corrected, the anticipated time the noncompliance is expected to continue.
  - (c) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
- D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- E. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- F. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

**§ 82-152. Prohibited discharge standards.**

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 82-103A of this Part 3 or the specific prohibitions in § 82-103B(3) through (18) of this Part 3 if it can prove that it did not know or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause passthrough or interference and that either:

- A. A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to and during the passthrough or interference; or
- B. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Authority was regularly in compliance with its NPDES permit and, in the case of interference, was in compliance with applicable sludge use or disposal requirements.

**§ 82-153. Bypass.**

- A. For the purposes of this section, the following terms shall have the meanings indicated:

**BYPASS** — The intentional diversion of waste streams from any portion of a user's treatment facility.

**SEVERE PROPERTY DAMAGE** — Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

- B. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure

efficient operation. These bypasses are not subject to provision of Subsection C and D of this section.

C. Notice.

- (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Authority Manager, at least 10 days before the date of the bypass, if possible.
- (2) A user shall submit oral notice to the Authority Manager of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause, the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The Authority Manager may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

D. Bypass prohibited or approved.

- (1) Bypass is prohibited and the Authority Manager may take an enforcement action against a user for a bypass, unless:
  - (a) Bypass was unavoidable to prevent loss of life, personal injury or severe property damage.
  - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance.
  - (c) The user submitted notices as required under Subsection C of this section.
- (2) The Authority Manager may approve an anticipated bypass, after considering its adverse effects, if the Authority Manager determines that it will meet the three conditions listed in Subsection D(1) of this section.

ARTICLE XXVI  
Wastewater Treatment Rates

§ 82-154. Surcharge.

An industrial user will be surcharged at the then-current rate for BOD for all concentrations in excess of 300 mg/l and for TSS for all concentrations in excess of 350 mg/l.

**ARTICLE XXVII**  
**Miscellaneous Provisions**

**§ 82-155. Pretreatment charges and fees.**

The Authority may adopt reasonable fees for reimbursement of costs of setting up and operating the Authority Pretreatment Program which may include:

- A. Fees for wastewater discharge permit applications, including the cost of processing such applications.
- B. Fees for monitoring, inspection and surveillance procedures, including the cost of collection and analyzing a user's discharge and reviewing monitoring reports submitted by users.
- C. Fees for reviewing and responding to accidental discharge procedures and construction.
- D. Fees for filing appeals.
- E. Other fees as the Authority may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this Part 3 and are separate from all other fees, fines and penalties chargeable by the Authority.

**Part 4**  
**Individual Sewage Disposal Systems**  
**[Adopted at time of adoption of Code**  
**(see Ch. 1, General Provisions, Art. I)]**

**ARTICLE XXVIII**  
**System Regulations**

**§ 82-156. Purpose.**

The purpose of this chapter is to define and regulate individual sewage disposal systems by:

- A. Requiring minimum standards governing the design, construction and installation of on-lot sewage disposal systems.
- B. Authorizing the issuance of permits; and
- C. Providing for penalties for violations.

**§ 82-157. Definitions.**

- A. As used in this Part 4, the following terms shall have the meanings indicated:

**IMMEDIATE FAMILY** — Brother, sister, son, daughter, stepson, stepdaughter, grandson, granddaughter, father or mother of the property owner.

**INDIVIDUAL SEWAGE DISPOSAL SYSTEM** — A sewage disposal system, other than a public or community system, which receives either human excreta or liquid waste, or

both, from one or more premises. Included within the scope of this definition are septic tank soil absorption systems, privies and chemical type and such other types as may be prescribed in regulations.

PERMIT — A written permit issued by the Sewage Enforcement Officer, permitting the construction of an individual sewage disposal system under this Part 4.

PERSON — Any institution, public or private corporation, individual, partnership, unincorporated association or other entity.

SEWAGE ENFORCEMENT OFFICER — The legally designated authority of the Township of Fox or his authorized representative.

- B. Words in the singular include the plural, and words in the plural include the singular. The word “may” is permissive; the words “shall,” “must” and “will” are mandatory. The masculine includes the feminine.

#### **§ 82-158. Requirements for individual sewage disposal systems.**

The standards set forth in this Part 4, along with the standards set forth in Section 7 of the Pennsylvania Sewage Facilities Act, as amended,<sup>12</sup> and the regulations promulgated by the Department of Environmental Protection or its successors, at Pennsylvania Code Title 25, Chapters 71, 72 and 73, as amended, shall apply for the construction, installation, alteration, repair or extension of individual sewage disposal systems in the Township of Fox.

#### **§ 82-159. Permit required.**

It shall be unlawful for any person to construct, alter or extend individual sewage disposal systems within the Township of Fox unless he holds a valid permit issued by the Sewage Enforcement Officer in the name of such person for the specific construction, alteration or extension proposed. The permit issued by the Sewage Enforcement Officer is in addition to the building permit, which is required and must be obtained prior to construction, alteration and extension of the residence or facility to be served.

#### **§ 82-160. Exceptions.**

- A. No permit shall be required for the construction or installation of an individual sewage disposal system for a residential structure occupied or intended to be occupied by the property owner or a member of his immediate family on a contiguous tract of land 10 acres or more if the owner of the property was the owner of record as of January 10, 1987.
- B. A permit exemption may also be granted where a ten-acre parcel or lot is subdivided and transferred to an immediate family member from a parent tract after January 10, 1987. When one permit exemption has been granted for a lot, tract or parcel under this section, any lot, tract or parcel remaining after subdivision of the lot or parcel which received the permit exemption or any lots or parcels subdivided therefrom in the future shall not be

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<sup>12</sup> Editor's Note: See 35 P.S. § 750.1 et seq.

- eligible for a ten-acre permit exemption and must obtain a permit before constructing or installing an individual sewage disposal system.
- C. To be eligible for a ten-acre sewage permit exemption, the property owner must submit the following to the township:
- (1) Copy of the deed documenting ownership prior to January 10, 1987.
  - (2) Proof that the land is 10 acres or more and contiguous. (A survey is sufficient.)
  - (3) Written confirmation that the structure is for residential use and that it is to be occupied by the owner or immediate family. The owner must sign the Ten-Acre Permit Exemption Confirmation Form.
- D. Isolation distances.
- (1) The owner must make arrangements with the Sewage Enforcement Officer to visit the lot for verification of the required isolation distances. The township charges a fee for this visit. The fee must be paid to the township or the Sewage Enforcement Officer at the time arrangements are made for the visit. If the required isolation distances cannot be met, a sewage permit will be required.
  - (2) After construction of the system is completed, the owner must notify the Sewage Enforcement Officer in order to visit the lot and confirm that the system still meets the required isolation distances.
- E. The property owner is liable for the system and for any property damages or personal injury resulting from a malfunction. If a malfunction exists, repairs must be accompanied only under a permit.
- F. A permit shall not be required by a person where a new dwelling is proposed to replace a previously existing dwelling where the size and anticipated use of the new dwelling is the same as the previously existing dwelling and the previously existing dwelling was in use within one year of the anticipated date of completion of construction. This exception shall not apply when an active investigation of malfunction is underway by Fox Township or the Department of Environmental Protection or its successors. Permits may be required after one year.

**§ 82-161. Submission of application; fee; issuance of permit.**

All applications for permits, together with a permit fee, payable to Fox Township, shall be submitted to the Township Secretary or the Sewage Enforcement Officer. The Sewage Enforcement Officer shall issue a permit upon compliance by the applicant with the provisions of this Part 4 of Chapter 82 of the Fox Township Code of Ordinances and any regulations promulgated by the Department of Environmental Protection or its successors.

**§ 82-162. Denial of permit.**

The Sewage Enforcement Officer may refuse to grant a permit for the construction or installation of an individual sewage disposal system where public or community sewage

systems are reasonably available. Reasonable availability of public or community sewage systems shall be determined in accordance with the provisions under Article VII, § 96-41B, of the Subdivision and Land Development Ordinance of the Fox Township Code of Ordinances or its amendments or under any other applicable provisions of the Fox Township Code of Ordinances or under the applicable laws of the Commonwealth of Pennsylvania.

**§ 82-163. Application form; contents.**

Applications for permits shall be in writing and be the same form as provided by the Department of Environmental Protection and available at the Fox Township Municipal Office. The permit application shall be signed by the applicant and shall include the following:

- A. Name and address of applicant.
- B. Lot and block number of the property on which construction, alteration or extensions are proposed.
- C. Complete design plan of the proposed sewage disposal facility.
- D. Such further information as may be required by the Sewage Enforcement Officer.

**§ 82-164. Hearings.**

A person whose application for a permit under this Part 4 of this chapter of the Fox Township Code of Ordinances has been denied may request and shall be granted a hearing on the matter before the Fox Township Board of Supervisors within 30 days of the receipt of the request. The hearing request, in writing, shall state concisely all reasons for the appeal.

**§ 82-165. Expiration of permit.**

If construction or installation of an individual sewage disposal system and of any building or structure for which such system is to be installed has not commenced within three years after the issuance of a permit for such system, the permit shall expire, and a new permit shall be obtained prior to the commencement of said construction or installation. When issuing a new permit, the Sewage Enforcement Officer may require information necessary to confirm the validity of the original application.

**§ 82-166. Inspections.**

- A. The Sewage Enforcement Officer is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this Part 4 of this chapter of the Fox Township Code of Ordinances and any regulations promulgated by Fox Township or the Department of Environmental Protection or its successors.
- B. It shall be the duty of the owner or occupant of the property to give the Sewage Enforcement Officer free access to the owner's property at reasonable times for the purpose of making such inspections as are necessary to determine compliance with the requirements of this Part 4 of this chapter of the Fox Township Code of Ordinances and the



regulations promulgated by the Department of Environmental Protection or its successors. Failure of the owner to grant the Sewage Enforcement Officer free access to the owner's property shall constitute sufficient grounds to deny or revoke the permit.

**§ 82-167. Violations and penalties.**

Any person who shall violate any provision of this Part 4 of this chapter of the Fox Township Code of Ordinances or any provision of any regulation applicable to individual sewage disposal systems promulgated by the Department of Environmental Protection shall, upon conviction, be sentenced to pay a fine not to exceed \$1,000, plus cost of prosecution or imprisonment not to exceed 90 days, or both. Each day that the violation is found to exist shall constitute a separate offense.

**§ 82-168. Conflict of provisions.**

In any case where a provision of this Part 4 of this chapter of the Fox Township Code of Ordinances is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance or code of the Township of Fox existing on the effective date of this Part 4, the provision which established the higher standard for the promotion and protection of the health and safety of the people shall be deemed to prevail, and other such ordinances or codes are hereby declared to be repealed to the extent that they may be found in conflict with this Part 4.

**§ 82-169. Fees.**

The Fox Township Board of Supervisors may establish and/or amend by resolution a schedule of fees which are required or authorized under this Part 4 of this chapter of the Fox Township Code of Ordinances.



## **Chapter 86**

### **STORMWATER MANAGEMENT**

#### **ARTICLE I General Provisions**

- § 86-1. Short title.**
- § 86-2. Statement of findings.**
- § 86-3. Purpose.**
- § 86-4. Statutory authority.**
- § 86-5. Applicability.**
- § 86-6. Compatibility with other requirements.**

#### **ARTICLE II Definitions**

- § 86-7. Interpretation.**
- § 86-8. Terms defined.**

#### **ARTICLE III Stormwater Management Standards**

- § 86-9. General requirements.**
- § 86-10. Exemptions.**
- § 86-11. Waivers.**
- § 86-12. Volume controls.**
- § 86-13. Rate controls.**
- § 86-14. Calculation methods.**
- § 86-15. Other requirements.**

#### **ARTICLE IV SWM Site Plan and Report Requirements**

- § 86-16. Plan and report contents.**
- § 86-17. Plan submission.**
- § 86-18. Plan review.**

- § 86-19. Modification of plans.**
- § 86-20. Resubmission of disapproved SWM site plans.**
- § 86-21. Record drawings and final inspection.**

#### **ARTICLE V Operation and Maintenance**

- § 86-22. Responsibilities.**
- § 86-23. Operation and maintenance agreements.**

#### **ARTICLE VI Fees and Expenses**

- § 86-24. Review fee.**

#### **ARTICLE VII Prohibitions**

- § 86-25. Prohibited discharges and connections.**
- § 86-26. Roof drains.**
- § 86-27. Alteration of BMPs.**

#### **ARTICLE VIII Enforcement; Violation and Penalties**

- § 86-28. Right of entry.**
- § 86-29. Inspection.**
- § 86-30. Enforcement.**
- § 86-31. Suspension and revocation.**
- § 86-32. Violations and penalties.**
- § 86-33. Appeals.**

**ARTICLE IX  
References**

**§ 86-34. References used in chapter.**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Fox 8-3-2011 by Ord. No. 2011-8. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Building construction — See Ch. 43.

Sewers — See Ch. 82.

Drainage — See Ch. 51.

Subdivision and land development — See Ch. 96.

Floodplain management — See Ch. 66.

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**ARTICLE I  
General Provisions**

**§ 86-1. Short title.**

This chapter shall be known and may be cited as the "Stormwater Management Ordinance."

**§ 86-2. Statement of findings.**

The governing body of the municipality finds that:

- A. Inadequate management of accelerated runoff of stormwater resulting from development throughout a watershed increases flows and velocities, contributes to erosion and sedimentation, overtakes the carrying capacity of streams and storm sewers, greatly increases the cost of public facilities to carry and control stormwater, undermines floodplain management and flood-control efforts in downstream communities, reduces groundwater recharge, threatens public health and safety, and increases nonpoint source pollution of water resources.
- B. A comprehensive program of stormwater management, including reasonable regulation of development and activities causing accelerated runoff, is fundamental to the public health, safety and welfare and the protection of people of the commonwealth, their resources and the environment.
- C. Stormwater is an important water resource, which provides groundwater recharge for water supplies and base flow of streams, which protects and maintains surface water quality.
- D. Federal and state regulations require certain municipalities to implement a program of stormwater controls. These municipalities are required to obtain a permit for stormwater discharges from their separate storm sewer systems under the National Pollutant Discharge Elimination System (NPDES).

**§ 86-3. Purpose.**

The purpose of this chapter is to promote health, safety, and welfare within the municipality and its watershed by minimizing the harms and maximizing the benefits described in § 86-2 of this chapter, through provisions designed to:

- A. Meet legal water quality requirements under state law, including regulations at 25 Pa. Code Chapter 93, to protect, maintain, reclaim and restore the existing and designated uses.
- B. Preserve the natural drainage systems as much as possible.
- C. Manage stormwater runoff close to the source.
- D. Provide the minimum procedures and performance standards for stormwater planning and management.
- E. Maintain groundwater recharge, to prevent degradation of surface water and groundwater quality and to otherwise protect water resources.
- F. Prevent scour and erosion of stream banks and streambeds.
- G. Provide proper operations and maintenance of all permanent stormwater management best management practices (BMPs) implemented within the municipality.
- H. Provide standards to meet NPDES permit requirements.

**§ 86-4. Statutory authority.**

- A. Primary authority. The municipality is empowered to regulate these activities by the authority of the Act of October 4, 1978, P.L. 864 (Act 167), 32 P.S. § 680.1 et seq., as amended, the Storm Water Management Act; and the appropriate municipal code.
- B. Secondary authority. The municipality is empowered to regulate land use activities that affect runoff by the authority of the Act of July 31, 1968, P.L. 805, No. 247, the Pennsylvania municipalities Planning Code, as amended.<sup>1</sup>

**§ 86-5. Applicability.**

All regulated activities and all activities that may affect stormwater runoff, including land development or earth disturbance, are subject to regulation by this chapter.

**§ 86-6. Compatibility with other requirements.**

Approvals issued and actions taken under this chapter do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other code, law, regulation or ordinance.

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

**ARTICLE II  
Definitions****§ 86-7. Interpretation.**

For the purposes of this chapter, certain terms and words used herein shall be interpreted as follows:

- A. Words used in the present tense include the future tense; the singular number includes the plural, and the plural number includes the singular; words of masculine gender include the feminine gender, and words of feminine gender include the masculine gender.
- B. The word "includes" or "including" shall not limit the term to the specific example but is intended to extend its meaning to all other instances of like kind and character.
- C. The words "shall" and "must" are mandatory; the words "may" and "should" are permissive.
- D. The words "used or occupied" include the words "intended, designed, maintained, or arranged to be used or occupied."

**§ 86-8. Terms defined.**

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

**ACCELERATED EROSION** — The removal of the surface of the land through the combined action of man's activity and the natural processes at a rate greater than would occur because of the natural process alone.

**AGRICULTURAL ACTIVITY** — The work of producing crops, including tillage, land clearing, plowing, disking, harrowing, planting, harvesting crops, or the pasturing and raising of livestock and installation of conservation measures. Construction of new buildings or impervious area is not considered an agricultural activity.

**ALTERATION** — As applied to land, a change in topography because of the moving of soil and rock from one location or position to another; also the changing of surface conditions by causing the surface to be more or less impervious; land disturbance.

**APPLICANT** — A landowner, developer or other person who has filed an application for approval to engage in any regulated earth disturbance activity at a project site in the municipality.

**BANK FULL** — The channel at the top-of-bank or point where water begins to overflow onto a floodplain.

**BASE FLOW** — The portion of stream discharge derived from groundwater; the sustained discharge that does not result from direct runoff or from water diversions, reservoir releases, piped discharges, or other human activities.

**BIORETENTION** — A stormwater retention area that utilizes woody and herbaceous plants and soils to remove pollutants before infiltration occurs.

**BMP (BEST MANAGEMENT PRACTICE)** — Activities, facilities, designs, measures or procedures used to manage stormwater impacts from regulated activities, to meet state water quality requirements, to promote groundwater recharge and to otherwise meet the purposes of this chapter. BMPs include but are not limited to infiltration, filter strips, low-impact design, bioretention, wet ponds, permeable paving, grassed swales, forested buffers, sand filters and detention basins. Structural SWM BMPs are permanent appurtenances to the project site.

**CARBONATE BEDROCK (AREAS)** — Rock consisting chiefly of carbonate minerals, such as limestone and dolomite; specifically, a sedimentary rock composed of more than 50% by weight of carbonate minerals that underlies soil or other unconsolidated, superficial material.

**CHANNEL** — A drainage element in which stormwater flows with an open surface. Open channels include, but shall not be limited to, natural and man-made drainageways, swales, streams, ditches, canals, and pipes flowing partly full.

**CHANNEL EROSION** — The widening, deepening, and headward cutting of small channels and waterways, caused by stormwater runoff or bank full flows.

**CISTERN** — An underground reservoir or tank for storing rainwater.

**CONSERVATION DISTRICT** — A conservation district, as defined in Section 3(c) of the Conservation District Law [3 P.S. § 851(c)], which has the authority under a delegation agreement executed with the Department to administer and enforce all or a portion of the erosion and sediment control program in this commonwealth.

**CULVERT** — A structure with appurtenant works, which carries water under or through an embankment or fill.

**DAM** — An artificial barrier, together with its appurtenant works, constructed for the purpose of impounding or storing water or another fluid or semifluid, or a refuse bank, fill or structure for highway, railroad or other purposes which does or may impound water or another fluid or semifluid.

**DELINEATION** — The process of determining a wetland's physical boundaries.

**DESIGNEE** — The agent of the Elk County Planning Commission, Elk County Conservation District and/or agent of the governing body involved with the administration, review or enforcement of any provisions of this chapter by contract or memorandum of understanding.

**DESIGN STORM** — The magnitude and temporal distribution of precipitation from a storm event measured in probability of occurrence (e.g., a five-year storm) and duration (e.g., 24 hours), used in the design and evaluation of stormwater management systems. (See "return period.")

**DETENTION** — The volume of runoff that is captured and released into the waters of this commonwealth at a controlled rate.

**DETENTION BASIN** — An impoundment designed to collect and attenuate stormwater peak runoff by temporarily storing the runoff and releasing it at a predetermined rate. Detention basins are designed to drain completely shortly after any given rainfall event and are dry until the next rainfall event.

DEVELOPMENT — See "earth disturbance activity." The term includes redevelopment.

DISCHARGE — To release water from a project, site, aquifer, drainage basin or other point of interest (verb); the rate and volume of flow of water such as in a stream, generally expressed in cubic feet per second (volume per unit of time) (noun). See also "peak discharge."

DISCHARGE POINT — The point to which stormwater flows.

DISCONNECTED IMPERVIOUS AREA (DIA) — An impervious or impermeable surface that is disconnected from any stormwater drainage or conveyance system and is redirected or directed to a pervious area, which allows for infiltration, filtration, and increased time of concentration as specified in Appendix G, Disconnected Impervious Area.<sup>2</sup>

DISTURBED AREA — An unstabilized land area where an earth disturbance activity is occurring or has occurred.

DITCH — See "Channel."

DOWNSLOPE PROPERTY LINE — That portion of the property line of the lot, tract, or parcels of land being developed located such that overland or pipe flow from the site would flow towards it.

DRAINAGE EASEMENT — A right granted by a landowner to a grantee, allowing the use of private land for stormwater management purposes.

EARTH DISTURBANCE ACTIVITY — A construction or other human activity which disturbs the surface of the land, including, but not limited to, clearing and grubbing, grading, excavations, embankments, road maintenance, building construction and the moving, depositing, stockpiling, or storing of soil, rock or earth materials.

EMERGENCY SPILLWAY — A conveyance area that is used to pass peak discharge greater than the maximum design storm controlled by a stormwater management facility.

ENCROACHMENT — A structure or activity that changes, expands, or diminishes the course, current or cross section of a watercourse, floodway, floodplain, or body of water.

EPHEMERAL STREAM — A stream with flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral streambeds are located above the water table year round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

EROSION — The natural process by which the surface of the land is worn away by water, wind or chemical action.

EROSION AND SEDIMENT POLLUTION CONTROL PLAN — A plan for a project site which identifies BMPs to minimize accelerated erosion and sedimentation.

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2. Editor's Note: Appendix G is on file in the Township offices.



**EXCEPTIONAL VALUE WATERS** — Surface waters of high quality which satisfy Pennsylvania Code Title 25, Environmental Protection, Chapter 93, Water Quality Standards, § 93.4b(b) (relating to antidegradation).

**EXISTING CONDITION** — The dominant land cover during the five-year period immediately preceding a proposed regulated activity.

**EXTENDED DETENTION VOLUME (EDV)** — Release of detained runoff in excess of permanently removed volume (PRV) over a period of time not less than 24 hours and not more than 72 hours.

**FELLING** — The process of cutting down standing trees.

**FLOOD** — A temporary condition of partial or complete inundation of land areas from the overflow of streams, rivers, and other waters of this commonwealth.

**FLOODPLAIN** — Any land area susceptible to inundation by water from any natural source or delineated by applicable Federal Emergency Management Agency (FEMA) maps and studies as being a special flood hazard area. Also included are areas that comprise Group 13 soils, as listed in Appendix A of the Pennsylvania Department of Environmental Protection (PADEP) Technical Manual for Sewage Enforcement Officers (as amended or replaced from time to time by PADEP).

**FLOODWAY** — The channel of the watercourse and those portions of the adjoining floodplain that are reasonably required to carry and discharge the one-hundred-year flood. Unless otherwise specified, the boundary of the floodway is as indicated on maps and flood insurance studies provided by FEMA. In an area where no FEMA maps or studies have defined the boundary of the one-hundred-year floodway, the floodway includes floodplain areas within 50 feet of the top of each stream bank and the stream channel itself.

**FOREST MANAGEMENT/TIMBER OPERATIONS** — Planning and activities necessary for the management of forestland. These include timber inventory and preparation of forest management plans, silvicultural treatment, cutting budgets, logging road design and construction, timber harvesting, site preparation and reforestation.

**FREEBOARD** — A vertical distance between the elevation of the design high water elevation and the top of a dam, levee, tank, basin, swale, or diversion berm. The space is required as a safety margin in a pond or basin.

**GRADE** — A slope, usually of a road, channel or natural ground, specified in percent and shown on plans as specified herein. To grade — To finish the surface of a roadbed, top of embankment or bottom of excavation.

**GRASSED WATERWAY** — A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses, used to convey surface water.

**GROUNDWATER** — Water beneath the earth's surface, often between saturated soil and rock that supplies wells and springs.

**GROUNDWATER RECHARGE** — Replenishment of existing natural underground water supplies without degrading groundwater quality.

**HARVESTING** — The felling, skidding, loading, and transporting of timber products.

**HIGH QUALITY WATERS** — Surface waters having quality which exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water by satisfying Pennsylvania Code Title 25, Environmental Protection, Chapter 93, Water Quality Standards, § 93.4b(a).

**HYDRIC SOILS** — Soils that are characterized by the presence of water.

**HYDROGRAPH** — A graph of stormwater or runoff discharge versus time for a selected point in the drainage system.

**HYDROLOGIC SOIL GROUP (HSG)** — Infiltration rates of soils vary widely and are affected by subsurface permeability as well as surface intake rates. Soils are classified into four HSGs (A, B, C, and D) according to their minimum infiltration rate, which is obtained for bare soil after prolonged wetting. The Natural Resources Conservation Service (NRCS) of the U.S. Department of Agriculture defines the four groups and provides a list of most of the soils in the United States and their group classification. The soils underlying the project site may be identified from a soil survey report that can be obtained from local NRCS offices or conservation district offices. Soils become less pervious as the HSG varies from A to D.

**HYDROPHYTIC VEGETATION** — Plant life that is adapted to living in wet conditions.

**IMPERVIOUS SURFACE (IMPERVIOUS AREA)** — A surface that prevents the infiltration of water into the ground. Impervious surfaces (or covers) shall include, but not be limited to:

- A. Roofs, additional indoor living spaces, patios, garages, storage sheds and similar structures.
- B. New streets or sidewalks, decks, parking areas, and driveway areas using traditional paved surfaces that prevent infiltration into the ground. New decks, parking areas, and driveways are not defined as impervious areas if they are designed to allow long-term infiltration.
- C. Existing gravel parking areas, driveways, and roads shall be treated as slightly pervious and shall be analyzed using the appropriate SCS curve number based on their HSG; proposed gravel parking areas, driveways, and roads shall be treated as impervious areas for all calculations.

**IMPOUNDMENT** — A retention or detention basin designed to retain stormwater runoff and release it at a controlled rate.

**INFILTRATION** — Movement of surface water into the soil, where it is absorbed by plant roots, evaporates into the atmosphere, or percolates downward to recharge groundwater.

**INFILTRATION STRUCTURES** — A structure designed to direct runoff into the groundwater (e.g., french drains, seepage pits, and seepage trench).

**INLET** — The upstream end of any structure through which water may flow.

**INTERMITTENT STREAM** — A stream with flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent

streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

**KARST** — A type of topography or landscape characterized by surface depressions, sinkholes, rock pinnacles/uneven bedrock surface, underground drainage and caves. Karst is formed on carbonate rocks, such as limestone or dolomite.

**LAND DEVELOPMENT (DEVELOPMENT)** — Inclusive of any or all of the following meanings:

- 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 buildings; or
  - (2) The division or allocation of land or space between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups, or other features;
- B. Any subdivision of land;
- C. Development in accordance with Section 503(1.1) of the Pennsylvania municipalities Planning Code.<sup>3</sup>

**LANDING (OR DECK)** — A place where logs or tree-length materials are assembled for loading and transport.

**LITTER LAYER** — The layer of fallen leaves, twigs, and decaying woody material that provides a spongelike mat covering forest soils.

**LOT** — A part of a subdivision or a parcel of land used as a building site or intended to be used for building purposes, whether immediate or future, which would not be further subdivided.

**MAIN STEM (MAIN CHANNEL)** — Any stream segment or other runoff conveyance facility used as a reach in the hydrologic model.

**MANNING EQUATION (MANNING FORMULA)** — A method for calculation of velocity of flow (e.g., feet per second) and flow rate (e.g., cubic feet per second) in open channels based upon channel shape, roughness, depth of flow and slope. "Open channels" may include closed conduits so long as the flow is not under pressure.

**MUNICIPAL ENGINEER** — A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for a municipality, planning agency or joint planning commission.

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

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3. Editor's Note: See 53 P.S. § 10503(1.1).

NATURAL RECHARGE AREA — Undisturbed surface area or depression where stormwater collects and a portion of which infiltrates and replenishes the underground and groundwater.

NONPOINT SOURCE POLLUTION — Pollution that enters a water body from diffuse origins in the watershed and does not result from discernible, confined, or discrete conveyances.

NONSTRUCTURAL BEST MANAGEMENT PRACTICE (BMPs) — Methods of controlling stormwater runoff quantity and quality, such as innovative site planning, impervious area and grading reduction, protection of natural depression areas, temporary ponding on site and other techniques.

NPDES — National Pollutant Discharge Elimination System, the federal government's system for issuance of permits under the Clean Water Act, which is delegated to PADEP in Pennsylvania.

NRCS — Natural Resources Conservation Service (previously SCS).

OUTFALL — "Point source" as described in 40 CFR § 122.2 at the point where the municipality's storm sewer system discharges to surface waters of the commonwealth.

OUTLET — Points of water disposal to a stream, river, lake, tidewater or artificial drain.

PADEP — The Pennsylvania Department of Environmental Protection.

PA DOT — Pennsylvania Department of Transportation.

PARENT TRACT — The parcel of land from which a land development or subdivision originates, determined from the date of municipal adoption of this chapter.

PARKING LOT STORAGE — The use of parking areas as temporary impoundments with controlled release rates during rainstorms.

PEAK DISCHARGE — The maximum rate of stormwater runoff from a specific storm event.

PERMANENTLY REMOVED VOLUME (PRV) — The volume of runoff that is permanently removed from the runoff and not released into surface waters of this commonwealth during or after a storm event.

PERVIOUS SURFACE (PERVIOUS AREA) — Any area or ground surface not defined as impervious and that may be vegetated or unvegetated.

PIPE — A culvert, closed conduit, or similar structure (including appurtenances) that conveys stormwater.

PLANNING COMMISSION — The municipal or county planning commission authorized under the Pennsylvania municipalities Planning Code.<sup>4</sup>

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

**POINT SOURCE** — Any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, or conduit from which stormwater is or may be discharged, as defined in state regulations at 25 Pa. Code § 92.1.<sup>5</sup>

**POST-CONSTRUCTION** — Period after construction where disturbed areas are stabilized. Stormwater controls are in place and functioning and all proposed improvements in the approved land development plan are completed.

**PRE-DEVELOPMENT** — Undeveloped/natural condition.

**PRE-TREATMENT** — Techniques employed in stormwater BMPs to provide storage or filtering to trap coarse materials and other pollutants before they enter the system.

**PROJECT SITE** — The specific area of land where any regulated activities in the municipality are planned, conducted, or maintained.

**QUALIFIED PROFESSIONAL** — A professional engineer licensed by the Pennsylvania Department of state or otherwise qualified by law to perform the engineering work required by the chapter.

**RECHARGE** — The replenishment of groundwater through the infiltration of rainfall or stormwater runoff.

**RECORD DRAWINGS** — Those drawings maintained by the applicant, applicant's contractor, or applicant's agent as the applicant's project is constructed and upon which is documented the actual locations of the building components and changes to the original contract documents. These, or a copy of same, are turned over to the municipality at the completion of the project.

**REDEVELOPMENT** — The demolition, construction, reconstruction, alteration, or improvement exceeding 2,000 square feet of land disturbance performed on sites where existing land use is commercial, industrial, institutional, or multifamily residential. Maintenance activities such as top-layer grinding and repaving are not considered redevelopment. Interior remodeling projects and tenant improvements are also not considered redevelopment. Utility trenches in streets are not considered redevelopment unless more than 50% of the street width is removed and repaved.

**REGULATED ACTIVITIES** — All activities involving land development or earth disturbance activity that may affect stormwater runoff.

**REGULATED EARTH DISTURBANCE ACTIVITY** — Activity involving Earth Disturbance subject to regulation under 25 Pa. Code Chapters 92<sup>6</sup> or 102 or the Clean Streams Law.

**RELEASE RATE** — The percentage of existing conditions peak rate of runoff from a site or subarea to which the post-development peak rate of runoff must be reduced to protect downstream areas.

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5. Editor's Note: Chapter 92 of the Pa. Code was reserved 10-8-2010. Defined terms can now be found at 25 Pa. Code § 92a.2.

6. Editor's Note: Chapter 92 of the Pa. Code was reserved 10-8-2010. See now Chapter 92a.

**RETENTION BASIN** — A structure in which stormwater is stored and not released during the storm event. Retention basins do not function without operational intervention to release stored stormwater unless designed as infiltration-only basins.

**RETENTION/REMOVED** — The volume of runoff that is captured and not released directly into the surface waters of this commonwealth during or after a storm event.

**RETURN PERIOD** — The interval, in years, within which a storm event of a given magnitude can be expected, on average, to recur. For example, the twenty-five-year return period rainfall would be expected, on average, to recur every 25 years. The probability of a twenty-five-year storm occurring in any one year is 0.04 or 4%.

**RISER** — A vertical pipe extending from the bottom of a pond that is used to control the discharge rate from the pond for a specified design storm.

**ROAD MAINTENANCE** — Earth disturbance activities within the existing road cross section, such as grading and repairing existing unpaved road surfaces, cutting road banks, cleaning or clearing drainage ditches and other similar activities.

**ROOF DRAINS** — A drainage conduit or pipe that collects water runoff from a roof and leads it away from the structure.

**ROOFTOP DETENTION** — Temporary ponding and gradual release of stormwater falling directly onto flat roof surfaces by incorporating controlled-flow roof drains into building designs.

**RUNOFF** — Any part of precipitation that flows over the land.

**SALDO** — Subdivision and Land Development Ordinance.

**SCS** — Soil Conservation Service (currently known as NRCS, Natural Resources Conservation Service). Also a commonly referred to method ("SCS Method") for the hydrologic computation and estimation of runoff from rainfall information that has been developed by the United States Department of Agriculture's Soil Conservation Service (SCS).

**SEDIMENT** — Soils or other materials transported by surface water as a product of erosion.

**SEDIMENTATION** — The process by which mineral or organic matter is accumulated or deposited by the movement of water or air.

**SEDIMENT BASIN** — A barrier, dam, retention or detention basin located and designed to retain rock, sand, gravel, silt, or other material transported by water during construction.

**SEDIMENT POLLUTION** — The placement, discharge or any other introduction of sediment into the waters of the commonwealth.

**SEEPAGE PIT/SEEPAGE TRENCH** — An area of excavated earth filled with loose stone or similar coarse material, into which surface water is directed for infiltration into the groundwater.

**SEPARATE STORM SEWER SYSTEM** — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches,

man-made channels or storm drains) primarily used for collecting and conveying stormwater runoff.

**SHALLOW CONCENTRATED FLOW** — Stormwater runoff flowing in shallow, defined rills prior to entering a defined channel or waterway.

**SHEET FLOW** — A flow process associated with broad, shallow water movement on sloping ground surfaces that is not channelized or concentrated.

**SKIDDING** — The moving of logs or felled trees along the surface of the ground from the stump to the point of loading.

**SKID ROAD/HAUL ROAD** — Those roads, trails, or other openings upon which trees, logs, equipment, or vehicles are moved within the site of the work.

**SLASH** — Unusable woody material such as large limbs, tops, cull logs, and stumps that remain after timber harvesting.

**SOIL COVER COMPLEX METHOD** — A method of runoff computation developed by the NRCS that is based on relating soil type and land use/cover to a runoff parameter called "curve number" (CN).

**SPECIAL GEOLOGIC FEATURES** — Carbonate bedrock features, including but not limited to closed depressions, existing sinkholes, fracture traces, lineaments, joints, faults, caves and pinnacles, which may exist and must be identified on a site when stormwater management BMPs are being considered.

**SPILLWAY** — A conveyance that is used to pass the peak discharge of the maximum design storm controlled by the stormwater facility.

**STATE WATER QUALITY REQUIREMENTS** — The regulatory requirements to protect, maintain, reclaim, and restore water quality under Pennsylvania Code Title 25 and the Clean Streams Law.

**STORAGE INDICATION METHOD** — A reservoir routing procedure based on solution of the continuity equation (inflow minus outflow equals the change in storage) with outflow defined as a function of storage volume and depth.

**STORM FREQUENCY** — The number of times that a given storm "event" occurs or is exceeded on the average in a stated period of years. See "return period."

**STORM SEWER** — A system of pipes and/or open channels that convey intercepted runoff and stormwater from other sources but exclude domestic sewage and industrial wastes.

**STORMWATER** — Drainage runoff from the surface of the land resulting from precipitation or snow or ice melt.

**STORMWATER MANAGEMENT BMPs** — Is abbreviated as SWM BMPs throughout this chapter.

**STORMWATER MANAGEMENT FACILITY** — Any structure, natural or man-made, that, due to its condition, design, or construction, conveys, stores, or otherwise affects stormwater

runoff. Typical stormwater management facilities include, but are not limited to, detention and retention basins, open channels, storm sewers, pipes, and infiltration structures.

**STORMWATER MANAGEMENT PLAN** — The plan for managing stormwater runoff adopted by the County of Elk as required by the Act of October 4, 1978, P.L. 864 (Act 167), as amended, and known as the "Storm Water Management Act."<sup>7</sup>

**STORMWATER MANAGEMENT SITE PLAN** — The plan prepared by the applicant or his representative indicating how stormwater runoff will be managed at the project site in accordance with this chapter. Stormwater management site plan will be designated as SWM site plan throughout this chapter.

**STREAM** — A natural watercourse.

**STREAM ENCLOSURE** — A bridge, culvert or other structure in excess of 100 feet in length upstream to downstream that encloses a regulated water of this commonwealth.

**SUBAREA (SUBWATERSHED)** — The smallest drainage unit of a watershed for which stormwater management criteria have been established in the stormwater management plan.

**SUBDIVISION** — The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development (refer to the Pennsylvania municipalities Planning Code,<sup>8</sup> current version).

**SURFACE WATERS OF THE/THIS COMMONWEALTH** — Any and all rivers, streams, creeks, rivulets, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs, and all other bodies or channels of conveyance of surface, or parts thereof, whether natural or artificial, within or on the boundaries of this commonwealth.

**SWALE** — A low-lying stretch of land that gathers or carries surface water runoff.

**TIMBER OPERATIONS** — See "forest management/timber operations."

**TIME-OF-CONCENTRATION (TC)** — The time for surface runoff to travel from the hydraulically most distant point of the watershed to a point of interest within the watershed. This time is the combined total of overland flow time and flow time in pipes or channels, if any.

**TOP-OF-BANK** — Highest point of elevation in a stream channel cross section at which a rising water level just begins to flow out of the channel and over the floodplain.

**USACE** — United States Army Corp of Engineers.

**VERNAL POND** — Seasonal depressional wetlands that are covered by shallow water for variable periods from winter to spring/but may be completely dry for most of the summer and fall.

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7. Editor's Note: See 32 P.S. § 680.1 et seq.

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



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

**WATERSHED** — Region or area drained by a river, watercourse or other body of water, whether natural or artificial.

**WATERS OF THE/THIS COMMONWEALTH** — Rivers, streams, creeks, rivulets, impoundments, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs and other bodies or channels of conveyance of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of this commonwealth.

**WET BASIN** — A detention basin that is designed to detain stormwater and which always contains water.

**WETLAND** — Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, fens, and similar areas.

### ARTICLE III

#### Stormwater Management Standards

##### § 86-9. General requirements.

- A. Written approval of a SWM site plan must be issued by the municipality prior to commencement of regulated activities unless exempt from this requirement under § 86-10.
- B. SWM site plans approved by the municipality shall be on site throughout the duration of the regulated activity.
- C. The municipality may, after consultation with PADEP, approve measures for meeting the state water quality requirements other than those in this chapter, provided that they meet the minimum requirements of, and do not conflict with, state law, including but not limited to the Clean Streams Law.
- D. For all regulated activities, implementation of peak rate controls and preparation of a SWM site plan are required, unless exempted by § 86-10 of this chapter.
- E. Impervious areas.
  - (1) The measurement of impervious areas shall include all of the impervious areas in the total proposed development, even if development is to take place in stages.
  - (2) For development taking place in stages, the entire development plan must be used in determining conformance with this chapter.
  - (3) For projects that add impervious area to a parcel, the total impervious area on the parcel is subject to the requirements of this chapter, unless the project is otherwise deemed exempt from stormwater management provisions per the criteria set forth in § 86-10.

- (4) Existing gravel parking areas, driveways, and roads shall not be considered impervious. These areas shall be treated as semipervious and shall be analyzed using the appropriate SCS curve number based on the appropriate HSG underlying the gravel areas, which is defined as:
    - (a) HSG A: gravel area curve number shall be 76.
    - (b) HSG B: gravel area curve number shall be 85.
    - (c) HSG C: gravel area curve number shall be 89.
    - (d) HSG D: gravel area curve number shall be 91.
  - (5) Proposed gravel parking areas, driveways, and roads shall be considered impervious.
- F. Stormwater discharges onto adjacent property shall not be created, increased, decreased, or relocated or otherwise altered without permission of the adjacent property owner(s). Such discharges shall be subject to the requirements of this chapter.
- G. All regulated activities shall include such measures as necessary to:
- (1) Protect health, safety, and property.
  - (2) Meet the water quality goals of this chapter by implementing measures to:
    - (a) Minimize disturbance to floodplains, wetlands, natural slopes over 15%, and existing native vegetation.
    - (b) Minimize thermal impacts to waters of the Commonwealth.
    - (c) Preserve and maintain trees and woodlands. Maintain or extend riparian buffers and protect existing forested buffer. Provide trees and woodlands adjacent to impervious areas.
    - (d) Establish and maintain nonerosive flow conditions in natural flow pathways.
    - (e) Minimize soil disturbance and soil compaction. Cover disturbed areas with topsoil having a minimum depth of four inches. Use tracked equipment for grading.
    - (f) Disconnect impervious surfaces by directing runoff to pervious areas.
  - (3) Implement volume controls in § 86-12.
  - (4) Incorporate the techniques described in Appendix A<sup>9</sup> of this chapter (Low-Impact Development Practices) whenever practical.
  - (5) The applicant must demonstrate that the following BMPs are being used to the maximum extent practicable to receive consideration for the exemptions in § 86-10:

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9. Editor's Note: Appendix A is on file in the Township offices.

- (a) Design around and limit disturbance of floodplains, wetlands, natural slopes over 15%, existing native vegetation, and other sensitive and special value features.
  - (b) Maintain riparian and forested buffers.
  - (c) Limit grading and maintain nonerosive flow conditions in natural flow paths.
  - (d) Maintain existing tree canopies near impervious areas.
  - (e) Minimize soil disturbance and reclaim disturbed areas with topsoil and vegetation.
  - (f) Direct runoff to pervious areas.
- (6) The applicant must demonstrate that the proposed development/additional impervious area will not adversely impact the following:
  - (a) Capacities of existing drainageways and storm sewer systems.
  - (b) Velocities and erosion.
  - (c) Quality of runoff if direct discharge is proposed.
  - (d) Existing known problem areas.
  - (e) Safe conveyance of the additional runoff.
  - (f) Downstream property owners.
- H. The design of all facilities over karst shall include an evaluation of measures to minimize adverse effects.
- I. Infiltration BMPs shall be spread out, made as shallow as practicable, and located to maximize use of natural on-site infiltration features while still meeting the other requirements of this chapter.
- J. Storage facilities shall completely drain both the volume control and rate control capacities over a period of time not less than 24 hours and not more than 72 hours from the end of the design storm.
- K. The design storm volumes to be used in the analysis of peak discharge rates shall be obtained from the Precipitation-Frequency Atlas of the United States, Atlas 14, Volume 2, U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Weather Service, Hydrometeorological Design Studies Center, Silver Spring, Maryland 20910. NOAA's Atlas 14 can be accessed at Internet address <http://hdsc.nws.noaa.gov/hdsc/pfds/>.
- L. The municipality and its engineer may require that regulated activities maintain a minimum distance between proposed impervious areas/stormwater management facility outlets and downslope property line(s).

- M. SWM BMPs for all regulated activities shall be designed, implemented, operated, and maintained to meet the purposes and requirements of this chapter and to meet all requirements under Title 25 of the Pennsylvania Code, the Clean Streams Law, and the Storm Water Management Act.
- N. For all regulated earth disturbance activities, erosion and sediment control BMPs shall be designed, implemented, operated, and maintained during the regulated earth disturbance activities (e.g., during construction) to meet the purposes and requirements of this chapter and to meet all requirements under Title 25 of the Pennsylvania Code and the Clean Streams Law. Various BMPs and their design standards are listed in the Erosion and Sediment Pollution Control Program Manual (E&S Manual), No. 363-2134-008 (April 15, 2000), as amended and updated.

**§ 86-10. Exemptions.**

- A. Under no circumstance shall the applicant be exempt from implementing such measures as necessary to:
  - (1) Meet special requirements for projects within high quality (HQ) and exceptional value (EV) watersheds (§ 86-15G).
- B. The applicant must demonstrate that the following BMPs are being used to the maximum extent practicable to receive consideration for the exemptions:
  - (1) Design around and limit disturbance of floodplains, wetlands, natural slopes over 15%, existing native vegetation, and other sensitive and special value features.
  - (2) Maintain riparian and forested buffers.
  - (3) Limit grading and maintain nonerosive flow conditions in natural flow paths.
  - (4) Maintain existing tree canopies near impervious areas.
  - (5) Minimize soil disturbance and reclaim disturbed areas with topsoil and vegetation.
  - (6) Direct runoff to pervious areas.
- C. The applicant must demonstrate that the proposed development/additional impervious area will not adversely impact the following:
  - (1) Capacities of existing drainageways and storm sewer systems.
  - (2) Velocities and erosion.
  - (3) Quality of runoff if direct discharge is proposed.
  - (4) Existing known problem areas.
  - (5) Safe conveyance of the additional runoff.
  - (6) Downstream property owners.

## D. Applicants proposing regulated activities.

- (1) An applicant proposing regulated activities, after demonstrating compliance with § 86-10A, B and C, may be exempted from various submission requirements of this chapter according to the following table:

<b>New Impervious Area (square feet)</b>	<b>Applicant Submission Requirements</b>
$0 \leq \text{new impervious area} < 1,000$	No submission required
$1,000 \leq \text{new impervious area} < 2,500$	Small Project SWM Application <sup>1</sup> (see Appendix F) <sup>10</sup>
$2,500 \leq \text{new impervious area} < 5,000$	Volume control (§ 86-12) and Small Project SWM Application (see Appendix F)
$5,000 \leq \text{new impervious area}$	Peak rate control (§ 86-13), volume control (§ 86-12), and stormwater management site plan (Article IV)

**NOTES:**

- <sup>1</sup> The municipality can require the applicant to provide supplemental and additional information beyond the Small Project SWM Application if there is a threat to property, health or safety

- (2) All regulated activities must comply with the state water quality requirements.

## E. New single-family residential activities on a single lot are exempt from the requirements of § 86-12, Volume control from § 86-13, Rate control, and from the submission of a Small Project SWM Application, provided that the construction:

- (1) Complies with § 86-10A, B and C; and
- (2) Has building setbacks of at least 75 feet from downslope property lines; and
- (3) Driveways.
  - (a) Runoff must discharge onto pervious surface with a gravel strip or other spreading device.
  - (b) No more than 1,000 square feet of paved surface may discharge to any one point.
  - (c) For each discharge point, the length of flow on the pervious surface must exceed the length of flow on the paved surface.

## F. The municipality may, after consultation with PADEP, approve alternative stormwater management controls for meeting the state water quality requirements other than those in

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10. Editor's Note: Appendix F is on file Township offices.

this chapter, provided that they meet the minimum requirements of, do not conflict with state law, including but not limited to the Clean Streams Law, and provided that:

- (1) The alternative controls are documented to be acceptable to PADEP (or delegated authority); for NPDES requirements pertaining to post-construction stormwater management requirements.
  - (2) The alternative controls comply with all other sections of this chapter, including but not limited to §§ 86-9C and 86-10A through C.
- G. Agricultural activities are exempt from the rate and SWM site plan preparation requirements of this chapter, provided that the activities are performed according to the requirements of 25 Pa Code Chapter 102.
- H. Forest management and timber operations are exempt from the rate and volume control and SWM site plan preparation requirements of this chapter, provided that the activities are performed according to the requirements of 25 Pa. Code Chapter 102.
- I. Exemptions from any provisions of this chapter shall not relieve the applicant from the requirements in § 86-9D and F through K.
- J. Proposed municipal projects.
- (1) Proposed municipal projects are bound to the following requirements and criteria:

Type of Project		Description	Requirements
Roadway restoration	Alignments*	Change the roadway by either reducing or eliminating horizontal and vertical curves or changing the roadway's superelevation	BMP implementation that uses nonstructural and restoration practices such as: <ul style="list-style-type: none"> <li>• Street sweeping</li> <li>• Impervious disconnection</li> <li>• Slope roughening</li> <li>• Pavement width reduction</li> <li>• Riparian buffers</li> <li>• Vegetative restoration (including roadside swales)</li> <li>• Soil amendments</li> </ul>
	Pull-offs*	New, as part of a larger project or by itself	
	Widening*	Increase the width of the existing travel lanes (no new lanes added) and shoulders, or extension of acceleration/deceleration ramps in existing shoulder areas	

	Intersection*	Nominal channelization of intersections and addition of turning lanes	Minor practices and BMP implementation that uses such low-impact practices as: <ul style="list-style-type: none"> <li>• Preservation of existing vegetation</li> <li>• Minimization of soil compaction</li> <li>• Maintenance of erosion control and any PCSM BMPs</li> <li>• Restoration and stabilization of staging areas</li> </ul>
	Pavement	Replace portions, overlay, or mill and resurface the roadway's surface	
	Shoulders	Resurface, stabilize, upgrade (dirt or gravel to paved), or widen the existing shoulders within the existing footprint	
	Other	Replace and/or repair guide rail, , traffic signals, and drainage systems to their original specifications; various minor safety improvements	
New construction	Major Widening*	Addition of one or more travel lanes, including acceleration and deceleration lanes, to an existing road	Peak rate control (§ 86-13), volume control (§ 86-12), and stormwater management site plan
	New Alignment*	New roadway corridor	
	Interchange*	Reconfiguration of ramps, lane modification within interchange area, etc.	

Municipal facilities	New stockpile sites, buildings, or other structures or facilities not otherwise addressed by the requirements of this section
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**NOTES:**

- \* Projects falling into the noted categories and that have the potential to discharge into surface waters that have existing or designated HQ or EV uses (including EV wetlands), have impairments due to stormwater, are connected to combined sewer systems, or have the potential to have an adverse effect on threatened or endangered species, or critical habitat for such species, are subject to additional stormwater management requirements, beyond the requirements listed in the table. The additional BMP measures that must be considered and implemented for projects occurring in these areas are as follows:

Constructed wetlands/wet ponds	Significant detention of peak flow rates is needed and the contributing drainage area is large; retrofit existing detention basins are feasible.
Permeable pavement	Parking lots only
Manufactured products: subsurface storage, water quality inlets, etc.	Subsurface storage products are designed to attenuate peak runoff events through infiltration and/or discharge rate reduction. Storm sewer inlet structures or inserts are designed to minimize the discharge of solids, floatables, and oil/grease pollutants. Regular maintenance of these products is necessary.

- (2) Projects occurring in the areas listed above and not previously bound to such requirements (roadway restoration projects) are also required to achieve the following targeted outcomes:
- (a) For project areas within a release rate district, reduce the post-construction runoff peak rate as required by the release rate district in this chapter. For project areas not within a release rate district, reduce the post-construction runoff peak rate to the preconstruction peak rate for the one-year through one-hundred-year storm events.
  - (b) Reduce the post-construction runoff volume to the pre-construction runoff volume for the two-year twenty-four-hour storm event and smaller.



**§ 86-11. Waivers.**

- A. The provisions of this chapter are the minimum standards for the protection of the public.
- B. Waivers shall not be issued from implementing such measures as necessary to:
  - (1) Meet state water quality standards and requirements.
  - (2) Protect health, safety, and property.
  - (3) Meet special requirements for high quality (HQ) and exceptional value (EV) watersheds.
- C. If an applicant demonstrates to the satisfaction of the governing body of the municipality that any mandatory provision of this chapter is unreasonable or causes unique or undue unreasonableness or hardship as it applies to the proposed Project, or that an alternate design may result in a superior result within the context of §§ 86-2 and 86-3 of this chapter, the governing body of the municipality, upon obtaining the comments and recommendations of the municipal engineer and Conservation District, may grant a waiver or relief so that substantial justice may be done and the public interest is secured, provided that such waiver will not have the effect of nullifying the intent and purpose of this chapter.
- D. The applicant shall submit all requests for waivers in writing and shall include such requests as a part of the plan review and approval process. The applicant shall state in full the facts of unreasonableness or hardship on which the request is based, the provision or provisions of the chapter that are involved, and the minimum waiver or relief that is necessary. The applicant shall state how the requested waiver and how the applicant's proposal shall result in an equal or better means of complying with the intent or purpose and general principles of this chapter.
- E. The municipality shall keep a written record of all actions on waiver requests. The municipality may charge a fee for each waiver request, which shall be used to offset the administrative costs of reviewing the waiver request. The applicant shall also agree to reimburse the municipality for reasonable and necessary fees that may be incurred by the municipal Engineer in any review of a waiver request.
- F. In granting waivers, the municipality may impose reasonable conditions that will, in its judgment, secure substantially the objectives of the standards or requirements that are to be modified.
- G. The municipality may grant applications for waivers when the following findings are made, as relevant:
  - (1) That the waiver shall result in an equal or better means of complying with the intent of this chapter.
  - (2) That the waiver is the minimum necessary to provide relief.
  - (3) That the applicant is not requesting a waiver based on cost considerations.
  - (4) That existing downgradient stormwater problems will not be exacerbated.

- (5) That runoff is not being diverted to a different drainage area.
- (6) That increased flooding or ponding on off-site properties or roadways will not occur.
- (7) That potential icing conditions will not occur.
- (8) That increases in peak flow or volume from the site will not occur.
- (9) That erosive conditions due to increased peak flows or volume will not occur.
- (10) That adverse impact to water quality will not result.
- (11) That increased one-hundred-year floodplain levels will not result.
- (12) That increased or unusual municipal maintenance expenses will not result from the waiver.
- (13) That the amount of stormwater generated has been minimized to the greatest extent allowed.
- (14) That infiltration of runoff throughout the proposed site has been provided where practicable and pre-development groundwater recharge protected.
- (15) That peak flow attenuation of runoff has been provided.
- (16) That long-term operation and maintenance activities are established.
- (17) That the receiving streams and/or water bodies will not be adversely impacted in flood-carrying capacity, aquatic habitat, channel stability and erosion and sedimentation.

#### **§ 86-12. Volume controls.**

The low-impact development practices provided in the PA BMP Manual shall be used for all regulated activities to the maximum extent practicable. Water volume controls shall be implemented using the Design Storm Method in Subsection A or the Simplified Method in Subsection B below. For regulated activity areas equal or less than one acre that do not require hydrologic routing to design the stormwater facilities, this chapter establishes no preference for either methodology; therefore, the applicant may select either methodology on the basis of economic considerations, the intrinsic limitations on applicability of the analytical procedures associated with each methodology, and other factors.

- A. The Design Storm Method (CG-1 in the PA BMP Manual [current version]) is applicable to any size of regulated activity. This method requires detailed modeling based on site conditions.
  - (1) Do not increase the post-development total runoff volume for all storms equal to or less than the two-year, twenty-four-hour-duration precipitation.
  - (2) For modeling purposes:

- (a) Existing (pre-development) nonforested pervious areas must be considered meadow or its equivalent.
  - (b) Twenty percent of existing impervious area, when present, shall be considered meadow in the model for existing conditions.
- B. The Simplified Method (CG-2 in the PA BMP Manual [current version]) provided below is independent of site conditions and shall be used if the Design Storm Method is not followed. This method is not applicable to regulated activities that disturb greater than one acre or for projects that require design of stormwater storage facilities. For new impervious surfaces:
  - (1) Stormwater facilities shall be sized to capture at least the first two inches of runoff from all new impervious surfaces.
  - (2) At least the first one inch of runoff from new impervious surfaces shall be permanently removed from the runoff flow, i.e., it shall not be released into the surface waters of this commonwealth. Removal options include reuse, evaporation, transpiration, and infiltration.
  - (3) Wherever possible, infiltration facilities shall be designed to accommodate infiltration of the entire permanently removed runoff; however, in all cases at least the first 1/2 inch of the permanently removed runoff shall be infiltrated.
  - (4) This method is exempt from the requirements of § 86-13, Rate Controls.

#### **§ 86-13. Rate controls.**

- A. Areas not covered by a release rate map from an approved Act 167 stormwater management plan. Post-development discharge rates shall not exceed the pre-development discharge rates for the one-, two-, ten-, twenty-five-, fifty-, and one-hundred-year storms. If it is shown, that the peak rates of discharge indicated by the post-development analysis are less than or equal to the peak rates of discharge indicated by the pre-development analysis for one-, two-, ten-, twenty-five-, fifty-, and one-hundred-year, twenty-four-hour storms, then the requirements of this section have been met. Otherwise, the applicant shall provide additional controls as necessary to satisfy the peak rate of discharge requirement.
- B. Areas covered by a Release Rate Map from an approved Act 167 stormwater management plan. For the one-, two-, ten-, twenty-five-, fifty-, and one-hundred-year storms, the post-development discharge rates will follow the release rate maps in this chapter. For any areas not shown on the release rate maps, the post-development discharge rates shall not exceed the Pre-Development discharge rates.
- C. BMPs for Rate Controls. A list of BMPs for peak rate controls is provided in Appendix B, Subsection C.<sup>11</sup>

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11. Editor's Note: Appendix B is on file in the Township offices.

**§ 86-14. Calculation methods.**

- A. Stormwater runoff from all project sites shall be calculated using a generally accepted calculation technique that is based on the NRCS Soil Cover Complex Method. Table 306-1 summarizes acceptable computation methods, and the method selected by the qualified professional shall be based on the individual limitations and suitability of each method for a particular site.

**TABLE 306-1**  
**Acceptable Computation Methodologies for Stormwater Management Plans**

<b>Method</b>	<b>Method Developed By</b>	<b>Applicability</b>
TR-20/WINTR20 (or commercial computer package based on TR-20)	USDA NRCS	Applicable where use of full hydrology computer model is desirable or necessary
TR-55/WINTR55 (or commercial computer package based on TR-55)	USDA NRCS	Applicable for land development plans within limitations described in TR-55
HEC-HMS	U.S. Army Corps of Engineers	Applicable where use of full hydrologic computer model is desirable or necessary
Rational Formula (or commercial computer package based on Rational Formula)	Emil Kuichling (1889)	For sites less than 50 acres and with time of concentration less than 60 minutes ( $T_c < 60$ min.), or as approved by the municipality
Other methods such as SWMM, WMS, etc.	Varies	Other computation methodologies approved by the municipality

**NOTE:**

Successors to the above methods are also acceptable.

- B. All calculations consistent with this chapter using the Soil Cover Complex Method shall use the appropriate design rainfall depths and intensities for the various return period storms according to the approximate center of the proposed development site, in accordance with the values obtained from the National Oceanic and Atmospheric Administration's (NOAA) Hydrometeorological Design Studies Center Precipitation Frequency Data Server (PFDS) at the following location for the Commonwealth of Pennsylvania: <http://hdsc.nws.noaa.gov/hdsc/pfds/index.html>. The applicant shall provide documentation of PFDS data location (latitude and longitude in degrees/minutes/seconds).
- C. All calculations using the Rational Formula shall use rainfall intensities consistent with appropriate times of concentration for overland flow and return periods from the NOAA

PFDS website, the design storm curves from PennDOT design rainfall curves (1986) and NOAA Atlas 14.

- D. Times-of-concentration for overland flow shall be calculated using the methodology presented in Chapter 3 of Urban Hydrology for Small Watersheds, NRCS, TR-55 (as amended or replaced from time to time by NRCS). Times-of-concentration for channel and pipe flow shall be computed using Manning's equation. NRCS lag equation divided by 0.6 is an acceptable method for  $T_c$  in undeveloped areas.
- E. In order to reduce stormwater runoff volumes from developed areas and encourage groundwater recharge, underground basin drains, infiltration trenches, dry wells, and cisterns are permitted to which roof leaders may be connected. These drains consist of stone-filled basins that temporarily store and release water below the ground surface. Plans for such facilities shall be submitted to the municipality for approval, and the basins shall be used only in those areas where soils, geologic, and water table conditions permit.
- F. Runoff curve numbers (CN) for both existing and proposed conditions to be used in the soil cover complex method shall be obtained from Table 2-2 of the TR-55 manual.
- G. Runoff coefficients (C) for both existing and proposed conditions for use in the Rational Formula are provided in Appendix D.<sup>12</sup>
- H. All flow assumptions and source of supporting data shall be provided as part of the overall plan. The municipality reserves the right to reject any submitted values, despite the source, and to provide a substitute source for use by the applicant.
- I. Where uniform flow is anticipated, the Manning Equation shall be used for hydraulic computations and to determine the capacity of open channels, pipes, and storm sewers. Values for Manning's roughness coefficient (n) shall be consistent with generally accepted values from a legitimate and verifiable source. All flow assumptions and the source of supporting data shall be provided as part of the overall plan. The municipality reserves the right to reject any submitted values, despite the source, and to provide a substitute source for use by the applicant. Full flow capacity shall be assumed for closed conduits. Storm sewer systems consisting of more than three pipe junctions shall be designed using hydraulic grade line computations.
- J. Outlet structures for stormwater management facilities shall be designed to meet the performance standards of this chapter using any generally accepted hydraulic analysis technique or method.
- K. The design of any stormwater detention facilities intended to meet the performance standards of this chapter shall be verified by routing the design storm hydrograph through these facilities using the Storage-Indication Method. For drainage areas greater than 200 acres in size, the design storm hydrograph shall be computed using a calculation method that produces a full hydrograph (i.e., TR-20, TR-55, and HEC-HMS).
- L. Stormwater management and related facilities shall be provided:

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12. Editor's Note: Appendix D is on file in the Township offices.

- (1) To permit unimpeded flow of natural watercourses. Such flow may be redirected as required, subject to the approval of the Pennsylvania Department of Environmental Protection and the municipality.
- (2) To ensure adequate drainage of all street low points.

M. Storm sewers and related installations.

- (1) Storm sewers, where required by zoning and land use densities, shall be placed under or immediately adjacent to the roadway side of the curb, or as directed by the municipality, when parallel to the street within the right-of-way.
- (2) When located in undedicated land, they shall be placed within a drainage easement not less than 20 feet wide as approved by the municipality.
- (3) The use of properly designed, graded, and vegetated drainage channels is encouraged in lieu of storm sewers in commercial and industrial areas and, where approved by the municipality, in residential areas. Such swales shall be designed to not only carry the required discharge without excessive erosion but also to increase the time of concentration, reduce the peak discharge and velocity, and permit the water to percolate into the soil, where appropriate. Criteria related to the use and design of drainage swales are as follows:
  - (a) Where vegetated drainage swales are used in lieu of or in addition to storm sewers, they shall be designed to carry the ten-year discharge without erosion and also to increase the time of concentration, reduce the peak discharge and velocity, and permit the water to percolate into the soil.
  - (b) The maximum encroachment of water on the roadway pavement along roadside swales in cut areas shall not exceed half of a through traffic lane during a ten-year frequency storm of five-minute duration. Frequent and/or sustained flooding of the subbase shall be avoided.
  - (c) The design of all vegetated channels shall, as a minimum, conform to the design procedures outlined in the Erosion and Sediment Pollution Control Program Manual (PADEP). Inlets shall be provided to limit road shoulder encroachment and water velocity.
  - (d) The side slope for any vegetated drainage channel requiring mowing of the vegetation shall have a maximum grade of three horizontal to one vertical on those areas to be mowed. Maximum side slopes for any vegetated drainage channel shall be two horizontal to one vertical.
  - (e) Erosion prevention. All drainage swales shall be designed to prevent the erosion of the bed and bank areas. Suitable temporary and/or permanent stabilization during vegetative cover establishment shall be provided to prevent erosion.
  - (f) Storm sewers or drainage swales shall discharge to a detention or retention basin to attenuate the peak rate and volume, respectively, of stormwater runoff, except as provided in the plan.

- (4) The design capacity of storm sewers shall be in accordance with PennDOT Drainage Manual, Publication Number 584, as amended. Storm drainage systems shall be designed without surcharging inlets to provide conveyance of stormwater runoff into a detention basin or similar facility utilized to manage the rate of stormwater runoff. To avoid surcharging inlets and to ensure that inlets will receive stormwater runoff, the hydraulic grade line at the inlet shall be at least six inches below the elevation of the inlet grate. Where site grading will direct stormwater runoff from the one-hundred-year design storm to a detention basin or similar facility utilized to manage the rate of stormwater runoff, then the storm sewer may be designed for the ten-year design storm. Where site grading will not direct stormwater runoff from the one-hundred-year design storm to a detention basin or similar facility utilized to manage the rate of stormwater runoff, then the storm sewer shall be designed for the one-hundred-year design storm. The location of the hydraulic grade line for the one-hundred-year design storm shall be graphically shown on the required storm sewer profile drawings. Conveyance of storms to the detention basin, up to and including the one-hundred-year frequency, shall be provided so as not to endanger life or seriously damage property.
  - (5) Storm inlet types and inlet assemblies shall conform to the Pennsylvania Department of Transportation Standards for Roadway Construction as approved by the municipality.
  - (6) Accessible drainage structures shall be located on a continuous storm sewer system at all vertical dislocations, at all locations where a transition in storm sewer pipe sizing is required, at all vertical and horizontal angle points exceeding five degrees, and at all points of convergence of two or more influent storm sewer mains. The construction locations of accessible drainage structures shall be as indicated on the subdivision drainage plan or area drainage plan approved by the municipality.
  - (7) When evidence available to the municipality indicates that existing storm sewers have sufficient capacity as determined by hydrograph summation and are accessible, proposed stormwater facilities may connect to the existing storm sewers so long as the peak rate of discharge does not exceed the amount permitted by this article.
- N. Downstream analysis. Where deemed necessary by the municipal Engineer, the applicant shall submit an analysis of the impacts of detained stormwater flows on downstream areas within the watershed, established with the concurrence of the municipal Engineer. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of peak discharge modifications of the proposed development on critical locations such as dams, tributaries, existing developments, undersized culverts, and floodprone areas. Review and comment of the analysis by the engineer of a downstream municipality shall be obtained as deemed necessary.
- O. Multiple-use basins. The design and construction of multiple-use stormwater detention facilities are strongly encouraged. In addition to stormwater management; where appropriate, facilities allow for recreational uses, including ball fields, play areas, picnic grounds, etc. Provision for parking facilities within basins and permanent wet ponds with stormwater management capabilities may also be appropriate. Prior approval and

consultation with the municipality are required before design. Multiple-use basins shall be constructed so that potentially dangerous conditions are not created.

- P. Multiple development basins. Stormwater management facilities designed to serve more than one property or development in the same watershed are encouraged. Staged construction of existing or proposed multiple-use detention facilities by several developers in conjunction with watershed development is encouraged. Each applicant shall be responsible for the incremental increase in stormwater runoff generated by the respective development and incremental construction improvements necessary for the overall detention facility. Prior approval and consultation with the municipality is required before design of such facilities.
- Q. Alternative detention facilities. Alternative stormwater detention facilities, including rooftop subsurface basins or tanks and in-pipe detention storage, or other approved alternative designs are permitted as determined by the municipality.
- R. Landscaping of stormwater management facilities. Facilities constructed with berms or earthen embankments shall not be landscaped along the top of the impoundment berm on embankment, nor shall other facility areas constructed from compacted fill materials be landscaped. Heavy vegetative cover root penetration can cause soil weakening and damage to facility piping.

**§ 86-15. Other requirements.**

- A. All wet basins shall be designed in a manner that seeks to mitigate the proliferation of mosquito breeding habitats and the potential spread of the West Nile Virus. This can be accomplished through the following means:
  - (1) The design of a stormwater wetland/wet basin must include the selection of hydrophytic plant species for their pollutant uptake capabilities and for not contributing to the potential for vector mosquito breeding. The establishment of hydrophytic vegetation will promote the population of the wetland/wet basin by amphibians and other mosquito predators. In natural wetlands, predatory insects and amphibians are effective at keeping mosquito populations in check during the larval stage of development while birds and bats prey on adult mosquitoes. Refer to Appendix B of the PA SWM BMP Manual (current version) for hydrophytic native plant species lists.
  - (2) Aeration fountains and stocked fish can be added to keep larval mosquito populations in check.
- B. The municipality reserves the right to disapprove any design that would result in the construction or continuation of a stormwater problem area.
- C. When the elevation of any existing or proposed entrance to a structure, including windows, is lower than the elevation of the public cartway serving that site, a grading plan shall be submitted, reviewed and approved as part of the SWM approval process for the proposed structure.



- D. No stormwater detention facility shall be placed within 50 feet of a special geologic feature. No subsurface stormwater conveyance facility shall be constructed within 50 feet of a special geologic feature, without written permission of the municipality.
- E. Stormwater management facilities located outside of existing or proposed public rights-of-way shall be located within and accessible by easements granted to the municipality as follows:
- (1) Drainage easements. Where a tract is traversed by a watercourse, drainageway, channel or stream, there shall be provided a drainage easement paralleling the center line of such watercourse, drainageway, channel or stream. The width of the drainage easement will be adequate to preserve the unimpeded natural flow of the one-hundred-year storm, in accordance with computed top widths for water surface elevations. Drainage easements shall provide for maintenance and for the purpose of widening, deepening, improving or protecting such drainage facilities.
  - (2) Access easements.
    - (a) Where proposed stormwater management facilities are not adjacent to proposed or existing public rights-of-way or are not accessible due to physical constraints, as determined by the municipality, a twenty-foot-wide access easement specifying rights of entry shall be provided. Access easements shall provide for vehicle ingress and egress on grades of less than 10% for carrying out inspection or maintenance activities. A permanent fifteen-foot-wide vehicular access road within the easement(s) shall be provided around all SWM BMPs, such as ponds and infiltration structures. The access roads shall connect to a public thoroughfare. The access road (when applicable) will also provide access at a slope no greater than 20% to the bottom of all ponds and associated outlet structures. The access road shall be constructed of either gravel or pavement and maintained per the maintenance agreement. The municipality reserves the right to alter the design of the access to any SWM BMP.
    - (b) Vehicle ingress and egress and access roads are not required for SWM BMPs serving one single-family residential lot and located on the same lot they serve.
  - (3) Maintenance easements. A maintenance easement shall be provided which encompasses the stormwater facility and appurtenances and provides for access for maintenance purposes. The maintenance easement must be located at least 20 feet outside of the line of intersection of the one-hundred-year water surface elevation and the ground surface for the stormwater facility and appurtenances.
  - (4) Easements shall state that no trees, shrubs, structures, excavation, placement of fill, or regrading are to be performed within the easement without written approval from the municipality upon review by the municipal Engineer. Upon approval of the municipality, such landscaping may be placed in maintenance easements, provided that it does not impede access.

- (5) Whenever practicable, easements shall be parallel to width and linked to property lines of the subdivision.
  - (6) All easement agreements shall be recorded with a reference to the recorded easement indicated on the site plan. The format and content of the easement agreement shall be reviewed and approved by the municipality and solicitor.
- F. In order to promote overland flow and infiltration, roof drains shall not discharge directly to streets or storm sewers. Roof drains may discharge directly to streets or storm sewers when deemed necessary by the municipality. Under no circumstances shall roof drains discharge directly to sanitary sewer systems.
- G. Additional BMP measures.
- (1) Projects that have the potential to discharge into surface waters that have existing or designated HQ or EV uses (including EV wetlands), have impairments due to stormwater, are connected to combined sewer systems, or have the potential to have an adverse effect on threatened or endangered species, or critical habitat for such species, are subject to additional BMP measures that must be considered and implemented for projects occurring in these more environmentally sensitive areas:

Constructed wetlands/wet ponds	Significant detention of peak flow rates is needed and the contributing drainage area is large; retrofit existing detention basins or construct new in open median or interchange areas.
Permeable pavement	Limited to park-and-ride sites and parking lots.
Manufactured products: subsurface storage, water quality inlets, etc.	Subsurface storage products are designed to temper peak runoff events through infiltration and/or discharge rate reduction. Storm sewer inlet structures or inserts are designed to minimize the discharge of solids, floatables, and oil/grease pollutants. Regular maintenance of these products is necessary and is an important factor in assessing the feasibility of using one of these products.

- (2) Proposed infiltration BMPs within two miles on either side of surface water supply areas or surface waters that have existing or designated HQ or EV uses (including EV wetlands) must be designed and constructed to provide maximum pollutant removal prior to the runoff being infiltrated or discharged to the receiving stream. PADEP defines the following zones around such waters:
  - (a) Zone A: represents a one-fourth-mile buffer on either side of the river or stream extending from the area 1/4 mile downstream of the intake upstream to the five-hour time of travel (TOT) (Pennsylvania Department of Environmental Protection, 2006).

- (b) Zone B: represents a two-mile buffer on either side of the water body extending from the area 1/4 mile downstream of the intake upstream to the twenty-five-hour TOT (Pennsylvania Department of Environmental Protection, 2006).
- (c) Zone C: the remainder of the watershed area (Pennsylvania Department of Environmental Protection, 2006).

H. Groundwater supply protection.

- (1) Zone 1: the innermost protective zone surrounding a well, spring, or existing infiltrative gallery. Zone 1 is the area within a radius of 400 feet around a community or public water supply source unless information is presented supporting a reduction of this requirement. Proposed infiltration BMPs are not permitted within Zone 1 protection areas (Pennsylvania Department of Environmental Protection, 2006).
- (2) Zone 2: the capture zone that encompasses the area of the aquifer through which it supplies water to a well, spring, or existing infiltration gallery. Zone 2 is one-half-mile radius around a community or public water supply source unless more extensive hydrogeological testing is done. Extreme care should be used when implementing infiltration BMPs in Zone 2 areas. Pretreatment measures must be used to filter and diminish pollutants (Pennsylvania Department of Environmental Protection, 2006).
- (3) Zone 3: the area outside Zone 2 that contributes significant recharge to the capture zone aquifer in Zone 2 (Pennsylvania Department of Environmental Protection, 2006). Use of infiltration BMPs is not restricted.
- (4) Infiltration BMPs are not permitted within a radius of 50 feet from privately owned wells and water sources serving noncommunity supply systems (Pennsylvania Department of Environmental Protection, 2006).

ARTICLE IV  
SWM Site Plan and Report Requirements

**§ 86-16. Plan and report contents.**

- A. All regulated activities that do not fall under the exemption criteria referenced herein shall submit a SWM site plan and report to the municipality for review. These criteria shall apply to the total proposed development even if development is to take place in stages.
- B. The following items shall be included in the SWM site plan:
  - (1) Appropriate sections from the municipal SALDO and other applicable ordinances shall be followed in preparing the SWM site plans. In instances where the municipality lacks subdivision and land development regulations, the county SALDO shall be followed.

(2) The SWM site plan shall provide the following information:

- (a) Unless specifically given written permission by the municipality, the following must be shown on the SWM site plan, prepared in a form which meets the requirements for recording in the County Office of the Recorder of Deeds:
- [1] Annotated maps, drawings, engineering plans, and construction details. Said plan shall be prepared by a qualified professional, with said preparer's seal and registration number affixed to the plan. Plans for tracts of less than 20 acres shall be drawn at a scale of one inch equals no more than 50 feet; for tracts of 20 acres or more, plans shall be drawn at a scale of one inch equals no more than 100 feet. Plans shall be submitted on the following sheet sizes: 18 inches by 24 inches, 24 inches by 36 inches, or 36 inches by 42 inches. All lettering shall be drawn to a size to be legible if the plans are reduced to half size. All sheets comprising a submission shall be on one size.
  - [2] The name of the proposed development and the name and address of the owner of the property and the individual or firm preparing the plan.
  - [3] Date of submission and revision, graphic scale, and North arrow.
  - [4] Total tract boundary with distances marked to the nearest foot and bearings to the nearest degree and the total acreage of the tract.
  - [5] Key map (drawn to scale) showing all existing natural and man-made features beyond the property boundary affected by the project and the extent of the watershed or subbasin which drains through the project site.
  - [6] Existing and proposed topographic contours shall be provided at intervals not greater than five feet for existing and proposed conditions.
  - [7] Topographic contours at intervals less than five feet may be required for flat sites and to depict certain existing and future stormwater management features. The reference datum used to develop topographic contours shall be stated on the plans.
  - [8] Existing and proposed use, including the total area of impervious surfaces after construction.
  - [9] Location and selected plant material used for vegetative filter paths to sinkholes, stream buffers, buffer yards, wetlands, streams, and other waters of the Commonwealth, and the location of all notices to be posted, as specified in this chapter. If stormwater management facilities are off site, a note on the plan referring to location and agreements indicating responsibility for conveyance to and maintenance of the facilities; all such off-site facilities shall meet the design standards and criteria specified in this chapter, and details of the facilities shall be included with the plan.

- (b) An erosion and sediment pollution control plan, as prepared for and submitted to the County Conservation District.
- (c) Plan and profile, and construction detail drawings of all SWM BMPs, including open channels and swales.
- (d) Locations of existing watercourses (including stream name per PADEP Chapter 93 designation, or otherwise noted as "unnamed tributary" with Chapter 93 numeric designation) and existing and proposed on-lot wastewater facilities, water supply wells, and infiltration areas.
- (e) Locations of all access and maintenance easements, suitable for Recording.
- (f) Signature blocks:

[1] The following signature block for the municipality:

"\_\_\_\_\_, on this date (date of signature), has reviewed this SWM site plan in accordance with the design standards and criteria of the applicable municipal Ordinances."

[2] The following signature block for the qualified professional:

"\_\_\_\_\_, on this date (date of signature), hereby certify that this SWM Site Plan was prepared in strict accordance with all of the design standards and criteria of all applicable Municipal Ordinances."

[3] The following signature block for the applicant/owner:

"\_\_\_\_\_, on this date (date of signature), has acknowledged that I/we and/or my/our assignees/grantees shall be responsible for maintenance of the stormwater management system shown hereon, in accordance with approved stormwater management ownership and maintenance plan for this project, and that such stormwater system shall remain as a permanent fixture that cannot be altered, replaced, or removed without prior written approval from the Municipality."

- (g) A note indicating that a copy of the recorded record drawings will be submitted to the municipality by the applicant's registered engineer or surveyor for all stormwater facilities prior to occupancy or the release of the surety bond. The municipality reserves the right to authorize the Municipal Engineer to review said record drawings.

C. The following items shall be included in the SWM report:

- (1) The overall stormwater management concept for the project.
- (2) A determination of site conditions in accordance with Appendix B.<sup>13</sup> A detailed site evaluation shall be completed for projects proposed in areas of carbonate geology or karst topography and other environmentally sensitive areas such as brownfields.
- (3) Stormwater runoff design computations and documentation as specified in this chapter or otherwise necessary to demonstrate that the maximum practicable measures have been taken to meet the requirements of this chapter, including the recommendations and general requirements in § 86-9. All calculations shall be submitted to the municipality on computation sheets for approval. If the municipality determines through review and independent computation that the size(s) of stormwater management facilities is insufficient, the municipality may require the applicant to increase the size(s) of said stormwater management facilities. If the storm drainage system design is completed on a computer installation, sufficient supporting data shall be provided to allow comprehensive review by municipal officials.
- (4) Expected project construction schedule.
- (5) The effect of the project (in terms of runoff volumes and peak flows) on adjacent properties and on any existing municipal stormwater collection system that may receive runoff from the project site.
- (6) Copies of all permits related to the SWM site plan required by the Pennsylvania Department of Environmental Protection, Pennsylvania Department of Transportation (PennDOT), and U.S. Army Corps of Engineers (USACOE) and other regulatory agencies.
- (7) The SWM site plan shall include an operation and maintenance (O&M) plan for all existing and proposed physical stormwater management facilities. This plan shall address long-term ownership and responsibilities for operation and maintenance as well as schedules and costs for O&M activities.
- (8) Hydrologic and hydraulic computations for all existing and proposed stormwater management facilities and measures.
- (9) Construction specifications for SWM BMPs and storm drainage systems.
- (10) Each stormwater management report shall contain provisions that clearly set forth the ownership and maintenance responsibility of all permanent stormwater management and erosion and sediment control facilities including:
  - (a) Description of maintenance requirements.
  - (b) Establishment of suitable easements for access to all facilities by public officials, in accordance with this article.

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13. Editor's Note: Appendix B is on file in the Township offices.

- (c) Identification of the responsible party or entity for ownership and maintenance of both temporary and permanent stormwater management facilities. In meeting this requirement, the following options are hereby provided for upon approval by the municipality:
- [1] Facilities may be incorporated within individual lots so that the respective lot owners will own and be responsible for maintenance in accordance with recorded deed restriction. A description of the facility or system and the terms of the required maintenance shall be incorporated as part of the deed to the property.
  - [2] Ownership and maintenance may be the responsibility of a property owners' association. The stated responsibilities of the property owners association in terms of owning and maintaining the stormwater management facilities shall be submitted with final plans for determination of their adequacy and upon their approval shall be recorded with the approved subdivision plan among the county deed records. In addition, the approved subdivision plan and any deed written from said plan for a lot or lots shown herein shall contain a condition that it shall be mandatory for the owner or owners of said lot to be members of said property owners association.
- (d) For stormwater management facilities that are proposed as part of the site development plan, the applicant will be required to execute a developer agreement and a maintenance agreement with the municipality for the construction and continued maintenance of the facilities prior to the signature approval on the final plan. Access for inspection by the municipality of all such facilities deemed critical to the public welfare at any reasonable time shall be provided.
- (e) In the event the above priorities cannot be achieved or where it is required, the facilities may be dedicated to the municipality in accordance with this chapter. As a condition of municipality acceptance of said facilities, the applicant shall provide 15% of the cost of improvements, in the form of a maintenance bond, as estimated by the applicant's qualified professional, and approved by the municipality, to cover contingency maintenance costs for 18 months from the date of stormwater management facilities' acceptance of dedication. The fifteen-percent bond shall be based on the construction costs of the detention basin and outlet structure within the area dedicated to the municipality.

(11) Example report sections:

Introduction

Existing Site Conditions

Models

Existing Soils Information

**Volume Mitigation**

Description and Background Information

**Peak Rate Mitigation**

Description and Background Information

Pre-Development Conditions

Post-Development Conditions

Stormwater/Detention Basin Hydraulics

Storm Drain Design

Peak Rate Mitigation Results

Effect of Project on Adjacent Properties

Expected Project Construction Schedule

Ownership and Maintenance

**Appendixes**

Volume Mitigation Calculations, Worksheets and Information

Peak Rate Mitigation Calculations and Information

Water Quality Worksheets and Information

Precipitation Source Data

SCS Runoff Curve Numbers, Rational Runoff Coefficients, Manning's coefficients

Miscellaneous Computations

Infiltration Rate Test Data

General References

Construction Specifications for SWM BMPs

D. Small project SWM application. Refer to Appendix F.<sup>14</sup>

**§ 86-17. Plan submission.**

A. Five copies of the SWM site plan shall be submitted as follows:

- (1) Two copies to the municipality.
- (2) One copy to the municipal Engineer (when applicable).
- (3) One copy to the County Planning Commission/office.

B. Additional copies shall be submitted as requested by the municipality.

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14. Editor's Note: Appendix F is on file in the Township offices.



**§ 86-18. Plan review.**

- A. The SWM site plan shall be reviewed by the municipality for consistency with the provisions of this chapter. After review, the municipality will make the decision to approve or disapprove the SWM site plan. If the SWM site plan is disapproved upon review, the municipality shall state the reasons for the disapproval in writing. The municipality may also recommend approval of the SWM site plan with conditions and, if so, shall provide the acceptable conditions for approval in writing. The SWM site plan review and recommendations shall be completed within the time allowed by the municipalities Planning Code<sup>15</sup> for reviewing subdivision and land development plans.
- B. The municipality shall notify the applicant in writing within 45 calendar days whether the SWM site plan is approved or disapproved. If the SWM Plan involves a subdivision or land development plan, the notification period is 90 days. If a longer notification period is provided by other statute, regulation, or ordinance, the applicant will be so notified by the municipality. If the municipality disapproves the SWM Plan, the municipality shall cite the reasons for disapproval in writing.
- C. The municipality's approval of a SWM site plan shall be valid for a period not to exceed five years. This five-year period shall commence on the date that the municipality the approved SWM site plan. If stormwater management facilities included in the approved SWM site plan have not been constructed, or if a record drawing of these facilities has not been approved within this five-year time period, then the municipality may consider the SWM site plan disapproved and may revoke any and all permits. SWM site plans that are considered disapproved by the municipality shall be resubmitted in accordance with this chapter.

**§ 86-19. Modification of plans.**

A modification to a submitted SWM site plan that involves a change in SWM BMPs or techniques, or that involves the relocation or redesign of SWM BMPs, or that is necessary because soil or other conditions are not as stated on the SWM site plan as determined by the municipality, shall require a resubmission of the modified SWM site plan in accordance with this article.

**§ 86-20. Resubmission of disapproved SWM site plans.**

A disapproved SWM site plan may be resubmitted, with the revisions addressing the municipality's concerns, to the municipality in accordance with this article. The applicable review fee must accompany a resubmission of a disapproved SWM site plan.

**§ 86-21. Record drawings and final inspection.**

- A. The applicant/developer shall be responsible for completing record drawings of all SWM BMPs included in the approved SWM site plan. The record drawings and an explanation of any discrepancies with the design plans shall be submitted to the municipality.

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

- B. The submission shall include a signed statement from a qualified professional verifying that all permanent SWM BMPs have been constructed according to the plans and specifications and approved revisions thereto.
- C. After receipt of the signed statement and the record drawings by the municipality, the municipality may conduct a final inspection.

## ARTICLE V Operation and Maintenance

### § 86-22. Responsibilities.

- A. The municipality shall make the final determination on the continuing maintenance responsibilities prior to final approval of the SWM site plan. The municipality may require a dedication of such facilities as part of the requirements for approval of the SWM site plan. Such a requirement is not an indication that the municipality will accept the facilities. The municipality reserves the right to accept the ownership and operating responsibility for any or the entire stormwater management controls.
- B. All SWM BMPs shall be enumerated as permanent real estate appurtenances and recorded as deed restrictions.
- C. The operation and maintenance plan shall be recorded as a restrictive deed covenant that runs with the land.
- D. The municipality shall take enforcement actions against an owner for any failure to satisfy the provisions of this article.

### § 86-23. Operation and maintenance agreements.

The owner is responsible for operation and maintenance of the SWM BMPs and for preparing an operation and maintenance agreement in accordance with Appendix C.<sup>16</sup> If the owner fails to adhere to the operation and maintenance agreement, the municipality may perform the services required and charge the owner appropriate fees. Nonpayment of fees may result in a lien against the property.

## ARTICLE VI Fees and Expenses

### § 86-24. Review fee.

The municipality may include all costs incurred in the review fee charged to an applicant. The review fee may include but not be limited to costs for the following:

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16. Editor's Note: Appendix C is on file in the Township offices.

- A. Administrative/clerical processing.
- B. Review of the SWM site plan.
- C. Attendance at meetings.
- D. Inspections.
- E. Qualified professional review and meeting costs.
- F. Recording fees and costs for plan reduction to meet county recording requirements (if required).

**ARTICLE VII**  
**Prohibitions**

**§ 86-25. Prohibited discharges and connections.**

- A. Any drain or conveyance, whether on the surface or subsurface, which allows any nonstormwater discharge, including sewage, process wastewater, and wash water, to enter the waters of this commonwealth is prohibited.
- B. No person shall allow, or cause to allow, discharges into surface waters of this commonwealth that are not composed entirely of stormwater, except
  - (1) As provided in Subsection C below; and
  - (2) Discharges allowed under a state or federal permit.
- C. The following discharges are authorized unless they are determined to be significant contributors to pollution of the waters of this commonwealth:
  - (1) Discharges from firefighting activities.
  - (2) Potable water sources, including water line and fire hydrant flushing.
  - (3) Irrigation drainage.
  - (4) Air-conditioning condensate.
  - (5) Springs.
  - (6) Water from crawl space pumps.
  - (7) Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used.
  - (8) Flows from riparian habitats and wetlands.
  - (9) Uncontaminated water from foundations or from footing drains.
  - (10) Lawn watering.

- (11) Dechlorinated swimming pool discharges.
  - (12) Uncontaminated groundwater.
  - (13) Water from individual residential car washing.
  - (14) Routine external building washdown (which does not use detergents or other compounds).
- D. In the event that the municipality or PADEP determines that any of the discharges identified in § 86-25C significantly contribute to pollution of the waters of this commonwealth, the municipality or PADEP will notify the responsible person(s) to cease the discharge.

#### **§ 86-26. Roof drains.**

Roof drains and sump pumps shall discharge to infiltration or vegetative BMPs and to the maximum extent practicable to satisfy the criteria for disconnected impervious areas (Appendix G).<sup>17</sup>

#### **§ 86-27. Alteration of BMPs.**

No person shall modify, remove, fill, landscape, or alter any SWM BMPs without the prior written approval of the municipality.

### **ARTICLE VIII Enforcement; Violation and Penalties**

#### **§ 86-28. Right of entry.**

As a condition of approval of an applicant's stormwater management site plan, and upon presentation of proper credentials, the applicant agrees that the municipality, and/or their agents, may enter at reasonable times upon any property within the municipality to inspect the condition of the stormwater structures and facilities concerning any aspect regulated by this chapter.

#### **§ 86-29. Inspection.**

SWM BMPs shall be inspected by the land owner/developer (including the municipality for dedicated facilities) according to the following list of frequencies:

- A. Annually for the first five years.
- B. Once every three years thereafter.
- C. During or immediately after the cessation of a ten-year or greater storm.

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17. Editor's Note: Appendix G is on file in the Township offices.

**§ 86-30. Enforcement.**

- A. It shall be unlawful for a person to undertake any regulated activity except as provided in an approved SWM site plan unless specifically exempted in § 86-10.
- B. It shall be unlawful to alter, remove, or fail to implement any control structure required by the SWM site plan.
- C. Compliance inspections regarding implementation of the SWM site plan are a responsibility of the municipality.

**§ 86-31. Suspension and revocation.**

- A. Any approval for a regulated activity may be suspended or revoked by the municipality for:
  - (1) Noncompliance with or failure to implement any provision of the approval, including record drawings and operations and maintenance agreements.
  - (2) A violation of any provision of this chapter or any other applicable law, ordinance, rule or regulation relating to the regulated activity.
  - (3) The creation of any condition or the commission of any act during the regulated activity which constitutes or creates a hazard or nuisance or pollution or which endangers the life or property of others.
- B. A suspended approval may be reinstated by the municipality when:
  - (1) The municipality has inspected and approved the corrections to the violations that caused the suspension.
  - (2) The municipality is satisfied that the violation has been corrected.
- C. An approval that has been revoked by the municipality cannot be reinstated. The applicant may apply for a new approval under the provisions of this chapter.
- D. If a violation causes no immediate danger to life, public health, or property, at its sole discretion, the municipality may provide a limited time for the owner to correct the violation. In these cases, the municipality will provide the owner, or the owner's designee, with a written notice of the violation and the time allowed the owner to correct the violation. If the owner does not correct the violation within the allowed time, the municipality may revoke or suspend any, or all, applicable approvals and permits pertaining to any provision of this chapter.

**§ 86-32. Violations and penalties.**

- A. Any person violating the provisions of this chapter may be assessed a civil penalty of not more than \$1,000 for each violation, recoverable with costs. Each day that the violation continues constitutes a separate violation, and penalties shall be cumulative.

- B. In addition, the municipality may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this chapter. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.
- C. The cost of removal, fine, and penalties hereinabove mentioned may be entered by the municipality as a lien against such property, or properties of individual members of a property owners association, in accordance with existing provisions of law.
- D. If the municipality determines at any time that any permanent stormwater management facility has been eliminated, altered, or improperly maintained, the municipality shall advise the responsible party of required corrective measures and shall provide said responsible party with a specific period to implement the required corrective measures. If such action is not taken by the property owner, the municipality may cause the work to be done and back-charge all costs to the property owners in accordance with this chapter.

#### **§ 86-33. Appeals.**

- A. Any person aggrieved by any action of the municipality or its designee, relevant to the provisions of this chapter, may appeal to the municipality within 30 days of that action.
- B. Any person aggrieved by any decision of the municipality, relevant to the provisions of this chapter, may appeal to the County Court of Common Pleas in the county where the activity has taken place within 30 days of the municipality's decision.

### **ARTICLE IX References**

#### **§ 86-34. References used in chapter.**

- A. Pennsylvania Department of Environmental Protection. DEP Doc. No. 363-0300-002 or current version. Pennsylvania stormwater best management practices manual. Harrisburg, PA.
- B. Pennsylvania Department of Environmental Protection. Updated No. 363-2134-008 (2000), as amended and Erosion and Sediment Pollution Control Program Manual. Harrisburg, PA.
- C. United States Department of Agriculture (USDA), National Resources Conservation Service (NRCS). National Engineering Handbook. Part 630: Hydrology, 1969-2001. Originally published as the National Engineering Handbook, Section 4: Hydrology. Available online at <http://www.wcc.nrcs.usda.gov/hydro/hydro-techref-neh-630.html>.
- D. United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS). 1986. Technical Release 55: Urban Hydrology for Small Watersheds, 2nd Edition. Washington, D.C.
- E. U.S. Department of Commerce (USDC), National Oceanic and Atmospheric Administration (NOAA), National Weather Service (NWS), Hydrometeorological Design

Studies Center. 2004-2006. Precipitation-Frequency Atlas of the United States. Atlas 14, Volume 2. Silver Spring, Maryland 20910. Internet address: <http://hdsc.nws.noaa.gov/hdsc/pfds/>.

- F. United States Department of Department of Transportation (USDOT), Federal Highway Administration (FHA). 2001. Hydraulic Engineering Circular Number 22 (HEC-22), Urban Drainage Design Manual.
- G. PennDOT Drainage Manual, Publication No. 584, as amended.
- H. Philadelphia Water Department. 2006. Stormwater Management Guidance Manual. Section 4.2.2, Integrated Site Design. Philadelphia, PA.





## Chapter 88

### STREET NAMING AND ADDRESSING

**§ 88-1. Purpose.**

**§ 88-2. Implementation and  
administration.**

**§ 88-3. Guidelines and standards.**

**§ 88-4. Enforcement; violations and  
penalties.**

**[HISTORY: Adopted by the Board of Supervisors of the Township of Fox 10-7-1998 by Ord. No. 98-100. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Subdivision and land development — See Ch. 96.

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**§ 88-1. Purpose.**

The purpose of this chapter is to better enhance the County of Elk E9-1-1/Emergency Communications System and to provide for a uniform county-wide addressing system with respect to naming of streets and roadways; fabrication, erection and maintenance of street name signs; address posting requirements; enforcement procedures; and assigning street or house numbers to all residents and principal buildings and businesses to assist fire, rescue, ambulance companies, law enforcement agencies, the United States Postal Service and the public in the timely and efficient provision of services to residents and businesses of Elk County.

**§ 88-2. Implementation and administration.**

The implementation of the uniform standards for naming streets and an addressing system is in conjunction with County of Elk and the Elk County 9-1-1 Emergency Communications System. This chapter is established in conjunction with the County of Elk in implementing and developing a Master Street Address Guide and coordinating, designing and naming of addresses pursuant to the street naming and address policy. Enforcement of this chapter shall remain the responsibility of the Township of Fox; however, the County of Elk shall coordinate and assist the Township of Fox in enforcement.

**§ 88-3. Guidelines and standards.**

The Township of Fox shall establish street names as chosen by the Township of Fox or land developer or landowner and street or house numbers in accordance with the guidelines as set forth and described in Appendix A: The County of Elk Street Naming and Addressing Policy.<sup>1</sup> Establishment of any street names and addresses will be coordinated with the County of Elk pursuant to the Street Naming and Addressing Policy. The designation of street names and

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<sup>1</sup> Editor's Note: Appendix A is on file in the township offices.

addresses by the Township of Fox shall require the approval of the County of Elk so as to coordinate such designations and to comply with the County of Elk Street Naming and Addressing Policy.

**§ 88-4. Enforcement; violations and penalties.**

- A. Whenever the Township of Fox has reason to believe there has been a violation of any provision of this chapter, Fox Township or the designee of the township shall give notice to the person or party failing to comply and order said person or party to take corrective action or measures within 30 days from the date of notification.
- B. If such person or party fails to comply with the duly issued order, Fox Township or the designee of the township shall initiate necessary actions to terminate the violation through criminal and/or civil measures.
- C. Penalties. Any violation of any provision of this chapter pursuant to any criminal section shall constitute a summary offense, punishable by a maximum fine of \$300 per offense. Subsequent to the thirty-day period following a notification of violation, each day of violation shall constitute a separate violation. Should, pursuant to this section, enforcement be by civil measures, any civil sanctions to be imposed shall be at a similar rate to the criminal in the amount of a maximum of \$300 per offense, with each day of violation constituting a separate violation.
- D. Fox Township shall have the authority and option, per agreement with Elk County, should both parties choose to do so, to designate Elk County as designee for purposes of enforcement.

## Chapter 90

### STREETS AND SIDEWALKS

#### ARTICLE I

##### Street Openings and Excavations

§ 90-1. Permit required.

§ 90-2. Application procedures; fees.

§ 90-3. Issuance of permit.

§ 90-4. Notice of completion.

§ 90-5. Inspections; repair of defects;  
collection of costs.

§ 90-6. Violations and penalties.

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

#### GENERAL REFERENCES

Drainage — See Ch. 51.  
Sewers — See Ch. 82.

Subdivision and land development — See Ch. 96.

#### ARTICLE I

##### Street Openings and Excavations

[Adopted 7-3-1994 by Ord. No. 74-1]

§ 90-1. Permit required.

In accordance with the provisions of Section 1156 of Article XI of the Second Class Township Code, as amended,<sup>1</sup> no railroad or street railway shall hereafter be constructed upon any township road, nor shall any railroad or street railway crossings, nor any gas pipe, water pipe, electric conduits or other piping be laid upon or in, nor shall any telephone, telegraph or electric light or power poles or any coal tipples or any other obstructions be erected upon or in any portion of a township road except under such conditions, restrictions and regulations relating to the installation and maintenance thereof as may be prescribed in permits granted by the township for such purpose.

§ 90-2. Application procedures; fees.

The application for a permit shall be on a form prescribed by the township and submitted to the township in triplicate. The application shall be accompanied by a fee in accordance with the Schedule of Fees set forth by the Department of Transportation for highway occupancy permits and restoration charges. In addition, the applicant shall submit three copies of a sketch showing such dimensions as the location of the intended facility, width of the traveled roadway, right-of-way lines and a dimension to the nearest intersecting street.

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<sup>1</sup> Editor's Note: See 53 P.S. § 67320.

**§ 90-3. Issuance of permit.**

A permit shall be issued to the applicant after all the aforementioned requirements have been filed.

**§ 90-4. Notice of completion.**

Upon completion of the work, the applicant shall give written notice thereof to the township.

**§ 90-5. Inspections; repair of defects; collection of costs.**

Upon completion of the work authorized by permit, the township shall inspect the work and, when necessary, enforce compliance with the conditions, restrictions and regulations prescribed by the permit. Where any settlement or defect in the work occurs, if the applicant shall fail to rectify any such settlement or other defect within 60 days after written notice from the township to do so, the township may do the work and shall impose upon the applicant the cost thereof, together with an additional 20% of such cost.

**§ 90-6. Violations and penalties.<sup>2</sup>**

This article 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 article shall, upon conviction in a summary proceeding, be punishable by a fine of not more than \$1,000 or by imprisonment of 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 article that is violated shall also constitute a separate offense.

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<sup>2</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

## **Chapter 96**

### **SUBDIVISION AND LAND DEVELOPMENT**

#### **ARTICLE I**

##### **Purpose**

§ 96-1. Purpose.

#### **ARTICLE II**

##### **Jurisdiction and Sanctions**

- § 96-2. Grant of power.
- § 96-3. Effect of subdivision and land development ordinance.
- § 96-4. Jurisdiction.
- § 96-5. Preventive remedies.
- § 96-6. Enforcement remedies; violations and penalties.

#### **ARTICLE III**

##### **Terminology**

- § 96-7. Word usage.
- § 96-8. Definitions.

#### **ARTICLE IV**

##### **Procedure**

- § 96-9. Statement of intent.
- § 96-10. Compliance required.
- § 96-11. Subdivision review procedure.
- § 96-12. Effect of plan approval on Official Map.
- § 96-13. Effect of ordinance amendments on applications for approval of plans.
- § 96-14. Amendments to recorded plans.
- § 96-15. Minor subdivision procedure.
- § 96-16. Single-lot subdivisions.

#### **ARTICLE V**

##### **Requirements for Plan Submittal**

- § 96-17. Preliminary plan requirements (see Exhibit 7 in Appendix).
- § 96-18. Final plan requirements (see Exhibit 9 in the Appendix).

#### **ARTICLE VI**

##### **Design Standards**

- § 96-19. Application.
- § 96-20. Natural features.
- § 96-21. Floodplain management.
- § 96-22. Stormwater management.
- § 96-23. Street design specifications (see Exhibit 5-A).
- § 96-24. Street design.
- § 96-25. Cul-de-sac streets (see Exhibit 5-B).
- § 96-26. Street intersections.
- § 96-27. Private drives, private roads or streets.
- § 96-28. Blocks (see Exhibit 5-D, Sample Design Illustrations).
- § 96-29. Lots and lot sizes (see Exhibit 5 in Appendix).
- § 96-30. Easements.
- § 96-31. Reservations for public use.
- § 96-31.1. Open space; lot siting; planting; beautification.

#### **ARTICLE VII**

##### **Improvements**

- § 96-32. Application.
- § 96-33. Installation of improvements.
- § 96-34. Improvement guaranty.

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- § 96-35. Partial release from improvement guaranty.
- § 96-36. Full release from improvement guaranty.
- § 96-37. Maintenance guaranty.
- § 96-38. Remedies to effect completion of improvements.
- § 96-39. Monuments and markers.
- § 96-40. Streets, curbs, base pavement.
- § 96-41. Sewage disposal.
- § 96-42. Water supply.
- § 96-43. Stormwater runoff/drainage.
- § 96-44. Street signs.

### ARTICLE VIII Alternative Land Subdivision

- § 96-45. Planned commercial, industrial and residential development.
- § 96-46. Mobile home parks.

### ARTICLE IX ADMINISTRATION

- § 96-47. Grant of power.
- § 96-48. Reconsideration.
- § 96-49. Appeals.
- § 96-50. Application fees.
- § 96-51. Modifications.
- § 96-52. Revision and amendment.
- § 96-53. Subdivision records.
- § 96-54. Conflict with other regulations.
- § 96-55. Liability.
- § 96-56. Evasion.

### ARTICLE X Stormwater Management

- § 96-57. Purposes.

- § 96-58. Applicability.
- § 96-59. Plan required.
- § 96-60. Exemptions.
- § 96-61. Review costs.
- § 96-62. Application requirements.
- § 96-63. Stormwater management standards.
- § 96-64. Sinkhole protection.
- § 96-65. Erosion and sediment control.
- § 96-66. Ownership/maintenance responsibility.
- § 96-67. General criteria.
- § 96-68. Modifications.
- § 96-69. Violations considered nuisances.
- § 96-70. Word usage; definitions.

Exhibit 1: Road to a Subdivision

Exhibit 2: Subdivision Procedure Guide

Exhibit 3: Subdivision and Land Development Application

Exhibit 4: Sample Sketch Plan

Exhibit 5: Sample Design Illustrations

Exhibit 6: Sample Review Forms

Exhibit 7: Typical Preliminary Plan

Exhibit 8: Preliminary Plan Certificates

Exhibit 9: Sample Final Plan

Exhibit 10: Final Plan Certificates

Exhibit 11: Fee Schedule

Exhibit 12: Specific Stormwater Management Design Criteria

Signature Page of the Subdivision

## SUBDIVISION AND LAND DEVELOPMENT

**[HISTORY: Adopted by the Board of Supervisors of the Township of Fox 6-4-1997 by Ord. No. 97-6. Amendments noted where applicable.]**

### GENERAL REFERENCES

Municipal Authorities — See Ch. 5.  
Planning Commission — See Ch. 27.  
Building construction — See Ch. 51.  
Drainage — See Ch. 51.

Floodplain management — See Ch. 66.  
Parks and recreation — See Ch. 79.  
Sewers — See Ch. 82.  
Vehicles and traffic — See ch. 107.

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(Cont'd on page 9603)





## ARTICLE I

**Purpose****§ 96-1. Purpose.**

- A. The purpose of the regulations within this chapter is to assure that new building sites are suitable for construction purposes and to provide for harmonious land development in Fox Township, Elk County, by creating conditions favorable to the health, safety and general welfare of the residents of Fox Township.
- (1) To guide the future growth and development of Fox Township in accordance with the Comprehensive Plan of the township.
  - (2) To provide for adequate light, air and privacy; to secure safety from fire, flood and other danger; and to prevent overcrowding of the land and undue congestion of population.
  - (3) To protect the character and social and economic stability of Fox Township and to encourage the orderly and beneficial development of the township.
  - (4) To protect and conserve the value of land throughout the township and the value of buildings and improvements upon the land and to minimize the conflicts among the uses of land and buildings.
  - (5) To guide public and private policy and action in order to provide adequate and efficient transportation, water supply, sewerage, schools, parks, playgrounds, recreation and other public requirements and facilities.
  - (6) To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic within the township, having particular regard to the avoidance of congestion in the streets and highways and the pedestrian traffic movements appropriate to the various uses of land and buildings and to provide for the proper location and width of streets and building lines.
  - (7) To establish reasonable standards of design and procedures for subdivision and resubdivisions, in order to further the orderly layout and use of land; and to ensure proper legal descriptions and monumenting of subdivided land.
  - (8) To ensure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision.
  - (9) To prevent the pollution of air, streams and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of natural resources in order to preserve the community and value of the land.
  - (10) To preserve the natural beauty and topography of Fox Township and to ensure appropriate development with regard to these natural features.
  - (11) To provide for open spaces through efficient design and layout of the land.
  - (12) To ensure that documents prepared as part of a land ownership transfer fully and accurately describe the parcel of land being subdivided and the new parcels thus created.

- B. The regulations and procedures within this chapter assure property owners that all plans will be considered and processed based upon established public policy.

## ARTICLE II Jurisdiction and Sanctions

### § 96-2. Grant of power.

Act 247 of 1968 (as amended), the Pennsylvania Municipalities Planning Code,<sup>1</sup> grants the governing body of each municipality within the Commonwealth of Pennsylvania the power to regulate subdivisions and land development by enacting a subdivision and land development ordinance. The proper enactment procedures require that a certified copy of this chapter must be filed with the Elk County Planning Commission within 30 days of adoption.

### § 96-3. Effect of subdivision and land development ordinance.

- A. No subdivision of any parcel of land shall be made, nor improvements in connection therewith shall be laid out, constructed, opened or dedicated for public use or travel except in accordance with the provisions of this chapter.
- B. All subdivision plans proposed for land development within Fox Township shall henceforth be submitted to and be approved by the Board of Township Supervisors after review and recommendations by the Fox Township Planning Commission. Review by Elk County is required for comment only. Final approvals rest with the Fox Township Board of Supervisors. This approval must be received before the plans or deeds for lots within the plans are recorded with the Elk County Recorder of Deeds.

### § 96-4. Jurisdiction.

Applications and plans for subdivision and land development located within Fox Township shall be forwarded on receipt by Fox Township to the Elk County Planning Agency for review and comment. The township shall not approve such applications and plans until the county comments are received or until the expiration of 30 days from the date the applications and plans are received by the township.

### § 96-5. Preventive remedies.

- A. In addition to other remedies, Fox Township may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description of property by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.

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<sup>1</sup> Editor's Note: See 53 P.S. § 10101 et seq.

- B. The Township of Fox may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of this chapter. This authority to deny such a permit or approval shall apply to any of the following applicants:
- (1) The owner of record at the time of such violation.
  - (2) The vendee or lessee of the owner of record at the time of such violation without regard as to whether such current owner had actual or constructive knowledge of the violation.
  - (3) The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.
  - (4) The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.
- C. As an additional condition for issuance of a permit or the granting of an approval to any such owner, the current owner, vendee or lessee for the development of any such real property, the township may require compliance with the conditions that would have been applicable to the property at the time the applicant acquired an interest in such real property.

**§ 96-6. Enforcement remedies; violations and penalties.**

- A. District Justices shall have initial jurisdiction in proceedings brought under this section.
- B. Any person, partnership or corporation who or which has violated the provisions of this chapter shall, upon being found liable therefore in a civil enforcement proceeding commenced by Fox Township, pay judgment of not more than \$500, plus all court costs, including reasonable attorney fees incurred by the township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the appropriate District Justice. If the defendant neither pays nor timely appeals the judgment, the township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determines that there has been a violation and further determines that there was a good-faith basis for the person, partnership or corporation violating this chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice, and thereafter, each day that a violation continues shall constitute a separate violation.
- C. The Elk County Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.

- D. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than Fox Township the right to commence any action for enforcement pursuant to this section.

### ARTICLE III Terminology

#### § 96-7. Word usage.

Words in the singular include the plural and words in the plural include the singular. The word "persons" includes a corporation and unincorporated association; "building" includes a "structure" and shall be construed as if followed by the words "or part thereof." The word "street" includes "road," "highway," "drive" and "lane"; "watercourse" includes "drain," "ditch" and "stream." The word "may" is permissive; the words "shall" and "will" are mandatory. Definitions in § 96-8 followed by "(MPC)" indicate that the definition is established by the Pennsylvania Municipalities Planning Code (Act 247 of 1968), as amended.<sup>2</sup>

#### § 96-8. Definitions.

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

**ALLEY** — A strip of land over which there is a public right-of-way, on which no dwellings front, and which is designed to serve as secondary access to two or more lots.

**APPLICANT (MPC)** — A landowner or developer who has filed an application for development including his heirs, successors and assigns.

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

**BLOCK** — A tract of land bordered on one side by a street and on the remaining sides by streets, railroad rights-of-way, waterways, underdeveloped areas and/or other definite barriers. (See Exhibit 5-D.)<sup>3</sup>

**BUILDING** — A combination of materials to form a permanent structure having walls and a roof; included shall be all mobile homes and trailers utilized for human habitation.

**BUILDING SETBACK LINE** — A line within a lot defining the required minimum distance between any building and the front property or right-of-way line.

**CARTWAY** — That portion of a street or alley which is improved, designated, intended, used or capable of being used for vehicular travel.

<sup>2</sup> Editor's Note: See 53 P.S. § 10101 et seq.

<sup>3</sup> Editor's Note: Said Exhibit 5-D is included in the Appendix at the end of this chapter.

**CLEAR SIGHT TRIANGLE** — An area of unobstructed vision at street intersections, defined by lines of sight between points at a given distance from the intersection of the street center lines. (See Exhibit 5-C.)<sup>4</sup>

**COMPREHENSIVE PLAN** — The general plan utilized to guide the growth, for the protection and development of Fox Township (Elk County), adopted by the Board of Fox Township Supervisors.

**DECISION (MPC)** — Final adjudication of any board or other body granted jurisdiction under any land use ordinance or this chapter to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the Court of Common Pleas of the Elk County and Judicial District wherein the township lies.

**DEVELOPER (MPC)** — Any landowner, agent of such landowner or tenant with the permission of such landowner who makes or causes to be made a subdivision of land.

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including but not limited to buildings, mobile homes or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

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

**DRIVE, PRIVATE** — Any private drive which is not a public street, intended for private construction, use and maintenance. The drive may serve not more than three lots. (See § 96-27, Private drives.)

**DUPLEX HOUSING** — Requires 30,000 square feet, plus 5,000 square feet for each family unit over two.

**EASEMENT** — A defined right of use for certain lands granted for a special purpose not inconsistent with the general property rights of the owner. (See § 96-30, Easements.)

**FLOODPLAIN** — A relatively flat or low area adjoining a river, stream or watercourse which is subject to partial or complete inundation of water; or an area subject to the unusual and rapid accumulation of runoff of surface water from any source. The floodplains are reflected on maps issued by FEMA.<sup>5</sup>

**FLOODWAY** — That portion of the one-hundred-year floodplain, including the channel of a river or other watercourses and the adjacent land areas which are required to carry and discharge the one-hundred-year flood as delineated on the township's Official Flood Insurance Study and accompanying maps identified by the Federal Insurance

<sup>4</sup> Editor's Note: Said Exhibit 5-C is included in the Appendix at the end of this chapter.

<sup>5</sup> Editor's Note: The definition of "Flood Plain Ordinance," which immediately followed this definition, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Administration, and where the activities permitted elsewhere in the floodplain will not cumulatively increase the water surface elevation more than one foot at any given point. The detailed study of the regulatory flood provides specific flood profiles and allows for the delineation of both floodway and flood-fringe areas within the bounds of the floodplain.

**HARDSHIP** — Physical circumstances or conditions of the land to be subdivided which prevent strict conformity with the provisions of this chapter; and the authorization of a modification may be necessary to enable the reasonable use of the property.

**HOMEOWNERS' ASSOCIATION** — An incorporation of lot owners for the purpose of providing for ownership and maintenance of community improvements.

**IMPROVEMENT** — The physical additions, installations and changes required to render usable and desirable lots from raw acreage.

**IMPROVEMENT GUARANTY** — Any acceptable financial security approved by the Board of Township Supervisors as being adequate to cover the construction costs of any and all required improvements.

**LAND DEVELOPMENT (MPC)** — Any of the following activities:

- A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
  - (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure (minor subdivision); 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 (major subdivision); or
  - (3) Multifamily housing: two-family dwelling, requiring 30,000 square feet, plus 5,000 square feet per unit over two.
- B. A subdivision of land.
- C. Development in accordance with Section 503(1.1) of the Pennsylvania Municipalities Planning Code.<sup>6</sup>

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

**LOT (MPC)** — A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

**MAINTENANCE AGREEMENT** — A legally enforceable document which outlines the maintenance responsibilities for private subdivision improvements.

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<sup>6</sup> Editor's Note: See 53 P.S. § 10101 et seq.

**MAJOR SUBDIVISION** — The subdivision of land into 11 parcels or more (including the residential parcel) or fewer than 10 parcels if the subdivision involves new streets or public utilities.

**MANUFACTURED HOME** — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation, when connected to the required utilities. "Manufactured home" includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days and must be elevated and properly anchored to resist flotation, collapse or lateral movement. A mobile home is considered the same as a manufactured home (see "mobile home").

**MINOR SUBDIVISION** — The subdivision of land into 10 parcels or fewer, including the residential parcel located on an existing street, and does not involve the construction, installation or dedication of new streets or public utilities.

**MOBILE HOME (MPC)** — 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 (see "manufactured home").

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

**MOBILE HOME PARK (MPC)** — 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.

**MODIFICATION (MPC)** — Authorized relief granted pursuant to the provisions of this chapter in accordance with Section 512.1 of the Pennsylvania Municipalities Planning Code.<sup>7</sup>

**MODULE HOME/INDUSTRIALIZED HOUSING** — A structure, transportable in one or more sections, and which is designed only for erection or installation on a permanent foundation and should be treated as a conventionally built home.

**MULTIFAMILY DWELLINGS** — Two-family dwelling requiring 30,000 square feet, plus 5,000 square feet per unit over two.

**NONBUILDING LOT** — A designated parcel, tract or area of land proposed to be conveyed as an addition to an existing adjacent building lot or to be established as an independent lot upon which no residential structure or sewage disposal system may be placed. These lots must be used for accessory purposes only.

**ORDINANCE** — The Fox Township Subdivision and Land Development Ordinance.

<sup>7</sup> Editor's Note: See 53 P.S. § 10101 et seq.

PAVEMENT — Comprised of an approved hard base consisting of subgrade, subbase and pavement which shall consist of the following:

- A. Option 1: Paving or pavement shall consist of three inches ID-2 binder course compacted followed by one inch ID2A wearing course compacted. Final cross-section slope will be ½ inch per foot from center line. Minimum width 18 feet (refer to § 96-40A); or
- B. Option 2: Pavement shall consist of four inches reinforced concrete with a minimum strength of 2,700 pounds per square inch (psi). Final cross-section slope will be ½ inch per foot from center line (refer to § 96-40A).

PLAN (MPC) — The map or plan of a subdivision or land development, whether preliminary or final.

PLAN, FINAL — A complete and exact subdivision plan prepared for official recording as required by this chapter. (See Exhibit 9.)<sup>8</sup>

PLANNING COMMISSION — The words “Planning Commission,” “Township Planning Commission” or “Commission” shall mean the Fox Township Planning Commission of Elk County.

PLAN, PRELIMINARY — A general subdivision plan showing existing features of land and proposed streets and lot layout within and adjacent to a subdivision as required by this chapter. (See Exhibit 7.)<sup>9</sup>

PLAN, SKETCH — A rough sketch showing the contemplated development of the subdivision and its relationship to adjacent land. (See Exhibit 4.)<sup>10</sup>

PRIVATE DRIVE — Any private drive which is not a public street, intended for private construction, use and maintenance. The drive may serve not more than three lots. (See § 96-27, Private drives.)

PRIVATE STREET — The right-of-way width of a private road or street shall be 50 feet. The Township Supervisors may permit widths less than 50 feet if it is impossible to reserve this right-of-way area within the property. (See § 96-27B.)

PUBLIC GROUNDS (MPC) – Includes:

- A. Parks, playgrounds, trails, paths and other recreational areas and other public areas;
- B. Sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities; and
- C. Publicly owned or operated scenic and historic sites.

PUBLIC HEARING (MPC) — A formal meeting held pursuant to public notice by Fox Township or the planning agency, intended to inform and obtain public comment prior to taking action in accordance with this chapter.

<sup>8</sup> Editor's Note: Said Exhibit 9 is included in the Appendix at the end of this chapter.

<sup>9</sup> Editor's Note: Said Exhibit 7 is included in the Appendix at the end of this chapter.

<sup>10</sup> Editor's Note: Said Exhibit 4 is included in the Appendix at the end of this chapter.



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

**PUBLIC MEETING (MPC)** — A forum held pursuant to notice under the Act of July 3, 1986 (P.L. 388, No. 84), known as the "Sunshine Act."<sup>11</sup>

**REGULATORY FLOOD** — The flood which has been selected to serve as the basis on which the floodplain management provisions of this chapter and other ordinances have been prepared; for purpose of this chapter, the one-hundred-year flood, as identified by the Federal Insurance Administration.

**REGULATORY FLOOD ELEVATION** — The one-hundred-year-flood elevation based on the information contained in the Official Flood Insurance Study.

**REPORT (MPC)** — Any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction.

**REVERSE FRONTAGE LOT** — A lot having its front and rear lot lines abutting the right-of-way of a street. (See Exhibit 5-E.)<sup>12</sup>

**RIGHT-OF-WAY** — A strip of land reserved or dedicated for a street, alley or other public improvement purpose.

**SIGHT DISTANCE** — The distance an object is visible along a street from any given point on the center line of said street. (See Exhibit 5-A).<sup>13</sup>

**SINGLE-LOT SUBDIVISION** — A subdivision consisting of the first lot subdivided from an original tract.

**STREET (MPC)** — Includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and other ways used or intended to be used by vehicular traffic or pedestrians whether public or private.

<sup>11</sup> Editor's Note: See 65 P.S. § 271 et seq.

<sup>12</sup> Editor's Note: Said Exhibit 5-E is included in the Appendix at the end of this chapter.

<sup>13</sup> Editor's Note: Said Exhibit 5-A is included in the Appendix at the end of this chapter.

**STREET, CUL-DE-SAC** — A local street having one end open to vehicular traffic and being permanently terminated by a vehicular turnaround at the opposite end. (See Exhibit 5-B.)<sup>14</sup>

**STREET, DEAD-END** — A street with only one vehicular outlet but which has a temporary turnaround and which is designed to be continued when adjacent open land is subdivided.

**STREET, HALF** — A street parallel and adjacent to a property line having a lesser right-of-way width than required for improvement and dedication of the street.

**STREET, PRIVATE** — The right-of-way width of a private road or street shall be 50 feet. The Township Supervisors may permit widths less than 50 feet if it is impossible to reserve this right-of-way area within the property. (See § 96-27B.)

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

**SUBBASE** — Consists of No. 3 or No. 2 stone, stone to meet PennDOT specs as specified in Bulletin 408. Minimum depth shall be eight inches. Material shall be compacted. Final cross-section slope will be ½ inch per foot from center line and will maintain a uniform cross section [refer to section § 96-40A(2)].

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

**SUBGRADE** — A graded roadbed to the established elevation and cross section. Then the roadbed will be compacted to 100% of the determined dry weight density of the material in place. Final grade cross-section slope will be ⅛ inch per foot from center line and shall not vary at any one point more than ¼ inch from the required subgrade elevation [refer to § 96-40A(1)].

**TIME LIMITS FOR PLAT APPROVAL** — The Board of Supervisors shall render its decision and communicate it to the applicant not later than 90 days following the date of the regular meeting of the Fox Township Planning Commission. Should the regular meeting of the Planning Commission occur more than 30 days following the date on which the application was filed, the ninety-day period shall be measured from the 30th day following the day the application was filed.

**TOWNSHIP ENGINEER (MPC)** — A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the Engineer for the township or its planning agency.

<sup>14</sup> Editor's Note: Said Exhibit 5-B is included in the Appendix at the end of this chapter.

**VARIANCES** — There are no provisions in the Pennsylvania Municipalities Planning Code<sup>15</sup> for variances in subdivision ordinances; only for zoning.

**WAIVERS** — There are no provisions in the Pennsylvania Municipalities Planning Code<sup>16</sup> for waivers.

#### ARTICLE IV Procedure

##### § 96-9. Statement of intent.

In order to conserve time, effort and expense throughout the subdivision review process, the developer shall comply with the procedural guidelines set forth in this chapter. The detailed, step-by-step procedures have been established to coordinate efforts between the developer, Board of Township Supervisors, Planning Commission and other review agencies. (See Exhibit 2.)<sup>17</sup>

##### § 96-10. Compliance required.

- A. There shall be no subdivision of any tract of land nor shall any improvements in conjunction with the subdivision be constructed for public or private use except in accordance with the procedural provisions contained in this chapter. It is the sole responsibility of the developer to comply with all procedural requirements.
- B. A developer shall not proceed with any improvements within a subdivision until the Board of Supervisors grants approval of the preliminary plan for the subdivision. Furthermore, lots may not be sold or transferred nor any deeds recorded for any lots in the plan without the developer obtaining from the Township Supervisors the unconditional approval of the final plan.

##### § 96-11. Subdivision review procedure.

A developer seeking approval of a subdivision plan proposed for any land within the jurisdiction of Fox Township under this chapter shall follow the procedures and submit the information outlined in this section (see Exhibit 1, Road to a Subdivision, Exhibit 2, Subdivision Procedural Guide, and Exhibit 3, Subdivision and Land Development Application).<sup>18</sup>

##### A. Step 1: Pre-application conference.

- (1) The developer is strongly encouraged to meet informally with the staff of Fox Township assigned subdivision administrative responsibility by the Board of

<sup>15</sup> Editor's Note: See 53 P.S. § 10101 et seq.

<sup>16</sup> Editor's Note: See 53 P.S. § 10101 et seq.

<sup>17</sup> Editor's Note: Said Exhibit 2 is included in the Appendix at the end of this chapter.

<sup>18</sup> Editor's Note: Said Exhibits 1, 2 and 3 are included in the Appendix at the end of this chapter.

Township Supervisors. The staff will advise the developer on procedures and requirements and suggest professional assistance where appropriate. The developer should be prepared to discuss details concerning the proposed subdivision and be prepared to submit the following:

- (a) Sketch plan. The sketch plan should show the proposed layout of streets, lots, existing conditions and improvements. The sketch plan will be for review and comment purposes only and shall never be considered as a plan which has been submitted for approval (see Exhibit 4).<sup>19</sup>
  - (b) Floodplain determination. The developer must be prepared to locate the proposed boundaries of the development on the applicable floodplain maps which are included, attached to or included by reference in Chapter 66, Floodplain Management.
  - (c) Sewage. Though not required for review stage, the developer must be aware that sanitary sewer connections or on-lot disposal as well as water are critical elements for development. Any developer proposing to use public water or sewer for a proposed development would be well to make preliminary contacts with the appropriate agencies. For on-lot sewage disposal, those not familiar with this process should contact the Township Sewage Enforcement Officer to ascertain the estimated time and costs involved.
- (2) After this conference with the developer, the township staff will indicate the suitability of the plan for further consideration and submittal of a preliminary or final plan to the Township Planning Commission for its recommendations to the Board of Township Supervisors.
- B. Step 2: Preparation and submittal of the preliminary plan, supporting data, subdivision application and fee.
- (1) The initial plan filed with the Fox Township Planning Commission for subdivision review shall be considered as a preliminary plan. However, if the plan and supporting data comply in all aspects with the requirements for both preliminary and final plans, the Township Planning Commission may, in the case of a minor subdivision involving no new street or utility improvements, proceed to final action at the first consideration of the plan, then recommend approval by the Township Board of Supervisors.
  - (2) The preliminary plan is not intended for recording. Its purpose is to show graphically all facts needed to enable the Township Planning Commission to determine whether the proposed subdivision will comply with the objectives and requirements of this chapter. The preliminary plan must comply with all of the standards and requirements outlined in this chapter. The preliminary plan and supporting data shall comply with the requirements of Article V of this chapter.
  - (3) An original drawing and four copies of the preliminary plan shall be submitted to the Township Planning Commission by the developer. Four copies of any supporting data must be submitted with the plans. The Township Planning Commission may table

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<sup>19</sup> Editor's Note: Said Exhibit 4 is included in the Appendix at the end of this chapter.

until its next meeting any plan which is not filed at least 10 days in advance of the regular monthly meeting or any special meeting.

- (4) Upon receipt of an application for a subdivision (Exhibit 3)<sup>20</sup> or land development, a copy of the same shall be forwarded to the Fox Township Planning Commission and the Elk County Planning Commission for their review and report. If any fee is charged by the township or county for such service, it shall be borne by the developer. The Township Supervisors cannot, by law, approve applications until the County Planning Commission report is received or until the expiration of 30 days from the date the application was forwarded to the county.
- (5) The appropriate application form is available at the Fox Township Municipal Building and must be completed and submitted with an application fee. The appropriate fee will be outlined on a Schedule of Fees established, adopted by resolution and approved by the Board of Fox Township Supervisors (see § 96-50). This Schedule of Fees may be revised from time to time by the Township Supervisors. A copy of the current Schedule of Fees is on file at the Fox Township Municipal Building.
- (6) The application will not be considered complete for review until all plans, supporting data, the application form and the fees have been submitted to the township administrative staff. The township's administrative staff will determine when an application is complete for review by the Planning Commission before submission to the Board of Supervisors for consideration of approval. Review times established herein shall comply with those required by the Pennsylvania Municipalities Planning Code,<sup>21</sup> but will not commence until complete applications are submitted (see Exhibit 2).<sup>22</sup>
- (7) The developer is urged to refer to § 96-11E (Step 5) even at this early stage. Subsection E(2) (DEP/SEO/Act 537 compliance) is especially critical. The developer may wish to initiate these processes even at the preliminary plan step. Plats which do not have the needed approval for sanitary sewerage disposal will not be approved.

C. Step 3: Preliminary plan of major subdivision review.

- (1) The Township Planning Commission will review the preliminary plan and supporting data to determine compliance with this chapter and make its comments and recommendations known to the Board of Township Supervisors, in writing.
- (2) The decision of the Board of Township Supervisors to approve, conditionally approve or deny approval shall be made at a public meeting and be communicated to the developer within 90 days following the date of the next regular meeting following the filing date of the application. In the event that there is no meeting within 30 days after the date the complete subdivision application was filed, the Township Supervisors must render a decision within 120 days after the filing of the complete application. The decision of the Township Supervisors shall be in writing and be communicated to

<sup>20</sup> Editor's Note: Said Exhibit 3 is included in the Appendix at the end of this chapter.

<sup>21</sup> Editor's Note: See 53 P.S. § 10101 et seq.

<sup>22</sup> Editor's Note: Said Exhibit 2 is included in the Appendix at the end of this chapter.

the developer personally or mailed to him at his last known address no later than 15 days following the decision.

- (3) The Township Supervisors may grant approval of a preliminary plan with conditions which are subject to acceptance by the developer. The decision of the Township Supervisors to grant the approval with conditions shall be in writing and communicated to the developer personally or mailed to him at his last known address no later than 15 days following the decision. The written decision must list all conditions which must be satisfied prior to the granting of an unconditional preliminary approval. The developer must accept or reject, in writing, any conditions within 30 days of receipt of the written decision. Approval of the plan shall be automatically rescinded on rejection of the conditions by the developer or failure by the developer to accept or reject such conditions within the thirty-day time period.
  - (4) When the application, plans and/or supporting data are not approved by the Board of Township Supervisors, the decision shall specify the defects found in the submittals, describe the requirements which have not been met and cite the specific provisions of this chapter on which the decision has been made by the Township Supervisors.
  - (5) Failure of the Township Supervisors to render a decision and communicate it to the developer within the time and in the manner required herein shall be deemed an approval of the application in terms as presented, unless the applicant has agreed, in writing, to an extension of time or change in the prescribed manner of communicating the decision.
- D. Step 4: Other agency revisions and approvals (see Exhibit 6, Sample Review Forms.)<sup>23</sup> Following approval of the preliminary plan, and before review of the final plan by the Planning Commission before referral to the Township Supervisors, the developer must coordinate his development activities with other local, state and federal agencies to ensure compliance with other requirements from the respective agencies. The township staff will provide a list of review agencies to the developer. Neither the Planning Commission nor the Township Supervisors will review any final plan until evidence has been received by them that the developer has complied with all requirements of the review agencies. This evidence must be in the form of a comment letter, approval, permit and/or improvement guaranty.
- E. Step 5: Approval from the Pennsylvania Department of Transportation/Department of Environmental Protection (DEP) and the Fox Township Sewage Enforcement Officer (SEO) (see Exhibit 6, Sample Review Forms.)<sup>24</sup>
- (1) PennDOT. No plan which will require access to a highway under the jurisdiction of the Pennsylvania Department of Transportation shall be finally approved unless the plan contains a notice that a highway occupancy permit is required pursuant to Section 420 of the Act of June 1, 1945 (P.L. 1242, No. 428), known as the "State Highway Law,"<sup>25</sup> before driveway access to a state highway is permitted. The plan

<sup>23</sup> Editor's Note: Said Exhibit 6 is included in the Appendix at the end of this chapter.

<sup>24</sup> Editor's Note: Said Exhibit 6 is included in the Appendix at the end of this chapter.

<sup>25</sup> Editor's Note: See 36 P.S. § 670-101 et seq.

shall be marked to indicate that access to the state highway shall be only as authorized by a highway occupancy permit. Fox Township shall not be held liable for damages to persons or property arising out of the issuance or denial of a driveway permit.

- (2) PA DEP and SEO. Compliance with Act 537 (Pennsylvania Sewage Facilities Act), as amended,<sup>26</sup> is absolutely essential before final approval of the plan may be rendered by the Board of Township Supervisors. Normally, evidence of compliance with Act 537 will be required before the Planning Commission will complete its review and make its recommendations to the Township Supervisors. The Fox Township Sewage Enforcement Officer should be contacted for guidance with respect to DEP review of the plan and the need for a planning module (which must be approved by DEP after appropriate action by the Board of Township Supervisors to amend/revise the township's Sewage Facilities Plan as appropriate).
- F. Step 6: Preparation and submittal of the final plan, supporting data and subdivision application.
- (1) The final plan shall be prepared by a registered surveyor or engineer, comply with the requirements of § 96-18 of this chapter and conform to the approved preliminary plan.
  - (2) The developer may submit the plan in phases for final approval. The developer shall submit the original drawing and four copies of the final plan to the Township Planning Commission. Four copies of any supporting data must be submitted with the plans. The Township Planning Commission may table until its next meeting any plan which is not filed at least 10 days in advance of the regular monthly meeting or any special meeting. The application will not be considered complete for review until all plans and supporting data have been submitted to the township staff designated for administration of this chapter. Staff will determine when an application is complete for review by the Planning Commission.
- G. Step 7: Final plan review of minor/major subdivision.
- (1) The Planning Commission will review the final plan and supporting data of either a minor or major subdivision to determine compliance with this chapter. Upon receipt of an application for a subdivision or land development, a copy of the same shall be forwarded to the Elk County Planning Commission for its review and report. If any fee is charged by the township or county for such service, it shall be borne by the developer. The Township Supervisors cannot, by law, approve applications until the county report is received or until the expiration of 30 days from the date the application was forwarded to the county.
  - (2) The decision of the Township Supervisors to approve, conditionally approve or deny approval shall be made at a public meeting and be communicated to the developer within 90 days following the date of the next regular meeting following the filing date of the application. In the event that there is no meeting within 30 days after the date the complete subdivision application was filed, the Township Supervisors must render a decision within 120 days after the filing of the complete application. The decision of the Township Supervisors shall be in writing and communicated to the developer

<sup>26</sup> Editor's Note: See 35 P.S. § 750.1 et seq.

personally or mailed to him at his last known address no later than 15 days following the decision.

- (3) The Township Supervisors may grant approval to a final plan with conditions which are subject to acceptance by the developer. The decision of the Township Supervisors to grant the approval with conditions shall be in writing and communicated to the developer personally or mailed to him at his last known address no later than 15 days following the decision. The written decision must list all conditions which must be satisfied prior to the granting of an unconditional final approval by the Township Supervisors. The developer must accept or reject, in writing, any conditions within 30 days of receipt of the written decision. Approval of the plan shall be automatically rescinded on rejection of the conditions by the developer or failure by the developer to accept or reject such conditions within the thirty-day time period.
- (4) When the application, plans and/or supporting data are not approved by the Township Supervisors, the decision shall specify the defects found in the submittals, describe the requirements which have not been met and cite the specific provisions of this chapter on which the decision has been made.
- (5) Failure of the Township Supervisors to render a decision and communicate it to the developer within the time and in the manner required herein shall be deemed an approval of the application in terms as presented, unless the applicant has agreed, in writing, to an extension of time or change in the prescribed manner of communicating the decision.
- (6) Before approving any final plan with proposed improvements, the Township Supervisors shall require strict compliance with the detailed improvement requirements outlined in Article VII.

H. Step 8: Recording of final plan and deeds.

- (1) Within 90 days after approval of the final plan by the Township Supervisors and before conveyance of any deed out of the plan, the developer shall record the approved final plan with the Recorder of Deeds of the County of Elk. The developer shall be responsible for the payment of any recording fee.
- (2) The Recorder of Deeds shall not accept any plan located in the Township of Fox, Elk County, for recording unless such plan officially notes the approval of the Board of Fox Township Supervisors.
- (3) The approval action of the Township Supervisors shall become null and void if the plan is not recorded within 90 days. The recorded plan shall include all applicable certifications as noted in Article V.
- (4) The recording of the final plan shall not constitute grounds for assessment increase until such time as lots are sold or improvements are installed on the land within the approved plan. All deeds of lot(s) conveyed from the recorded subdivision shall identify all infrastructure improvements serving this/these lot(s).



**§ 96-12. Effect of plan approval on Official Map.**

After a plan has been approved and recorded in accordance with this chapter, all public streets and public grounds on the plan shall become a part of the Official Map, if adopted, of the township without a public hearing.

**§ 96-13. Effect of ordinance amendments on applications for approval of plans.**

- A. From the time an application for approval of a preliminary or final plan is duly filed as provided in this chapter, and while such application is pending approval or disapproval, no change or amendment of this chapter shall affect the decision on such application adversely for the applicant, and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinance as it stood at the time the application was duly filed. In addition, when a preliminary application and plan have been duly approved, the applicant shall be entitled to final approval in accordance with the terms of the approved preliminary application. However, if an application is properly and finally denied, any subsequent application shall be subject to any intervening change in governing regulations.
- B. When an application for approval of a preliminary or final plan has been approved without conditions or approved by the applicant's acceptance of conditions, no subsequent change or amendment in this chapter shall be applied to affect adversely the right of the applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within five years from such approval. Where final approval is preceded by preliminary approval, the five-year period shall be counted from the date of the preliminary approval.
- C. In the case of any doubt as to the terms of a preliminary approval, the terms shall be construed in light of the provisions of this chapter as they stood at the time when the application for such approval was duly filed.
- D. In the case of a preliminary plan calling for the installation of improvements beyond the five-year period, a schedule shall be filed by the developer with the preliminary plan delineating all proposed sections as well as deadlines within which applications for final plan approval of each section are intended to be filed. Such schedule shall be updated annually by the applicant on or before the anniversary of the preliminary plan approval, until final plan approval of the final section has been granted, and any modification in the aforesaid schedule shall be subject to approval of the Township Supervisors at their discretion. Each section in any residential subdivision, except for the last section, shall contain a minimum of 25% of the total number of dwelling units as depicted on the preliminary plan, unless a lesser percentage is approved by the Township Supervisors at their discretion.
- E. Provided that the developer has not defaulted with regard to or violated any of the conditions of the preliminary plan approval, including compliance with the landowner's aforesaid schedule of submission of final plans for the various sections, then the aforesaid projections afforded by substantially completing the improvements depicted on the final plan within five years shall apply, and for any section or sections, beyond the initial section, in which the required improvements have not been substantially completed within

said five-year period, the aforesaid projections shall apply for an additional term or terms of three years from the date of final plan approval for each section. Failure of the developer to adhere to the aforesaid schedule of submission of final plans for the various sections shall subject any such section to any and all changes in this chapter enacted by the Township of Fox subsequent to the date of the initial preliminary plan submission.

**§ 96-14. Amendments to recorded plans.**

- A. Proposed amendments to recorded plans must be submitted to the Planning Commission for review and comment before submission to the Board of Township Supervisors for approval. If there are modifications to streets, easements, rights-of-way, sanitary and/or storm sewers, the appropriate agency must be notified and written approval received prior to final approval being granted by the Township Supervisors for the proposed modification(s).
- B. Amendments to a recorded plan can be approved by the Township Supervisors under the following conditions:
  - (1) The developer shall notify all persons owning lots in the recorded plan by return receipt mail of the nature of the proposed amendment(s) and the date, time and place the Township Supervisors shall consider the proposed amendment(s). Proof of this notification shall be submitted to the Board of Township Supervisors.
  - (2) No lot shall be created that is smaller than the minimum lot sizes required by this chapter.
  - (3) No changes may be made to easements reserved for drainage.
  - (4) No lot shall be created without a written right-of-way for access to property.
  - (5) There shall be no negative impact on the character of the development.
- C. Where the proposed amendment involves the changing of lot and/or street lines, easements or other improvements, the developer shall prepare a plan amendment in accordance with § 96-18 of this chapter and submit the proposed plan amendment with supporting data for review by the Commission, the developer shall record the plan amendment in accordance with § 96-11H. All such amended plans shall provide a reference to the Plan Book number and page and date of the recording of the originally approved plan.

**§ 96-15. Minor subdivision procedure.**

- A. A subdivision plan shall be considered as a minor subdivision if the proposed plan meets the following conditions:
  - (1) The proposed subdivision contains 10 lots or less, including the residual tract; and,
  - (2) No new construction or extension of streets, public sewer and/or water lines is required to serve any or all of the lots.
- B. At the discretion of the Board of Township Supervisors, a developer seeking approval of a minor subdivision may disregard the preliminary plan preparation and review procedures

and proceed directly to final plan review after compliance with §§ 96-17 and 96-18 of this chapter. All applicable steps in the final plan procedure shall apply to a minor subdivision.

- C. Any subdivision plan which does not meet the conditions of a minor subdivision shall be considered a major subdivision. A developer seeking approval of a major subdivision shall comply with all steps in this chapter.

**§ 96-16. Single-lot subdivisions.**

- A. Single-lot subdivisions shall be considered as a minor subdivision if the following conditions are met:

- (1) The lot is located upon and has adequate frontage upon a dedicated public road.
- (2) The lot size and setbacks comply with this chapter and other township ordinances/regulations.
- (3) The lot has met the necessary tests and been approved by the township's Sewage Enforcement Officer/DEP for on-lot sewage; or
- (4) Public sanitary sewer service is available to the lot and documentation for the same is presented.
- (5) The lot does not block rear access to an adjoining lot or adversely affect adjoining property, unless not intended to be a building lot.
- (6) Needed public utilities are available.

- B. If these conditions are met, the developer need not include contour information [§ 96-17A(8)], the sketch map [§ 96-17B(3)] or natural features [§ 96-17B(4)]. In addition, the information required under § 96-17D shall not be required. Generally, only § 96-18A, B and C(2) shall apply.

**ARTICLE V**

**Requirements for Plan Submittal**

**§ 96-17. Preliminary plan requirements (see Exhibit 7 in Appendix).**

- A. General information.

- (1) The preliminary plan for minor subdivisions shall be prepared at a scale of 50 feet to the inch. Major subdivisions may be prepared at a scale of 100 feet to the inch if the final product is readable.
- (2) Subdivision name or identifying title.
- (3) Municipality and county in which the subdivision is located (Fox Township, Elk County).
- (4) North arrow, graphic scale and the date of the plan.
- (5) Name and address of the owner of the property,

- (6) Name of the person who prepared the plan.
- (7) Total number and use of all lots.
- (8) Contours at vertical intervals of two feet (the Township Supervisors may waive this requirement for minor subdivisions if, due to the character of the topography, two-foot contour intervals are determined not necessary to properly administer these regulations in connection with the proposed subdivision).
- (9) Where the preliminary plan covers only a portion of the property owned by the developer and future plans include subdivision of the remaining area, a sketch shall be submitted of the street and lot layout for the remaining area.
- (10) Applicable preliminary plan certificates as shall be appended to the plan as noted in Exhibit 8 of the Appendix of this chapter.

B. Existing features. The preliminary plan shall show the following:

- (1) Tract boundaries with total acreage of the property.
- (2) A key map showing the location of the property.
- (3) A sketch map identifying surrounding property and streets, the names of all adjoining property owners of record, the names of adjoining developments and the names and numbers of adjoining streets.
- (4) All existing watercourses, tree masses and other significant natural features.
- (5) The location of the proposed subdivision with respect to the township's floodplain areas, including information on boundaries of the one-hundred-year floodplain, proposed lots (identifying and listing each lot in terms of whether it is inside or outside the floodplain area) and sites and flood or erosion protective facilities (including evidence of compliance with Chapter 66, Floodplain Management).
- (6) All existing buildings, sewer systems and lines, water mains, drainage culverts, petroleum or petroleum product lines, fire hydrants, power transmission lines and other significant man-made features which would affect the plan of subdivision.
- (7) All existing streets on and abutting the tract, including name, number, rights-of-way width and cartway width.
- (8) All existing property lines, easements or rights-of-way and the purpose for which the easements or rights-of-way have been established.

C. Proposed features. The preliminary plan shall show the following:

- (1) Location and width of all proposed streets and right-of-way easements.
- (2) Proposed layout of lots showing dimensions, areas in square feet or acreage, numbers and lot lines.
- (3) Proposed layout of water distribution, sewage collection and stormwater drainage systems.

- (4) Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, stormwater detention ponds or other public purposes.
  - (5) Minimum building setback lines.
  - (6) Where the subdivision lies partially or completely in the floodplain area or where the development borders on the floodplain area, the preliminary plan map shall include detailed information giving the location and elevation of proposed roads, public utilities and building lots. All lots located wholly or partially in floodplains shall be listed upon the signature page of the subdivision (see the last page of Appendix). The plan shall also accurately identify the boundaries of the one-hundred-year floodplain.
- D. Supporting information. The property owner shall submit the following information where applicable:
- (1) Community water supply: a PUC Certificate of Public Convenience, an application for a Certificate, an agreement to provide water services from a cooperative association of lot owners or a written agreement from a municipal authority or utility that a community water supply is available.
  - (2) Community sewer system:
    - (a) A report prepared by a registered engineer on the feasibility of connecting to an existing community sanitary sewer system which has been reviewed and approved by the owner of the system.
    - (b) Evidence of compliance with Pennsylvania Sewage Facilities Act,<sup>27</sup> Township Sewage Enforcement Officer evaluation and DEP-approved Planning Module.
    - (c) Developers who wish to connect to an existing community sewer system, especially facilities owned by the Fox Township Sewer Authority, shall have the obligation of providing flow documentation as is required by Act 94-149, in general (see Section 7(b)(5.1)(ii) and (iii), in particular) and any regulations promulgated by the commonwealth in connection therewith. Among other matters, the developer must provide documentation acceptable to the Fox Township Sewer Authority (or other appropriate agency) and the Department of Environmental Protection as it relates to potential current hydraulic or organic overload or potential overload in a five-year projected period of the existing collection, conveyance or treatment system. Furthermore, the developer shall reimburse the Fox Township Sewer Authority (or other appropriate agency) for its costs associated with the review and needed certification of such data. In general, such costs shall be billed according to Section 503 of the Pennsylvania Municipalities Planning Code.<sup>28</sup>
  - (3) Stormwater management plan.
  - (4) Site grading and soil and erosion control plan for the entire subdivision with review and comment provided by the Elk County Soil and Water Conservation District.

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<sup>27</sup> Editor's Note: See 35 P.S. § 750.1 et seq.

<sup>28</sup> Editor's Note: See 53 P.S. § 10101 et seq.

**§ 96-18. Final plan requirements (see Exhibit 9 in the Appendix).****A. General information.**

- (1) The final plan shall be prepared by a registered surveyor or engineer in accordance with the Act of May 23, 1945, known as the "Professional Engineers Registration Law."<sup>29</sup> The surveyor or engineer shall certify the accuracy of the plan.
- (2) The final plan shall be at a scale of either 50 feet to the inch for minor or 100 feet to the inch for major.
- (3) The final plan shall conform to the approved preliminary plan.
- (4) The final plan and all necessary certifications, dates and signatures shall be permanently drawn on linen or other suitable reproducible sheets. The sheet size must be acceptable to the Elk County Recorder of Deeds for recording purposes.
- (5) Name and seal of the registered engineer or surveyor who prepared the plan.
- (6) Applicable final plan certificates as required by this chapter.
- (7) The signature of the Chairman of the Fox Township Planning Commission.
- (8) The signatures of at least two of the three Township Supervisors reflecting approval of the plan.

**B. Existing and proposed features. The final plan shall contain the same information as shown on the approved preliminary plan, any changes or additions required by the Board of Township Supervisors, the Township Planning Commission and/or other review agency officials and the following:**

- (1) Tract and lot boundaries with bearings and distances, all of which shall close to a minimum of 1 to 10,000.
- (2) Sufficient survey data (lengths of lines, radii, curves, tangent bearings, etc.) to readily determine the locations, bearings and lengths of proposed streets.
- (3) Dimensions and bearings of every lot line.
- (4) Street names.
- (5) Location of permanent reference monuments and markers.
- (6) The exact location and elevation of all proposed buildings, structures, roads and public utilities to be constructed in the floodplain areas. The plan shall also accurately identify the boundaries of the one-hundred-year floodplain area.
- (7) Location, size and invert elevation of all sanitary and storm sewers and location of all manholes, inlets and culverts and stormwater detention ponds within the subdivision.
- (8) Location of proposed waterlines where the subdivision will be served by a central water system.

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<sup>29</sup> Editor's Note: See 63 P.S. § 148 et seq.

**C. Supporting information.** The property owner shall submit the following information where applicable:

- (1) Cross sections and profiles of the proposed streets which show grades at center line and are drawn to scale and elevations acceptable to the Township of Fox.
- (2) Planning Module, necessary documentation/certification, regarding Act 94-149 [see § 96-17D(2)(c)] and DEP permits and a sanitary sewer plan for the proposed subdivision. The plan must be prepared by a registered engineer. If the proposal is to connect to an existing sewer system, the owner of the system shall review and approve the plan, in writing.
- (3) A water distribution plan of the proposed subdivision. The plan must be prepared by a registered engineer. If the proposal is to connect to an existing water system, the owner of the system shall review and approve the plan in writing.
- (4) Plans for stormwater management and erosion control which have been reviewed and approved by the Elk County Conservation District.
- (5) Any protective covenants applied by the developer to the plan of lots shall be placed directly on the final plan drawings or as an attachment for recording with the Recorder of Deeds.
- (6) The developer must show evidence of compliance with all requirements concerning public improvements as outlined in Article VII.
- (7) Proof of review and approval/permit from all applicable review agencies.
- (8) Final plan certificate (see Exhibit 10).<sup>1</sup>

**ARTICLE VI  
Design Standards**

**§ 96-19. Application.**

The design standards outlined in this chapter shall be utilized by developers, surveyors and engineers in preparing subdivision plans and will be applied by the Board of Fox Township Supervisors when reviewing plans for approval. These standards shall be considered as minimum standards for the developer to comply with in the design, development and improvement of a subdivision. Where strict compliance with the standards is clearly impractical due to site conditions, the Township Supervisors may, upon the recommendation of the township's Engineer, modify the standards to permit reasonable utilization of the property while securing substantial compliance with the intent and purpose of these regulations.

**§ 96-20. Natural features.**

- A. Sites with moderate slopes are preferable to either very steep or very level land. Improvement costs and erosion potential increase sharply on sites with slopes over 10%,

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<sup>1</sup> Editor's Note: Said Exhibit 10 is included in the Appendix at the end of this chapter.

and very level land presents problems with on-site sewage disposal and stormwater drainage.

- B. Existing natural features such as trees and watercourses which would add value to residential developments shall be preserved in the design of a subdivision as conservation measures.
- C. Land located within a flood hazard area shall not be subdivided for any use which may endanger life and/or property or aggravate a flood hazard. Development in flood hazard areas must comply with the rules and regulations of the National Flood Insurance Program, other state floodplain regulations and Chapter 66, Floodplain Management.

**§ 96-21. Floodplain management.**

- A. Each subdivision plan shall include a statement in the title block as to whether the subdivision is located inside or outside the floodplain area as shown on the township one-hundred-year floodplain maps.
- B. Lots located within the one-hundred-year floodplain shall be subject to the following:
  - (1) Any lot created or revised shall have no more than 50% of its area within the floodplain, with the exception that large lots may be exempted, provided that a minimum of one acre of said lot is outside the floodplain.
  - (2) Lot access to a public road shall not be restricted or prevented by floodplain areas.
  - (3) All subdivision plans shall show the elevation of all lots in the subdivision at their center point.
- C. If the Board of Township Supervisors, upon the recommendation of the township's Engineer, determines that only a portion of the proposed plan can be safely developed, it shall limit development to that part and shall require the developer to proceed in accordance with this determination.
- D. When the developer does not intend to develop the plan himself and the Township Supervisors, upon the recommendation of the township's Engineer, determine that additional controls are required to ensure safe development, the Township Supervisors, upon the recommendation of the township's Engineer, shall require the developer to impose appropriate deed restrictions on the land. Such deed restrictions shall be inserted on every deed and noted on every recorded plan.
- E. All construction within the floodplain area must be completed in accordance with all township and state floodplain regulations.



**§ 96-22. Stormwater management. [Amended 6-2-2001 by Ord. No. 2001-5]**

- A. All drainage facilities and plans shall comply with the Pennsylvania Stormwater Management Act<sup>2</sup> and such county and township ordinances or regulations that may be applicable.
- B. Lots shall be laid out and graded to provide positive drainage away from buildings. The township may require a grading and drainage plan for individual lots indicating a buildable area within each lot, complying with the setback requirements, for which positive drainage is assured.
- C. No person, corporation, or other entity shall block, impede the flow of, alter, construct any structure, or deposit any material or thing, or commit any act which will affect normal or flood flow in any communal stream or watercourse without having obtained prior approval from the township or Department of Environmental Protection, whichever is applicable.
- D. Where a subdivision of land development is traversed by a natural watercourse, there shall be provided a drainage easement or right-of-way conforming substantially to the line of such watercourse and of such width as will be adequate to safely convey runoff from a one-hundred-year design storm.
- E. The subdivider or developer, and each person, corporation, or other entity which makes any surface changes, shall be required to:
  - (1) Design all storm drainage facilities and plans to be in conformity with the Pennsylvania Stormwater Management Act.
  - (2) Collect on-site surface runoff and dispose of it to the point of discharge into the common natural watercourse of the drainage areas.
  - (3) Design drainage facilities to handle runoff from upstream areas, assuming full development of those areas.
  - (4) Design, construct, and/or install such drainage structures and facilities as are necessary to prevent erosion damage to the subdivision or land development, adjacent property and downstream property. Such structures and facilities shall satisfactorily convey such surface waters to the nearest practical street, storm drain, detention pond or natural watercourse. Special consideration shall be given to avoid problems which could arise from concentration of stormwater runoff over adjacent properties.
- F. Storm sewers, culverts, and related installations shall be provided to permit unimpeded flow of natural watercourses, to drain all low points along streets and ensure adequate drainage, and to intercept stormwater runoff along streets at intervals reasonably related to the extent and grade of the area drained.
- G. Storm sewers, as required, shall be placed in front of the curb or curb line when located in a street right-of-way. When located in undedicated land, they shall be placed within a construction easement not less than 50 feet wide and a permanent easement not less than 20 feet wide, as approved by the Township Engineer, who may require additional width of easement as circumstances warrant.

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<sup>2</sup> Editor's Note: See 32 P.S. § 680.1 et seq.

- H. Street drainage will not be permitted to cross intersections or the crown of the road.
- (1) Maximum spacing of street inlets shall not exceed 450 feet.
  - (2) All street inlets shall be PennDOT Type C or M. Inlet tops shall be cast in place reinforced concrete or precast concrete.
  - (3) All culvert ends shall be provided with either reinforced concrete headwalls or pipe end sections.
  - (4) Storm sewers shall have a minimum diameter of 15 inches and a minimum grade of  $\frac{1}{2}$  of 1%. Lesser grades may be permitted by the Township Engineer when substantiated with calculations which prove that cleaning velocities will be maintained.
  - (5) When material for storm drain systems is not specified, PennDOT specifications will govern.
- I. Bridges or culverts shall be designed to support and carry loads in accordance with Publication 470 of the Pennsylvania Department of Transportation.
- J. All springs and sump pump discharges shall be collected so as not to flow in streets.
- K. Stormwater roof drains shall not discharge water directly over a sidewalk.
- L. Stabilized outlets shall be provided for footer drains, floor drains, and downspouts.
- M. Minimum grade of drainage courses shall be designed to create a minimum cleaning effect (velocity of two feet per second). Lesser grades may be permitted by the Township Engineer when substantiated with calculations which prove that cleaning velocities will be maintained.
- N. The Soils Cover Complex Method of the Soil Conservation Service of the United States Department of Agriculture shall be used as the primary means of estimating stormwater runoff.
- O. The Rational Method may be used for analysis of storm sewer systems and for stormwater management facilities in minor subdivisions.
- P. Where the estimated runoff based upon the above methods is doubtful, several recognized methods should be studied and compared.
- Q. The minimum design criteria shall be a one-hundred-year storm. Calculations shall also be submitted for two-, ten-, and twenty-five-year storms. Higher frequency conditions shall be used in sensitive areas where an overflow would endanger public or private property.
- R. The developer shall submit runoff data upon which the size of conduits, culverts and swales for proposed stormwater control has been based. Runoff calculations must include complete hydrologic and hydraulic design and analysis of all control facilities.
- S. Control facilities.
- (1) Permanent control measures/facilities shall be designed to assure that the maximum rate of stormwater runoff is not greater after development than prior to development for a two-, ten-, twenty-five-, and one-hundred-year storm frequency. More stringent criteria may be required in sensitive areas where stormwater problems presently exist.

- (2) Control facilities shall be designed to meet, as a minimum, the design standards and specifications of the Pennsylvania Department of Environmental Protection Erosion and Sediment Pollution Control Program Manual (March 2000).
- (a) Detention ponds may be waived by the township on the recommendations of the Township Engineer at sites in close proximity to the major streams. This is to facilitate drainage prior to stream flooding.
  - (b) In areas underlain with limestone geology, ponds shall be limited to the detention (dry) type unless the developer can show a special need for a retention pond, in which case it shall have a lining. Detention ponds shall be prohibited in areas of known sinkholes unless the pond is lined. If a sinkhole develops in a pond or channel before acceptance by the township, a lining shall be required.
  - (c) Any ponds with slopes steeper than three to one shall be fenced with a six-foot fence of a type subject to the approval of the township.
- (3) A maintenance program for control facilities must be included as part of the grading and drainage plan.
- (a) Maintenance during development activities of a project shall be the responsibility of the contractor, developer and owner.
  - (b) Arrangement for maintenance of permanent control facilities after completion of development activities shall be made before approval of final plan is given by the township.
  - (c) In cases where permanent control facilities are owned by an entity, it shall be the responsibility of that entity to maintain control facilities (e.g., homeowner's association). In such cases a legally binding agreement between the owner and the township shall be made providing for maintenance of all permanent erosion control facilities, including the inspection by the township.

**§ 96-23. Street design specifications (see Exhibit 5-A).<sup>3</sup>**

- A. All streets proposed for public use on the final plan shall comply with the following design specifications:

Street Type	Minimum Right-of-Way Width	Minimum Cartway Width	Minimum Sight Distance at Intersection	Maximum Grade	Minimum Grade	Minimum Length
Local	50 feet	20 feet	200 feet	10%	0.5%	250 feet
Collector	60 feet	24 feet	300 feet	8%	0.5%	250 feet
Major	(PennDOT requirements)	30 feet	400 feet	6%	0.5%	250 feet

<sup>3</sup> Editor's Note: Said Exhibit 5-A is included in the Appendix at the end of this chapter.

- B. Any street used for public travel must be at least 250 feet in length.
- C. These specifications may be superseded by state design specifications. Additionally, the Township Supervisors, upon the recommendation of the township's engineer or panned, may increase the minimum widths and sight distances where deemed necessary in order to ensure public safety.

**§ 96-24. Street design.**

- A. Streets shall conform to any plans and official maps which have been prepared and adopted by the state or by the Board of Fox Township Supervisors.
- B. Streets shall be appropriately related to the topography of the land in order that lots and streets may have acceptable grades.
- C. Local streets shall be designed to discourage use by through traffic, but provisions for street connections to adjacent areas will be required where deemed necessary. Where connections are to be made, the proposed street system shall extend existing or recorded streets at the same right-of-way and cartway widths, but in no case at less than the required minimum widths.
- D. Half-streets shall be prohibited except to complete an existing half-street in an adjacent tract.
- E. Where a subdivision borders on or contains an existing or proposed major street, the Township Supervisors may require marginal access streets, rear service alleys, reverse frontage lots and/or screening in order to protect bordering lots, reduce the number of intersections with the major street and separate local and through traffic.
- F. Undeveloped streets to be used for extension into adjoining tracts must be shown on the plan. No building lots may use such undeveloped streets as their only means of lot access. Such areas shall not be dedicated to public use until the proposed streets are extended to the adjoining tract.
- G. No dead-end streets are permitted without an adequate turnaround.
- H. The finished excavation of proposed streets located within the one-hundred-year floodplain shall be no more than one foot below the regulatory flood elevation. The Township Supervisors and/or Elk County Conservation District may require, where necessary, profiles and elevations of streets to determine compliance with this requirement. Drainage openings shall be sufficient to discharge flood flows without increasing flood heights.
- I. Where it is estimated that the subdivision or land development will generate over 1,000 vehicle trips a day (based upon ITE generation rates), the applicant shall provide a Traffic Engineer report indicating an estimated volume of vehicular traffic movement and the adequacy of the proposed and existing streets and highways to carry the traffic both within and beyond the proposed subdivision or land development and possible solutions to such problems as may be thereby identified. [Added 6-2-2001 by Ord. No. 2001-5]

**§ 96-25. Cul-de-sac streets (see Exhibit 5-B).<sup>4</sup>**

- A. Cul-de-sac streets which are designed for permanent public use shall not exceed 1,000 feet in length.
- B. A turnaround of at least 80 feet in diameter shall be provided at the closed end of a permanent cul-de-sac street. Turnarounds shall be constructed to the specifications of the design which shall be approved by the township. Culs-de-sac shall have a maximum grade of 5% and minimum grade of 0.5%.
- C. Any road with a temporary dead-end which has been authorized through approved stage development shall be provided with a suitable all-weather turnaround. The use of such turnaround must be guaranteed to the public. It shall be the responsibility of the developer to properly remove the turnaround and repair its area when the street is extended unless the design is compatible with future street extensions. These removal and repair requirements shall apply to both temporary and permanent culs-de-sac when street extensions are proposed.

**§ 96-26. Street intersections.**

- A. Streets shall be designed to intersect as nearly as possible at right angles. Streets shall not intersect at an angle of less than 70° or more than 110°.
- B. Intersections involving the junction of more than two streets shall be avoided.
- C. Clear sight triangles of 100 feet measured along local street center lines from their point of junction shall be provided at all intersections, and no building nor obstruction shall be permitted within such sight triangles.
- D. Intersections with major streets shall be located not less than 800 feet apart, measured from center line to center line.
- E. Streets intersecting from opposite sides with a common street shall be designed either directly opposite one another (four-way intersection) or with a minimum offset of 200 feet between their center lines.
- F. All curbs and intersections shall be rounded by a minimum radius of:
  - (1) Collector and industrial streets: 55 feet.
  - (2) Local streets: 25 feet.
- G. Intersections shall be designed with a flat grade wherever deemed practical by the Township Supervisors. The approach to any intersection shall have a leveling area which has no greater than a two-percent grade at a distance of 60 feet from the nearest right-of-way line of the intersecting street.

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<sup>4</sup> Editor's Note: Said Exhibit 5-B is included in the Appendix at the end of this chapter.

**§ 96-27. Private drives, private roads or streets.**

- A. Private drives, such as single lane, may be permitted when they serve not more than three lots that have no other access to a public road.
- B. Private roads or streets. The right-of-way width of a private road or street shall be 50 feet. All private road or street rights-of-way must be surveyed, and bearings and distances must be shown on the plan drawings. The plan must note that the street(s) or road(s) is/are private and that Fox Township has no obligations for maintenance.
- C. The cartway width and construction specifications must be agreeable to the developer, lot owners who utilize the private road or street and the owners of any properties which contain the right-of-way. Proof of this agreement must be submitted to the Board of Township Supervisors.
- D. The following maintenance requirements shall be incorporated as conditions for final approval. These conditions shall be placed, in writing, on the final plan, or attached thereto, and shall be part of the property deed(s).
  - (1) Each lot owner having a right to use the private street or road shall be equally responsible for the maintenance of the street or road, and such maintenance responsibilities shall be listed in a maintenance agreement.
  - (2) The maintenance agreement shall run with the land and with any future conveyance of the property. The agreement shall be incorporated in and made part of the conveyance binding on the parties, their successors and assignees.
  - (3) The Township of Fox shall not accept any responsibility for the maintenance of a private street or drive.
- E. There shall be no further subdivision of any lot served by a private drive until such time as public streets are constructed to serve the lots.
- F. For a private drive to become a private road or township road, it must be 50 feet wide and completely improved to township specifications (refer to § 96-27B).

**§ 96-28. Blocks (See Exhibit 5-D, Sample Design Illustrations).<sup>5</sup>**

- A. Blocks shall not exceed 1,200 feet in length or be less than 600 feet in length.
- B. Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth in accordance with the lot size requirements in § 96-29.

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<sup>5</sup> Editor's Note: Said Exhibit 5-D is included in the Appendix at the end of this chapter.

- C. At the discretion of the Township Supervisors, public crosswalk easements of at least 10 feet in width shall be provided in blocks exceeding 1,000 feet to facilitate pedestrian access to shopping areas, schools, playgrounds, parks and other community facilities.

**§ 96-29. Lots and lot sizes (See Exhibit 5 in Appendix).**

- A. Lot dimensions and areas shall conform to the following requirements designed to abate health hazards:
- (1) Where both water supply and sanitary sewage disposal are provided by off-lot facilities, lots for single-family detached dwellings shall have a minimum area of 10,000 square feet and a minimum width, measured at the building lines, of 75 feet.
  - (2) Where both water supply and sanitary sewage disposal are provided by individual on-lot facilities, lots for single-family detached dwellings shall have a minimum area of one acre and a minimum width, measured at the building lines, of 125 feet.
  - (3) Where either water supply or sanitary sewage disposal, but not both, are provided by individual on-lot facilities, lots for single-family detached dwellings shall have a minimum area of 20,000 square feet and a minimum width, measured at the building lines, of 100 feet.
  - (4) Where multifamily dwellings are involved and are served by public water and public sewage, a two-family unit shall have a minimum area of 30,000 square feet, and for multifamily units, there shall be an additional 5,000 square feet for each family over two.
- B. The Township Supervisors may require that the minimum size of residential lots be increased when compliance with the Pennsylvania Department of Environmental Protection Regulations warrant such increase.
- C. Side lot lines shall be substantially radial or at right angles to street lines.
- D. Every lot in a subdivision shall front on a dedicated or public street, unless a private drive has been approved by the Township Supervisors.
- E. **[Amended 6-2-2001 by Ord. No. 2001-5]** Building setback lines shall conform to the following requirements:
- (1) The minimum front building setback lines for residential lots shall be 35 feet from the street right-of-way. The minimum side building setback line shall be 10 feet from the side lot line, and the minimum rear building setback line shall be 15 feet from the rear lot line.
  - (2) The minimum front building setback lines for commercial or industrial lots shall be 50 feet from the street right-of-way. The minimum side building setback line shall be 50 feet from the side lot line, and the minimum rear building setback line shall be 50 feet from the rear lot line.

- (3) The minimum setback lines for the placement of fencing for residential, commercial or industrial lots shall be five feet from the street right-of-way, side property lines and rear property lines.
  - (4) The minimum setback lines for the planting of trees for residential, commercial or industrial lots shall be 10 feet from the street right-of-way, side property lines and rear property lines.
- F. Corner lots for residential use shall have extra width of at least 20% of the above required width to permit appropriate building setback from an orientation to both streets.

#### **§ 96-30. Easements.**

- A. Easements for sanitary sewer lines shall have minimum width of 20 feet. Other utilities (water, etc.) shall have a minimum width of 10 feet. Before determining the exact location and width of easements, the developer shall discuss his plan with the appropriate utility to assure conformance with their standards.
- B. Where possible, easements shall be centered on or adjacent to rear or side lot lines. They shall be drawn only to the edge of the street rights-of-way and shall not be shown on the right-of-way.
- C. Where a subdivision is traversed by a watercourse, drainage channel or stream, there shall be provided a drainage easement conforming to the line of such watercourse and of such width as will be adequate to preserve natural drainage.

#### **§ 96-31. Reservations for public use.**

If the developer proposes to reserve an area for public use (i.e., schools, parks, stormwater detention ponds, other neighborhood and public facilities), the following standards shall be applied to the character, extent and location of the reserved area:

- A. Such areas shall be labeled on the plan as "reserved" and shall indicate the particular type of public use for which the area is being reserved.
- B. Areas reserved for public use shall be accessible through frontage on a public street and/or pedestrian rights-of-way at least 10 feet in width and be a suitable size and location for their designated uses.
- C. The developer must establish and assure the future ownership of the permanent public use, as well as indicate the provisions for the maintenance of the area. Additionally, the township may accept the dedication of such land or any interest therein for public use and maintenance.

#### **§ 96-31.1. Open space; lot siting; planting; beautification. [Added 6-2-2001 by Ord. No. 2001-5]**

- A. In order to promote the highest environmental quality possible, the degree to which the applicant of a subdivision or land development plan has preserved existing salient natural



features and landforms intrinsic to the site shall be assessed. Terms of approval of a plat may be subject to the manner in which the layout or design of the plan has preserved existing natural features, such as, but not limited to, trees, wooded areas, and watercourses.

- B. Open space. Where the applicant is offering for dedication, or is required by ordinance to establish a reservation of open space or preserve an area of scenic or historic importance, a limit of work, which will confine excavation, earthmoving procedures and other changes to the landscape, may be required to ensure preservation and prevent despoliation of the character of the area in open space.
- C. Tree preservation. Whenever possible, trees shall not be removed unless they are located within the proposed street right-of-way, within the proposed building area, well area, sewage facilities area, or within utility locations and equipment access areas. In areas where trees are retained, the original grade level shall be maintained, if possible, so as not to disturb the trees.
- D. Topsoil preservation. All of the topsoil from areas where cuts and fills have been made should be stockpiled and redistributed uniformly after grading. All areas of the site shall be stabilized by seeding or planting on slopes of less than 10% and shall be stabilized by sodding on slopes of 10% or more and planted in ground cover on slopes of 20% or greater.
- E. Landscaping. For all multifamily, apartment, office, commercial, and industrial subdivisions or land developments, a landscaping plan shall be provided and shall include sufficient plantings for the required open space, planting strips, screenings, formal gardens, shade trees, and natural barriers.
- F. Buffer area requirements. The minimum buffer requirements for all multifamily, apartment, office, commercial, and industrial subdivisions or land developments that abut a residential area shall be:
  - (1) The planting of evergreen trees, a minimum of six feet tall, spaced a maximum of eight feet apart, along the side and rear lot buffer area or as required by the Township Engineer and in accordance with the setbacks established in § 96-29E; or
  - (2) The construction of a privacy fence, a minimum of six feet tall, of material approved by the Board of Supervisors, along the side and rear lot buffer area or as required by the Township Engineer and in accordance with the setbacks established in § 96-29E; or
  - (3) The preservation of the natural landscape may be considered as an appropriate buffer if it is a minimum of 100 feet in width and contains the following minimum quantities and types of plant material; one canopy tree, two ornamental trees, two evergreen trees, and 10 shrubs for each 100 linear feet of property line to be buffered. Other varieties and arrangements or the existing natural vegetation may be acceptable upon approval of the Board of Supervisors. A buffer area that contains a variety of native plant material arranged in informal groupings that reflects a naturalistic arrangement is encouraged.

**ARTICLE VII  
Improvements**

**§ 96-32. Application.**

All improvements proposed in the final plan shall be completed by the developer in accordance with the requirements of the township and this chapter.

**§ 96-33. Installation of improvements.**

- A. The Board of Township Supervisors staff will identify the lead agency for each improvement proposed by the developer. In most situations, the lead agency will be the ultimate owner of the improvement. The developer shall contact the lead agency to discuss the specifications for installation of the improvements. Where the lead agency has not established any specifications, the Township Supervisors will require compliance with the specifications outlined in this chapter and any other specifications which are applicable to the proposal.
- B. Following completion by the developer and acceptance by the lead agency of all required subdivision improvements, the lead agency shall sign the final plan drawings before the plan can be finally approved by the Township Supervisors.

**§ 96-34. Improvement guaranty.**

- A. In lieu of the completion of any improvements required as a condition for the final approval of a subdivision plan, the developer shall provide for the deposit of a financial security in an amount sufficient to cover the cost of any improvements or common amenities. Such financial security shall be deposited with and in favor of the Township of Fox (Elk County).
- B. When requested by the developer, in order to facilitate financing, the Township Supervisors shall furnish the developer with a signed copy of a resolution indicating approval of the final plan contingent on the developer obtaining a satisfactory financial security. The final plan shall not be signed nor recorded until the financial improvements agreement is executed. The resolution or letter of contingent approval shall expire and be deemed to be revoked if the financial security agreement is not executed within 90 days unless a written extension is granted by the township; such extension shall not be unreasonably withheld and shall be placed, in writing, at the request of the developer.

- C. The Township Supervisors shall determine what types of financial security are acceptable for the purpose of guaranteeing construction of improvements. Irrevocable letters of credit and restrictive or escrow accounts from federal or commonwealth chartered lending institutions shall be deemed acceptable financial security. Such financial security shall be secured from a bonding company or federal or commonwealth chartered lending institution chosen by the party posting the financial security, provided that said bonding company or lending institution is authorized to conduct such business within the commonwealth.
- D. Such bond or other security shall provide for and secure to the public the completion of any improvements which may be required on or before the date fixed in the formal action of approval or accompanying agreement for completion of the improvements.
- E. The amount of financial security to be posted for the completion of the required improvements shall be equal to 110% of the cost of completion estimated as of 90 days following the date scheduled for completion by the developer. Annually, Fox Township may adjust the amount of the financial security by comparing the actual cost of the improvements which have been completed and the estimated cost for the completion of the remaining improvements as of the expiration of the 90th day after either the original date scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, Fox Township may require the developer to post additional security in order to assure that the financial security equals said 110% of those improvements which will become township-owned upon completion of the subdivision. Any additional security shall be posted by the developer in accordance with this section.
- F. The amount of financial security required shall be based on an estimate of the cost of completion of the required improvements that will be township-owned upon completion of the subdivision. All lead agencies shall be responsible for negotiating financial security required to be submitted by the developer and prepared by a professional engineer licensed as such in the Commonwealth of Pennsylvania and certified by such engineer to be a fair and reasonable estimate of such cost. Fox Township and the lead agency engineer may refuse to accept such estimate for good cause shown. If the developer, the township and the lead agency are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in the Commonwealth of Pennsylvania and chosen mutually by the township and the developer. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the lead agency and the developer.
- G. If the developer posting the financial security requires more than one year from the date of posting of the financial security to complete the required improvements, the amount of financial security may be increased by an additional 10% for each one-year period beyond the first anniversary date from posting of financial security or to an amount not exceeding 110% of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one-year period by using the above bidding procedure.
- H. In the case where subdivision activity is projected over a period of years, the Township Supervisors may authorize submission of final plans by section or stages of development subject to such requirements or guaranties as to improvements in future sections or stages

of development as it finds essential for the protection of any finally approved section of the development.

**§ 96-35. Partial release from improvement guaranty.**

As the work of installing the required improvements proceeds, the developer posting the financial security may request the Township Supervisors to release or authorize the release of such portions of the financial security necessary for payment to the contractor or contractors performing the work. Any such requests shall be in writing addressed to the Board of Township Supervisors, and the Township Supervisors shall have 45 days from receipt of such request within which to allow the lead agency engineer to certify, in writing, that such portion of the work on the improvements has been completed in accordance with the approved plan and specifications. On such certification, the Township Supervisors shall authorize release by the bonding company or lending institution of an amount as estimated by the lead agency engineer fairly representing the value of the improvements completed, or if the Board of Township Supervisors fails to act within said forty-five-day period, the Township Supervisors shall be deemed to have approved the release of funds as requested. The township may retain 10% of the estimated cost of the improvements prior to final release.

**§ 96-36. Full release from improvement guaranty.**

- A. When the developer has completed all of the necessary and appropriate improvements, the developer shall notify the Township Supervisors, in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the lead agency engineer to inspect all of the aforesaid improvements. The engineer shall thereupon file a report, in writing, with the Township Supervisors and lead agency and shall promptly mail a copy of the same to the developer by certified or registered mail. The report shall be made and mailed within 30 days after receipt by the lead agency engineer of the aforesaid authorization from the Township Supervisors; said report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part, and if said improvements, or any portion thereof, shall not be approved or shall be rejected by the lead agency engineer, said report shall contain a statement of reasons for such nonapproval or rejection.
- B. The Township Supervisors shall notify the developer, within 15 days of receipt of the engineer's report, in writing by certified or registered mail of the action of the Township Supervisors with relation thereto.
- C. If the Board of Township Supervisors or the lead agency engineer fails to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved and the developer shall be released from all liability, pursuant to its performance guaranty bond or other security agreement.
- D. If any portion of the improvements shall not be approved or shall be rejected by the Township Supervisors, the developer shall proceed to complete the same and, upon completion, the same procedure of notification as outlined herein shall be followed.

- E. Nothing herein, however, shall be construed to limit the developer's right to contest or question, by legal proceedings or otherwise, any determination of the Township Supervisors or the lead agency engineer. Where herein reference is made to the "lead agency engineer," he may be as a consultant thereto.
- F. The Township Supervisors and lead agency may prescribe that the developer shall reimburse the lead agency for the reasonable and necessary expense incurred for the inspection of improvements. Such reimbursement shall be based upon a schedule established by resolution of the Board of Township Supervisors. Such expense shall be reasonable and in accordance with the ordinary and customary fees charged by the lead agency engineer or consultant for work performed for similar services in the community, but in no event shall the fees exceed the rate or cost charged by the engineer or consultant to the lead agency when fees are not reimbursed or otherwise imposed on applicants.
- (1) In the event that the developer disputes the amount of any such expense in connection with the inspection of improvements, the developer shall, within 10 working days of the date of billing, notify the Township Supervisors and lead agency that such expenses are disputed as unreasonable or unnecessary. The Township Supervisors shall not delay or disapprove a subdivision application due to the developer's request over disputed engineer expenses.
  - (2) If, within 20 days from the date of billing, the Township Supervisors and the developer cannot agree on the amount of expenses which are reasonable and necessary, then the developer and Township Supervisors shall jointly, by mutual agreement, appoint another professional engineer licensed as such in the Commonwealth of Pennsylvania to review the expenses and make a determination as to the amount thereof which is reasonable and necessary.
  - (3) The professional engineer so appointed shall hear such evidence and review such documentation as he/she in his/her sole opinion deems necessary and render a decision within 50 days of the billing date. The applicant shall be required to pay the entire amount determined in the decision immediately.
  - (4) In the event that the Township Supervisors and developer cannot agree on the professional engineer to be appointed within 20 days of the billing date, then, on application of either party, the President Judge of the Court of Common Pleas of the Judicial District in which the township is located (or if at the time there is no President Judge, then the senior active Judge then sitting) shall appoint such engineer, who, in that case, shall be neither the township lead agency nor any professional engineer who has been retained by or performed services for the township, lead agency or the developer within the preceding five years.
  - (5) The fee of the appointed professional engineer for determining the reasonable and necessary expenses shall be paid by the developer if the amount of payment required in the decision is equal to or greater than the original bill. If the amount of payment required in the decision is less than the original bill by \$1,000 or more, the lead agency shall pay the fee of the professional engineer, but otherwise the lead agency and the developer shall each pay  $\frac{1}{2}$  of the fee of the appointed professional engineer.

**§ 96-37. Maintenance guaranty.**

On completion of some or all of the required improvements, Fox Township shall require the posting of a financial security to secure the structural integrity and functioning of said improvements in accordance with the design and specifications as depicted with the final plan for a term not to exceed 18 months from the date of acceptance of the dedication. This financial security for maintenance shall be in the same form as otherwise required in this chapter for the installation of required improvements. However, in no event shall the financial security for maintenance exceed 15% of the actual cost of the installation of said improvements.

**§ 96-38. Remedies to effect completion of improvements.**

In the event that any improvements which may be required have not been installed as provided in this chapter or in accordance with the approved final plan, the Township of Fox may enforce any corporate bond or other security by appropriate legal and equitable remedies. If proceeds of such bond or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security, Fox Township may institute appropriate legal or equitable action to recover the moneys necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the developer, or both, shall be used solely for the installation of the improvements covered by such security and not for any other township purpose.

**§ 96-39. Monuments and markers.**

The developer shall place permanent reference monuments in all subdivisions as required herein. Any monuments or markers that are removed during construction and/or grading of the site shall be placed in original locations by a qualified registered engineer or registered surveyor at the expense of the person removing them.

**A. Monuments.**

- (1) Monuments shall be made of precast concrete with a minimum diameter of six inches and a minimum length of 36 inches and shall be set flush with the finished grade. A brass pin shall be set in the top of each monument and scored or marked to indicate the exact point of crossing of the intersecting lines.
- (2) Monuments shall be set permanently:
  - (a) At the intersection of all lines forming angles in the boundary of the subdivision or land development; and
  - (b) At the intersection of all street lines.

**B. Markers.**

- (1) Markers shall consist of magnetic metal pipes or bars at least 36 inches long and not less than 1/2 inch in diameter and shall be set flush with the finished grade. They shall be scored to indicate the exact point of crossing of intersecting lines.

- (2) Markers shall be set permanently at all lot corners.

**§ 96-40. Streets, curbs, base pavement.**

All streets except those approved as private roads or streets as described in § 96-27 shall be irrevocably dedicated, in writing, by the developer to the Township of Fox immediately upon completion and acceptance of construction. Such streets shall be graded to the elevations and dimensions shown on the plans, profiles and cross sections submitted by the developer for final plan review and as approved by the Township Supervisors.

A. Local street construction. All township streets shown on the approved final plan shall be constructed in accordance with the specifications for street construction of the State PennDOT Bulletin 408 Construction Specifications (latest edition) and Fox Township. Periodic inspections will be made by Township Supervisors or Supervisors' appointee throughout each stage of construction. It is the responsibility of the developer to notify the Township Supervisors that construction has begun.

- (1) Subgrade. Preparation of subgrade shall be formed by shaping the graded roadway surface to the approved profile, elevation and cross section. The surface shall be brought to a firm, thoroughly compacted condition for the width of the base course by rolling with a power roller. Any soft or unsuitable material shall be removed and replaced with suitable material. Then the roadbed will be compacted to 100% of the determined dry weight density of the material in place. Final grade cross-section slope will be  $\frac{1}{8}$  foot per foot from center line and shall not vary at any one point more than  $\frac{1}{4}$  inch from the required subgrade elevation.
- (2) Subbase. Cartway shall consist of No. 3A or No. 2A stone, stone to meet PennDOT specifications as specified in Bulletin 408. Minimum depth shall be eight inches. Material shall be compacted. Final cross-section slope will be  $\frac{1}{2}$  inch per foot from center line and will maintain a uniform cross section. [Amended 6-2-2001 by Ord. No. 2001-5]
- (3) [Amended 6-2-2001 by Ord. No. 2001-5] Pavement shall be comprised of an approved hard base consisting of subgrade, subbase and pavement which shall consist of the following:
  - (a) Option No. 1: Paving or pavement shall consist of <sup>four</sup>~~three~~ inches ID-2 binder course compacted followed by two inches ID2A wearing course compacted. Final cross-section slope will be  $\frac{1}{2}$  inch per foot from center line. Minimum width shall be 20 feet.
  - (b) Option No. 2: Pavement shall consist of six inches reinforced concrete with a minimum strength of 2,700 psi. Final cross-section slope will be  $\frac{1}{2}$  inch per foot from center line. Minimum width shall be 20 feet.
- (4) Curbing shall be of concrete or of a bituminous mix, either straight, battered or rolled.
- (5) Shoulders must be established if curbing is not utilized. Shoulders must consist of PennDOT approved 2A stone, together with necessary amount of DEP-approved oil

to adhere. Upon final compaction, slope shall be 1/2 inch per foot starting at the pavement edge. Minimum width of the shoulder shall be 24 inches.

- B. Collector and major street construction. Specifications for the construction of collector and major streets shall be established by the Board of Township Supervisors after consultation with the Pennsylvania Department of Transportation.

**§ 96-41. Sewage disposal.**

- A. On-site system. Where a public sewer system is not reasonably accessible and proposed sewage treatment is on-site through subsurface disposal, the developer must submit copies of planning modules along with comments from the Fox Township Sewage Enforcement Officer (SEO) regarding the suitability of the property for on-lot sanitary sewage disposal, planning module and planning module approval letter from DEP to the Township Supervisors that the proposed development will be suitable for on-site sewage disposal. The approval letter must bear the signature of a representative of DEP and the Fox Township Sewage Enforcement Officer in accordance with the requirements of the Pennsylvania Sewage Facilities Act, as amended.<sup>6</sup> The Township Supervisors may not approve the final plan until evidence that proposed sanitary sewage disposal is in compliance with the Pennsylvania Sewage Facilities Act is provided.
- B. Public system.
- (1) If a municipal sanitary sewer system is already in existence at the time of subdivision application, the subdivider or developer shall design a sewer system for the entire subdivision which shall serve every lot within the proposed project and shall install the same with all connecting segments according to the following schedule:
- (a) If any subdivision contains a lot which is located within 150 feet of the sewer district, the subdivider or developer shall install a sewer system to serve said lot and connect the same to the public sewer system.
  - (b) If any subdivision contains two lots and is located within 200 feet of the sewer district, then the subdivider or developer shall install a sewer system to serve each lot and connect the same to the public sewer system.
  - (c) If any subdivision contains three lots and is located within 300 feet of the sewer district, then the subdivider or developer shall install a sewer system to serve such lot and connect the same to the public sewer system.
  - (d) If any subdivision contains four lots and is located within 400 feet of the sewer district, then the subdivider or developer shall install a sewer system to serve each lot and connect the same to the public sewer system.
  - (e) If any subdivision contains five lots and is located within 500 feet of the sewer district, then the subdivider or developer shall install a sewer system to serve each lot and connect the same to the public sewer system.

<sup>6</sup> Editor's Note: See 35 P.S. § 750.1 et seq.



- (f) If any subdivision contains six lots and is located within 600 feet of the sewer district, then the subdivider or developer shall install a sewer system to serve each lot and connect the same to the public sewer system.
  - (g) If any subdivision contains seven lots and is located within 700 feet of the sewer district, then the subdivider or developer shall install a sewer system to serve each lot and connect the same to the public sewer system.
  - (h) If any subdivision contains eight lots and is located within 800 feet of the sewer district, then the subdivider or developer shall install a sewer system to serve each lot and connect the same to the public sewer system.
  - (i) If any subdivision contains nine lots and is located within 900 feet of the sewer district, then the subdivider or developer shall install a sewer system to serve each lot and connect the same to the public sewer system.
  - (j) If any subdivision contains 10 lots and is located within 1,000 feet of the sewer district, then the subdivider or developer shall install a sewer system to serve each lot and connect the same to the public sewer system.
- (2) The developer or subdivider shall pay for and construct the connecting segment of sewer (up to 1,000 feet) between the developed sewer system and the municipal sewer main. All plans and installations shall be subject to the approval of the Fox Township Sewer Authority, which may reserve the right to recommend waiver of this requirement where, because of topographic features or character of development, such connection would be an undue hardship. It shall be the responsibility of the subdivider or developer to document such undue hardship.
  - (3) The subdivider or developer must, at his expense and to the satisfaction of the Authority's engineer and DEP, provide evidence to document that the additional waste load from the proposed new land development will not create a hydraulic or organic projected five-year overload on the existing sewage collection facility. Expenses in reviewing the documentation must be paid before consideration can be given to plan approval.

C. Private community systems.

(1) Requirements. [Amended 6-2-2001 by Ord. No. 2001-5]

- (a) The developer shall provide the following:
  - [1] Evidence that the system design has been reviewed and approved by DEP.
  - [2] Evidence that the system has been constructed in accordance with the approval plan.
  - [3] Evidence that the system will be operational, in a timely fashion, for its intended users.
  - [4] A plan of operation.
- (b) Take over of the system by the Fox Township Sewer Authority shall be at the discretion of the Fox Township Board of Supervisors.

- (2) It is the intention of these township regulations that proper sanitary sewage disposal be available to a development. Until such time as the township is satisfied that the requirements of this section are met, it may withhold final approval of a development. It may also refuse to issue building permits as a secondary means of enforcement.

**§ 96-42. Water supply.**

If water is to be provided by means other than by private wells owned and maintained by the individual owners of lots within the subdivision, applicants shall present evidence to the Township Supervisors, as the case may be, that the subdivision is to be supplied by a certified public utility, a cooperative association of lot owners or by a municipal corporation, authority or utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable evidence.

**§ 96-43. Stormwater runoff/drainage. [Amended 6-2-2001 by Ord. No. 2001-5]**

- A. A drainage system adequate to serve the needs of the proposed natural waterways and overland flow will be required in new subdivisions and land developments. The developer shall construct a storm sewer system and connect the drainage system with the township's storm sewer system if one exists.
- B. If a development generates such additional storm drainage sewer flows as to require changes to the township's storm sewer collection system, the developer will be requested to pay a share of the costs consistent with the provisions of Act 203 of 1990. It is the purpose of these regulations that development which occurs under this chapter shall pay their fair share toward needed improvements as set forth by Act 203 of 1990.
- C. Bridges or culverts shall be designed to support and carry loads in accordance with Publication 70 of the Pennsylvania Department of Transportation.
- D. Where open watercourses are planned, adequate safety, erosion control, drainage, protection of capacity and appearance measures shall be taken by the developer to insure proper, safe, healthful disposal of stormwater. All open watercourses must be approved by the Township Engineer.
- E. Minimum grade of drainage courses shall be designed to create a minimum cleaning effect (velocity of two feet per second). Lesser grades may be permitted by the Township Engineer where such required grades cannot be achieved.
- F. Storm sewers shall have a minimum diameter of 15 inches and a minimum grade of 1/2 of 1%. Lesser grades may be permitted by the Township Engineer when substantiated with calculations which prove that cleaning velocities will be maintained.
- G. Manholes shall normally be spaced at 300 feet maximum spacing where pipe sizes of 24 inches or less are used and not over 400 feet where larger sizes are installed. Inlets may, if approved by the Township Engineer, be substituted for manholes.
- H. All phases of construction of open ditches, gutters, or storm sewers, including width, depth, shapes, erosion control, minimum grade, size and area, shall be in accordance with

the requirements of these regulations, and all storm drainage facilities shall be inspected and certified by the Township Engineer.

**§ 96-44. Street signs.**

- A. Street name signs shall be installed in the Township of Fox in all major subdivisions containing a new street and shall be installed according to standards established by the township. Street names may not duplicate any other established street names within the Township of Fox. Proposed street names shall be reviewed by the Planning Commission with final approval from the Board of Supervisors.
- B. Stop signs must be placed at the entrance to an intersection where the application of the normal right-of-way creates unnecessary conflict or whenever a minor street enters a through highway or major street. Minimum size for any stop sign is 24 inches.

(Cont'd on page 9641)



- C. All other street signs erected must be of a PennDOT-approved type and must be erected to all standards established by the Township of Fox.

ARTICLE VIII  
Alternative Land Subdivision

**§ 96-45. Planned commercial, industrial and residential development.**

- A. The Board of Township Supervisors and its Planning Commission recognize that there are subdivision types which differ significantly from the design of conventional residential subdivisions to warrant a separate classification and special review in accordance with regulations which are not specifically outlined in this chapter. Alternative land subdivision types include commercial, industrial, townhouse and planned residential development.
- B. If the Board of Township Supervisors and its Planning Commission receive a proposal from a developer for an alternative land subdivision type, an outline of the procedural requirements will be provided to the developer for review and approval of the subdivision. The plan for this subdivision shall be reviewed by the Planning Commission in accordance with accepted standards and principles of subdivision site planning and development and its recommendations will be presented to the Township Supervisors before final action is taken thereon.

**§ 96-46. Mobile home parks.**

- A. Applicability. No person, firm or corporation shall construct, operate or maintain a mobile home park in Fox Township which falls under the jurisdiction of this chapter until a final plan of said mobile home park has been unconditionally approved by the Board of Township Supervisors after review and recommendation by the Township Planning Commission and the Elk County Planning Commission.
- B. Compliance with other provisions. Unless otherwise specified in this section, all mobile home parks shall comply with all applicable provisions of this chapter, including but not limited to Article IV, Procedure, Article V, Requirements for Plan Submittal, and Article VII, Improvements.
- C. General design standards. The design of mobile home parks shall conform to the following standards:
- (1) Park area requirements. A mobile home park shall have a minimum gross area of at least five contiguous acres of land.
  - (2) Grading and ground cover requirements. The ground surface in all areas of each mobile home park shall be graded and equipped to drain all surface water in a safe and effective manner. Exposed ground surfaces throughout each mobile home park shall be treated in a manner approved by the Township Supervisors after review by the Elk County Conservation District and the Township Planning Commission which will effectively prevent soil erosion and eliminate excessive amounts of mud and dust.
  - (3) Lot requirements.

- (a) Minimum lot size. The minimum width of any mobile home lot shall not be less than 60 feet. The minimum length of each mobile home lot shall be not less than 100 feet, or at least 40% longer than the mobile home to be placed thereon. In any case, the minimum mobile home lot size shall not be less than 6,000 square feet of area. Where on-lot sewage disposal is proposed, the minimum lot size shall be increased to a size sufficient to accommodate the proposed system and, if applicable, to provide isolation distances for wells required by the Pennsylvania Department of Environmental Protection and other distances required herein.
  - (b) Side yards/rear yards. Mobile homes shall have a minimum side yard of 15 feet and a minimum rear yard of 20 feet.
  - (c) Lot access. All mobile home lots shall abut on a street of the mobile home park's internal street system and shall be directly accessible from said internal street system without the necessity of crossing any other space.
  - (d) Street number and names. All mobile home lots shall be given street numbers and all mobile home park streets shall be given names.
- (4) Required setbacks, buffer strips and screening.
- (a) There shall be a minimum distance of 20 feet between an individual mobile home and the property boundary line abutting an adjoining park street which is not an arterial, collector or minor street, adjoining recreation area, parking area or other common areas.
  - (b) All mobile home parks located adjacent to industrial or commercial land use shall be provided with screening, such as fences or natural growth along the property boundary line separating the park and such adjacent nonresidential uses.
  - (c) In the event that mobile homes are located in reference to township roads or rights-of-way intended to be dedicated as public roads, the following setbacks shall be required:
    - [1] Front yard, arterial streets: 50 feet from the property boundary line abutting on the arterial street.
    - [2] Collector street: 30 feet from the property boundary line abutting on the collector street.
    - [3] Minor streets: 20 feet from the property boundary line abutting the street.
- (5) Park street system.
- (a) General requirements. All mobile home parks shall be provided with safe and convenient vehicular access. Alignment and gradient shall be properly adapted to topography.
  - (b) Access. Access to mobile home parks shall be designated to minimize congestion and hazards at the entrance or exit and allow free movement of traffic on adjacent streets. The entrance road connecting the park streets with a public

street or road shall have minimum road width of 24 feet, within which parking shall be prohibited.

- (c) Internal streets. Roadways shall be of adequate width to accommodate anticipated traffic and, in any case, shall be a minimum of 20 feet in width.
  - (d) Intersections. Not more than two streets shall intersect at any point and a distance of at least 200 feet shall be maintained between center lines of offset intersecting streets.
  - (e) Street construction and design standards. All roadways must be provided with a smooth, hard and dense surface consisting of a shale base and/or limestone construction in accordance with Pennsylvania Department of Transportation specifications.
- (6) Required off-street parking areas.
- (a) Off-street parking areas shall be provided in all mobile home parks for the use of park occupants and guests. In the event that the mobile home does not abut a roadway with off-street parking, two car spaces for each mobile home lot shall be furnished. If the lot abuts on a roadway with off-street, one parking space per each mobile home lot shall be furnished.
  - (b) Required car parking spaces shall be so located as to provide convenient access to the mobile home but shall not exceed a distance of 200 feet from the mobile home that it is intended to serve. Paving: a smooth, dense, solid and dust-free surface consisting of shale or limestone capable of use throughout the year shall be provided.
- (7) Foundation, anchoring and skirting.
- (a) All mobile homes shall be placed on a permanent foundation which will prevent shifting or settling from frost action, inadequate drainage, vibration or other forces acting on the superstructure (e.g., consisting of block pillars or cement pillars or similar construction).
  - (b) It shall be the responsibility of the park owner to provide at least six permanent piers with hook and eye-bolt attachment extending from below frostline to grade level for each mobile home stand. [Various insurance companies and the American National Standards Institution (ANSI) have specifications for mobile home tie-down anchoring.]
  - (c) It shall be the responsibility of the tenant to provide blocking from pier top to trailer frame and the necessary cable or chain to secure the trailer to the permanent pier. [Various insurance companies and the American National Standards Institution (ANSI) have specifications for mobile home tie-down anchoring.]
  - (d) Fire-resistant or retardant skirting of compatible design and material shall be installed around all mobile homes.

D. Utilities.

- (1) Water supply. General requirements. An accessible, adequate, safe and potable supply of water shall be provided in each mobile home park. Where a public supply of water of satisfactory quantity, quality and pressure is available, connection shall be made thereto and its supply used exclusively. When a satisfactory public water supply is not available, a private water system may be developed and used as approved by the DEP.
- (2) Sewage collection and disposal.
  - (a) General requirements. An adequate and safe sewage system shall be provided in all parks for conveying and disposing of sewage from mobile homes, service buildings and other accessory facilities. When a public sewage system is available, connection must be made thereto and used exclusively to dispose of sewage. Such system shall be designed, constructed and maintained in accordance with the regulations of the DEP and all local sanitary sewer regulations.
  - (b) Sewage treatment and/or discharge. Where the sewer lines of the mobile home park are not connected to a public sewer, all proposed sewage disposal facilities shall be approved by the DEP prior to construction.
- (3) Electrical distribution. Underground electrical distribution system connections shall be provided to each mobile home lot within a mobile home park. Such systems shall be installed and maintained in accordance with all applicable specifications regulating the same, including but not limited to the National Electrical Code and the local electric power company's specifications regulating such systems.
- (4) Natural gas systems. Natural gas systems within a mobile home park shall be installed and maintained in accordance with the regulations and specifications of the company supplying said natural gas.
- (5) Liquefied petroleum gas (LPG) systems. Where liquefied petroleum gas systems are provided for mobile homes, service buildings and other structures, such systems shall be installed and maintained in a manner to prevent hazards from fire or explosion.
- (6) Fuel oil supply systems. Where fuel oil supply systems are provided for mobile homes, service buildings and other structures, such systems shall be installed and maintained in a manner to prevent hazards from fire or explosion.

E. Fire protection.

- (1) Fire hydrants shall be required in all mobile home parks where the extension of water lines is required or proposed in accordance with the provisions of this chapter.
- (2) The mobile home park area shall be subject to all rules and regulations of the township, county and commonwealth pertaining to fire prevention.
- (3) Mobile home park areas shall be kept free of litter, rubbish and other flammable materials.
- (4) Portable fire extinguishers of a type approved by the area Fire Marshal shall be kept in public service buildings under park control.



- (5) All oil and gas tanks located on a mobile home lot shall be secured to the mobile home or a base below the frost line.
- F. Recreational space requirements. A minimum of 6% of the gross area of the mobile home park (not less than 0.5 acre) shall be provided for recreational space. This recreational space shall be easily accessible to all park residents, shall be suitable for a variety of recreational uses and shall be located so as to be free from traffic hazards.
- G. Park areas for nonresidential uses.
- (1) No part of any mobile home park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park.
- (2) Nothing contained in this chapter shall be deemed as prohibiting the sale of a mobile home located on an individual lot and connected to the pertinent utilities.

## ARTICLE IX ADMINISTRATION

### § 96-47. Grant of power.

The Board of Fox Township Supervisors hereby designates itself to act and have full authority in the administration of this chapter and any subsequent amendments thereto.

### § 96-48. Reconsideration.

Developers aggrieved by a decision of the Township Supervisors may request within 30 days of the decision to appear before the Township Supervisors to present additional information and request reconsideration of the original finding, decision or recommendation.

### § 96-49. Appeals.

Any person, firm or corporation who or which deems itself aggrieved by any decision of the Board of Township Supervisors may appeal the decision to the Elk County Court of Common Pleas.

### § 96-50. Application fees.

The Board of Fox Township Supervisors may establish and/or amend by resolution a schedule of review fees<sup>37</sup> which shall be charged to the developer. Fees shall be payable to the "Township of Fox" when the preliminary and final subdivision applications are submitted. The application shall not be considered as complete until such time as the fees have been paid in full. Review fees may include reasonable and necessary charges by the township's professional engineer or consultant for review and report thereon to the township. Such charges shall be

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<sup>37</sup> Editor's Note: A copy of the current Schedule of Fees is on file at the Fox Township Municipal Building.

consistent with the guidelines of Section 503(1) of the Pennsylvania Municipalities Planning Code.<sup>38</sup>

**§ 96-51. Modifications.**

- A. The Board of Fox Township Supervisors may grant a modification of the requirements of one or more provisions if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of this chapter is observed.
- B. All requests for a modification shall be in writing and shall accompany and be a part of the application for subdivision approval. The request shall state in full the grounds and facts of unreasonableness or hardship on which the request is based, the provision or provisions of this chapter involved and the minimum modification necessary.
- C. The Township Supervisors shall keep a written record of all action on all requests for modification.

**§ 96-52. Revision and amendment.**

The Board of Fox Township Supervisors may revise, modify and amend this chapter by appropriate action taken at a scheduled public hearing, all in accordance with the applicable provisions of the Pennsylvania Municipalities Planning Code, Act 247, as amended.<sup>39</sup>

**§ 96-53. Subdivision records.**

The Township Supervisors shall keep a written record of its findings, decisions and recommendations related to all subdivision plans filed with it for review and approval. All records of the Township Supervisors shall be public records.

**§ 96-54. Conflict with other regulations.**

Wherever there is a difference between minimum standards or dimensions specified in these regulations and those contained in any other official regulations of Fox Township, the more restrictive standard shall apply.

**§ 96-55. Liability.**

The approval of a subdivision plan, or of any improvement, shall not constitute a representation, guaranty or warranty of any kind or nature by Fox Township, its Planning Commission or any official, employee or appointee thereof of the safety of any land,

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<sup>38</sup> Editor's Note: See 53 P.S. § 10101 et seq.

<sup>39</sup> Editor's Note: See 53 P.S. § 10101 et seq.

improvement, property or use from any cause whatsoever and shall create no liability on or a cause of action against the Board of Fox Township Supervisors or such official, employee or appointee for any damage that may result pursuant thereto.

**§ 96-56. Evasion.**

- A. No developer shall evade these regulations by any willful artifice. Developers are specifically referred to in Article I and Article V of the Pennsylvania Municipalities Planning Code.<sup>7</sup>
- B. For the purpose of clarification, all lots as they existed on May 16, 1981,<sup>8</sup> are considered original lots. The number of lots subdivided from these original lots shall determine if a subdivision is a major or minor subdivision under these regulations.

**ARTICLE X**

**Stormwater Management**

**[Added 6-2-2001 by Ord. No. 2001-5]**

**§ 96-57. Purposes.**

This article is enacted for the following purposes:

- A. To control accelerated runoff and erosion and sedimentation problems at their source by regulating activities which cause such problems; to utilize and preserve desirable existing natural drainage systems; to encourage recharge of groundwater; to protect the watercourses in the township; to preserve and restore the flood-carrying capacity of streams.
- B. To provide for the design, installation, and proper maintenance of all permanent stormwater management structures which are constructed in the township.
- C. To assure that the peak rate of stormwater runoff (peak discharge) is no greater after development than prior to development within any predevelopment drainage subarea.
- D. To minimize danger to public health and safety and damages to property by providing for management of stormwater runoff.

**§ 96-58. Applicability.**

- A. This article shall apply to all land and watercourses within the township in conjunction with the following activities:
  - (1) Land development;
  - (2) Land disturbance and alteration;

<sup>7</sup> Editor's Note: See 53 P.S. § 10101 et seq.

<sup>8</sup> Note: Effective date of the original Fox Township Subdivision Regulations.

- (3) Construction of additional impervious surfaces, new structures, and additions to existing structures;
  - (4) Changes or alterations of any watercourse or drainageway;
  - (5) Diversion or piping of any natural or man-made stream channel;
  - (6) Installation of stormwater systems or appurtenances thereto; and
  - (7) Logging or mining operations.
- B. Permits and approvals issued pursuant to this article do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act or ordinance. If more stringent requirements concerning regulation of stormwater, erosion and sediment pollution control and floodplain management are contained in the other code, rule, act or ordinance, the more stringent regulation shall apply.
- C. Specific methods and publications indicated in this article shall, in all cases, refer to the latest available edition and include revisions or amendments thereto (listed in the Appendix, Exhibit 1 2, Section 6).<sup>9</sup>

#### **§ 96-59. Plan required.**

A stormwater management plan and other information specified herein shall be submitted to the township for all lands subdivided or for which land development plans are prepared after the enactment of this article. A stormwater management plan and other information specified herein shall be submitted at the same time and together with submission of a preliminary subdivision or land development plan, along with a completed checklist supplied by the township indicating the items contained within the submission.

- A. Such plans and information shall be considered part of said application documents and shall be reviewed in accordance with procedures established thereunder. Preliminary approval or final approval of a subdivision or land development plan shall be contingent upon the submission of a stormwater management plan in accordance with provisions of this article.
- B. All stormwater management plans shall be submitted to the Township Engineer for review and comment. Such review shall include a statement by the Township Engineer specifying the provisions of this article which have not been met by the plan as submitted.
- C. Once a stormwater management plan has been approved, together with a subdivision of land development plan approval, said stormwater management plan shall be valid only for the subdivision or land development approved. Any further development on the lot or lots requiring a revision of the approved plan or other construction shall require the submission of a new, amended, or revised stormwater management plan and other information specified herein.

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<sup>9</sup> Editor's Note: Exhibit 12 is included in the Appendix at the end of this chapter.

**§ 96-60. Exemptions.**

The following activities are specifically exempt from the plan preparation and submission provisions of this article, but remain subject to the design standards and criteria specified in all other articles of this chapter.

- A. Land disturbances affecting less than 5,000 square feet.
- B. Land disturbance associated with the construction or alteration of one- and two-family dwellings, provided that the disturbance does not alter any stormwater conditions beyond the boundaries of the lot or alter provisions of a previously approved stormwater management plan for the lot or encompassing subdivision.
- C. Use of land for gardening for home consumption.
- D. Agriculture.
- E. Forest management operations.

**§ 96-61. Review costs.**

The owner is responsible to bear all monetary costs for plan review, including engineering and staff reviews.

**§ 96-62. Application requirements.**

- A. The content of the plans shall consist of annotated maps, drawings, engineering plans and construction details. Said plan shall be prepared by a professional engineer, with said preparer's seal and registration number affixed to the plan. Plans for tracts of less than 20 acres shall be drawn at a scale of one inch equals no more than 50 feet; for tracts of 20 acres or more, plans shall be drawn at a scale of one inch equals no more than 100 feet. Plans shall be submitted on the following sheet size: 24 inches by 36 inches. All lettering shall be drawn to a size to be legible if the plans are reduced to half size. All sheets comprising a submission shall be on one size.
- B. The following information, unless specifically exempted in writing by the Township Engineer, must be provided for stormwater management plan submission:
  - (1) The name of the proposed development and the name and address of the owner of the property and the individual or firm preparing the plan.
  - (2) Date of submission and revision.
  - (3) Graphic and written scale.
  - (4) North point.
  - (5) Total tract boundary with distances marked to the nearest foot and bearings to the nearest degree and total acreage of the tract.

- (6) Key map showing all existing natural and man-made features beyond the property boundary affected by the project and the extent of the watershed or subbasin which drains through the project site.
- (7) Topographic conditions of both existing and proposed elevations at intervals of two feet for land with an average natural slope of 4% or less, and at intervals of five feet for land with an average natural slope exceeding 4%.
- (8) Drainage areas and subareas affecting the site, including areas necessary to determine downstream impacts analysis, where required, for proposed stormwater management facility.
- (9) Existing and proposed use, including the total area of impervious surfaces after construction.
- (10) Existing soil types, Karst formations, floodplain boundaries, sinkholes, undrained depressions, rock outcrops, streams, drainage courses, wetlands based on existing sources and references, and vegetation.
- (11) Complete drainage systems for the site, including details for construction. All existing drainage features which are to be incorporated in the design shall be so identified. If the site is to be developed in stages, a general drainage plan for the entire site shall be presented with the first stage and appropriate development stages for the drainage system indicated.
- (12) Location and selected plan material used for vegetative filter paths to sinkholes.
- (13) If stormwater management facilities are off-site, a note on the plan referring to location and agreements indicating responsibility for conveyance to and maintenance of the facilities; all such off-site facilities shall meet the design standards and criteria specified in this article, and details of the facilities shall be included with the plan. Details of the off-site facilities shall be included with the plan.
- (14) Proposed easement locations, including drainage, maintenance, and access easements in conformance with this article.
- (15) A statement, signed by the landowner, acknowledging the stormwater management system is to be maintained in accordance with the approved ownership and maintenance program and remain a permanent fixture which can be altered or removed only after approval of a revised plan.
- (16) The location of the permanent watercourse to which stormwater from the site will drain.
- (17) The location of all erosion and sedimentation control facilities.
- (18) Hydraulic capacity of all conveyance systems.
- (19) The following signature block for the registered professional preparing the stormwater management plan:

I, \_\_\_\_\_, hereby certify that the stormwater management plan meets all design standards and criteria of the Fox Township Subdivision and Land Development Ordinance, Stormwater Management.

- (20) The following signature block for the Township Engineer reviewing the stormwater management plan:

I, \_\_\_\_\_, have reviewed this Stormwater Management Plan in accordance with the Design Standards and Criteria of the Fox Township Subdivision and Land Development Ordinance, Stormwater Management.

- (21) The following signature block for the Technician from the Elk County Conservation District reviewing the Soil Erosion and Sediment Pollution Control Plan:

This plan appears adequate to meet state requirements on erosion and sediment pollution control and appears to adequately satisfy the requirements of Title 25, Chapter 102, the Erosion Control Regulations of the Pennsylvania Clean Streams Law.

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Erosion & Sediment Pollution  
Control Technician

Date

- C. In addition to the plan information enumerated above, the following information shall be submitted:

- (1) A written description of:
  - (a) The overall project concept.
  - (b) Stormwater runoff computations as specified in this article, and in accordance with criteria contained in Exhibit 12 of the Appendix.<sup>10</sup>
    - [1] Capacities of all existing and proposed conveyance systems.
    - [2] Hydraulic, hydrologic, and structural computations for all proposed stormwater management facilities and measures.
  - (c) Stormwater controls both during and after development.
  - (d) Expected project time schedule.
- (2) The effect of the project on runoff volume, time to peak flow, and rate of flow on adjacent property and upon an existing township stormwater drainage system when such will be utilized.
- (3) Description of all watercourses, impoundments, and wetlands on or adjacent to the site or into which stormwater flows.
- (4) Soils investigation report, including boring logs, compaction requirements, and recommendations for construction of detention basins.
- (5) Karst features identification and analysis reports and a hydrogeologic assessment of the effects of runoff on sinkholes as specified in this article.

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<sup>10</sup> Editor's Note: Exhibit 12 is included in the Appendix at the end of this chapter.

- (6) A soil erosion and sediment pollution control plan, including alt reviews and approvals, by the Pennsylvania Department of Environmental Protection and/or Elk County Conservation District.
- (7) All easements, deed restrictions, covenants, and maintenance measures of the system shall be outlined in an ownership and maintenance program in accordance with this article. For stormwater management systems to be dedicated to the township, a maintenance guarantee, as specified by the Municipalities Planning Code and this chapter will be required by the township. The township has the explicit right to reject any offer of dedication.
- (8) All permits required by the Pennsylvania Department of Environmental Protection, Pennsylvania Department of Transportation, and Army Corps of Engineers and other regulatory agencies.

#### **§ 96-63. Stormwater management standards.**

All subdivision and land development activities involving an increase in impervious cover (i.e., reduction in permeability) shall be conducted in conformance with the following standards:

##### **A. Control of runoff.**

- (1) After installation of impervious cover, peak discharges for the two-, ten-, twenty-five- and one-hundred-year frequency storms from the site shall not exceed the respective peak discharge rates before development for all drainage areas and subareas.
- (2) Stormwater runoff shall be controlled so that no downstream increases in flood damages or impairment of streets and other public facilities occur. The township Engineer may require that downstream impacts be evaluated at critical locations such as dams, tributaries, existing developments, undersized culverts, and flood prone areas. The applicant shall evaluate the effects of the proposed plan on such critical locations by providing computed water surface elevations (WSEL) for the ten- and one-hundred-year storms. Methods of computation shall have prior approval of the Township Engineer. At such downstream critical locations, stormwater control may be exercised by:
  - (a) Providing off-site improvements to downstream conveyances in order to contain flow increases.
  - (b) Providing, downstream drainage easements with sufficient widths to contain the flood limits.
- (3) The township shall make the final determination with respect to the degree of control required for any site.

##### **B. The township may impose water quality control measures in accordance with Exhibit 12, Section IV, of the Appendix<sup>11</sup> to protect against ground or surface water pollution where the type of business of the nature of the runoff and soils underlying stormwater control facilities would constitute a substantial risk of contamination.**

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<sup>11</sup> Editor's Note: Exhibit 12 is included in the Appendix at the end of this chapter.



- C. In establishing the watershed conditions for calculating runoff prior to development, the following assumptions shall apply:
- (1) Woodland or meadow in good condition shall be used for all undeveloped areas.
  - (2) Average antecedent moisture conditions as defined by the Soil Conservation Service.
  - (3) Drainage area reductions equal to the area of undrained depressions or pond factor adjustments in accordance with the SCS TR 55 procedure shall be applied in determining predevelopment peak discharges from Karst geologic areas as approved by the township.
- D. Plans for facilities other than storm sewers should determine stormwater peak discharge and runoff by the use of the Modified Rational Method or other methods for calculation of the storage capacity of a stormwater control facility from drainage areas of 50 acres or less.
- (1) Acceptable runoff coefficient values for use in the Rational Method, and permissible curve numbers for TR 55, maximum velocities, and suggested roughness coefficients and permissible velocities for channels are identified in Tables A-2 through A-5 of Exhibit 12 in the Appendix.<sup>12</sup>
  - (2) The Rational Method may be used in lieu of the Soil Cover Complex Method to compute design flows for the sizing of storm sewers, inlets, and swales. Methods approved by the Pennsylvania Department of Transportation and/or Environmental Protection may be used to design the waterway areas of bridges.
  - (3) Rainfall amounts for the return periods specified shall be determined using the Pennsylvania Department of Transportation Intensity Duration Frequency Curves presented in Figure A-1 in Exhibit 12 in the Appendix.<sup>13</sup>
  - (4) In order to reduce runoff volumes from developed areas and encourage groundwater recharge, underground storage methods are permitted in those areas where soils, geologic, and water table conditions permit. Performance criteria which govern the location, design, construction, and maintenance of these infiltration facilities are contained in Exhibit 12 in the Appendix.<sup>14</sup>
- E. Stormwater management facilities and related installations are provided:
- (1) To permit unimpeded flow of natural watercourses. Such flow may be redirected only if there are no practicable alternatives and subject to the approval of the Pennsylvania Department of Environmental Protection and the township.
  - (2) To ensure adequate drainage of all low points along the curblin of streets.
  - (3) To intercept stormwater runoff along streets at intervals reasonably related to the extent and grade of the area drained, and to prevent substantial flow of water across intersections or flooded intersections during storms, in accordance with the

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<sup>12</sup> Editor's Note: Exhibit 12 is included in the Appendix at the end of this chapter.

<sup>13</sup> Editor's Note: Exhibit 12 is included in the Appendix at the end of this chapter.

<sup>14</sup> Editor's Note: Exhibit 12 is included in the Appendix at the end of this chapter.

procedures contained in Design Manual Part 2 (DM-2), Chapter 10, of the Pennsylvania Department of Transportation.

- (4) To ensure adequate and unimpeded flow of stormwater under driveways in, near, or across natural watercourses or drainage swales. Suitable swales or other waterways shall be provided as necessary.
- (5) To properly drain stormwater runoff from all land development projects. All lot and open areas shall be designed to drain to the nearest practical street or drainage system, existing or proposed, as defined by the Township Engineer, with no impact on adjoining properties, unless an area specifically designed for stormwater detention is provided.

F. Storm sewers and related installations:

- (1) Location.
  - (a) Storm sewers, where required by applicable ordinances, shall be placed under or immediately adjacent to the roadway side of the curb, or as directed by the township, when parallel to the street within the right-of-way.
  - (b) When located in undedicated land, they shall be placed within a drainage easement not less than 20 feet wide as approved by the Township Engineer.
  - (c) Storm sewers constructed in areas susceptible to sinkhole formation shall have watertight joints to prevent exfiltration of stormwater into the surrounding soil.
  - (d) The use of properly designed, graded, and turfed drainage swales is encouraged in lieu of storm sewers in commercial and industrial areas and, where approved by the Township Engineer, in residential areas. Such swales are to be stabilized through the use of erosion control fabrics and vegetation.
- (2) The design capacity of storm sewer and drainage swales shall be determined in accordance with the ten-year frequency storm of the duration equal to the time of concentration. More stringent criteria may be required where a ten-year storm will aggravate existing problems or create new problems. Storm drainage systems shall be designed without surcharging inlets to provide controlled conveyance of the ten-year storm into a detention basin or similar facility utilized to control the rate of runoff. Conveyance of storms to the stormwater pond, up to and including the one-hundred-year frequency, shall be provided so as not to endanger life or seriously damage property.
- (3) Inlet types and inlet assemblies shall conform to the Pennsylvania Department of Transportation Standards for Roadway Construction as approved by the Township Engineer. Inlet tops shall be precast concrete top units with a ten-inch hood or equivalent in order to place the inlet in a two-inch sump condition, and they shall be compatible with the type of curb installed.
  - (a) Inlets shall, at a minimum, be located at the lowest point of street intersections to intercept the stormwater before it reaches pedestrian crossings; or at sag points of vertical curves in the street alignment which provide a natural point of ponding

of surface stormwater. On curbed sections, a double inlet shall be placed at a low point on sag vertical curves.

- (b) Where the township deems it necessary because of special land requirements, special inlets may be approved.
  - (c) The interval between inlets collecting stormwater runoff shall be determined in accordance with DM-2, Chapter 10, Section 5, Capacity of Waterway Areas.
  - (d) In curbed sections, the maximum encroachment of water on the roadway pavement shall not exceed half of a through traffic lane or one inch less than the depth of curb during the ten-year design storm of five-minute duration. Inlets shall be provided to control the encroachment of water on the pavement. When inlets are used in a storm system within the right-of-way limits of a street in lieu of manholes, the spacing of such inlets shall not exceed the maximum distance of 450 feet.
- (4) Accessible drainage structures shall be located on a continuous storm sewer system at all vertical dislocations, at all locations where a transition in storm sewer pipe sizing is required, at all vertical and horizontal angle points exceeding 5°, and at all points of convergence of two or more influent storm sewer mains. The construction locations of accessible drainage structures shall be as indicated on the subdivision drainage plan or area drainage plan approved by the township.
- (5) When evidence available to the township indicates that existing storm sewers have sufficient capacity as determined by hydrograph summation and are accessible, the subdivider may connect his/her stormwater facilities to the existing storm sewers so long as the peak rate of discharge does not exceed the amount.
- G. Bridges and culverts shall have ample waterway to carry expected flows, based on a minimum storm frequency of 10 years for driveways; 25 years for local streets; 50 years for collector streets; and 100 years for arterials; or as required by the Township Engineer.
- (1) Chapter 105 regulations.
- (a) The design criteria contained in this article are intended for use in conjunction with the Chapter 105 Regulations of the Pennsylvania Department of Environmental Protection entitled "Water Obstructions and Encroachments." All information and regulations contained in Chapter 105 shall be considered to be incorporated into this article as if reproduced in full.
  - (b) A DEP permit in accordance with Chapter 105 shall be required for any obstruction or encroachment in the regulated waters of the commonwealth, prior to the approval of the stormwater plan. In the event any question or conflict arises between this article and the DEP Chapter 105 Regulations, the design criteria contained in the DEP regulations shall govern.
- (2) Refer to Exhibit 12 in the Appendix<sup>15</sup> for additional design criteria.

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<sup>15</sup> Editor's Note: Exhibit 12 is included in the Appendix at the end of this chapter.

H. Detention or retention basins for the control of stormwater peak discharges shall meet the following requirements:

- (1) Basins shall be installed prior to or concurrent with any earthmoving or land disturbances which they will serve. The phasing of their construction shall be noted in the narrative and on the plan.
- (2) The design of all facilities over limestone formations shall include measures to prevent groundwater contamination and, where required, sinkhole formation.
- (3) Energy dissipators and/or level spreaders shall be installed at points where pipes or drainageways discharge to or from basins. Generally, outlet pipes designed to carry the predevelopment, one-year storm flow will be permitted to discharge to a stream with only an energy dissipator; discharges to drainage swales shall be spread with a level spreader or piped to an acceptable point of discharge downstream.
- (4) Outlet structures within detention/retention basins shall be constructed of reinforced concrete or an approved alternate. With the exception of those openings designed to carry perennial stream flows, design openings shall have childproof, non-clogging trash racks over all openings 12 inches or larger in any dimension. Outlet protection shall extend at a minimum to the toe of the basin slope. Where spillways will be used to control peak discharges in excess of the ten-year storm, the control weirs shall be constructed to withstand the pressure of impounded waters and convey flows at computed outlet velocities without erosion. Detention facilities shall be designed to release their total volumes detained within the following maximum time periods:
  - (a) Roofs, parking lots: 24 hours.
  - (b) Detention basins: 48 hours.
  - (c) Infiltration facilities: 72 hours.
- (5) When the Pennsylvania Department of Environmental Protection (DEP) requires facilities to be permitted, the designer shall submit all information to the DEP and obtain all necessary approvals and permits.
- (6) Downstream analysis:
  - (a) Where deemed necessary by the Township Engineer, the applicant shall submit an analysis of the impacts of detained stormwater flows on downstream areas within the watershed, established with the concurrence of the Township Engineer. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of peak discharge modifications of the proposed development on critical locations such as dams, tributaries, existing developments, undersized culverts, and flood-prone areas.
  - (b) Review and comment of the analysis by the Engineer of a downstream township shall be obtained when stormwater management facilities are proposed within 1,000 feet of the affected downstream township.
- (7) Detention basins may be waived by the township, upon recommendation of the Township Engineer, at sites in close proximity to larger receiving streams, depending on the hydrology of the watershed. This is to facilitate drainage prior to main stream

flooding. It shall be incumbent upon the applicant to demonstrate that no downstream increase in stream flooding or channel erosion will result in accordance with Subsection H(6) above, and that no increases in peak discharge within the receiving stream will occur as outlined under Subsection A. All conveyance facilities between the project and the stream must have adequate capacity to safely pass the proposed ten-year storm, or greater if required by the township, or they must be improved.

- (8) The design and construction of multiple-use stormwater detention facilities are strongly encouraged. In addition to stormwater management, facilities should, where appropriate, allow for recreational uses, including ballfields, play areas, picnic grounds, etc. Provision for parking facilities within basins and permanent wet ponds with stormwater management capabilities may also be appropriate. Prior approval and consultation with the township are required before design.
  - (9) Stormwater management facilities designed to serve more than one property or development in the same watershed are encouraged. Staged construction of existing or proposed multiple-use detention facilities by several developers in conjunction with watershed development is encouraged. Each developer shall be responsible for the incremental increase in runoff generated by the respective development and incremental construction improvements necessary for the overall detention facility. Prior approval and consultation with the township is required before design of such facilities.
  - (10) Alternative stormwater detention facilities including rooftop, subsurface basins or tanks and in-pipe detention storage, or other approved alternative designs are permitted as determined by the Township Engineer.
  - (11) Specific criteria related to the design of detention basins is contained in Exhibit 12 in the Appendix.<sup>16</sup>
- I. Natural drainageways shall be utilized to the maximum extent possible in carrying stormwater runoff, provided that such use remains consistent with the purpose of this article.
  - J. Stormwater management facilities located outside of existing or proposed right-of-ways shall be located within and accessible by easements as follows:
    - (1) Where a tract is traversed by a watercourse, drainageway, channel or stream, there shall be provided a drainage easement paralleling the line of such watercourse, drainageway, channel or stream. The width of the drainage easement will be adequate to preserve the unimpeded flow of natural drainage in the one-hundred-year flood plan. Drainage easements shall provide for occasional maintenance and for the purpose of widening, deepening, improving or protecting such drainage facilities.
    - (2) Where proposed stormwater management facilities are not adjacent to proposed or existing public rights-of-way or are not accessible due to physical constraints, as determined by the Township Engineer, a thirty-foot wide passable access easement

<sup>16</sup> Editor's Note: Exhibit 12 is included in the Appendix at the end of this chapter.

specifying rights of entry shall be provided. Access easements shall provide for vehicle ingress and egress.

- (3) A maintenance easement shall be provided which encompasses the stormwater facility and appurtenances and provides for access for maintenance purposes. The maintenance easement must be located at least 20 feet outside of the one-hundred-year surface elevation and the stormwater facility and appurtenances.
- (4) Easements shall stipulate that no trees, shrubs, structures, excavation, or fill be placed and no regrading be performed within the area of the easement without written approval from the township upon review by the Township Engineer. Upon approval of the Township Engineer, such landscaping may be placed in maintenance easements, provided that it does not impede access.
- (5) Whenever practicable, easements shall be parallel with and conjunctive to property lines of the subdivision.
- (6) All easement agreements shall be recorded with a reference to the recorded easement indicated on the site plan.

**§ 96-64. Sinkhole protection.**

- A. Stormwater from roadways, parking lots, storm sewers, roof drains, or other concentrated runoff paths shall not be discharged directly into sinkholes without township approval and without prior filtration in accordance with Subsection B below.
- B. Sinkholes capable of absorbing substantial amounts of stormwater shall be protected by diverting such runoff around the sinkhole or, upon recommended approval of the Township Engineer, by planting and maintaining a dense filter path of suitable vegetative material (Refer to Exhibit 12<sup>17</sup> of the Appendix.) in such manner and location as to disperse and slow the runoff to a sheet flow condition to promote the maximum possible filtration and sedimentation of impurities.
  - (1) The filter path must be at least 100 feet in length and 20 feet in width. Ten-foot wide filter paths are acceptable if land slope is less than 2%.
  - (2) Filter paths shall be designed and installed so that they filter sheet flow rather than concentrated flow. If concentrated flow occurs, grading and shaping or the use of best management practices such as grass waterways or drop structures may be required.
  - (3) Sedimentation basins designed to DEP Chapter 102 standards or permanent stormwater storage criteria, whichever is larger, and proposed vegetative filter paths, in conjunction with temporary stone filter check dams, shall be installed prior to subdivision or land development construction activities, where sinkholes are used to accept stormwater discharges.
- C. If increased runoff is to be discharged into a sinkhole, even in filtered condition, a hydrogeologic assessment of the effects of such runoff on the increased risk of land subsidence and adverse impacts to existing sinkhole floodplains and groundwater quality

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<sup>17</sup> Editor's Note: Exhibit 12 is included in the Appendix at the end of this chapter.

shall be made by a qualified professional and submitted with the stormwater management plan. Such discharge shall be prohibited if the Township Engineer determines that such poses a hazard to life, property, or groundwater resources.

- D. To protect sensitive Karst areas, the Township Engineer may require basins to contain an impervious liner. The liner may be of the impervious membrane type, placed in accordance with the manufacturer's recommendations, or consist of soils with suitable clay content, or may be constructed by mixing Bentonite, or an approved alternative, with existing soil available at the site as approved by the Township Engineer.

**§ 96-65. Erosion and sediment control.**

- A. All plans for erosion and sediment pollution control (E&SPC) shall meet the requirements of the Clean Streams Law, Act of June 22, 1937, P.L. 1987 as amended, 35 P.S. § 691.1 et seq. and 25 PA Code 102.1 et seq., Erosion Control. The Department of Environmental Protection, Office of Water Management, Erosion and Sediment Pollution Control Program Manual shall be used as the basis for E&SPC design.
- B. The Elk County Conservation District has been delegated the authority by the Pennsylvania Department of Environmental Protection to administer the erosion and sediment pollution control program in Elk County. It shall be the responsibility of the land developer to submit the E&SPC plan, application, and other necessary material to the Conservation District. A copy of the transmittal letter shall be provided to the township.
- C. Comments shall be received and E&SPC plan approval obtained from the Conservation District prior to issuance of any building permits for construction within the area covered by the stormwater management plan.

**§ 96-66. Ownership/maintenance responsibility.**

Each stormwater management plan shall contain provisions which clearly set forth the ownership and maintenance responsibility of all permanent stormwater management and erosion and sediment control facilities including:

- A. Description of maintenance requirements.
- B. Establishment of suitable easements for access to all facilities by public officials, in accordance with § 96-63J of this article.
- C. Identification of the responsible party or entity for ownership and maintenance of both temporary and permanent stormwater management erosion control facilities. In meeting this requirement, the following options are hereby provided for upon approval by the Township Engineer.
- (1) Facilities may be incorporated within individual lots so that the respective lot owners will own and be responsible for maintenance in accordance with recorded deed restriction. A description of the facility or system and the terms of the required maintenance shall be incorporated as part of the deed to the property.

- (2) Ownership and maintenance may be the responsibility of a property owners association. The stated responsibilities of the property owners association in terms of owning and maintaining the stormwater management facilities shall be submitted with final plans for determination of their adequacy and, upon their approval, shall be recorded with the approved subdivision plan among the deed records of Elk County, Pennsylvania. In addition, the approved subdivision plan and deed written from said plan for a lot or lots shown herein shall contain a condition that it shall be mandatory for the owner or owners of said lot to be members of said property owners association.
- (3) Facilities dedicated to township.
  - (a) It shall be the township's responsibility to maintain any facilities that are dedicated to the township. Upon completion of the facilities which the developer or owner wishes to dedicate ownership to the township and before their acceptance by the township, the applicant shall provide to the township an amount determined by the township which, at a rate of 6% per annum, will provide sufficient interest income per year to cover the annual maintenance of such facilities which the developer or owner wishes the township to accept for future maintenance.

Example:  
Maintenance \$250.00 per year = \$4,166.67 deposit  
Maintenance \$500.00 per year = \$8,333.33 deposit
  - (b) Prior to the township approving the final D/SWM plan upon which the facilities are shown for dedication to the township, the developer or owner shall provide to the township satisfactory surety as approved by the Township Solicitor to ensure the payment of the said required maintenance amount at the completion of construction and prior to acceptance by the Township Engineer/Consultant.

#### § 96-67. General criteria.

Compliance with the provisions of this article shall be in accordance with the following additional general criteria:

- A. All materials, workmanship, and methods of work shall comply with the Pennsylvania Department of Transportation Form 408 Specifications, as accepted and commonly used by the township, and shall be considered to be incorporated into this article as if copied in full. In the event a conflict arises between the requirements of this article and the Form 408 Specifications, the Township Engineer shall resolve the difference, and his opinion shall be binding.
- B. At the completion of the project, and as a prerequisite for the release of the guaranty or issuance of an occupancy permit, the owner or his representative shall:
  - (1) Provide a certification of completion from a registered professional verifying that all permanent facilities have been constructed according to the plans and specifications and approved revisions thereto; and



- (2) Provide a set of approved stormwater management plan drawings showing all approved revisions, and elevations and inverts to all manholes, inlets, pipes, and stormwater control facilities.
- C. Maintenance inspections may be performed by the township to ensure proper functioning of all stormwater management facilities.
- D. If the township determines at any time that any permanent stormwater management control facility has been eliminated, altered, or improperly maintained, the owner of the property shall be advised of corrective measures required and given a reasonable period of time to take necessary action. If such action is not taken by the property owner, the township may cause the work to be done and back charge all costs to the property owners in accordance with this article.
- E. Supplemental standards and criteria technical reference materials incorporated into these controls for information and to govern the design and hydrologic control provisions of this article are contained in Exhibit 12 in the Appendix.<sup>18</sup>

#### § 96-68. Modifications.

The purpose of this section is to cut red tape and provide a procedure to permit the modification of specific technical requirements of the article where the effect of the modification is to propose an alternative technical solution which, in the circumstances, is as practical and effective as the technical requirement in the article, or to propose the waiver of a requirement which, because of circumstances, is of negligible importance (i.e., de minimis) in meeting the specific requirement of the article.

- A. A landowner may request a waiver of one or more specific technical requirements of the article applicable to the plan submitted. Such request for waiver shall be made in writing by the landowner or his agent to the Township Engineer. Such request shall specify each specific requirement of the article, identifying the section of the article, and stating the reasons that waiver is requested.
- B. The Township Engineer shall review the request for waiver and shall report thereon in writing to the landowner his recommendations.
- C. Upon consideration of final approval of a stormwater management plan, the Board of Supervisors may waive specific technical requirements of this article upon receipt of the written recommendation of the Township Engineer. In order to qualify for waiver, the Township Engineer shall certify in writing that the proposed item recommended for waiver meets the requirements for waiver specified above.
- D. In the event of a dispute between the landowner and Township Engineer's recommendation as to a waiver, the Board of Supervisors shall consider the waiver at the time of final approval and may grant or deny the waiver after hearing both parties. It shall be presumed in all events that the requirements specified are valid, reasonable and binding upon all developments, and the only grounds of a granting of a waiver shall be uniqueness where, in the circumstances, an alternative technical solution is as practical and effective as

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<sup>18</sup> Editor's Note: Exhibit 12 is included in the Appendix at the end of this chapter.

the technical requirement in the article; and uniqueness where, because of the circumstances, meeting the specific requirement would be of negligible importance (i.e., de minimis) in meeting the specific requirement of the article.

**§ 96-69. Violations considered nuisances.**

Any activity conducted in violation of this article is declared by state law [Section 15 of the Pennsylvania Stormwater Management Act, 32 P.S. § 680.15(a)] and by this article, to be a public nuisance.

- A. In the event that the owner, developer, occupant, applicant, property manager or other person responsible fails to comply with terms of the enforcement notice in the time specified therein by the designated township representative, the township may take actions necessary to remove the public nuisance. The costs of removal of the public nuisance shall be in addition to any civil penalties for violation or other actions.
- B. In addition to the penalties for violation and actions to remove public nuisances provided for by this chapter, the township may institute proceedings in courts of equity to require owners and/or persons responsible to comply with the provisions of this article.
- C. The cost of removal, penalty, attorney's fees and costs herein above mentioned may be entered by the township as a lien against such property in accordance with existing provision of law.

**§ 96-70. Word usage; definitions.**

- A. For the purposes of this article, certain terms and words used herein shall be interpreted as follows:
  - (1) Words used in the present tense include the future tense; the singular number includes the plural, and the plural number includes the singular; words of masculine gender include feminine gender, and words of feminine gender include masculine gender.
  - (2) The word "includes" or "including" shall not limit the term to the specific example, but is intended to extend its meaning to all other instances of like kind and character.
  - (3) The word "person" includes an individual, firm, association, organization, partnership, trust, company, corporation, or any other similar entity.
  - (4) The words "shall" and "must" are mandatory; the words "may" and "should" are permissive.
  - (5) The words "used" or "occupied" include the words "intended, designed, maintained, or arranged to be used or occupied."
- B. For purposes of the article, the following terms shall have the meaning given to them in this section. To the extent of any conflict with definitions contained elsewhere within this chapter, the definitions contained in this section shall apply with respect to Article X.

**ALLUVIAL SOILS** — Those areas delineated pursuant to the Elk and Cameron County, Pennsylvania, Soil Survey, August 1 993, and subsequent revisions.

**ALTERATION** — As applied to land, a change in topography as a result of the moving of soil and rock from one location or position to another; also the changing of surface conditions by causing the surface to be more or less impervious; land disturbance.

**CARBONATE** — A sediment formed by the organic or inorganic precipitation of mineral compounds characterized by the fundamental chemical ion  $\text{CO}_3$ , the principle element in limestone and dolomite strata.

**CHANNEL** — A perceptible natural or artificial waterway which periodically or continuously contains moving water, having a definite bed and banks which confine the water.

**CONSERVATION DISTRICT** — The Elk County Conservation District.

**CLOSED OR UNDRAINED DEPRESSION** — In a Karst geologic area, a distinct bowl-shaped depression in the land surface; size and amplitude are variable; drainage is internal. It differs from a sinkhole in that the ground surface is unbroken and usually occurs in greater density per unit area.

**DBH** — Diameter at breast height; the diameter of a tree at a height of 4½ feet above the ground, on the uphill side.

**DESIGN STORM** — The magnitude of precipitation from a storm event measured in probability of occurrence (e.g. ten-year storm) and duration (e.g. twenty-four-hour), and used in designing stormwater management control systems.

**DETENTION BASIN** — A pond or basin designed to retard stormwater runoff by temporarily storing the runoff and releasing it at a predetermined rate. A detention pond may be designed to drain completely after a storm event (dry pond), or it may be designed to contain a permanent pool of water (wet pond).

**EASEMENT** — A recorded agreement of right-of-way granted, but not dedicated, for limited use of private land for a public or quasi-public purpose, identified on the final plan, and within which the owner of the property shall not erect any permanent structures, but shall have the right to make any other use of the land which is not inconsistent with the rights of the grantee.

**FLOODPLAIN** — A floodplain or flood hazard area is that land, within the township, adjoining any watercourse subject to a one-hundred-year recurrence interval flood as delineated by a study prepared by any federal, state or county agency; a registered professional engineer experienced in the preparation of hydrological and hydraulic studies and the determination of flood boundary lines; or the area denoted as having alluvial soils on the most recent soil survey of the Soil Conservation Service, United States Department of Agriculture.

**GABION** — A large rectangular box of heavy gage wire mesh which holds large cobbles and boulders; used in streams and ponds to change flow patterns, stabilize banks or prevent erosion.

**GEOLOGIC FORMATION** — The basic or fundamental rock stratigraphic unit in the local classification of rocks, consisting of a body of rock (usually a sedimentary stratum or strata but also igneous or metamorphic) generally characterized by some degree of internal

lithologic homogeneity or distinctive lithologic features (such as chemical composition, structures, textures, gross aspect of fossils or time of deposition); typically used for mapping the geology of an area.

**GEOLOGIC MEMBER** — A rock stratigraphic unit which is subordinate (a subject) of a formation. This unit is not necessarily mappable and is usually a unified subdivision of local extent that may or may not be contained in more than one formation.

**GHOST LAKE** — A body of standing water occurring in a sinkhole or closed depression of a Karst region that is usually visible after sufficient precipitation has occurred. They may form from slow permeability of soils, rises in the water table or the development of a natural liner of slow permeable clays or soils.

**GRADING** — The act of excavating and/or filling land for the purpose of changing natural slope.

**GROUNDWATER RECHARGE** — Replenishment of existing natural underground water supplies.

**IMPERVIOUS AREA** — Impermeable surfaces, such as pavement or rooftops, which limits the infiltration of water into the soil, as outlined in Table A-2 of Exhibit 12 of the Appendix.<sup>19</sup>

**IMPERVIOUS SURFACE** — A surface which limits the penetration of water into the ground.

**INFILTRATION STRUCTURE** — A structure designed to direct runoff into the ground, such as french drains, seepage pits, or seepage trenches.

**KARST** — A type of topography that is formed over limestone, dolomite, or gypsum by bedrock solution, and that is characterized by closed depressions or sinkholes, caves, and underground drainage (from AGI, Glossary of Geology, 1972).

**LAND DISTURBANCE** — Any activity involving grading, tilling, digging, or filling of ground or stripping of vegetation or any other activity which causes land to be exposed to erosion.

**LEVEL SPREADER** — A device used to spread out stormwater runoff uniformly over the ground surface as sheet flow (i.e., not through channels). The purpose of level spreaders is to prevent concentrated, erosive flows from occurring, and to enhance infiltration.

**LINEAMENTS** — Straight or gently curved, lengthy features frequently expressed topographically as depressions or lines on the earth's surface. They can be more easily observed at a height of 100 meters or more and are usually found by researching aerial photographs or satellite photography. They are usually located in areas of faulting or in dense jointing along some rock stratigraphy.

**LOW FLOW CHANNEL** — An incised or paved channel from inlet to outlet in a dry basin which is designed to carry low runoff flows and/or base flow directly to the outlet without detention.

---

<sup>19</sup> Editor's Note: Exhibit 12 is included in the Appendix at the end of this chapter.

**PEAK DISCHARGE** — The maximum rate of flow of water at a given point and time resulting from a storm event.

**REGISTERED PROFESSIONAL** — An individual registered in and licensed by the Commonwealth of Pennsylvania including, for the purposes of this article, land surveyors, landscape architects, architects and engineers.

**RETENTION BASIN** — A basin in which the runoff from a given flood event is stored and is not discharged into the downstream drainage system during the flood event.

**RIPRAP** — A combination of large stone, cobbles, and boulders used to line channels, stabilize banks, and reduce runoff velocities.

**RUNOFF** — That part of precipitation which flows over the land.

**SCS** — Soil Conservation Service, United States Department of Agriculture.

**SEDIMENTATION** — The process by which mineral or organic matter is accumulated or deposited by the movement of water.

**SEDIMENT BASIN** — A barrier, dam, retention or detention basin located and designed to retain rock, sand, gravel, silt, or other water transported material.

**SHEET FLOW** — Runoff which flows over the ground surface as a thin, even layer, not concentrated in a channel. Flow depth is generally 0.1 feet or less.

**SINKHOLE** — A localized, gradual or rapid sinking of the land surface to a variable depth, occurring in areas of carbonate bedrock; generally characterized by a roughly circular outline, a distant breaking of the ground surface and downward movement of soil into bedrock voids.

**SINKHOLE FLOODPLAIN** — The area inundated by the one-hundred-year, twenty-four-hour storm, assuming no drainage from the sinkhole or closed depression based upon anticipated runoff volumes with maximum development permitted by zoning within the catchment area or area draining to the sinkhole.

**SOIL COVER COMPLEX METHOD** — A method of runoff computation developed by SCS, and found in its publication "Urban Hydrology for Small Watersheds," Technical Release No. 55, as revised.

**STORM SEWER** — A system of pipes or other conduits which carries intercepted surface runoff, street water and other wash water or drainage, excluding domestic sewage and industrial wastes.

**STORMWATER** — The drainage runoff from the surface of the land resulting from precipitation, snow, or ice melt.

**STRATA** — Tabular or sheet-like mass, distinct layers of homogenous or gradational sedimentary material (consolidated rock or unconsolidated earth) of any thickness, visually separable from other layers above and below by a discrete change in the character of the material deposited or by a sharp physical break, deposition or both.

STRATIGRAPHIC UNIT — A stratum or body of strata recognized as a unit in the classification of the rocks of the earth's crust with respect to any specific rock character, property, attribute or for any purpose such as description, mapping, and correlation.

SWALE — A low-lying vegetated stretch of land or wide shallow ditch, usually grassed or paved, which gathers or carries surface water runoff.

TOPOGRAPHY — The general configuration of a land surface or any part of the earth's surface, including its relief and position of its natural and man-made features. The natural or physical surface features of a region, considered collectively as to its form.

USDA — United States Department of Agriculture.

WATERSHED — The entire region or area drained by a river or other body of water, whether natural or artificial; a drainage basin or subbasin.

WETLANDS — Those areas defined in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, latest edition.

(Cont'd on page 9649)

## SUBDIVISION AND LAND DEVELOPMENT

### APPENDIX

The following Exhibits included in this Appendix are included for example purposes only. They are designed to provide guidance to the developer, but the requirements of the basic Subdivision and Land Development Ordinance govern.



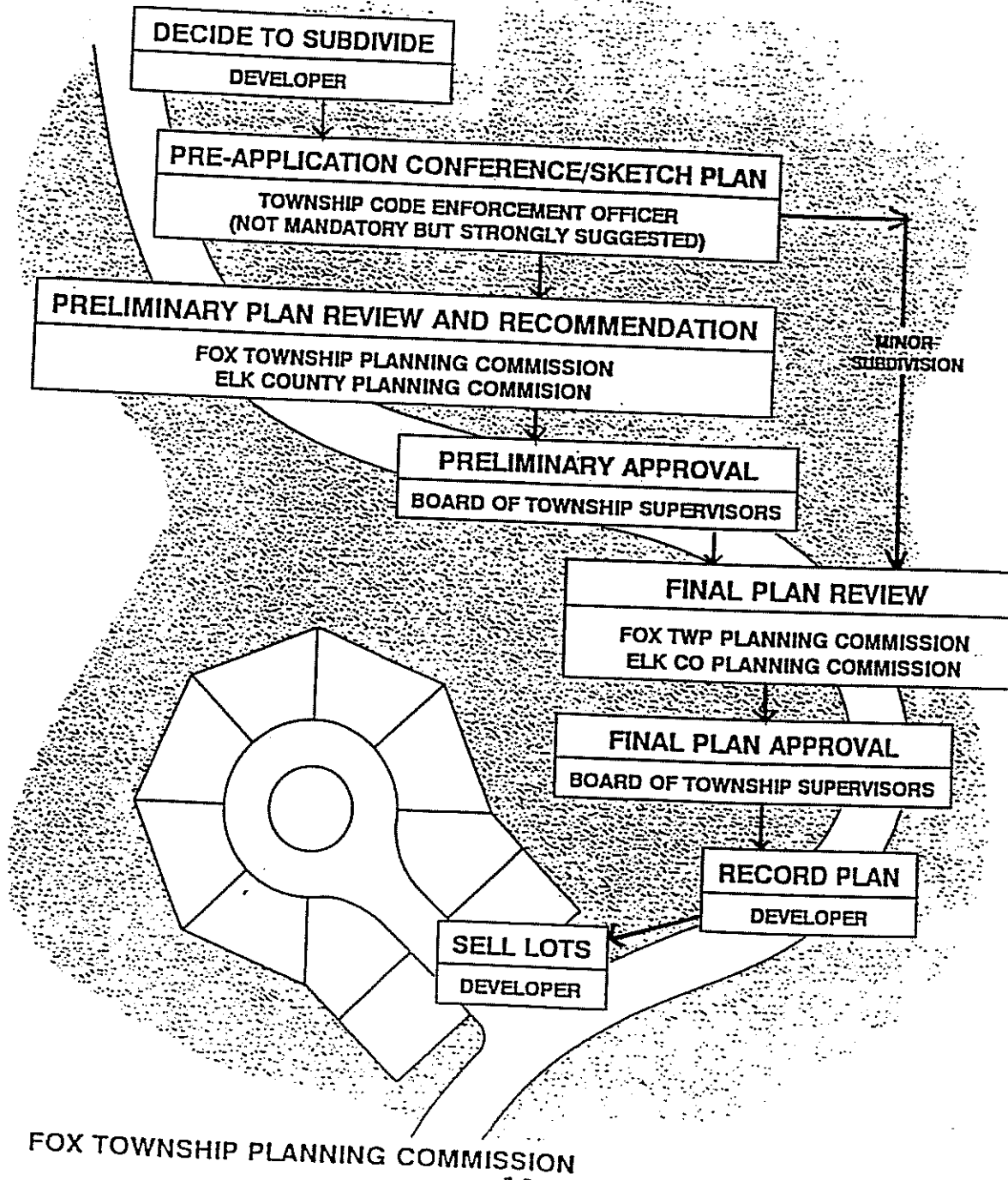


SUBDIVISION AND LAND DEVELOPMENT

Exhibit 1

# ROAD TO A SUBDIVISION

(SEE ARTICLE 4 - SUBDIVISION REVIEW PROCEDURE)





## SUBDIVISION AND LAND DEVELOPMENT

### **Exhibit 2 Subdivision Procedural Guide**

#### **Step A: Pre-application conference.**

An informal meeting between the developer and the staff of the township to discuss the subdivision proposal. The developer must be prepared to discuss his subdivision plans and submit required maps and sketch plans.

#### **Step B: Preparation of the preliminary plan.**

The developer shall have a preliminary plan prepared in accordance with the requirements of § 96-17 of this chapter. If the subdivision is considered a minor subdivision, as defined by this chapter, the Township Supervisors may authorize the developer to proceed directly with the preparation of the final plan (see § 96-15).

#### **Step C: Submittal of the preliminary plan, supporting data, subdivision application and fee.**

The developer shall submit an original drawing and four copies of the preliminary plan, four copies of any supporting data required under § 96-11B of this chapter, an application for subdivision review and the appropriate application fee.

The Township Code Enforcement Officer or administrative staff will determine when an application is complete for review by the Planning Commission.

#### **Step D: Review of the preliminary plan.**

The Planning Commission will review the preliminary plan and supporting data to determine compliance with this chapter and make its recommendations to the Board of Supervisors. The decision of the Township Supervisors to approve, conditionally approve or deny approval will be made at a public meeting and be communicated to the developer in writing.

Any conditions attached to preliminary approval of the plan shall be agreeable to both the developer and Board of Township Supervisors. A negative decision will specify the defects found in the submittals.

#### **Step E: Other agency reviews and approvals.**

The developer must coordinate his development activities with other local and state agencies to ensure compliance with requirements of the respective agencies. The developer is required to submit plans to the following agencies for review, comment and approval/permit:

1. Pennsylvania Department of Environmental Protection.

## FOX CODE

For compliance with sewage planning and soil testing requirements in accordance with the Pennsylvania Sewage Facilities Act or (need DEP approval of planning module before Board of Township Supervisors can approve final plan).

For compliance with water and/or wetlands obstruction or encroachment regulations (if applicable).

For compliance with regulations concerning the alteration or relocation of a stream or watercourse (if applicable).

2. Elk county Conservation District.

For soil and erosion control plans.

For review of stormwater management plans.

3. Pennsylvania Department of Transportation.

For approval of proposed access to a state highway.

4. Lead agencies.

To discuss plans and specifications for proposed public improvements within the plan.

5. Utility companies.

To determine capabilities and requirements associated with utility service.

6. Army Corps of Engineers.

For compliance with regulations if development is proposed in a wetlands area.

7. United States Postal Service/township.

To review for duplication of streets names.

The Planning Commission will not review any final plan until proof has been received by the Commission that the developer has complied with all requirements of the above agencies and any other agency which will have an interest in the development of the subdivision plan.

## SUBDIVISION AND LAND DEVELOPMENT

### **Step F: Preparation of the final plan.**

The developer shall have a final plan prepared by a registered engineer in accordance with the requirements of § 96-18 of this chapter. The final plan shall conform to the approved preliminary plan.

### **Step G: Submittal of the final plan, supporting data and subdivision application.**

The developer may submit the plan in phases for final approval. An original drawing and four copies of the final plan, and four copies of any supporting data required under § 96-11F of this chapter shall be submitted for review by the Planning Commission before action by the Board of Township Supervisors.

The Township Administrator/Code Enforcement Officer will determine when an application is complete for review by the Planning Commission.

### **Step H: Review of the final plan.**

The Planning Commission will review the final plan and supporting data to determine compliance with this Subdivision and Land Development Ordinance and make its recommendations to the Township Supervisors before final action is taken. The decision of the Township Supervisors to approve, conditionally approve or deny approval will be made at a public meeting and be communicated to the developer in writing.

Any conditions attached to final approval of the plan shall be agreeable to both the developer and Township Supervisors. A negative decision will specify the defects found in the submittals.

### **Step I: Recording of final plan.**

Within 90 days after approval of the final plan by the Board of Township Supervisors and before conveyance of any deed out of the plan, the developer must record the approved final plan with the Recorder of Deeds of the County of Elk. The developer shall be responsible for the payment of any recording fees.



SUBDIVISION AND LAND DEVELOPMENT

Exhibit 3

SUBDIVISION AND LAND DEVELOPMENT APPLICATION  
Fox Township (Elk County) Pennsylvania

Plan Title \_\_\_\_\_

Plan Date \_\_\_\_\_

- |                                               |                                           |
|-----------------------------------------------|-------------------------------------------|
| <input type="checkbox"/> Land Development     | <input type="checkbox"/> Sketch Plan      |
| <input type="checkbox"/> Subdivision          | <input type="checkbox"/> Preliminary Plan |
| <input type="checkbox"/> Minor (10 and under) | <input type="checkbox"/> Final Plan       |
| <input type="checkbox"/> Major (11 and more)  |                                           |

For Official Use Only

File No. \_\_\_\_\_

Date Received: \_\_\_\_\_

Official Submission Date: \_\_\_\_\_

Decision Date: \_\_\_\_\_

PROPERTY OWNER

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone # (     ) \_\_\_\_\_

APPLICANT (if other than owner)

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone # (     ) \_\_\_\_\_

Applicant's Interest \_\_\_\_\_

TRACT DESCRIPTION

Location (Street Address) \_\_\_\_\_

Tax Assessment Parcel No. \_\_\_\_\_

County Deed Book No. \_\_\_\_\_ Page No. \_\_\_\_\_

Total Tract Area \_\_\_\_\_ acres/sq. ft. Area in this Proposal \_\_\_\_\_ acres/sq. ft.

To the best of your knowledge, has any Subdivision or Land Development Plan been  
previously submitted for this tract? \_\_\_\_\_ If yes, when? \_\_\_\_\_

By whom? \_\_\_\_\_

PROPOSAL DESCRIPTION

Engineer/Land Surveyor \_\_\_\_\_

Number of lots \_\_\_\_\_ Number of phases \_\_\_\_\_

FOX CODE

Type of Development/Subdivision

- ☐ Single-Family      ☐ Multiple-Family      ☐ Industrial  
☐ Two-Family      ☐ Commercial      ☐ Other \_\_\_\_\_

Proposed Starting Date \_\_\_\_\_ Proposed Completion Date \_\_\_\_\_

Proposed Contractor \_\_\_\_\_

Address of Contractor \_\_\_\_\_

Telephone # of Contractor (    ) \_\_\_\_\_

PLANS AND OTHER SUPPORTING DOCUMENTATION

\_\_\_\_\_ Review Fee      Amount \$ \_\_\_\_\_  
\_\_\_\_\_ Appropriate Number of Plan Prints, \_\_\_\_\_ Copies

\_\_\_\_\_ Road Profiles and Cross-Sections

\_\_\_\_\_ Storm Water Management Plan

\_\_\_\_\_ Soil Erosion and Sedimentation Plan

\_\_\_\_\_ Water Supply Data

\_\_\_\_\_ Sewage Disposal Data

\_\_\_\_\_ DER "Planning Module"

Supplement \_\_\_\_\_

Revision \_\_\_\_\_

\_\_\_\_\_ Improvement Surety

\_\_\_\_\_ Private Right-of-Way Agreement

\_\_\_\_\_ PennDOT Review

\_\_\_\_\_ Postal Service Review

\_\_\_\_\_ Other (Specify) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_



# SUBDIVISION AND LAND DEVELOPMENT

## IMPROVEMENTS DESCRIPTION

	<u>Unit</u>	<u>Estimated Cost</u>	
Length of New Roads (LF)	_____	_____	Public
	_____	_____	Private
Length of Curbs (LF)	_____	_____	
Type of Sewage Treatment	_____	_____	
Type of Water Supply	_____	_____	
Stormwater Facilities	_____	_____	
Water Distribution	_____	_____	
Sewage Collection	_____	_____	
Common Open Space	_____	_____	
Storm Sewers	_____	_____	
Other (Specify)	_____	_____	
	_____	_____	

The undersigned represents that to the best of his/her knowledge and belief, all of the above statement are true, correct and complete, and the undersigned acknowledges that he/she as the "Developer" is responsible for any fees incurred in the review of this Subdivision Plan.

\_\_\_\_\_  
Signature of Landowner

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant  
(if other than owner)

Received by: \_\_\_\_\_  
Fox Township Code Enforcement Officer

## FINAL PLAN REVIEW AND APPROVAL

Plan Reviewed By:

\_\_\_\_\_  
Fox Township Planning Commission  
\_\_\_\_\_  
Elk County Planning Commission

(Date) \_\_\_\_\_  
(Date) \_\_\_\_\_

Plan Approved By:

\_\_\_\_\_  
Board of Fox Township Supervisors  
Plan Recorded \_\_\_\_\_

(Date) \_\_\_\_\_  
Date \_\_\_\_\_

County Deed Book # \_\_\_\_\_

Page # \_\_\_\_\_



SUBDIVISION AND LAND DEVELOPMENT

Exhibit 4

*SAMPLE SKETCH PLAN*

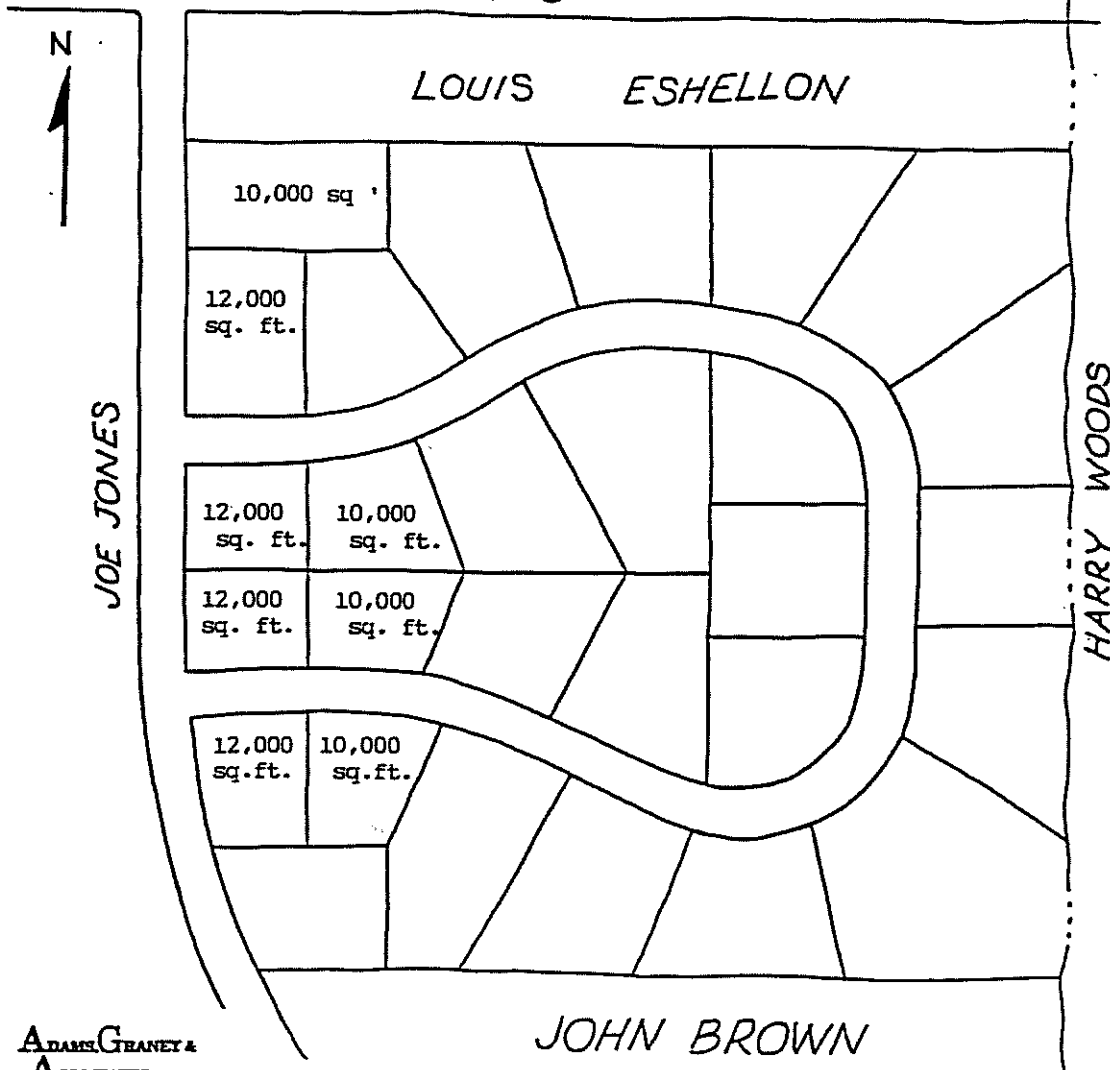
MINIMUM LOT SIZE 10,000 SQ. FT.

" WIDTH 75 FT.

" SET BACK 35 FT.,

IF PUBLIC WATER AND PUBLIC SEWAGE IS AVAILABLE.  
MINIMUM LOT SIZE FOR ALL CORNER LOTS - plus 20%

PA 948

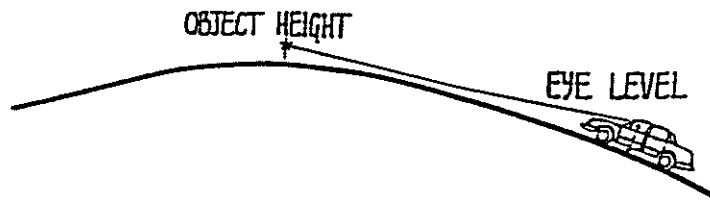


ADAMS GRANNEY &  
ASSOCIATES



SUBDIVISION AND LAND DEVELOPMENT

Exhibit 5



**SIGHT DISTANCE**  
(§ 96-23 Street Design Specifications)

EXHIBIT 5-B

**CUL-DE-SAC**

(§ 96-25 Cul-de-sac Streets)

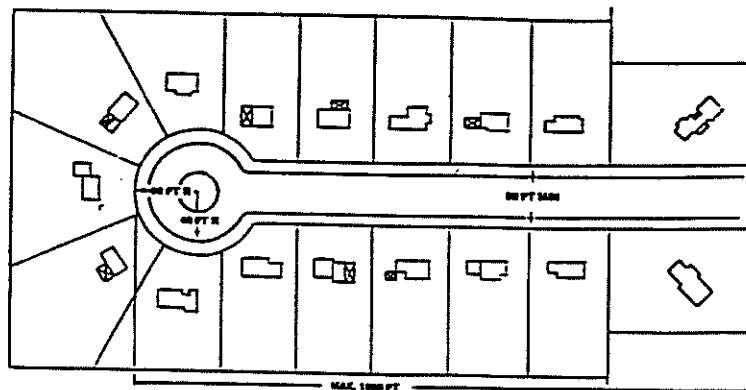
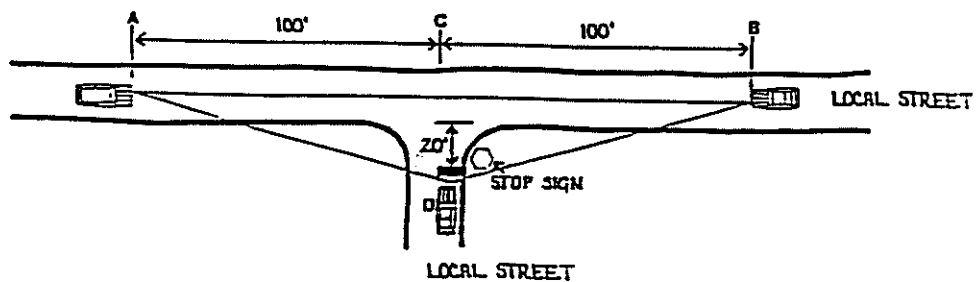


EXHIBIT 5-C



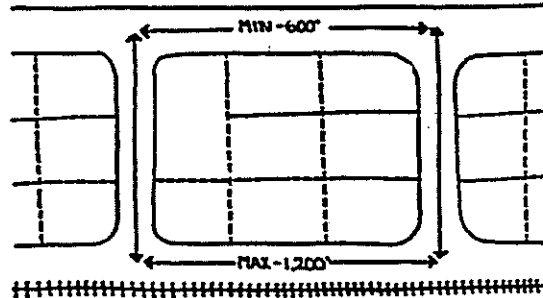
**CLEAR SIGHT TRIANGLE**

(§ 96-26 Street Intersections)



SUBDIVISION AND LAND DEVELOPMENT

EXHIBIT 5-D

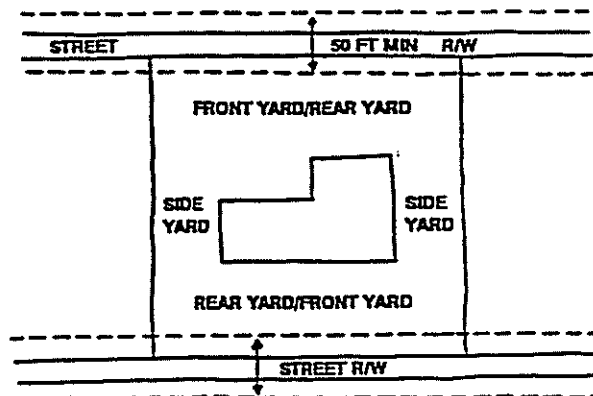


**BLOCK** (§ 96-26 Blocks)

EXHIBIT 5-E

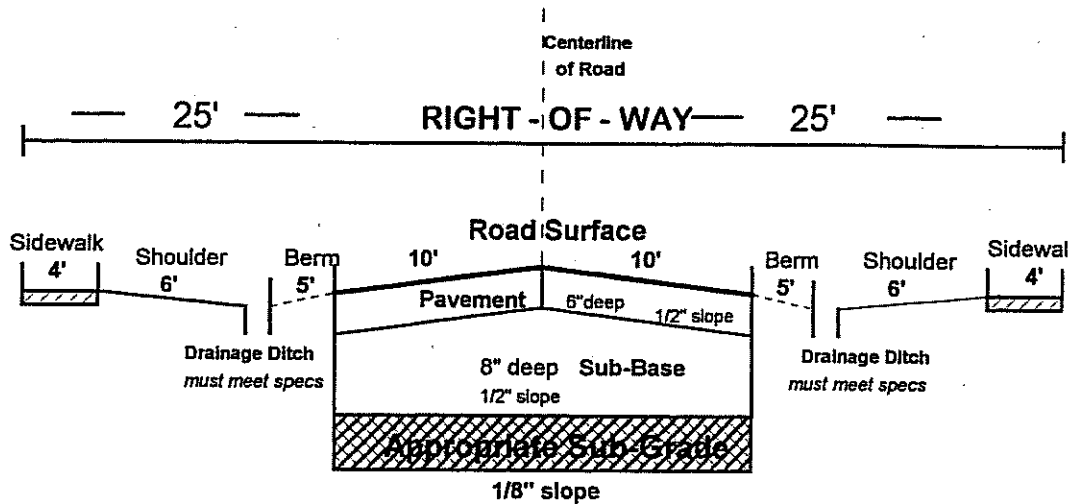
**REVERSE FRONTAGE LOT**

(§ 96-29 Lots and Lot Sizes)



FOX CODE

**Exhibit 5-F**  
**Road Specifications for Dedication to the Township**  
**[Amended 6-2-2001 by Ord. No. 2001-5]**



Example only - Actual specifications may vary

**Refer to § 96-40 for definitions**



**SUBDIVISION AND LAND DEVELOPMENT**

**Exhibit 6**

**Sample Forms  
Reviews by Local and State Agencies**



SUBDIVISION AND LAND DEVELOPMENT

TO: Fox Township Planning Commission

FROM: Elk County Conservation District

SUBJECT: \_\_\_\_\_  
Name of Subdivision

\_\_\_\_\_  
Name of Developer

We have reviewed the above-referenced Subdivision Plan with the developer and return the following comments on the Plan prior to your review for final approval:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please attach a separate sheet with your comments if necessary.

\_\_\_\_\_  
Signature, Conservation District  
Official

\_\_\_\_\_  
Signature, Developer

FOX CODE

TO: Fox Township Planning Commission

FROM: Elk County Planning Commission

SUBJECT: \_\_\_\_\_  
Name of Subdivision  
\_\_\_\_\_  
Name of Developer

We have reviewed the above-referenced Subdivision Plan with the developer and return the following comments on the Plan prior to your review for final approval:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please attach a separate sheet with your comments, if necessary.

\_\_\_\_\_  
Signature, Chairman, Elk County  
Planning Commission

\_\_\_\_\_  
Signature, Developer

SUBDIVISION AND LAND DEVELOPMENT

TO: Fox Township Planning Commission

FROM: St. Marys Water Authority

SUBJECT: \_\_\_\_\_  
Name of Subdivision

\_\_\_\_\_  
Name of Developer

We have reviewed the above-referenced Subdivision Plan with the developer and return the following comments on the Plan prior to your review for final approval:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please attach a separate sheet with your comments if necessary.

\_\_\_\_\_  
Signature, Chairman  
St. Marys Water Authority

\_\_\_\_\_  
Signature, Developer

FOX CODE

TO: Fox Township Planning Commission

FROM: Fox Township Sewer Authority.

SUBJECT: \_\_\_\_\_  
Name of Subdivision

\_\_\_\_\_  
Name of Developer

We have reviewed the above-referenced Subdivision Plan with the developer and return the following comments on the Plan prior to your review for final approval:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please attach a separate sheet with your comments if necessary.

\_\_\_\_\_  
Signature, Chairman  
Fox Township Sewer Authority

\_\_\_\_\_  
Signature, Developer

SUBDIVISION AND LAND DEVELOPMENT

TO: Fox Township Planning Commission

FROM: Electric Company

SUBJECT: \_\_\_\_\_  
Name of Subdivision

\_\_\_\_\_  
Name of Developer

We have reviewed the above-referenced Subdivision Plan with the developer and return the following comments on the Plan prior to your review for final approval:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please attach a separate sheet with your comments if necessary.

\_\_\_\_\_  
Signature, Official  
Electric Company

\_\_\_\_\_  
Signature, Developer

FOX CODE

TO: Fox Township Planning Commission

FROM: Gas Company

SUBJECT: \_\_\_\_\_  
Name of Subdivision

\_\_\_\_\_  
Name of Developer

We have reviewed the above-referenced Subdivision Plan with the developer and return the following comments on the Plan prior to your review for final approval:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please attach a separate sheet with your comments if necessary.

\_\_\_\_\_  
Signature, Official  
Gas Company

\_\_\_\_\_  
Signature, Developer



# TYPICAL PRELIMINARY PLAN

NOTE: PRELIMINARY PLAN SHOULD INCLUDE AS MUCH OF THE PROPERTY THAT IS TO BE SUB-DIVIDED AS POSSIBLE. A SKETCH OF THE PROPOSED STREET LAYOUT OF ANY OF THE REMAINING PROPERTY THAT IS TO BE SUBDIVIDED SHOULD BE INCLUDED WITH THE PRELIMINARY PLAN ALSO.

B. SMITH

FOX TWP. PLAN. COM.

Chairman

Secretary

Date

Review and Comment:

Date: \_\_\_\_\_

ELK COUNTY PLANNING COMMISSION

Chairman

Secretary

Director

Preliminary Approval:

Date: \_\_\_\_\_

FOX TOWNSHIP SUPERVISORS

Chairman

Secretary

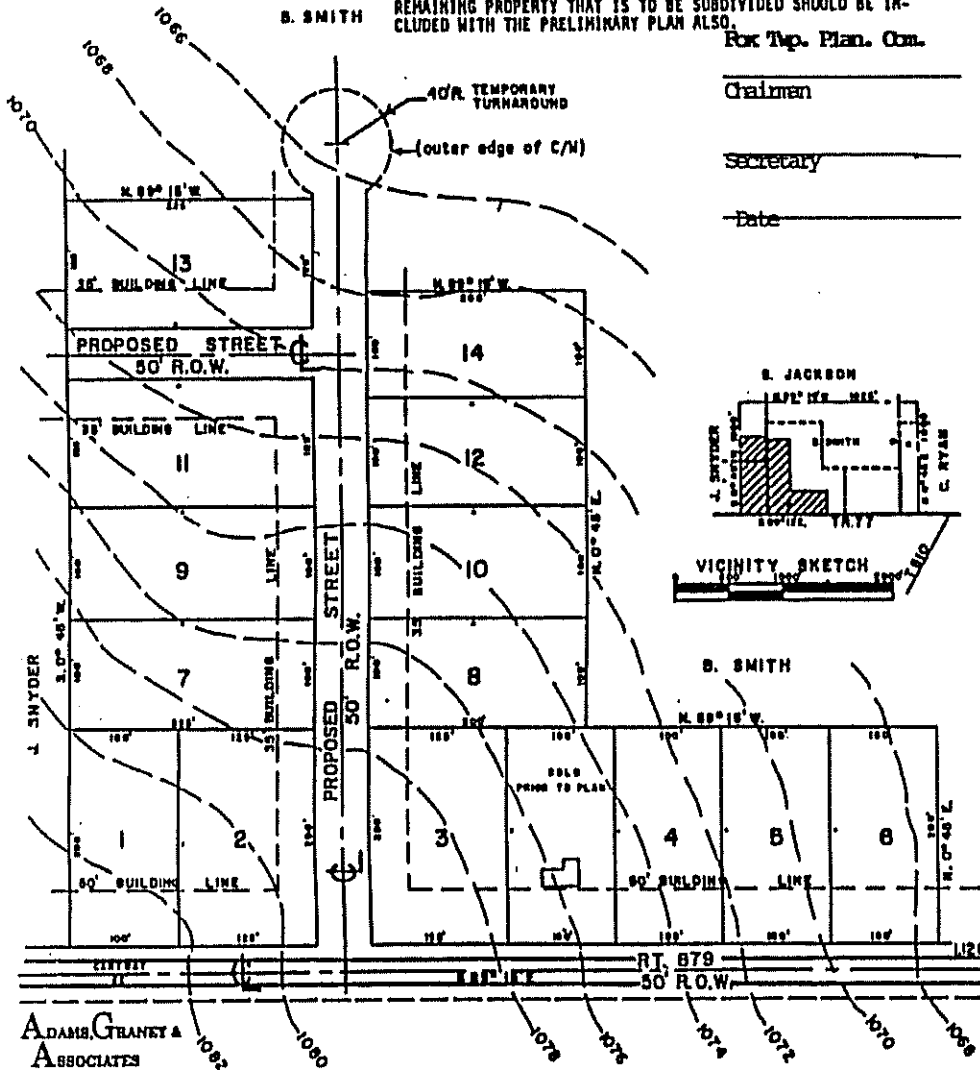
I hereby certify that the tract shown hereon is a true and accurate survey:

(Name, Registration Number)  
(signed)

SURVEYOR'S  
SEAL

Exhibit 7

SUBDIVISION AND LAND DEVELOPMENT



## PRELIMINARY PLAN OF FOX LANE PLAN

OF B. SMITH PROPERTY  
SITUATE IN FOX TWP.  
ELK CO., PA

SCALE:



DEC. 1, 1994

J. JONES, REG. SURVEYOR

ST. MARYS, PA

9675



SUBDIVISION AND LAND DEVELOPMENT

Exhibit 8

EXHIBIT 8

PRELIMINARY PLAN CERTIFICATES

1. Preliminary Approval:

Preliminary approval granted by the Board of Fox Township Supervisors this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary

2. Developer's Statement of Intent:

I/We \_\_\_\_\_ have designed for my/our land situated in the Township of Fox, County of Elk, Commonwealth of Pennsylvania, lots and streets according to this Plan which is intended to be recorded. Witness my/our hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(SEAL)

3. Acknowledgement of Developer's Statement of Intent:

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, the subscriber, a Notary Public of the Commonwealth of Pennsylvania, personally appeared \_\_\_\_\_ who acknowledges this Plan to be the Official Plan of streets, lots and property shown thereon, situated in the Township of Fox, County of Elk, Commonwealth of Pennsylvania, and desires that this Plan be approved and recorded according to law.

(SEAL)

\_\_\_\_\_  
Notary Public

My Commission expires \_\_\_\_\_.



# SAMPLE FINAL PLAN

PROFESSIONAL  
ENGINEER OR SURVEYOR  
CERTIFICATION

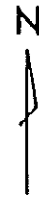
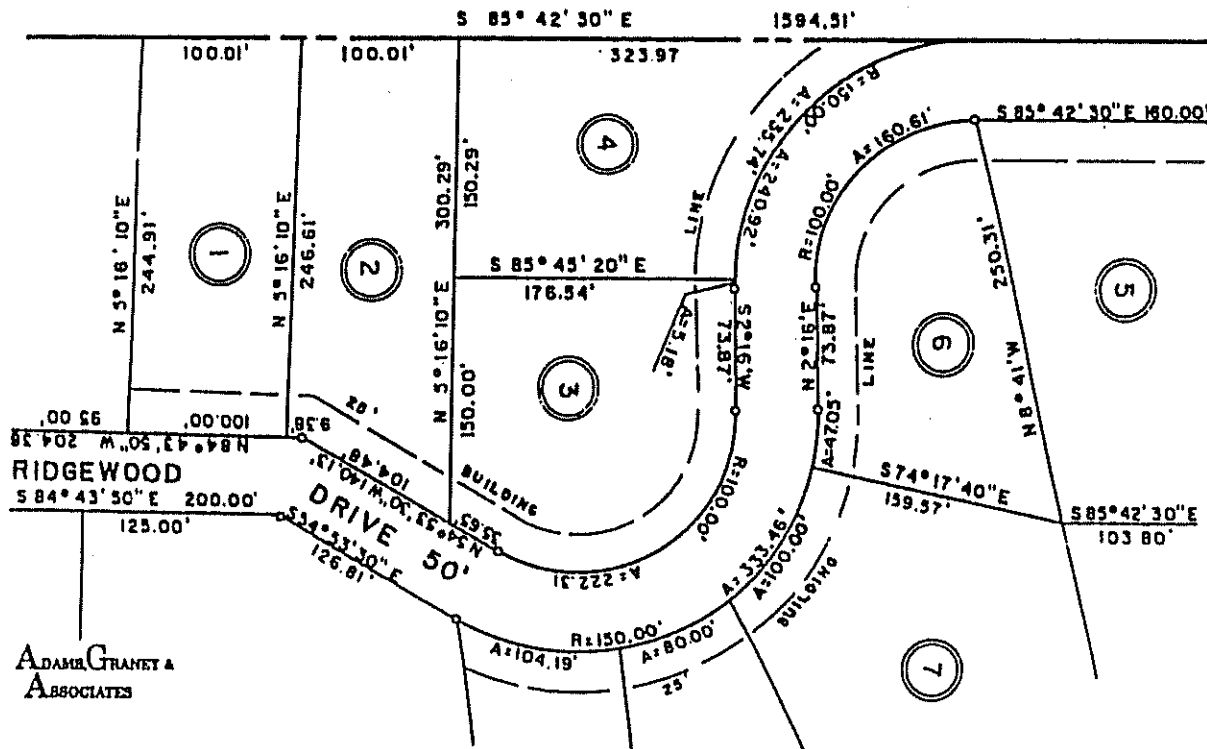
ELK COUNTY  
PLANNING COMMISSION  
REVIEW & COMMENT  
CERTIFICATION

TOWNSHIP  
PLANNING COMMISSION  
REVIEW

TOWNSHIP SUPERVISOR  
APPROVAL

MYRTLE YOHO

RECORDER'S SIGNATURE  
AND SEAL



SCALE 1" = 100'

TITLE  
BLOCK

SUBDIVISION AND LAND DEVELOPMENT  
Exhibit 9

FOX TOWNSHIP PLANNING COMMISSION

9679



SUBDIVISION AND LAND DEVELOPMENT

Exhibit 10  
[Amended 6-2-2001 by Ord. No. 2001-5]

FINAL PLAN CERTIFICATES

1. Final Approval:

Final approval granted by the Board of Fox Township Supervisors this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_.

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary

2. Conditional Final Approval by the Fox Township Planning Commission:

Conditional final approval is recommended by the Fox Township Planning Commission this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_.

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary

Recommended conditions to be attached:

\_\_\_\_\_

\_\_\_\_\_

Agreed to by:

\_\_\_\_\_  
Developer

\_\_\_\_\_  
Date

3. Final approval:

Final Approval \_\_\_\_\_; Conditional Approval \_\_\_\_\_; Denial \_\_\_\_\_ action taken by the Board of Fox Township Supervisors this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_.

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary

4. Developer's Statement of Intent:

I/We \_\_\_\_\_ have designed for my/our land situated in the Township of Fox, Elk County, Commonwealth of Pennsylvania, lots and streets according to this Plan which is intended to be recorded. Witness my/our hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_.

\_\_\_\_\_  
(SEAL)

5. Acknowledgment of Developer's Statement of Intent:

On the \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_, before me, the subscriber, a Notary Public of Commonwealth of Pennsylvania, personally appeared

FOX CODE

\_\_\_\_\_ who acknowledge this Plan to be the official Plan of lots and streets, for his/her property located in the Township of Fox, County of Elk, Commonwealth of Pennsylvania, and desire that this Plan be approved and recorded according to law.

(SEAL) \_\_\_\_\_

My Commission expires \_\_\_\_\_

6. Registered Surveyor or Engineer's Certification:

I, \_\_\_\_\_, a Registered Professional Engineer/Registered Surveyor of the State of Pennsylvania, do hereby certify that this Plan correctly represents the lots, lands, streets, alleys and highways as surveyed and mapped by me for the developer.

(SEAL) \_\_\_\_\_

7. Review By Fox Township

Reviewed by the Fox Township Planning Commission, County of Elk, Commonwealth of Pennsylvania, at a meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_.

(SEAL) \_\_\_\_\_

8. Recorder's Certificate:

COMMONWEALTH OF PENNSYLVANIA  
(County of Elk)

On this the \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_, before me, the Recorder of Deeds, in and for said state and county personally appeared \_\_\_\_\_ who in due form acknowledges the within Plan \_\_\_\_\_ to be his/her act and deed, and desires the same to be recorded as such. In witness thereof, I hereunto set my hand and seal.

Recorder of Deeds

(SEAL) \_\_\_\_\_

9. Plan Amendment Certification:

- a. Amendment approved to this Plan on the \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_, by the Board of Fox Township Supervisors. Amended Plan recorded in the office of the Elk County Recorder of Deeds in Plan Book Number \_\_\_\_\_, page \_\_\_\_\_ on \_\_\_\_\_, 199\_\_\_\_.
- b. This Plan has been approved as an amended Plan to the \_\_\_\_\_ Subdivision as recorded in the office of the Elk County Recorder of Deeds in Plan Book Number \_\_\_\_\_, page \_\_\_\_\_ on \_\_\_\_\_, 199\_\_\_\_.



SUBDIVISION AND LAND DEVELOPMENT

10. Acceptance of Improvements by Lead Agency: (might be several)

The following improvement(s) in the \_\_\_\_\_  
\_\_\_\_\_ Subdivision has been inspected and is accepted by the

\_\_\_\_\_  
(Lead Agency)

\_\_\_\_\_  
Lead Agency Official  
(SEAL)

\_\_\_\_\_  
Date

Improvement(s):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. Private Drive Certificate:

- A. The following private drive agreements have been incorporated as conditions for final approval of the \_\_\_\_\_  
\_\_\_\_\_

Subdivision, located in Fox Township.

1. Fox Township shall not be obligated to accept any responsibility for the maintenance nor upkeep of any private street.
  2. Subdivision of more three lots served by a private drive violates § 96-27 until such time as adequate public streets are available to serve the lot(s).
  3. Maintenance Agreement (attached or recorded in Deed Book # \_\_\_\_\_, page \_\_\_\_\_).
  4. Ownership Statement (attached or recorded in Deed Book # \_\_\_\_\_, page \_\_\_\_\_).
12. "I, \_\_\_\_\_, hereby certify that the stormwater management plan meets all design standards and criteria of the Fox Township Subdivision and Land Development Ordinance."
13. "I, \_\_\_\_\_, have reviewed this Stormwater Management Plan in accordance with the Design Standards and Criteria of the Fox Township Subdivision and Land Development Ordinance."



## SUBDIVISION AND LAND DEVELOPMENT

### Exhibit 11

#### FEE SCHEDULE

A Fee Schedule adopted by the Board of Fox Township Supervisors for review of Subdivision Plans is on file at the Fox Township Municipal Building, 117 Irishtown Road, P.O. Box 184, Kersey, PA 15846.



## **SUBDIVISION AND LAND DEVELOPMENT**

### **Exhibit 12**

#### **Specific Stormwater Management Design Criteria [Added 6-2-2001 by Ord. No. 2001-5]**

##### **Section 1: Stormwater Management Computational Values**

Figure A-1:	Design Storm Curves for Clearfield Region
Table A-2:	TR 55 Curve Numbers
Table A-3:	Rational Equation Runoff Coefficients
Table A-4:	Manning Roughness Coefficients
Table A-5:	Permissible Velocities for Channels
A-5.1:	Bare Earth Channels
A-5.2:	Lined with Vegetation
A-5.3:	Rock Lined channels with Riprap
A-5.4:	Reno Matress and Gabions

##### **Section 2: Design Criteria for Drainage Swales, Perennial Streams, Culverts and Drainage Channels**

##### **Section 3: Runoff Control Measures**

##### **Section 4: Design Criteria for Facilities to Encourage Recharge**

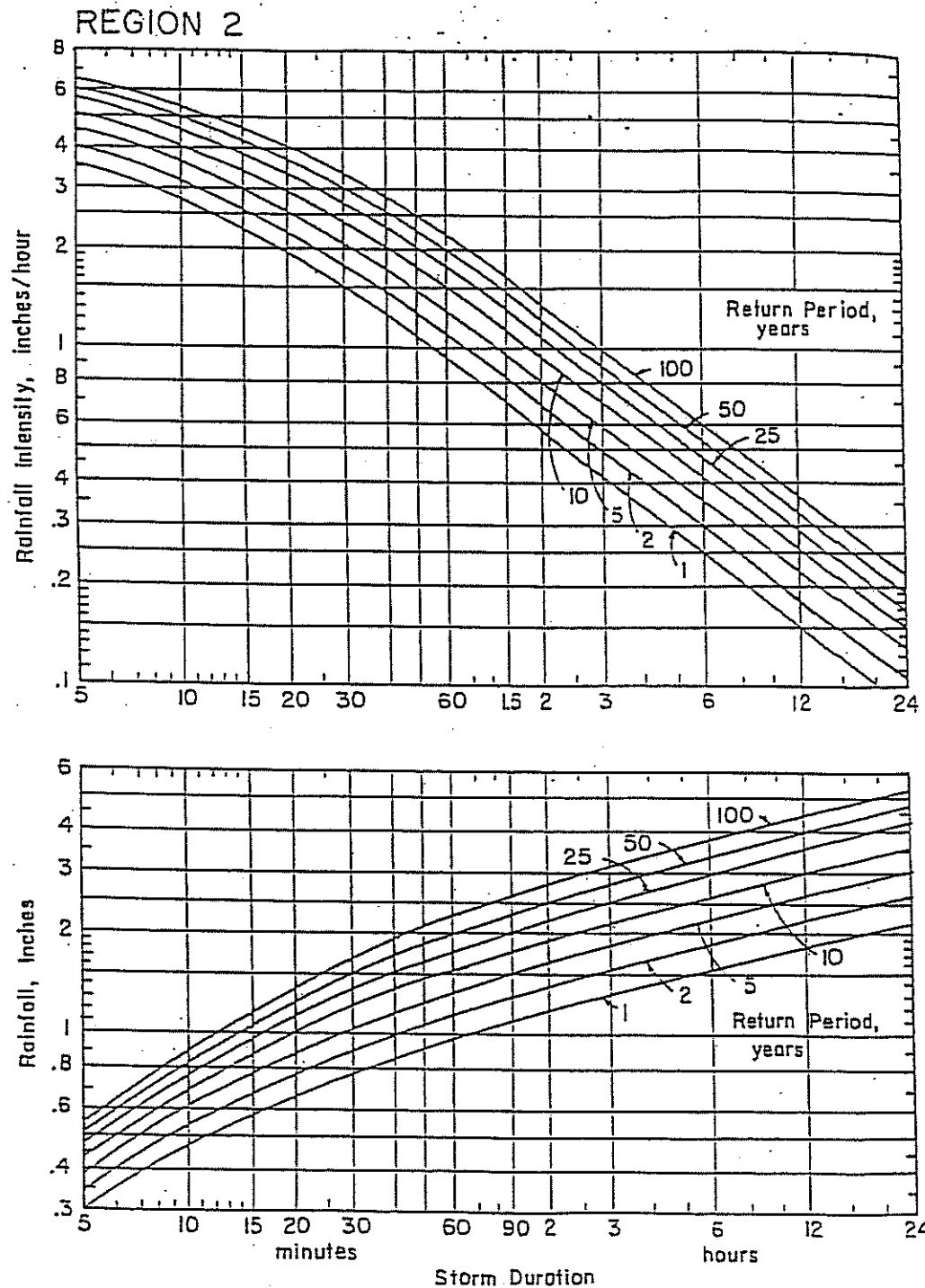
##### **Section 5: Grading and Landscaping**

##### **Section 6: Supplemental Standards and Criteria**



# SUBDIVISION AND LAND DEVELOPMENT

FIGURE A-1  
DESIGN STORM CURVES



A-1

Source: Pennsylvania Department of Transportation





# SUBDIVISION AND LAND DEVELOPMENT

TABLE A-2

## RUNOFF CURVE NUMBERS AND AVERAGE IMPERVIOUSNESS FOR VARIOUS LAND USES BY HYDROLOGIC SOIL GROUP

TR-55		CURVE NUMBERS FOR HYDROLOGIC SOIL GROUP			
COVER DESCRIPTION LAND USE/COVER TYPE	AVERAGE IMPERVIOUSNESS (%)	A	B	C	D
Open Space (lawns, parks, golf courses, cemeteries, etc.):					
80 Good condition (grass cover Greater than 75%)	n/a <sup>a</sup>		39	61	74
Impervious Areas:					
Paved parking lots, roofs, Driveways, etc. (excluding right-of-way)	n/a	98	98	98	98
Streets and roads:					
Paved; curbs and storm sewers (excluding right-of-way)	n/a	98	98	98	98
Paved; open ditches (including right-of-way)	n/a	98	98	98	98
Gravel (including right-of-way)		76	85	89	91
Urban Districts:					
Commercial and business	85	89	92	94	95
Industrial	72	81	88	91	93
Residential Districts by Average Lot Size:					
1/4 acre or less (town houses)	65	77	85	90	92
1/4 acre	38	61	75	83	87
1/2 acre	30	57	72	81	86
1/2 acre	25	54	70	80	85
1 acre	20	51	68	79	84
2 acres	12	46	65	77	82
Woods:	n/a	30	55	70	77
Brush:		35	56	70	77
Meadow:		30	58	71	78

<sup>a</sup> Not applicable

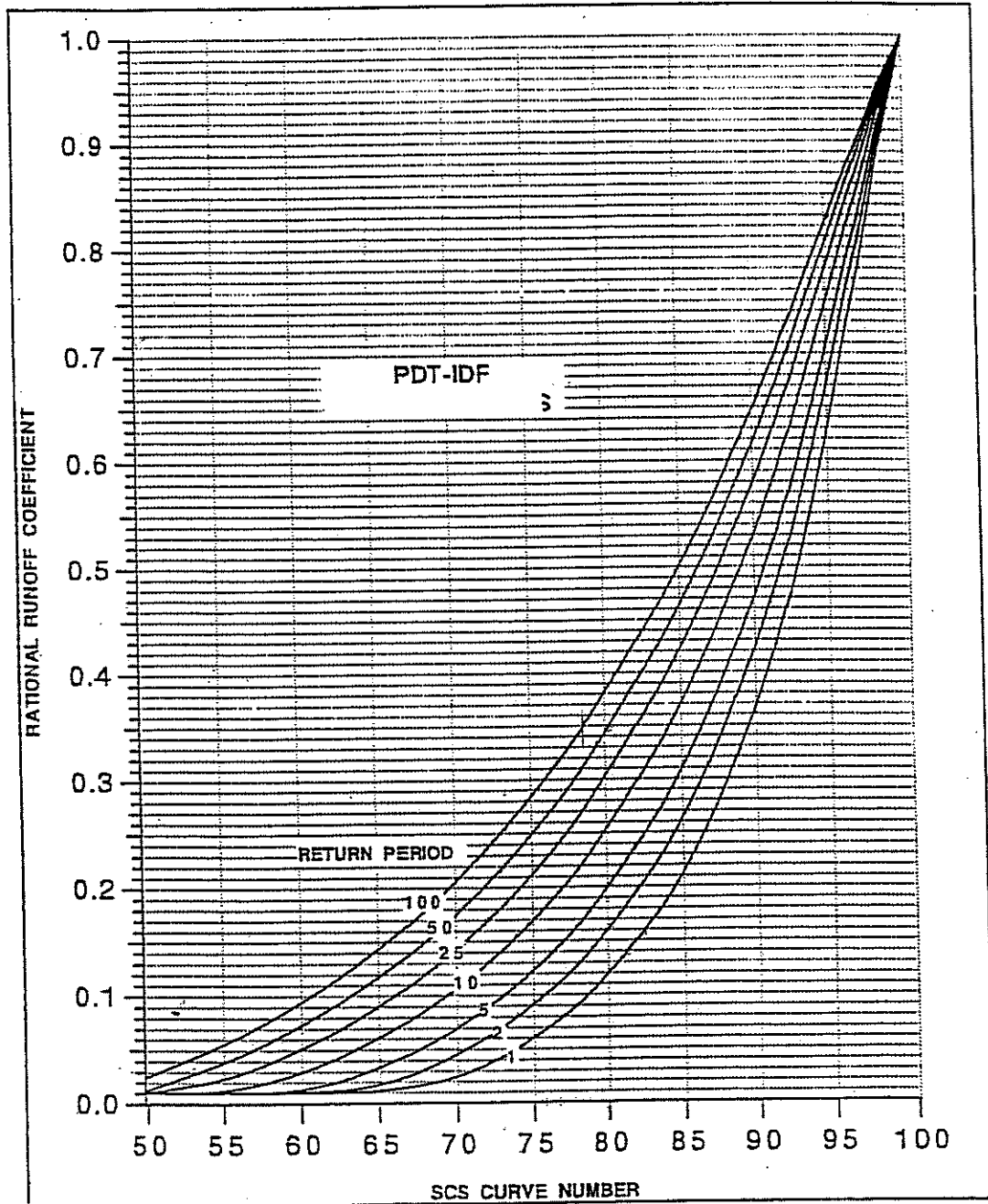
Source: U.S. Department of Agriculture, Soil conservation Service, Engineering Division, 1986, "Urban Hydrology for Small Watersheds," Technical Release 55, Washington, D.C.



# SUBDIVISION AND LAND DEVELOPMENT

Table A-3

## RUNOFF COEFFICIENTS AS A FUNCTION OF CURVE NUMBER



Source: Dr. Gert Aron, The Pennsylvania State University  
A-3



# SUBDIVISION AND LAND DEVELOPMENT

Table A-4  
Manning Roughness Coefficients

	Manning's n range	Manning's n range
<b>I. Closed Conduits:</b>		
A. Concrete pipe .....	0.011-0.013	
B. Corrugated-metal pipe or pipe arch:		
1. 2-2/3 by 1/2 in. corrugation (riveted) pipe:		
a. Plain or fully coated .....	0.024	
b. Paved invert (range values are for 25 and 50 percent of circumference paved):		
(1) Flow full depth .....	0.021-0.018	
(2) Flow 0.8 depth .....	0.021-0.016	
(3) Flow 0.6 depth .....	0.019-0.013	
2. 6 by 2-in. corrugation (field bolted) .....	0.030	
C. Cast-iron pipe, uncoated .....	0.013	
D. Steel pipe .....	0.009-0.011	
E. Monolithic concrete:		
1. Wood forms, rough .....	0.015-0.017	
2. Wood forms, smooth .....	0.012-0.014	
3. Steel forms .....	0.012-0.013	
F. Cemented rubble masonry walls:		
1. Concrete floor and top .....	0.017-0.022	
2. Natural floor .....	0.019-0.025	
<b>II. Open Channels, Lined (straight alignment):</b>		
A. Concrete, with surfaces as indicated:		
1. Formed, no finish .....	0.013-0.017	
2. Trowel finish .....	0.012-0.014	
3. Float finish .....	0.013-0.015	
4. Float finish, some gravel on bottom .....	0.015-0.017	
5. Gunite, good section .....	0.016-0.019	
6. Gunite, wavy section .....	0.018-0.022	
B. Concrete, bottom float finished, sides as indicated:		
1. Dressed stone in mortar .....	0.015-0.017	
2. Random stone in mortar .....	0.017-0.020	
3. Cement rubble masonry .....	0.020-0.025	
4. Cement rubble masonry, plastered .....	0.016-0.020	
5. Dry rubble (riprap) .....	0.020-0.030	
C. Gravel bottom, sides as indicated:		
1. Formed concrete .....	0.017-0.020	
2. Random stone in mortar .....	0.020-0.023	
3. Dry rubble (riprap) .....	0.023-0.033	
D. Asphalt:		
1. Smooth .....	0.013	
2. Rough .....	0.016	
E. Concrete-lined excavated rock:		
1. Good section .....	0.017-0.020	
2. Irregular section .....	0.022-0.027	
<b>III. Open Channels, Excavated (straight alignment, natural lining):</b>		
A. Earth, uniform section:		
1. Clean, recently completed ....	0.016-0.018	
2. Clean, after weathering .....	0.018-0.020	
3. With short grass, few weeds ..	0.022-0.027	
4. In gravelly soil, uniform section, clean .....	0.022-0.025	
<b>B. Earth, fairly uniform section:</b>		
1. No vegetation .....	0.022-0.025	
2. Grass, some weeds .....	0.025-0.030	
3. Dense weeds or aquatic plants in deep channels .....	0.030-0.035	
4. Sides clean, gravel bottom ...	0.025-0.030	
5. Sides clean, cobble bottom ...	0.030-0.040	
C. Dragline excavated or dredged:		
1. No vegetation .....	0.028-0.033	
2. Light brush on banks .....	0.035-0.050	
D. Rock:		
1. Based on design section .....	0.035	
2. Based on actual mean section:		
a. Smooth and uniform .....	0.035-0.040	
b. Jagged and irregular .....	0.040-0.045	
E. Channels not maintained, weeds and brush uncut:		
1. Dense weeds, high as flow depth	0.080-0.120	
2. Clean bottom, brush on sides .	0.050-0.080	
3. Clean bottom, brush on sides, highest stage of flow .....	0.070-0.110	
4. Dense brush, high stage .....	0.100-0.140	
<b>IV. Channels &amp; Swales w/Maintained Vegetation (Values shown are for velocities of 2 &amp; 6 f.p.s.):</b>		
A. Depth of flow up to 0.7 foot:		
1. Bermudagrass, Kentucky bluegrass, buffalograss:		
a. Mowed to 2 inches .....	0.045-0.070	
b. Length 4-6 inches .....	0.050-0.090	
2. Good stand, any grass:		
a. Length about 12 inches ....	0.090-0.180	
b. Length about 24 inches ....	0.150-0.300	
3. Fair stand, any grass:		
a. Length about 12 inches ....	0.080-0.140	
b. Length about 24 inches ....	0.130-0.250	
B. Depth of flow 0.7-1.5 feet:		
1. Bermudagrass, Kentucky bluegrass, buffalograss:		
a. Mowed to 2 inches .....	0.035-0.050	
b. Length 4 to 6 inches .....	0.040-0.060	
2. Good stand, any grass:		
a. Length about 12 inches ....	0.070-0.120	
b. Length about 24 inches ....	0.100-0.200	
3. Fair stand, any grass:		
a. Length about 12 inches ....	0.060-0.100	
b. Length about 24 inches ....	0.090-0.170	
<b>V. Street and Expressway Gutters:</b>		
A. Concrete gutter, troweled finish		0.012
B. Asphalt pavement:		
1. Smooth texture .....	0.013	
2. Rough texture .....	0.016	
C. Concrete gutter with asphalt pavement:		
1. Smooth .....	0.013	
2. Rough .....	0.015	
D. Concrete pavement:		
1. Float finish .....	0.014	
2. Broom finish .....	0.016	
E. For gutters with small slope, where sediment may accumulate, increase above values of x by ...		0.002

Source: Chow, V.T., 1959, "Open Channel Hydraulics," McGraw Hill, New York.



# SUBDIVISION AND LAND DEVELOPMENT

Table A-4 (continued)  
Manning Roughness Coefficients

	Manning's n range		Manning's n range
<b>Natural Stream Channels:</b>			
<b>A. Minor streams (surface width at flood stage less than 100 feet):</b>			
<b>1. Fairly regular section:</b>			
a. Some grass & weeds, little or no brush .....	0.030-0.035	<b>2. Cultivated areas:</b>	
b. Dense growth of weeds, depth of flow materially greater than weed height ..	0.035-0.050	a. No crop .....	0.030-0.040
c. Some weeds, light brush on banks .....	0.035-0.050	b. Mature row crops .....	0.035-0.045
d. Some weeds, heavy brush on banks .....	0.050-0.070	c. Mature field crops .....	0.040-0.050
e. Some weeds, dense willows on banks .....	0.060-0.080	3. Heavy weeds, scattered brush ..	0.050-0.070
f. For trees within channel with branches submerged at high stage, increase all above values by .....	0.010-0.020	4. Light brush and trees:	
<b>2. Irregular sections, with pools, slight channel meander; increase values given in 1a-e about .....</b>	<b>0.010-0.020</b>	a. Winter .....	0.050-0.060
<b>3. Mountain streams, no vegetation in channel, banks usually steep, trees and brush along banks submerged at high stage:</b>		b. Summer .....	0.060-0.080
a. Bottom of gravel, cobbles and few boulders .....	0.040-0.050	5. Medium to dense brush:	
b. Bottom of cobbles, with large boulders .....	0.050-0.070	a. Winter .....	0.070-0.110
<b>B. Flood plains (adjacent to natural streams):</b>		b. Summer .....	0.100-0.160
1. Pasture, no brush:		6. Dense willows, summer, not bent over by current .....	0.150-0.200
a. Short grass .....	0.030-0.035	7. Cleared land w/tree stumps, 100-150 per acre:	
b. High grass .....	0.035-0.050	a. No sprouts .....	0.040-0.050
		b. With heavy growth of sprouts .....	0.060-0.080
		8. Heavy stand of timber, a few down trees, little undergrowth:	
		a. Flood depth below branches ..	0.100-0.120
		b. Flood depth reaches branches .....	0.120-0.160
		<b>C. Major streams (surface width at flood stage more than 100 ft.):</b>	
		Roughness coefficient is usually less than for minor streams of similar description on account of less effective resistance offered by irregular banks or vegetation on banks. Values of n may be somewhat reduced. Follow recommendation in publication cited if possible. The value of n for larger streams of most regular section, with no boulders or brush, may be in the range of....	0.028-0.033

## MANNING'S ROUGHNESS COEFFICIENTS FOR SHEET FLOW

SURFACE DESCRIPTION	n <sup>1</sup>	SURFACE DESCRIPTION	n <sup>1</sup>
Smooth Surfaces (concrete, asphalt, gravel, or bare soil).....	0.011	Range (natural).....	0.13
Fallow (no residue).....	0.05	Woods:	
Cultivated Soils:		Light underbrush.....	0.40
Residue cover 20%.....	0.06	Dense underbrush.....	0.80
Residue cover 20%.....	0.17		
Grass:			
Short grass prairie.....	0.15		
Dense grasses.....	0.24		
Bermudagrass.....	0.41		

Source: Chow, V.T., 1959, "Open Channel Hydraulics," McGraw Hill, New York.





## SUBDIVISION AND LAND DEVELOPMENT

TABLE A-5.1 Maximum Permissible Velocities in Bare Earth Channels - For Straight Channels where slope < .02 ft/ft			
Soil Materials	n*	Clear Water (V fps)	Water Transporting Colloidal Silts (V fps)
Fine sand, noncolloidal	.020	1.50	2.50
Sandy loam, noncolloidal	.020	1.75	2.50
Silt loam, noncolloidal	.020	2.00	3.00
Alluvial silts, noncolloidal	.020	2.00	3.50
Ordinary firm loam	.020	2.50	3.50
Stiff clay, very colloidal	.025	3.75	5.00
Alluvial silts, colloidal	.025	3.75	5.00
Shales and hardpan	.025	6.00	6.00
Fine Gravel	.020	2.50	5.00
Graded loam - cobbles (when noncolloidal)	.030	3.75	5.00
Graded silt - cobbles (when noncolloidal)	.030	4.00	5.50
Coarse gravel, noncolloidal	.025	4.00	6.00
Cobbles and shingles	.035	5.00	5.50

\* Listed n values assume good to excellent construction techniques which produce uniform channel dimensions. Values should be adjusted, by use of SCS Engineering Handbook #5, Supplement B, for other construction conditions.

TABLE A-5.2 Maximum Permissible Velocities for Channels Lined with Vegetation			
Cover	Slope Range Percent	Permissible Velocity ft/sec.	
		Erosion Resistant Soil	Easily Eroded Soil
Kentucky Bluegrass	< 5	7 <sup>1</sup>	5
Tall Fescue	5-10	6 <sup>1</sup>	4
	> 10	5	3
Grass Mixture	< 5	5	4
Reed Canarygrass	5-10	4	3
Sariccia Lespedeza	< 5	3.5	2.5
Weeping Lovegrass			
Redtop			
Red Fescue			
Annuals temporary cover only	< 5	3.5	2.5
Sudangrass			

<sup>1</sup> Cohesive (clayey) fine grain soils and coarse grain soils with a plasticity index of 10 to 40 (CL, CH, SC, & GC). Soils that do not meet the requirements for erosion resistant soils.

<sup>3</sup> Use velocities exceeding 5 ft/sec only where good cover and proper maintenance can be obtained.



## SUBDIVISION AND LAND DEVELOPMENT

TABLE A-5.3 Maximum Permissible Velocities for Rock Lined Channels and Riprap				
NSA No.	Graded Rock Size (In.)			Permissible velocity fps*
	Max	D <sub>50</sub>	Min.	
R-1	1.5	.75	NO. 8	2.5
R-2	3	1.50	1	4.5
R-3	6	3	2	6.5
R-4	12	6	3	9.0
R-5	18	9	5	11.5
R-6	24	12	7	13.0
R-7	30	15	12	14.5

\* Permissible velocities based on rock at 165 lbs. per cubic foot. Adjust velocities for other rock weights used. See Figure 4.6

TABLE A-5.4 Maximum Permissible Velocities for Reno Mattress & Gabions				
Type	n	Thickness (in)	Rock fill Gradation (in)	Permissible* Velocity - fps
Reno Mattress	.025	6	3 - 6	13.5
	.025	9	3 - 6	16.0
	.025	12	4 - 6	18.0
Gabion	.027	18 +	5 - 9	22.0

\* Permissible velocities may be increased by the introduction of sand mastic grout. Refer to manufacturers recommendations/specifications for permissible velocities.

SOURCE: PA DER Bureau of Soil and Water Conservation Erosion and Sediment Pollution Control Program Manual, April 1990.

Refer to this reference for additional stipulations in the use of Tables A-5.1 through A-5.4.



## SUBDIVISION AND LAND DEVELOPMENT

### Section 2: Design Criteria for Drainage Swales, Perennial Streams, Culverts, and Drainage Channels

#### A. Drainage swales.

##### Criteria:

- (1) Where vegetated drainage swales are used in lieu of or in addition to storm sewers, they shall be designed to carry the ten-year discharge without erosion, and also to increase the time of concentration, reduce the peak discharge and velocity, and permit the water to percolate into the soil.
- (2) Depth of flow in swales provided in cut areas shall not encroach upon the shoulder during a ten-year frequency storm of five-minute duration. Frequent and/or sustained flooding of the sub-base shall be avoided.
- (3) The maximum velocity as determined by Manning's equation shall not exceed the allowable velocity for specific types of vegetative material as specified in Table A-5, Section I. Inlets shall be provided to control the shoulder encroachment and water velocity.
- (4) The side slope for any vegetated drainage channel requiring mowing of the vegetation shall have a maximum grade of three horizontal to one vertical on those areas to be mowed.
- (5) Erosion prevention: All drainage swales shall be designed to prevent the erosion of the bed and bank areas. Suitable stabilization during vegetative cover establishment shall be provided to prevent erosion.
- (6) All storm sewers or drainage swales shall discharge to a detention or retention basin for the control of peak runoff discharge except as provided in the plan.
- (7) Design standard: Because of the critical nature of vegetated drainage channels, the design of all vegetated channels shall, as a minimum, conform to the design procedures outlined in the Erosion & Sediment Pollution Control Program Manual.
- (8) A minimum grade of 1% shall be maintained for all swales. Grades less than 1% may be approved by the Township Engineer on a case-by-case basis and only if there are no other alternatives.

##### Guidelines:

- (1) Deed restrictions may be required on property(ies) containing draining swales and/or perennial streams. When required, these deed restrictions shall specify that no property owner obstruct or alter any drainage swale or perennial stream identified in the stormwater management plan.

#### B. Criteria:

- (1) Design flow standard: Culverts and drainage channels shall be designed to carry flow rates determined as outlined in Section 1.11.7 (Soil Conservation Service, Technical Release No. 55).

## FOX CODE

- (2) Erosion prevention: All drainage channels shall be designed to prevent the erosion of the bed and bank areas. Suitable bank stabilization shall be provided where required to prevent erosion of the drainage channels.
  - (a) The maximum velocities permitted for lined water-carrying channels shall be in accordance with the values presented in Table A-5 in Section I of this Appendix.
  - (b) A minimum grade of 1% shall be maintained for all channel flow. Grades less than 1% may be approved by the Township Engineer on a case-by-case basis and only if there are no other alternatives.
- (3) Pipe capacity: The capacity of all pipe culverts shall, as a minimum, provide the required carrying capacity as determined by the following sources:
  - Federal Highway Administration Hydraulic Design of Highway Culverts Hydraulic Design Series No. 5  
September 1985

Reference to publications and source documents in this section shall be deemed to include any amendments and revisions thereof.

- (4) Minimum grade and size: All storm drain culvert pipes shall be designed to maintain a minimum grade of  $\frac{1}{2}\%$ . All storm pipes shall have minimum inside diameter of 15 inches or a cross-sectional area of 176 square inches, except that pipes under a twenty-five-foot or greater fill shall not be less than 24 inches or a cross-sectional area of 453 square inches, and shall consist of reinforced concrete.
- (5) Where storm sewers discharge into existing drainage channels at an angle greater than  $30^\circ$  from parallel with the downstream channel flow, the far side bank shall be stabilized by the use of riprap or masonry, and/or concrete walls, the stabilization shall be designed to prevent erosion and frost heave under and behind the stabilizing media.

### Guidelines:

- (1) Pipe arches: Where cover is restricted, equivalent pipe arches may be used in lieu of circular pipe.

## Section 3: Runoff control measures.

### A. Design of detention basins.

#### Criteria:

- (1) All detention basin storage shall be designed by hydrograph routings. Hydrographs shall be developed from methods outlined in § 96-63D under the approval of the Township Engineer. Hydrographs shall be routed through the basin or stormwater control facility using the Modified Puls Method.

### B. Basin design.

## SUBDIVISION AND LAND DEVELOPMENT

### Criteria:

The design criteria contained in § 96-63 shall be used in the design of all detention basins in the township. The emergency spillway must have the ability to pass the post development one-hundred-year flow.

- (1) Riser: Where a riser is provided at the outlet of the detention basin, the riser shall be constructed of metal or concrete as approved by the Township Engineer. Risers shall be designed so that the rate of outflow is controlled by the pipe barrel through the basin berm when the depth of the water within the basin exceeds the height of the riser, or by accurately sized orifices. All metal risers, where approved for use, shall be suitably coated to prevent corrosion. A trash rack or similar appurtenance shall be provided to prevent debris from entering the riser. All metal risers shall have a concrete base attached with a watertight connection.

The base shall be sufficient weight to prevent flotation of the riser. An anti-vortex device consisting of a thin vertical plate normal to the basin berm, shall be provided on the top of all metal risers. Suitable perforated metal riser designs are outlined in the following sources:

– Erosion and Sediment Pollution Control Manual

- (2) Emergency spillway: Emergency spillways shall be constructed of reinforced concrete, vegetated earth, or riprap in accordance with generally accepted engineering practice. All emergency spillways shall be constructed so that the detention basin berm is protected against erosion. The minimum capacity of all emergency spillways shall be the peak flow rate from the post-development one-hundred-year design storm. The dimensions of the emergency spillways can be determined from the Erosion and Sediment Pollution Control Program Manual. Emergency spillways shall extend along the upstream and downstream berm embankment a minimum of three feet below the spillway crest elevation. The downstream slope of the spillway shall as a minimum extend to the toe of the berm embankment. The emergency spillway shall not discharge over uncompacted earthen fill and/or easily erodible material.
- (3) Antiseep collars: Antiseep collars shall be installed around the principal pipe barrel within the normal saturation zone of the detention basin berms. The antiseep collars and their connections to the pipe barrel shall be watertight. The antiseep collars shall extend a minimum of two feet beyond the outside of the principal pipe barrel. The maximum spacing between collars shall be 14 times the minimum projection of the collar measured perpendicular to the pipe.
- (4) Freeboard: Freeboard is the difference between the design flow elevations in the emergency spillway and the top of the settled detention basin embankment. The minimum freeboard shall be one foot.
- (5) Slope of detention basin embankment: The top of toe of any slope shall be located a minimum of 10 feet from any property line. Whenever possible the side slopes and basin shape shall be amenable to the natural topography. Straight side slopes and rectangular basins shall be avoided whenever possible.

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- (a) Exterior slopes of compacted soil shall not exceed three feet horizontal to one foot vertical, and may be further reduced if the soil has unstable characteristics.
  - (b) Interior slopes of the basin shall not exceed three feet horizontal to one-foot vertical, except with approval of the township.
  - (c) An access ramp at least 10 feet wide must be constructed of durable, nonslip material to a grade of less than 10% to facilitate accessing the basin's bottom and outlet structure.
- (6) Width of berm: The minimum top width of detention basin berms shall be 10 feet.
- (7) Slope of basin bottom: In order to ensure proper drainage of the detention basin, a minimum grade of 2% shall be maintained for all sheet flow.
- (a) Inlet and outlet structures will be located at maximum distances from one another. The Township Engineer may require a rock filter berm, rockfilled gabions, or suitable landscaping or vegetative material between inlet and outlet areas when the distance is deemed insufficient, for improved sediment trapping.
  - (b) A collecting swale or low flow channel and/or underdrain shall be provided to drain basins.
- (8) Energy dissipators: Energy dissipating devices (riprap, end sills, etc) shall be placed at all basin outlets.
- (9) The distance from the highest free water surface of any detention basin or drainage facility to a dwelling unit shall be a minimum of 50 feet.
- (10) Landscaping and grading of detention basins: All landscaping and grading standards particularly applicable to detention basins are included in Section 5 of this Appendix.
- (11) Construction of basins:
- (a) A quality control program is critical for embankment fills. Therefore, wherever embankment fill material in excess of three feet is to be used, each layer of compacted fill shall be compacted to not less than 97% of the dry weight density determined in accordance with PTM No. 112 or PTM No. 402. Embankment material must be placed in uniform horizontal layers not more than a loose eight-inch depth.
  - (b) Compaction test reports shall be kept on file at the site and be subject to review at all times with copies being forwarded to the Township Engineer.
  - (c) When rock is encountered during the excavation of a pond, it shall be removed to an elevation of at least 12 inches below the proposed basin floor. For a manufactured liner, 24 inches to 30 inches.



## SUBDIVISION AND LAND DEVELOPMENT

- (d) Temporary and permanent grasses or stabilization measures shall be established on the sides and base of all earthen basins within 15 days of construction.
- (12) Design information: As part of the stormwater management plan and report, all design information along with the information required in § 96-62 of this Ordinance shall be submitted including, but not limited to, the following:
  - (a) General description of proposed facilities and the operation of the runoff control measures.
  - (b) A detail of the detention basin showing the berm embankment and outlet structure, the embankment top elevation and width, embankment side slopes, emergency spillway elevation, perforated riser dimensions, pipe barrel dimensions, and dimensions and spacing of antiseep collars.
  - (c) Design computations for the pipe barrel and riser.
  - (d) A plot or table of the stage-storage (acre-feet vs. elevation) and all supporting computations.
  - (e) Flood routing computations.
  - (f) A detailed plan of the trash rack and anti-vortex device.
  - (g) A plan, at a scale of one inch equals 50 feet or larger showing the grading, landscaping, and fencing around the detention basin.

### Section 4: Design Criteria for Facilities to Encourage Recharge.

#### A. Methods of stormwater infiltration.

- (1) Methods of stormwater infiltration, including, but not limited to: seepage pits and seepage trenches, multiple, staged, or extended detention (i.e., greater than 24 hours), wet ponds with stormwater detention capabilities, infiltration trenches and basins, porous pavement, and vegetative practices, including urban forestry, basin landscaping or shallow marsh creation may be used. Suggested guidelines and design criteria for these alternatives are outlined in the publications Controlling Urban Runoff – A Practice Manual for Planning and Designing Urban BMPs, Metropolitan Washington Council of Governments, July 1987, and Standards and Specifications for Infiltration Practices (MD DNR). All design methods and selected alternates shall have prior approval of the Township Engineer.

### Section 5: Grading and landscaping.

#### A. Cuts

##### Criteria:

- (1) No excavation should be made with a cut face steeper than three feet horizontal to one foot vertical, except under the conditions that the material in which the

## FOX CODE

excavation is made is sufficiently stable to sustain a slope of steeper than three feet horizontal to one foot vertical. Retaining walls will be required if a stable slope cannot be maintained. Any retaining wall design must be approved by the Township Engineer. The top of the slope of headwall of any cut must be located a minimum of 10 feet from property lines.

### B. Fills

#### Criteria:

- (1) No fill shall be made which creates any exposed surface steeper in slope than three feet horizontal to one foot vertical, except where the fill is located so that settlement, sliding, or erosion will not result in property damage or be a hazard to adjoining property, streets, or buildings. For an exposed surface steeper than 3:1 to be permitted, the applicant must provide documentation that the 3:1 slope is not a safety concern.

#### Guidelines:

A concrete or stone masonry wall designed and constructed in accordance with these specifications and standards may be required to support face of the fill where the above-specified slopes are exceeded.

### C. Planting

#### Criteria:

- (1) Grassed or grass/ground cover combination: All such areas specified on proposed or approved plans shall be prepared, installed and maintained in accordance with Pennsylvania Department of Transportation, Form 408 Specifications as amended.
- (2) Open space, storm drainage, and retention areas:
  - (a) Planting requirement: All areas proposed for recreational use, whether active or passive, shall be planted to effectively naturalize the areas to become an integral and harmonious element in the natural landscape.
  - (b) Drainage channels and retention areas: all storm drainage channels and retention areas, whether existing or proposed, shall be graded and planted to effectively naturalize area(s) so as to become an integral and harmonious part of the landscape by contour and type of plant material employed.
  - (c) Vegetative filter path: to work properly, a filter strip must be equipped with some sort of level spreading device; densely vegetated with a mix of erosion-resistant plant species that effectively bind the soil; graded to a uniform, even, and relatively low slope; be at least as long as the contributing runoff area; and top soil within the vegetative filter path be 12 inches to 18 inches deep.

A dense cover of erosion resistant grass suitable to existing site conditions shall be established including: Kentucky 31 Tall Fescue, where drought

## SUBDIVISION AND LAND DEVELOPMENT

resistance is required, or Reed Canary grass, where water tolerance is required.

- (d) Topsoil: A minimum of six inches of topsoil material shall be placed on all areas affected by the basin construction (bottom of basin, side slopes, top of berm, etc.). The material must meet the requirements of the Pennsylvania Department of Transportation, Form 408 Specifications as amended.

### Guidelines:

- (1) Crown vetch: Detention basins may be seeded with crown vetch, or turfed if, in the opinion of the township, a crown vetch covering would reduce the use of the detention basin for recreational purposes or would be unsightly.
- (2) Fencing and screening: A fence or suitable vegetative screening may be provided, as required by the township, around all detention basins. All fencing should be at least 3½ feet in height as approved by the township. A vegetative screening of suitable landscaping plant material in or around a detention basin may also be required. Vegetative screenings should generally provide a barrier to prevent entrance to, and effectively naturalize the appearance of, the detention basin area.

Combinations of grassed areas and densely planted shrub areas consisting of species suited to use in the highway environment are encouraged. Species of raspberry (*Rubus* spp.) are recommended.

Rock filter check dams are encouraged for use as level spreaders.

### D. Building site excavation and surface runoff

#### Criteria:

- (1) If temporary or permanent diversion channels or berms have not been established during general site preparation, diversion channels or berms shall be installed whenever slopes exceed 10% above or below proposed excavation areas.

Installation shall occur prior to or concurrent with excavations or other earthmoving on the uphill or downhill sides of the building location and any other areas to be disturbed. This requirement may be waived if it would result in the destruction of trees and shrubs. In all cases, hay bales or silt fence shall be installed and maintained downhill of all excavations and until the diversion channels or berms required by the Township Engineer have been stabilized.

- (2) All exposed earth shall be stabilized with appropriate grasses or other materials no later than 15 days after construction.

### Section 6: Supplemental Standards and Criteria

The following technical reference materials are hereby incorporated into these controls for information and to govern the design and hydrologic control provisions of this chapter.

- 1. Controlling Urban Runoff – A Practice for Planning and Designing Urban Best Management Practices, Metropolitan Washington, Council of Governments, July 1987.

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2. Design Manual Part 2, Highway Design, Publication 13, Commonwealth of Pennsylvania, Department of Transportation, January 1990.
3. Engineering Field Manual, USDA SCS, 1977.
4. Engineering Standard and Specifications, USDA SCS, May 1977.
5. Field Manual of Pennsylvania Department of Transportation Storm Intensity-Duration-Frequency Curves, Department of Civil Engineering and Institute for Research on Land Water Resources, Pennsylvania State University, University Park, PA, 1986.
6. Flood Hazard Study, Township of Fox, Elk County, Federal Insurance Administration, 1989.
7. Guidelines for Erosion and Sediment Control Planning and Implementation, U.S. Government Printing Office, Washington, DC, EPA-R2-72-015, August 1972.
8. National Engineering Handbook, Section 4, Hydrology, USDA, August 1972.
9. Practices in Detention of Urban Stormwater Runoff, Special Report No. 43, American Public Works Association, June 1974.
10. Erosion and Sediment Pollution Control Manual, Pennsylvania Department of Environmental Protection, March 2000.
11. Soil Survey of Cameron and Elk Counties, Pennsylvania, USDA SCS, 1993.
12. Standards for Roadway Construction, Series RC-0 to 100, Pennsylvania Department of Transportation, Bureau of Highway Design, Publication No. 72, May 1983.
13. Standards and Specifications for Infiltration Practices, Maryland Department of Natural Resources, Water Resources Administration, February 1984.
14. Title 25 Rules and Regulations, Chapter 105, Dam Safety and Waterway Management, as amended, Commonwealth of Pennsylvania, Department of Environmental Resources.
15. Urban Hydrology for Small Watersheds, Technical Release No. 55, USDA SCS, June 1986.

# SUBDIVISION AND LAND DEVELOPMENT

SUBDIVISION PLAN				
<b>TITLE OF SUBDIVISION</b> <b>OWNER/ADDRESS</b>  <b>TELEPHONE NO.</b> <b>DEVELOPER/ADDRESS</b>  <b>TELEPHONE NO.</b>  <b>SUBD. NO.</b>  <b>DATE REC'D</b>  <b>PROPOSED LAND USE</b> _____ <b>ACREAGE OF TRACT</b> _____ <b>(DUPS PER ACRE)</b> _____ <b>AREA OF DEVELOPMENT</b> _____ <b>TOTAL NO. OF LOTS</b> _____ <b>MIN. LOT AREA:</b> _____ <b>MIN. LOT WIDTH:</b> _____  <b>SUBDIVISION IS WITHIN _____ OUTSIDE _____</b> <b>THE FLOODPLAIN</b>	<b>SHEET</b> _____ <b>OF</b> _____  <b>NOTES</b>	<b>NORTH ARROW</b>          <b>SCALE</b>		
<b>CHAIRMAN FOX TOWNSHIP SEWER AUTHORITY</b> _____ (If public sewage system is to be used)				
<b>ELK COUNTY PLANNING COMMISSION REVIEW</b> <b>DATE PLAN SUBMITTED</b> _____  <b>DATE OF COUNTY PLANNING COMMISSION COMMENT</b> _____				
<b>FOX TOWNSHIP PLANNING COMMISSION</b>				
	<u>DATE</u>	<u>COND. APPROVAL</u>	<u>APPROVAL</u>	<u>DENIAL</u>
Township Code Enforcement Officer	_____	_____	_____	_____
Chairman Fox Township Planning Commission	_____	_____	_____	_____
Comments _____				
_____				
<b>BOARD OF FOX TOWNSHIP SUPERVISORS</b>				
	<u>DATE</u>	<u>COND. APPROVAL</u>	<u>APPROVAL</u>	<u>DENIAL</u>
Chairman	_____	_____	_____	_____
Vice Chairman	_____	_____	_____	_____
Supervisor	_____	_____	_____	_____
<b>PLAN IS NULL AND VOID UNLESS RECORDED BY _____ NO DEEDS MAY BE TRANSFERED UNTIL PLAN IS RECORDED</b>				
STATE OF PA - CO. OF ELK ON THIS, THE _____ DAY OF _____, 19____, BEFORE ME THE UNDERSIGNED OFFICER, PERSONALLY APPEARED _____, WHO BEING DULY SWORN ACCORDING TO LAW DEPOSES AND SAYS THAT HE/SHE IS THE OWNER AND/OR EQUITABLE OWNER OF THE PROPERTY SHOWN ON THIS PLAN, AND THAT HE/SHE ACKNOWLEDGES THE SAME TO BE HIS/HER ACT AND PLAN AND DESIRES THE SAME BE RECORDED AS SUCH ACCORDING TO LAW, WITNESS MY HAND AND SEAL THE DAY AND DATE ABOVE, MY COMMISSION EXPIRES _____, 19____.			I HEREBY CERTIFY THAT THIS SURVEY AND PLAN ARE CORRECT.     SEAL (Engineer or Surveyor)	
SIGNATURE _____				



## **Chapter 102**

### **TAXATION**

#### **ARTICLE I Earned Income Tax**

- § 102-1. Statutory authority.**
- § 102-2. Incorporation by reference.**
- § 102-3. Imposition of tax.**
- § 102-4. Administration; powers and duties of Tax Officer.**
- § 102-5. Individual tax returns and payments.**
- § 102-6. Employer registration, withholding, remittance and tax returns.**

**§ 102-7. Interest, penalties, costs and fines.**

**§ 102-8. Effective date.**

**§ 102-9. through § 102-14. (Reserved)**

#### **ARTICLE II Realty Transfer Tax**

**§ 102-15. Imposition of tax.**

**§ 102-16. Administration.**

**§ 102-17. Interest.**

**§ 102-18. Repeal.**

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

#### **GENERAL REFERENCES**

**Fees for fifteen-day delinquent tax notice and tax certification statement — See Ch. 61.**

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#### **ARTICLE I Earned Income Tax**

**[Adopted 3-20-1976 by Ord. No. 76-3; amended in its entirety 11-21-2011 by Ord. No. 2011-11]**

##### **§ 102-1. Statutory authority.**

This article is enacted pursuant to the authority granted by the Local Tax Enabling Act, P.L. 1257, known as "Act No. 511 of 1965," effective January 1, 1966, as thereafter amended through Act No. 166 of 2002 and Act No. 32 of 2008, 53 P.S. § 6924.101 et seq. (known as the "Local Tax Enabling Act" and herein referred to as the "Act"). The provisions contained herein are made for the purpose of amending and supplementing the Earned Income Tax Ordinance previously adopted by the Township.

##### **§ 102-2. Incorporation by reference.**

The Board of Supervisors of Fox Township hereby adopts by reference the Act, as it may from time to time be amended, and its definitions, duties, directives, rules, regulations, powers and penalties as if same had been set forth fully herein.

**§ 102-3. Imposition of tax.**

- A. A tax is hereby imposed on all income and net profits, for work done or services performed or rendered within the Township, at the following rates:
- (1) The rate of 1% on earned income and net profits of individuals who are residents of the Township.
  - (2) The rate of 1% on earned income and net profits earned by nonresidents of the Township for work done or services performed or rendered within the Township.
- B. The tax levied under this article shall be applicable to earned income received and to net profits earned in the period beginning January 1, 2012, and ending on December 31, 2012, or for the taxpayer fiscal years beginning in the current year and shall continue in force on a calendar year or taxpayer fiscal year basis, without annual reenactment, unless the rate of the tax is subsequently changed or this article is repealed.

**§ 102-4. Administration; powers and duties of Tax Officer.**

The collection and administration of the tax provided for in this article shall be performed by the Tax Officer appointed by the Tax Collection Committee appointed pursuant to the Act for each of the tax collection districts which comprise part or all of the Township. Such Tax Officer shall have all of the powers and duties provided for by the Act.

**§ 102-5. Individual tax returns and payments.**

Declaration and payment. Individuals, whether a calendar, fiscal year, or net profit taxpayer, shall file a tax return to be completed in the manner mandated by this article and the Act. Except as provided in Subsection B, taxpayers shall declare and pay income taxes as follows:

- A. Individual taxpayers. Every taxpayer shall, on or before April 15 of the succeeding year, make and file (on a form prescribed by the Tax Officer) with the resident Tax Officer, a final return showing the amount of taxable income received during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due on the taxable income, the amount of tax paid, the amount of tax that has been withheld (under 53 P.S. § 6924.512) and the balance of tax due. All amounts reported shall be rounded to the nearest whole dollar. At the time of filing the final return, the taxpayer shall pay the resident Tax Officer the balance of the tax due or shall make demand for refund or credit in the case of overpayment.
- B. Net profit taxpayers.
- (1) Every taxpayer making net profits shall, by April 15 of the current year, make and file with the resident Tax Officer a declaration of the taxpayer's estimated net profits during the period beginning January 1 and ending December 31 of the current year and shall pay to the resident Tax Officer in four equal quarterly installments the tax due on the estimated net profits. The first installment shall be paid at the time of filing the declaration, and the other installments shall be paid on



or before June 15 of the current year, September 15 of the current year and January 15 of the succeeding year, respectively.

- (2) Any taxpayer who first anticipates any net profit after April 15 of the current year shall make and file the declaration required on or before June 15 of the current year, September 15 of the current year or December 31 of the current year, whichever date next follows the date on which the taxpayer first anticipates such net profit, and shall pay to the resident Tax Officer in equal installments the tax due on or before the quarterly payment dates that remain after the filing of the declaration.
  - (3) Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the resident Tax Officer a final return showing the amount of net profits earned or received based on the method of accounting used by the taxpayer during the period beginning January 1 of the current year, and ending December 31 of the current year, the total amount of tax due on the net profits and the total amount of tax paid. At the time of filing the final return, the taxpayer shall pay to the resident Tax Officer the balance of tax due or shall make demand for refund or credit in the case of overpayment. Any taxpayer may, in lieu of paying the fourth quarterly installment of the estimated tax, elect to make and file with the resident Tax Officer on or before January 31 of the succeeding year the final return.
  - (4) The Township may provide by regulation for the filing of adjusted declarations of estimated net profits and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration required under this subsection anticipates additional net profits not previously declared or has overestimated anticipated net profits.
  - (5) Every taxpayer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file a final return as required under this subsection and pay the tax due.
- C. Individuals not subject to employer withholding. Every taxpayer who receives any other taxable income not subject to withholding under the Act shall make and file with the resident Tax Officer a quarterly return on or before April 15 of the current year, June 15 of the current year, September 15 of the current year, and January 15 of the succeeding year, setting forth the aggregate amount of taxable income not subject to withholding by the taxpayer during the three-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year, and December 31 of the current year, respectively, and subject to income tax, together with such other information as the Township may require. Every taxpayer filing a return shall, at the time of filing the return, pay to the Tax Officer the amount of income tax due. The Township may establish criteria under which the Tax Officer may waive the quarterly return and payment of the income tax and permit a taxpayer to file the receipt of taxable income on the taxpayer's annual return and pay the income tax due on or before April 15 of the succeeding year.

**§ 102-6. Employer registration, withholding, remittance and tax returns.**

- A. Employer requirements. Employers shall register, withhold from their employees, file tax returns and remit to the Tax Officer in the manner consistent with this article and the Act.
- B. Employer registration requirement. Every employer having an office, factory, workshop, branch, warehouse or other place of business within a tax collection district who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, who has not previously registered, shall, within 15 days after becoming an employer, register with the Tax Officer the name and address of the employer and such other information as the Township may require.
- C. Certificate of residency. An employer shall require each new employee to complete a certificate of residency form, which shall be an addendum to the Federal Employee's Withholding Allowance Certificate (Form W-4). An employer shall also require any employee who changes his or her address or domicile to complete a certificate of residency form. Upon request, certificate of residency forms shall be provided by the Township. The certificate of residency form shall provide information to help identify the political subdivisions where an employee lives and works.
- D. Employer withholding. Every employer having an office, factory, workshop, branch, warehouse or other place of business within a tax collection district that employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall, at the time of payment, deduct from the compensation due each employee employed at such place of business the greater of the employee's resident tax or the employee's nonresident tax as released in the official register under the Act.
- E. Quarterly returns and remittance. Except as set forth in Subsection F, within 30 days following the end of each calendar quarter, every employer shall file a quarterly return and pay the amount of income taxes deducted during the preceding calendar quarter to the Tax Officer for the place of employment of each employee. The form shall show the name, address and social security number of each employee, the compensation of the employee during the preceding three-month period, the income tax deducted from the employee, the political subdivisions imposing the income tax upon the employee, the total compensation of all employees during the preceding calendar quarter, the total income tax deducted from the employees and paid with the return and any other information prescribed by the Department.
- F. Multisite employers. Notwithstanding Subsection E, the provisions of this subsection shall apply if an employer has more than one place of employment in more than one tax collection district. Within 30 days following the last day of each month, the employer may file the return required by Subsection E and pay the total amount of income taxes deducted from employees in all work locations during the preceding month to the Tax Officer for either the tax collection district in which the employer's payroll operations are located or as determined by the Township. The return and income taxes deducted shall be filed and paid electronically. The employer must file a notice of intention to file combined returns and make combined payments with the Tax Officer for each place of employment at least one month before filing its first combined return or making its first

combined payment. This subsection shall not be construed to change the location of an employee's place of employment for purposes of nonresident tax liability.

- G. Monthly returns and remittance. Any employer who, for two of the preceding four quarterly periods, has failed to deduct the proper income tax, or any part of the income tax, or has failed to pay over the proper amount of income tax as required by Subsection D to the tax collection district may be required by the Tax Officer to file returns and pay the income tax monthly. In such cases, payments of income tax shall be made to the Tax Officer on or before the last day of the month succeeding the month for which the income tax was withheld.
- H. Employer annual reconciliation. On or before February 28 of the succeeding year, every employer shall file with the Tax Officer where income taxes have been deducted and remitted pursuant to Subsection D:
  - (1) An annual return showing, for the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of compensation paid, the total amount of income tax deducted, the total amount of income tax paid to the Tax Officer and any other information prescribed by the Department.
  - (2) An individual withholding statement, which may be integrated with the Federal Wage and Tax Statement (Form W-2), for each employee employed during all or any part of the period beginning January 1 of the current year and ending December 31 of the current year, setting forth the address and social security number, the amount of compensation paid to the employee during the period, the amount of income tax deducted, the amount of income tax paid to the Tax Officer, the numerical code prescribed by the Department representing the tax collection district where the payments required by Subsection E and F were remitted and any other information required by the Department. Every employer shall furnish one copy of the individual withholding statement to the employee for whom it is filed.
- I. Discontinuance of business. Any employer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file returns and withholding statements required under this section and pay the income tax due.
- J. Employer failure or omission of mandatory withholding. Except as otherwise provided in the Act, an employer who willfully or negligently fails or omits to make the deductions required by this subsection shall be liable for payment of income taxes which the employer was required to withhold to the extent that the income taxes have not been recovered from the employee. The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of the income tax or from complying with the requirements for the filing of declarations and returns.

**§ 102-7. Interest, penalties, costs and fines.**

- A. Taxpayers and employers shall be subject to interest, penalties, costs and fines, together with reasonable costs of collection imposed by the Tax Officer, as provided in the Act, for violation of any of the provisions of this article.
- B. Any employer that is required under this article to collect, account for and distribute income taxes who willfully fails to collect or truthfully account for and distribute income taxes commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine not exceeding \$25,000 or to undergo imprisonment for a term not exceeding two years, or both.
- C. The failure of any person to obtain forms required for making the declaration or returns required by this article shall not excuse the person from making the declaration or return.

**§ 102-8. Effective date.**

This article shall become effective on January 1, 2012, and shall apply to earned income received or net profits earned by a taxpayer on and after January 1, 2012. The Board of Supervisors intends that there be no gap in the imposition of an earned income or net profit tax by the Township by reason of the adoption of this article.

**§ 102-9. through § 102-14. (Reserved)**

**ARTICLE II**  
**Realty Transfer Tax**  
**[Adopted 5-2-2007 by Ord. No. 2007-5<sup>1</sup> ]**

**§ 102-15. Imposition of tax.**

Fox Township adopts the provisions of Article XI-D of the Tax Reform Code of 1971, as codified at 72 PS §§ 8101-D et seq., and imposes a realty transfer tax as authorized under that article subject to the rate limitations therein. The tax imposed under this section shall be at the rate of 1% of the value of the real estate conveyed within the Township.

**§ 102-16. Administration.**

The tax imposed under § 102-15 and all applicable interest and penalties shall be administered, collected and enforced under the Act of December 31, 1965 (P.L. 1257, No. 511<sup>2</sup>, as amended, known as "The Local Tax Enabling Act"); provided that if the correct amount of the tax is not paid by the last date prescribed for timely payment, Fox Township, pursuant to Section 1102-D of the Tax Reform Code of 1971 (72 P.S. § 8102-D), authorizes

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1. Editor's Note: This ordinance also repealed former Art. II, Realty Transfer Tax, adopted 9-5-1984 by Ord. No. 84-9, as amended.

2. Editor's Note: See 53 P.S. § 6901 et seq.

and directs the Department of Revenue of the Commonwealth of Pennsylvania to determine, collect and enforce the tax, interest and penalties.

**§ 102-17. Interest.**

Any tax imposed under § 102-15 that is not paid by the date the tax is due shall bear interest as prescribed for interest on delinquent municipal claims under the Act of May 16, 1923 (P.L. 207, No. 153) (53 PS §§ 7101 et seq.), as amended, known as "The Municipal Claims and Tax Liens Act". The interest rate shall be the lesser of the interest rate imposed upon delinquent Commonwealth taxes as provided in Section 806 of the Act of April 9, 1929 (P.L. 343, No. 176) (72 P.S. § 806), as amended, known as "The Fiscal Code", or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims.

**§ 102-18. Repeal.**

- A. As of the effective date of this article, the following Ordinances of the Township of Fox are repealed to the extent inconsistent with the present enactment: Fox Township Ordinance No. 84-9 as codified in the Fox Township Code at Chapter 102, Sections 102-15 et. seq.
- B. The repealed prior ordinance or portions of prior ordinances enumerated in Subsections A remain effective for documents that became subject to tax prior to the effective date of this article.



## Chapter 107

### VEHICLES AND TRAFFIC

#### ARTICLE I General Provisions

- § 107-1. Definitions and interpretation.
- § 107-2. Manner of adopting permanent traffic and parking regulations.
- § 107-3. Temporary and emergency regulations.
- § 107-4. Experimental regulations.
- § 107-5. Streets closed or restricted for construction, maintenance or special events.
- § 107-6. Authority of police officers and fire police.

#### ARTICLE II Traffic Regulations

- § 107-7. Speed limits.
- § 107-8. Traffic control signals.
- § 107-9. Prohibited right turns on red signal.
- § 107-10. Prohibited turns at intersections.
- § 107-11. U-turns.
- § 107-12. One-way streets.
- § 107-13. No-passing zones.
- § 107-14. Stop intersections.
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- § 107-23.1. All-terrain vehicle roads established.
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#### ARTICLE V Removal and Impounding of Certain Vehicles

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ARTICLE VIII  
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- § 107-36. Schedule I: Speed Limits.

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- § 107-38. Schedule III: Prohibited Right Turns on Red Signal.
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- § 107-42. Schedule VII: No-Passing Zones.
- § 107-43. Schedule VIII: Stop Intersections.
- § 107-44. Schedule IX: Yield Intersections.
- § 107-45. Schedule X: Closing of Certain Streets to Certain Vehicles.
- § 107-46. Schedule XI: Vehicle Weight Limits.
- § 107-47. Schedule XII: Snowmobile Roads.
- § 107-47.1. Schedule XIII: All-Terrain Vehicle Roads.
- § 107-48. Schedule XIV: Snow Emergency Routes.

[HISTORY: Adopted by the Board of Supervisors of the Township of Fox at time of adoption of Code 9-28-1998 by Ord. No. 98-9 (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

GENERAL REFERENCES

Junkyards — See Ch. 70.

Streets and sidewalks — See Ch. 90.

ARTICLE I  
General Provisions

**§ 107-1. Definitions and interpretation.**

- A. Words and phrases, when used in this chapter, except for sections or articles to which different or additional definitions apply, shall have the meanings ascribed to them in the Vehicle Code, 75 Pa.C.S.A. § 101 et seq. (the Act of June 17, 1976, P.L. 162, No. 81), as amended, except that in this chapter the word "street" may be used interchangeably with



the word "highway" and shall have the same meaning as the word "highway" as defined in the Vehicle Code.

- B. The term "legal holidays," as used in this chapter, shall mean and include New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.
- C. In this chapter, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine.

(Cont'd on page 10703)



**§ 107-2. Manner of adopting permanent traffic and parking regulations.**

All traffic and parking regulations of a permanent nature shall be enacted as ordinances or as parts of ordinances or as amendments to ordinances of the Township of Fox.

**§ 107-3. Temporary and emergency regulations.**

- A. The Board of Supervisors shall have the following powers to regulate traffic and parking temporarily and in time of emergency:
  - (1) In the case of fire, flood, storm or other emergency, to establish temporary traffic and/or parking regulations.
  - (2) In the case of emergency public works or public events of limited scope or duration, to restrict or prohibit traffic and/or parking in limited areas for periods of not more than 72 hours.
- B. These temporary and emergency regulations shall be enforced by the fire police and the state police in the same manner as permanent regulations. Any person who drives or parks a vehicle in violation of any such regulation or who shall move, remove, destroy, injure or deface any sign or marking erected, posted or made to give notice of any such regulation shall, upon conviction thereof, be liable to the penalty set forth in the law or elsewhere in this chapter for a violation of such nature.

**§ 107-4. Experimental regulations.**

- A. The Board of Supervisors may, from time to time, designate places upon and along the streets in the township where, for a period of not more than 90 days, specific traffic and/or parking regulations, prohibitions and restrictions shall be in force and effect and shall designate those locations by proper signs and markings. Such regulations, prohibitions and restrictions shall be effective just as if they had been specified in this chapter. No person shall drive or park a vehicle in violation of any such regulation, prohibition or restriction, and no person shall move, remove, destroy or deface any sign or marking erected, posted or made by authority of this section. Any person who violates any provision of this section shall, upon conviction, be liable to the penalty set out in the law or elsewhere in this chapter for a violation of such nature.
- B. The purpose of this section is to allow for test and experimental determination of the feasibility and desirability of permanent changes in the ordinances of the township relative to traffic and parking.

**§ 107-5. Streets closed or restricted for construction, maintenance or special events.**

- A. The Board of Supervisors shall have authority to close any street or specific part of a street to vehicular traffic and to place barriers or station police officers at each end of the closed portion, while construction or maintenance work is under way or a special event is being conducted on the closed portion. It shall be unlawful for any person to drive a vehicle upon any such closed portion.

- B. The Board of Supervisors shall have authority to establish a restricted traffic area upon any street where construction or maintenance work is under way and to station flagmen at each end of the restricted portion. It shall be unlawful for any person to drive a vehicle upon any such restricted traffic area at any time when the flagman is displaying a sign directing that vehicle to stop or is signaling that vehicle, by a flag or other device, not to proceed.

**§ 107-6. Authority of police officers and fire police.**

The police officers of the Pennsylvania State Police and the Fox Township Fire Police are hereby given authority to direct traffic on the highways of the Township of Fox and at intersections thereof.

**ARTICLE II  
Traffic Regulations**

**§ 107-7. Speed limits.**

The speed limit for both directions of traffic along the streets or parts thereof described in Schedule I (§ 107-36), attached to and made a part of this chapter, is hereby established at the rate of speed indicated in said schedule. It shall be unlawful for any person to drive a vehicle at a higher speed than the maximum prescribed for that street or part of a street.

**§ 107-8. Traffic control signals.**

Traffic control signals shall be installed and operated at the intersection of those streets described in Schedule II (§ 107-37), attached to and made a part of this chapter.

**§ 107-9. Prohibited right turns on red signal.**

No person shall make a right turn (or a left turn from a one-way street into another one-way street) when facing a steady red signal at any of the locations described in Schedule III (§ 107-38), attached to and made a part of this chapter.

**§ 107-10. Prohibited turns at intersections.**

It shall be unlawful for the driver of any vehicle to make a turn of the kind designated (left, right, all) at any of the intersections described in Schedule IV (§ 107-39), attached to and made a part of this chapter.

**§ 107-11. U-turns.**

It shall be unlawful for the driver of any vehicle to make a U-turn on any of the streets or parts of streets described in Schedule V (§ 107-40), attached to and made a part of this chapter.

**§ 107-12. One-way streets.**

The streets or parts of streets described in Schedule VI (§ 107-41), attached to and made a part of this chapter, are hereby designated as one-way streets in the direction indicated, and it shall be unlawful for any person to drive a vehicle on any one-way street other than in the direction established for traffic on that street.

**§ 107-13. No-passing zones.**

No-passing zones are hereby established along those streets or parts of streets described in Schedule VII (§ 107-42), attached to and made a part of this chapter, and it shall be unlawful for the driver of any vehicle to overtake or pass another vehicle or to drive on the left side of the roadway in any no-passing zone described in said schedule.

**§ 107-14. Stop intersections.**

The intersections described in Schedule VIII (§ 107-43), attached to and made a part of this chapter (in addition to intersections with the through streets established by this chapter), are hereby established as stop intersections, and official stop signs shall be erected in such a position upon the first-named street as to face traffic approaching the second-named street in the direction or directions indicated in said schedule. Every driver of a vehicle approaching any such intersection upon the first-named street, in the direction or directions indicated in each case, shall come to a full stop before entering any such intersection.

**§ 107-15. Yield intersections.**

The intersections described in Schedule IX (§ 107-44), attached to and made a part of this chapter (in addition to intersections with the through streets established by this chapter), are hereby established as yield intersections, and official yield signs shall be erected in such a position upon the first-named street as to face traffic approaching the second-named street in the direction or directions indicated. Every driver of a vehicle approaching any such intersection upon the first-named street, in the direction or directions indicated in each case, shall slow down or stop the vehicle and then yield the right-of-way to any vehicle in the intersection or approaching on the second-named street so closely as to constitute a hazard during the time that the driver is moving across or within such intersection.

**§ 107-16. Closing of certain streets to certain vehicles.**

It shall be unlawful for any person to drive any vehicle, except a passenger vehicle (but not including any passenger vehicle drawing any trailer or towing any other vehicle), upon any of the streets or parts of streets described in Schedule X (§ 107-45), attached to and made a part of this chapter.

**§ 107-17. Vehicle weight limits.**

It shall be unlawful for any person to drive any commercial vehicle or other tractor, trailer or tractor-trailer combination, having a gross weight in excess of that respectively prescribed, upon any of the streets or bridges, or portions thereof, described in Schedule XI (§ 107-46), attached to and made a part of this chapter, except for the purpose of making local deliveries on said streets.

**ARTICLE III**  
**Parking Regulations**

**§ 107-18. Vehicles to be parked within marked spaces.**

Wherever a space is marked off on any street for the parking of an individual vehicle, every vehicle parked there shall be parked wholly within the lines bounding that space, and it shall be a violation of this article for any person to park a vehicle or allow it to remain parked otherwise.

**§ 107-19. Parking prohibited at all times.**

Parking is prohibited on all roads in the Township of Fox and on the rights-of-way when properly signed.

**§ 107-20. Penalties for parking violations.**

Any person who violates any provision of this article shall, upon conviction, be sentenced to pay a fine of not more than \$15 and costs; provided, however, that it shall be the duty of the police officers and of parking enforcement personnel of the township to report to the Roadmaster all violations of any provision of this article, indicating, in each case, the section violated, the license number of the vehicle involved in the violation, the location where the violation took place and any other facts that might be necessary in order to secure a clear understanding of the circumstances attending the violation. The police officer or other person making the report shall also attach to or place upon every such vehicle a notice stating that the vehicle was parked in violation of this article. The notice shall contain instructions to the owner or driver of the vehicle that if he will report to the office of the Board of Supervisors and pay the sum of \$15 within 48 hours after the time of the notice, or if he will place the sum of \$15, enclosed within the envelope provided, in any of the special parking fine boxes installed at various locations within the township, that act will save the violator from prosecution and from payment of the fine and costs prescribed in the first sentence of this section.

ARTICLE IV  
Snowmobile Roads

**§ 107-21. Snowmobile roads established.**

Pursuant to the provisions of Section 7722 of the Vehicle Code of 1977, the township roads contained in Schedule XII (§ 107-47), attached to and made a part of this chapter, are hereby designated as snowmobile roads, to be shared with vehicular traffic.

**§ 107-22. Compliance with other laws required.**

All operators of snowmobiles shall comply with the rules and regulations as established by the Department of Environmental Protection of the commonwealth and shall comply with all provisions of the Snowmobile Law<sup>1</sup> as prescribed in the Vehicle Code of July 1, 1977.

**§ 107-23. Fines and penalties.**

All operators shall be subject to any fines and penalties as prescribed by the rules and regulations of the Department of Environmental Protection or the provisions of the Vehicle Code.

ARTICLE IVA  
All-Terrain Vehicle Roads  
[Added 5-5-1999 by Ord. No. 99-5]

**§ 107-23.1. All-terrain vehicle roads established.**

Pursuant to the provisions of Chapter 77 of the Vehicle Law of 1985, the township roads contained in Schedule XIIA (§ 107-48.1), attached to and made a part of this chapter, are hereby designated as ATV roads, to be shared with vehicular traffic.

**§ 107-23.2. Compliance with other laws required.**

All operators of ATV's shall comply with the rules and regulations as established by the Department of Conservation and Natural Resources of the Commonwealth of Pennsylvania and shall comply with all the provisions of the All-Terrain Vehicle Law, as prescribed in Chapter 77 of the Vehicle Law of September 9, 1985.

**§ 107-23.3. Violations and penalties.**

All operators shall be subject to any fines and penalties as prescribed by rules and regulations of the Department of Conservation and Natural Resources or the provisions of the Vehicle Law.

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<sup>1</sup> Editor's Note: See 75 Pa.C.S.A. § 7701 et seq.

ARTICLE V  
**Removal and Impounding of Certain Vehicles**

**§ 107-24. Applicability and scope.**

This article is enacted under authority of Section 6109(a)(22) of the Vehicle Code and gives authority to the township to remove and impound vehicles that are parked overtime on any street in the township or in metered and unmetered parking lots in the township in violation of any provision of this chapter.

**§ 107-25. Authority to remove and impound.**

The township shall have authority to remove and impound or to order the removal and impounding of any vehicle parked overtime or otherwise illegally, provided that the circumstances of its parking were within the conditions stated in § 107-24 of this article and provided that no such vehicle shall be removed or impounded except in strict adherence to the provisions of this article.

**§ 107-26. Designation of approved storage garages; bonding; towing and storage.**

Removal and impounding of vehicles under this article shall be done only by approved storage garages that shall be designated from time to time by the Board of Supervisors. Every such garage shall submit evidence to the Board of Supervisors that it is bonded or has acquired liability insurance in an amount satisfactory to the Board of Supervisors as sufficient to indemnify owners of impounded vehicles against loss or damage to those vehicles while in the custody of the garagekeeper for the purpose of towing or storage. The approved storage garage shall submit to the Board of Supervisors its schedule of charges for towing and storage of vehicles under this article, and when the schedule is approved by the Board of Supervisors, those charges shall be adhered to by the approved storage garage. No different schedule of charges shall be adopted without approval of the Board of Supervisors, and no different charges shall be demanded of or collected from any person whose vehicle is removed or impounded under this article by any approved storage garage. The Board of Supervisors shall delete from its list of approved storage garages any garage that makes any unapproved charge in connection with any vehicle removed or impounded under this article.

**§ 107-27. Notification of removal and impounding.**

Within 12 hours from the time of removal of any vehicle under authority granted by this article, notice of the fact that the vehicle was removed shall be sent by the township to the owner of record of the vehicle. The notice shall designate the place from which the vehicle was removed, the reason for its removal and impounding and the garage in which it was impounded.

**§ 107-28. Effect of payment of towing and storage charges.**

The payment of any towing and storage charges authorized by this article shall, unless payment is made under protest, be final and conclusive and shall constitute a waiver of any right to



recover the money so paid. If payment of any towing or storage charges is made under protest, the offender shall be entitled to a hearing before a District Justice. Payment of towing and storage charges shall not relieve the owner or driver of any vehicle from liability for any fine or penalty for the violation of the provision of this chapter for which the vehicle was removed or impounded.

**§ 107-29. Records of vehicles removed and impounded.**

The township shall cause a record to be kept of all vehicles impounded under this article and shall be able at all reasonable times to furnish the owners or the agents of the owners of those vehicles with information as to the place of storage of the vehicle.

**§ 107-30. Restrictions upon removal of vehicles.**

No vehicle shall be removed under the authority of this article if, at the time of the intended removal, the owner or the person for the time being in charge of the vehicle is present and expresses a willingness and intention to remove the vehicle immediately.

(Cont'd on page 10709)



**ARTICLE VI**  
**Snow and Ice Emergencies**

**§ 107-31. Declaration of snow and ice emergency.**

In order to facilitate the movement of traffic and to combat the hazards of snow and ice on the snow emergency routes named pursuant to this article, the Roadmaster, in his discretion, may declare a snow and ice emergency (designated in this article as a "snow emergency"). Information on the existence of a snow emergency may be given by the township through radio, newspaper or other available media, and information on the termination of the emergency may be given by use of the same media.

**§ 107-32. Parking and driving restrictions.**

After any snow emergency is declared, it shall be unlawful, at any time during the continuance of the emergency, for any person:

- A. To park a motor vehicle or to allow that vehicle to remain parked anywhere on any snow emergency route designated pursuant to this article; or
- B. To drive any motor vehicle on any such snow emergency route unless that vehicle is equipped with snow tires or chains.

**§ 107-33. Snow emergency routes.**

The streets or parts of streets described in Schedule XIII (§ 107-48), attached to and made a part of this chapter, are hereby designated as snow emergency routes.

**§ 107-34. Penalty for violation.**

- A. If, at any time during a period of snow emergency declared under this article, a person shall park a motor vehicle or allow a motor vehicle to remain parked anywhere upon a snow emergency route, that person shall be guilty of a violation of this article and, upon conviction, shall be punishable as provided in § 107-20 of this chapter.
- B. If, at any time during a period of snow emergency declared under this article, a person shall drive a motor vehicle upon a snow emergency route without having that vehicle equipped with snow tires or chains, that person shall be guilty of a violation of this article and, upon conviction, shall be punishable as provided in § 107-35 of this chapter.

**ARTICLE VII**  
**Miscellaneous Provisions**

**§ 107-35. Violations and penalties.**

Unless another penalty is expressly provided by the Vehicle Code (75 Pa.C.S.A. § 101 et seq.) or except as herein specified, every person convicted of a violation of a provision of this chapter, or any supplement thereto, shall be liable to a penalty of \$25 and costs of prosecution.

**ARTICLE VIII  
Schedules**

**§ 107-36. Schedule I: Speed Limits.**

In accordance with the provisions of § 107-7, speed limits are hereby established upon the following described streets or parts thereof:

<b>Name of Street</b>	<b>Speed limit (mph)</b>	<b>Location</b>
Irishtown Road	35	From its intersection with Route 948 to Brown's Road
Township Road No. 315 (Boone Mountain Road)	35	From State Route No. 2007 for a distance of 1.1 miles in both directions
Township Road No. 339	25	From its intersection with Cuneo Road West to end
Township Road No. 341 (Cuneo Road)	30	From Township Road No. 339 for 1.0 mile to State Route No. 2011
Township Road No. 376 (Ridge Road)	25	From Legislative Route No. 24009 for 0.5 mile in both directions
Township Road No. 384 (Hayes Road)	35	From State Route No. 2003 for a distance of 0.8 mile in both directions
Township Road No. 386 (Lovers Lane)	30	From State Route No. 948 for 1.0 mile to State Route No. 2003
Township Road No. 394 (Green Road)	35	From State Route No. 948 to Township Road No. 549 (Deitz Road)
Township Road No. 394 (Green Road)	25	From Township Road No. 549 (Dietz Road) for a distance of 0.54 mile to its end
Township Road No. 425 (Hogback Road)	25	Entire length

**§ 107-37. Schedule II: Traffic Control Signals.**

In accordance with the provisions of § 107-8, traffic control signals shall be installed and operated at the following described intersections:

**Intersection**  
(Reserved)

**§ 107-38. Schedule III: Prohibited Right Turns on Red Signal.**

In accordance with the provisions of § 107-9, no person shall make a right turn (or a left turn from a one-way street onto another one-way street) when facing a steady red signal at any of the locations described below:

Name of Street	Direction of Travel	Prohibited Right Turn on Red Signal Onto
(Reserved)		

**§ 107-39. Schedule IV: Prohibited Turns at Intersections.**

In accordance with the provisions of § 107-10, no driver of any vehicle shall make a turn of the kind designated below at any of the following intersections:

Name of Street	Direction of Travel	Prohibited Turn	Hours	At Intersection of
(Reserved)				

**§ 107-40. Schedule V: U-Turns.**

In accordance with the provisions of § 107-11, no driver of any vehicle shall make a U-turn on any of the streets or parts thereof described below:

Name of Street	Location
(Reserved)	

**§ 107-41. Schedule VI: One-Way Streets.**

In accordance with the provisions of § 107-12, the following described streets or parts thereof are hereby designated as one-way streets in the direction indicated:

Name of Street	Direction of Travel	Limits
(Reserved)		

**§ 107-42. Schedule VII: No-Passing Zones.**

In accordance with the provisions of § 107-13, no-passing zones are hereby established upon the following described streets or parts thereof:

Name of Street	Direction of Travel	Limits
(Reserved)		

**§ 107-43. Schedule VIII: Stop Intersections.**

In accordance with the provisions of § 107-14, the following described intersections are hereby established as stop intersections, and stop signs shall be installed as provided therein:

<b>Stop Sign on</b>	<b>of Travel</b>	<b>Direction At Intersection of</b>	<b>Type</b>
Anna Road (Township Road No. 528)	North	Fern Road (Township Road No. 526)	One-way stop
Blooms Road (Township Road No. 624)	South/ east	Toby Road (Legislative Route No. 24009)	One-way stop
Browns Road (Township Road No. 392)	South/ east	Irishtown Road	One-way stop
Byrnedale Road (Township Road No. 407)	South	Gardner Hill Road (Township Road No. 649)	One-way stop
Chicken Hill Road (Township Road No. 390)	South	South Kersey Road (Legislative Route No. 24029)	One-way stop
Clearcut Road (Township Road No. 373)	West	Boone Mountain Road (Township Road No. 315)	Two-way stop
Clearcut Road (Township Road No. 373)	West	Four Points (Township Road No. 525)	Four-way stop
Cuneo Road (341)	West	Squab Hollow Road (339)	One-way stop
David Street (Township Road No. 596)	North	Hemlock Road (Township Road No. 535)	One-way stop
Dietz Road (Township Road No. 549)	West	Green Road (Township Road No. 394)	One-way stop
Gahr Road (Township Road No. 595)	East	Sheeley Road (Township Road No. 387)	One-way stop
Hayes Road (Township Road No. 384)	North	Route 948	One-way stop
Hogback Road (Township Road No. 380)	North/ south	Ridge Road (Township Road No. 376)	One-way stop
Hollywood Road (Township Road No. 378)	North	Gardner Hill Road (Township Road No. 649)	One-way stop

<b>Stop Sign on</b>	<b>of Travel</b>	<b>Direction At Intersection of</b>	<b>Type</b>
Keller Road (340)	Northwest	Toby Road (Legislative Route No. 24009)	One-way stop
Meredith Road (Township Road No. 377)	East	Green Road (Township Road No. 394)	One-way stop
Meredith Road (Township Road No. 377)	West	Chicken Hill Road (Township Road No. 390)	One-way stop
Ridge Road (Township Road No. 376)	South	Toby Road (Legislative Route No. 24009)	One-way stop
Robin Road (Township Road No. 589)	North	Route 948	One-way stop
Sawmill Run Road (Township Road No. 523)		Boone Mountain Road (Township Road No. 315)	Four-way stop
Scotland Street (Township Road No. 463)	North/ west	Dagus Mines Road (Legislative Route No. 2003)	One-way stop
Squab Hollow Road (Township Road No. 339)	North	Route 948	One-way stop
Swede Street (Township Road No. 462)	North/ south	Scotland Street (Township Road No. 463)	Two-way stop
Thompson Hill Road (Township Road No. 375)	East	Hogback Road (Township Road No. 380)	One-way stop
Thompson Hill Road (Township Road No. 623)	North/ south	Toby Road (Legislative Route No. 24009)	Two-way stop
Thompson Hill Road (Township Road No. 375)	West/ east	Ridge Road (Township Road No. 376)	Two-way stop
Upper Cherry Road (Township Road No. 517)	South	Lower Cherry Road	One-way stop
Zola Street (Township Road No. 512)	East	Coal Hollow Road (Legislative Route No. 24024)	One-way stop

Stop Sign on	of Travel	Direction At Intersection of	Type
Zola Street (Township Road No. 512)	South	Hollow Street (Township Road No. 513)	One-way stop

#### § 107-44. Schedule IX: Yield Intersections.

In accordance with the provisions of § 107-15, the following described intersections are hereby established as yield intersections, and yield signs shall be installed as follows:

Yield Sign on	Direction of Travel	At Intersection of
		(Reserved)

#### § 107-45. Schedule X: Closing of Certain Streets to Certain Vehicles.

In accordance with the provisions of § 107-16, it shall be unlawful for any person to drive any vehicle, except a passenger vehicle (but not including any passenger vehicle drawing any trailer or towing any other vehicle), upon any of the streets or parts thereof described below:

Name of Street	Limits
	(Reserved)

#### § 107-46. Schedule XI: Vehicle Weight Limits.

In accordance with the provisions of § 107-17, gross weight limits<sup>2</sup> are hereby established as indicated for commercial vehicles or other tractor, trailer or tractor-trailer combinations, upon the streets, bridges or portions thereof described below, except for the purpose of making local deliveries on said streets, bridges or portions thereof:

Name of Street or Bridge	Max. Gross Weight (pounds)	Location
		(Reserved)

#### § 107-47. Schedule XII: Snowmobile Roads.

In accordance with the provisions of § 107-21, the following roads shall be designated as snowmobile roads, to be shared with vehicular traffic:

Name of Street	Limits
Township Road No. 315 (Boone Mountain Road)	From Legislative Route No. 24029 to the south township boundary line

<sup>2</sup> Editor's Note: The current list of weight limits for township roads is on file in the township offices.



<b>Name of Street</b>	<b>Limits</b>
Township Road No. 340 (Keller Road)	From the intersection at trail that leads to Route No. 219 to Legislative Route No. 24009, and continuing to the old Erie Railroad right-of-way
Township Road No. 373 (Clearcut Road)	From Township Road No. 315 to the east township boundary line
Township Road No. 376 (Ridge Road)	From Township Road No. 380 to Legislative Route No. 24009
Township Road No. 377 (Meredith Road)	From Township Road No. 394 to Township Road No. 390
Township Road No. 380 (Hogback Road)	From Township Road No. 425 to Township Road No. 376
Township Road No. 384 (Hayes Road)	From the north terminus to Legislative Route No. 24009
Township Road No. 425 (Thompson Road)	From Township Road No. 376 to Township Road No. 380
Township Road No. 589 (Robin Road)	Entire length
Township Road No. 595 (Gahr Road)	Entire length

**§ 107-47.1. Schedule XIIA: All-Terrain Vehicle Roads. [Added 5-5-1999 by Ord. No. 99-5]**

In accordance with the provisions of § 107-23.1, the following roads shall be designated as all-terrain vehicle roads, to be shared with vehicular traffic:

<b>Name of Street</b>	<b>Limits</b>
Bennett Road (T-524) [Added 12-6-2000 by Ord. No. 2000-12]	Entire length
Boone Mt. Road (T-315)	From Legislative Route No. 24029 to the south township boundary line
Browns Road (T-392)	Entire length
Chicken Hill Road (T-390)	From the Intersection of LR24029 to the intersection of Skyline Drive

<b>Name of Street</b>	<b>Limits</b>
Clearcut Road (T-373) [Added 12-6-2000 by Ord. No. 2000-12]	Entire length
Cuneo Road (T-341) [Added 12-6-2000 by Ord. No. 2000-12]	Entire length
Dietz Road (T-549)	From the intersection with T-394 to the southeast terminus
Four Points Road (T-525)	From T-315 to T-649
Gahr Road (T-595)	Entire length
Gardner Hill Road (T-649)	From the intersection of T-525 to the east boundary line of the township
Green Road (T-394)	From the intersection of Route 948 to the south terminus
Hayes Road (T-384)	From the north terminus to Legislative Route No. 24009
Hogback Road (T-380)	From the north terminus to Township Road No. 376
Keller Road (T-340)	From the intersection at the trail that leads to Route No. 219 to Legislative Route No. 24009 and continuing to the old Erie Railroad right-of-way
Krise Road (T-383)	Entire length
Meredith Road (T-377)	From Township Road No. 394 to Township Road No. 390
Ridge Road (T-376)	From T-380 to Legislative Route No. 24009
Robin Road (T-589)	Entire length
Sawmill Run Road (T-523)	From the intersection with LR No. 24023 (Kylers Corner Rd) to the intersection of T-315
Shelvey Road (T-374)	From the intersection with the south margin of Route 948 to the inter- section of Rt. 24025 Brandy Camp Road

**Name of Street****Limits**

Squab Hollow Road  
(T-339)

Entire length

[Added 12-6-2000 by  
Ord. No. 2000-12]

**§ 107-48. Schedule XIII: Snow Emergency Routes.**

In accordance with the provisions of § 107-33, the following streets or parts thereof are hereby designated as snow emergency routes:

**Name of Street****Limits**

(Reserved)



## **Chapter 110**

### **ZONING**

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ARTICLE VI

Administration, Enforcement and Procedures

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- § 110-53. Zoning Officer.

- § 110-54. Administration and administrative procedures.
- § 110-55. Enforcement.
- § 110-56. Zoning Hearing Board.
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- § 110-71. Official Zoning Map.
- Summary of District Requirements

[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.

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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.
- 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

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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.

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.

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



**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 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;

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

- 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;
- 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.

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

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

**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.

**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.

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

**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.

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

**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.

**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>

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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.

**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:

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 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.

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

**§ 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.**

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:

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

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

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

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

- 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.

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

(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 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 at 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>

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



- (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 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>18</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.

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

- (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 where any proposed commercial and/or industrial uses abut the RS or RR Districts.
  - (2) A planted buffer of twenty-five-feet 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 Two-Way Drives	One-Lane 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

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

**Minimum Number of Required  
Accessible Spaces**

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 of 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

<b>Use</b>	<b>Parking Space Requirement</b>
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, redrilling, 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 redrilling operations, as long as manned twenty-four-hour on-site supervision and security are provided.
  - (b) Upon completion of drilling or redrilling, 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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<sup>20</sup>. 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>20</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,

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

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.
    - (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.
- (l) 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>21</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 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>22</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.

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

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

- (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 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>23</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>24</sup> and the Stormwater Management Ordinance.

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

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

- (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 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>25</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.
  - (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

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

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>26</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.

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

**§ 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.

**DISPOSITION  
LIST**



## Chapter DL

### DISPOSITION LIST

#### § DL-1. Disposition of legislation.

The following is a chronological listing of legislation included in the Code of the Township of Fox adopted since the publication of the Code, indicating its inclusion in the Code. Information regarding legislation which is not included in the Code nor on this list is available from the office of the Township Secretary. The last legislation reviewed for the original publication of the Code was Ordinance No. 97-6, adopted 6-4-1997. A complete listing, including disposition, of all legislation reviewed in conjunction with the original publication of the Code is on file in the office of the Township Secretary.

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#### § DL-1. Disposition of legislation.

Ord. No.	Adoption Date	Subject	Disposition
98-9	9-2-1998	Adoption of Code	Ch. 1, Art. I
98-10	10-7-1998	Street naming and addressing	Ch. 88
99-5	5-5-1999	Vehicles and traffic amendment: designation of all-terrain roads	Ch. 107
99-5-B	5-12-1999	Sewers: industrial waste amendment	Ch. 82, Part 3
2000-12	12-6-2000	Vehicles and traffic amendment	Ch. 107
2001-5	6-7-2001	Subdivision and land development amendment	Ch. 96
2005-10	10-5-2005	Zoning	Ch. 110
2006-5	5-3-2006	Zoning amendment	Ch. 110
2007-5	5-2-2007	Taxation: realty transfer tax amendment	Ch. 102, Art. II
2009-2	2-4-2009	Junk dealers and junkyards repealer; zoning amendment	Chs. 70, reference only; 110
2010-9	9-1-2010	Dangerous or dilapidated buildings	Ch. 44
2011-4	4-6-2011	Insurance: fire insurance claims	Ch. 68, Art. I
2011-8	8-3-2011	Stormwater management	Ch. 86
2011-9	9-8-2011	Zoning amendment	Ch. 110

§ DL-1

FOX CODE

§ DL-1

<b>Ord. No.</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
2011-11	11-21-2011	Taxation: earned income tax amendment	Ch. 102, Art. I
2012-1	1-3-2012	Floodplain management	Ch. 66
2012-4-A	4-4-2012	Investment in Future Fund	Ch. 12



# **APPENDIX**



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